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PART V.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., Cap. 67.

The Council met at Simla on Thursday, the 26th October 1871.

PRESENT:

His Excellency the VICEROY and GOVERNOR GENERAL of INDIA, K.P., G.M.S.I., *presiding.*
His Honour the Lieutenant Governor of the Panjáb.
The Honourable JOHN STRACHEY.
The Honourable Sir RICHARD TEMPLE, K.C.S.I.
The Honourable J. FITZJAMES STEPHEN, Q.C.
The Honourable B. H. ELLIS.
Major-General the Honourable H. W. NORMAN, C.B.
The Honourable F. R. COCKERELL.
The Honourable R. E. EGERTON.

PANJA'B REGULATIONS BILL.

The Honourable Mr. STEPHEN presented the Report of the Select Committee on the Bill for declaring what laws are in force in the Panjáb.

NORTHERN INDIA CANAL AND DRAINAGE BILL.

The Honourable Mr. EGERTON moved that the Report of the Select Committee on the Bill to regulate the construction and maintenance of public works for irrigation, navigation, and drainage be taken into consideration. He said:—"This Bill has been for a long time under consideration. The details of it have been very fully discussed in former years. It has again been very carefully examined this year at Simla, and is proposed to be made applicable to the Panjáb only, instead of to the whole of British India. The Panjáb Govern-

ment submitted in 1867 a draft Bill and rules for the regulation of natural water-supply and water-works, intended for the Panjáb and for the presidency generally. It was found that Act VII. of 1845, and the rules drawn up under it were insufficient to meet the circumstances which had then arisen, owing to the rapid extension of irrigation and the introduction of more regular legal procedure.

"The draft submitted by the Panjáb Government was much amplified by Colonel Strachey. It was re-arranged and some new subjects were added, and a draft Bill, called the Northern India Canal and Drainage Bill, was circulated for opinion in 1868.

"The result of the inquiry then made was, that an amended draft was prepared and introduced in 1869, which it was proposed to make applicable to the whole of Northern India and the Central Provinces.

"From September 1869 to the present time, the Bill has been before the Select Committee. Much difference of opinion regarding some of the provisions of it has been expressed, and the result has been that the progress of the Bill through the Council has been delayed, although it was well known that an amended law was required for the Panjáb four years ago. As it appeared that further delay would result if the Bill remained applicable to the North-Western Provinces, the Panjáb, Oudh, and the Central Provinces, and as His Honour the Lieutenant-Governor of the Panjáb agreed generally to the provisions of it and wished to have it enacted without delay, the Committee have made the Bill applicable to the Panjáb only.

"I will now proceed to review briefly the provisions of the Bill under consideration. In the preamble, the right of Government in all lakes, rivers, streams and other natural drainage channels is asserted. This is a right which Native Governments held and exercised: which we have ourselves exercised since annexation, and which it is necessary to assert in order that Government may be able to use the natural water-supply for the public benefit in the best manner.

"If a law of this kind is enacted without some express declaration of the rights of Government, there is danger, I think, that, hereafter, it may be held that Government has waived the rights which it did not assert. The laws relating to irrigation in those countries of Europe where irrigation is controlled by the State, declare the rights of Government in sources of water-supply, and there is good reason for our following the same course here, where the Government holds a similar position.

"Part II. of the Bill provides the manner of applying a water-supply for public purposes, and for compensating persons who suffer loss.

"The principle is fully described in section eight. The matters for which compensation may be given and those which are excluded, are defined. Compensation is given where works which have been constructed for utilizing the water-supply are rendered less useful, or are permanently stopped, by the action of Government, but not for natural advantages arising from proximity. Section number eight provides a clear rule for calculating the amount of compensation where the market-value cannot be ascertained, and it bars the acquisition of new rights to compensation, except by grant or prescription.

"This part of the Bill is of great importance. There are many new canals, either under construction or projected, in the Panjáb. Unless the principles on which the rights which may be affected by the construction of new canals are defined, it is impossible to make an estimate of the financial results of making them.

"The Deputy Commissioner will make the awards of compensation under this chapter by a procedure similar to that prescribed in the Land Acquisition Act, 1870.

"Part III. of the Bill provides, in sections fourteen to thirty, powers in regard to making surveys; entering upon lands in case of accidents; constructing and maintaining works of public convenience connected with canals; and constructing and maintaining water-courses and obtaining land for this purpose. These matters are necessary, and the provisions of the Bill in regard to them are appropriate. Section twenty-eight provides that, when land is taken up for a private water-course, compensation may be given, in the form of a rent-charge, or it may be taken up permanently, at the option of the person to be compensated.

"Sections thirty-one to thirty-three contain the terms on which water is to be supplied from a canal by Government. The Bill states the conditions which must be included in all rules or contracts made by the Local Government.

"Power is given to the canal officer to stop the admission of water into a water-course for the purpose of executing any work, and when the water-course is not kept in proper repair.

"Claims for damages caused by stoppage of water, beyond claims for remission of the water-rate, are barred as against Government in certain cases specified in clause (*b*).

"In other cases, compensation may be awarded, clause (*c*).

"In clause (*d*), claims for continuance of supply are barred.

"In clause (*e*), the conditions of sub-letting and transfer are stated.

"In clause (*f*), Government is protected against the growth of prescriptive rights to a supply of water.

"These conditions have been framed with a view to enable Government to make the best use possible of the water of a canal. It is necessary that Government should have full power to distribute the water of a canal in the manner which will be most beneficial to the persons who can use it, and for this purpose the Government must be protected against claims, or the growth of prescriptive rights which will impede its action.

"Sections thirty-three to thirty-five declare the liability to charges for unauthorized use or waste of canal water, and provide for due realization of rates on lands held jointly.

"In sections thirty-six to forty-three, the water-rates on irrigated lands are defined.

"They are two:

1, the *occupier's rate*, which is paid by the cultivator for the use of canal water, and which is part of the immediate cost of cultivating the land;

2, the *owner's rate*, which represents the enhanced value of the share of the produce to which Government is entitled as land-revenue, but which, in the case of land irrigated from a Government canal, as it is entirely due to the water, should be considered a water-rate.

"The *occupier's rate* is the ordinary canal water-rate which has always been levied.

"The *owner's rate* is a new one.

"It has for some years past been levied in the Panjáb on the Bárí Doáb Canal, and is there called water-advantage rate. It is fixed by the settlement officer in communication with the canal officer, and is levied from lands actually irrigated, along with the usual water-rate.

"It originated in the Panjáb from a proposal of the Settlement Commissioner, Mr. E. Prinsep, and his letter detailing the manner of imposing it will be found at page 167 of the volume of papers on this Bill.

"The advantage of the water-advantage rate, or owner's rate, is that, instead of an assessment at canal irrigation rates being fixed for certain lands under irrigation at settlement, and kept on those lands during the whole term of settlement, whether they are irrigated or not, the rate is levied at each crop on the land actually irrigated for that crop; so that, not only does the assessment fall on the land which should pay it, but, if any increase or decrease in irrigation takes place, the Government either receives enhanced revenue or the people receive a fair reduction in the demand.

"Sections thirty-nine to forty-one declare who shall be liable for the owner's rate in certain cases.

"No owner's rate will be imposed on lands assessed to land-revenue at canal irrigation rates, until a reduction has been made in the land-revenue demand equivalent to the enhanced rate; during the currency of a settlement, the whole sum demandable as owner's rate is not to exceed the sum so reduced, and the owner's rate is limited to one-half the increase in the net annual value of the land produced by canal irrigation. The provisions regarding the owner's rate are in accordance with what already exists in the province, and provide for the assessment of the revenue in future on a just principle.

"Sections forty-four to forty-nine—'Irrigable, but not Irrigated.' These sections form part of the Bill introduced in 1869; but they now stand very much modified. The conditions under which a special rate may be applied are so strict, and the power conferred on the Local Government is so large, that I think it very difficult to make the provisions applicable to any canal. In the Panjáb, where the demand for water is very great, there will never, I think, be occasion to apply those sections to any canal.

"Section fifty—'Percolation.' This section enacts, in a modified form, rules made under Act VII. of 1865, but makes the power to levy a water-rate conditional on the advantages received.

"Sections fifty-one to fifty-three provide for the collection of canal dues in the same manner as land-revenue.

"Part IV. of the Bill relates to navigation.

"There is at present no water carriage on any of the Panjáb canals. On one of them, the Bárí Doáb Canal, it is intended to provide locks, and the works have been constructed with a view to making the canal navigable hereafter. Provision has been made for making rules to regulate navigation, and for collecting the Government dues on vessels which ply on the canal and on goods conveyed in vessels or stored in Government premises during transit.

"Part V. of the Bill relates to drainage.

"It gives powers to canal officers to remove obstructions to drainage, and to the Local Government to order new drainage projects to be undertaken and carried out, and gives power to levy a rate on lands benefited by such works to defray the cost of such drainage work under certain conditions.

"The provisions of this chapter are very necessary.

"The drainage of lands adjacent to the Western Jumna Canal is very defective, and the health of the inhabitants of large tracts of country in the Karnál and Delhi Districts is injured, and the productive power of the land diminished, by obstructions which it is difficult under the existing law to remove.

"On some of the Panjáb rivers, especially on the Indus, it is necessary to construct protective works to guard the heads of the inundation canals and to protect the lands exposed to inundation.

"The provisions of this chapter will apply to works constructed for the above-named purposes.

"Part VI. relates to the mode of obtaining labour, when ordinary labour is not procurable, for the purpose of repairing canals in case of accident or apprehended danger, and for effecting the clearances necessary for the proper flow of water in canals. The provisions of this chapter may seem arbitrary to those who are not acquainted fully with the circumstances of the canals of the Panjáb and with the customs of the people who use them for irrigation.

"Where ordinary labour is procurable, no canal officer would ever employ labour of any other kind. The trouble of managing impressed labourers is great, and the work they perform is generally less than that done by ordinary labourers.

"The power which this chapter of the Bill confers will be exercised, in the portions of the country which are thickly populated, only in case of sudden emergency arising; for there, labour is procurable without difficulty for all ordinary purposes. But in the parts of the country which are sparsely peopled, and where inundation canals are used, it is necessary to call out the people to effect the ordinary silt clearances, to make new heads to the canals, and to perform such other emergent work as is required to keep these canals in working order. Silt clearance is a work which must be done in a limited time. It requires, therefore, the employment of a large number of labourers for a short period; conditions which are most unfavourable to the execution of such work in thinly populated tracts.

"We found this system at work when we annexed the Panjáb, and we have rules which have the force of law under the Indian Councils' Act to carry out the system. The cultivation of a large tract of country depends on the maintenance of these canals, and the people themselves assent to the necessity of procuring labour in this manner. There is nothing, therefore, really harsh or arbitrary in this chapter when the conditions of the country and the importance of irrigation are considered.

"The Canal Report for 1868-69 shows that 574,297 labourers were present for silt clearance on the Satlej and Chináb Inundation Canals in the Multán and Montgomery Districts. The value of the labour of these men was rupees 2,15,460, and the fines levied for non-attendance amounted to rupees 42,000. The canals on which this labour was expended irrigated about 200,000 acres of land, in a part of the country where the rain-fall is about three inches per annum, and where the population is not more than eighty-one per square mile. In the district of Muzaffargarh, where the canals are not under Government management, a similar system of statute labour for canal clearances is carried out by the people themselves under the control of the Deputy Commissioner, without the least difficulty

or complaint. The object of the provisions of chapter VI. is to confer such power as may enable Government to enforce the system which the people themselves have found it necessary to adopt, and which is at present the only practicable one for maintaining irrigation in some parts of the country.

"Chapter VII. of the Bill provides for jurisdiction in certain cases.

"Section seventy-three makes the order of the canal officer final in disputes regarding distribution of water for the time when any crop is in the ground. The disputants may try their suit in the Civil Court in order to determine their rights for the future; but it is better to give the power of deciding such cases summarily to the officer who has the control of the canal, and who can give immediate effect to his orders, than to refer the parties to a Court whose decision must be less speedy, and which cannot give direct and immediate effect to its own decree.

"Part VIII. of the Bill relates to offences and penalties, and confers powers on the Local Government to frame rules for carrying out the provisions of the Act. These do not call for any special remark. I may mention that I have received from Colonel Crofton—the Chief Engineer of Irrigation Works in the Panjáb, who drafted the first Bill which was sent up by the Panjáb Government, and who is one of the most distinguished officers of the Irrigation Department in India—an expression of his approval of the Bill as it now stands. The opinion of an officer of such wide experience and of such impartial judgment gives me good reason to hope that the Bill will meet the requirements of the country, and I trust it may be passed."

The Honourable Mr. COCKERELL moved, as an amendment, that the Bill be recommitted to the Select Committee with instructions to report again thereon in two months. He said:—"I have been compelled to dissent altogether from the conclusions arrived at by my colleagues on the Committee by which this Bill has been considered, because, in my humble opinion, the course which has been adopted in regard to it is extremely unsatisfactory.

"The Bill was introduced into the Council in February 1870, and was then intended to apply to the whole of Northern India, including Oudh and the Central Provinces. At the time of its introduction, some of the more important provisions received marked attention, and the principles on which they were based were assailed by certain members then present. For various reasons, to which it is unnecessary to refer particularly further than to say that the delay was in no respect due to any opposition on the part of any members of the Select Committee as then constituted, no progress was made in the consideration of the Bill until the Council resumed its sittings at Calcutta towards the close of last year.

"At that time the opportunity for a discriminate consideration of the somewhat intricate and novel details of the Bill, and the elaboration of a sound enactment on this subject, was peculiarly favourable, for the Select Committee had been greatly strengthened by the addition of two new members—the Honourable Messrs. Inglis and Robinson—who possessed a thorough acquaintance with the practical working of irrigation and the administration of the canal departments in the Panjáb, the North-Western Provinces and the Madras Presidency.

"Early in the present year, the Select Committee commenced its labours, and I know of no reason for their not resulting in the presentation to the Council, and eventual passing into law, of a well-considered measure applicable to the whole of Northern India, ere the sittings of the Council of Calcutta were brought to a close, had the conduct of the Bill through Committee been judiciously persevered in by the honourable member in charge of it.

"In fact, with the exception of the clauses relating to the imposition and recovery of rates, all the essential provisions of the Bill may be said to have been determined before the meetings of the Committee were suddenly suspended, and the honourable member in charge of the measure recorded his opinion, in a minute which I subsequently heard of but have never seen up to the present time, to the effect that it was expedient to abandon the proposed legislation so far as it applied to the North-Western Provinces, and confine it exclusively to the Panjáb.

"I confess that, having regard to the past history of this measure, which I have just recounted, I felt some surprise when I heard that it was proposed to proceed with the Bill at this place, from which so many of the members who had taken an active part in the discussion of the subject and the settlement of the most important clauses of the Bill during its progress in Committee at Calcutta, were necessarily absent. But my honourable friend (Mr. Strachey), in introducing the subject here, by moving that His Honour the Lieutenant-

Governor of the Panjáb and the Honourable Mr. Egerton should be added to the Committee, although he made some reference to Colonel Strachey's recorded opinion to which I adverted just now, and expressed his previous concurrence therein, remarked that—'a letter had had been addressed to the Government of India, by that of the North-Western Provinces, in which it was stated that His Honour the Lieutenant-Governor observed with much regret that the Bill for regulating irrigation in Upper India had not yet passed into law ; that serious loss and inconvenience arose from the delay ; and that the passing of the Bill with all possible expedition was earnestly recommended.'

"The letter went on to say 'that, till the Bill was passed, the Government had no legal control over beds of rivers, and could not interfere with private dams, however desirable, on public grounds, such interference might be; and, moreover, that considerable loss of income had resulted from the present defective condition of the law.' From these remarks it was to to be assumed that the measure was to be proceeded with in its full integrity and according to its original design ; that the consideration of details was to be taken up from the point at which it had been suspended in Calcutta ; and that the conclusions already arrived at by the larger Committee at that place were to be maintained. I have gone thus minutely into the history of the progress of that Bill up to the period at which my honourable friend (Mr. Egerton) assumed charged of it, as pertinent to the question which I have now to ask, namely, why the local extent of a measure originally designed for application to the whole of Northern India, and especially needed, as has been shown, in the North-Western Provinces, has been cut down to the limited area of the Panjáb?

"The report of the majority of the Select Committee states that the 'change has been made on account of the difficulty of adapting the provisions of the Bill to the circumstances of the whole of the territory to which it was first proposed to extend it, in such a way as to keep what was suitable for each province.'

"I demur to the precise correctness of that statement ; it implies that there are matters of detail connected with this Bill which, owing to the varied circumstances of the different provinces to which the measure as originally designed was intended to apply, cannot be regulated by any uniform set of provisions. But the only provisions to which the authorities of the North-Western Provinces object rest upon questions of principle which, if they are to be affirmed in the sense contemplated by the Bill, may as equitably be so affirmed in respect of one portion of the empire as another.

"Almost the whole of the provisions of the Bill which are of practical importance in the working of a general scheme of canal irrigation—I refer to the subjects comprised in Parts II., IV., V., VII., and VIII., and so much of Part III. as relates to the powers of canal officers, the construction and maintenance of works, the conditions of a water-supply and the charges therefor—are not only accepted, but urgently asked for by the Government of the North-Western Provinces; and we are told that a considerable loss of income has already resulted from the want of such legal power as is provided by the clauses to which I have referred. I ask those who are responsible for the economical administration of the financial affairs of this country, whether this state of things is to be permitted to continue, and the Government of the North-Western Province is to be told—as seems to be the practical effect of the course which is being taken in regard to this Bill—that, until it assents to the principle of a compulsory rate, it is to be excluded from the benefits of special legislation in regard to canal-administration. If that is the intention, such a course will, I venture to think, scarcely redound to the credit of this Council or of the Supreme Government in public estimation. If, on the other hand, it is proposed to bring forward and enact shortly a similar measure for the North-Western Provinces, then I must say that such procedure will be wholly inconsistent with the policy of all our recent legislation, which has been undertaken for the purpose of welding together and consolidating as much as possible the existing law.

"The preamble to the amended Bill is in my opinion objectionable, inasmuch as it asserts a somewhat doubtful statement of facts ; that a certain sovereign right in all natural streams and water-courses vests in the Government, pretty much in the same way as it does in regard to land, unless it has been specifically relinquished, no one can doubt ; but there is also a co-existent right of usage of the water of natural streams vested in the community, and this seeems to be distinctly recognized by the provisions of section eight. The declaration of the preamble, which implies that the State enjoys an exclusive right of property in the water of natural streams and channels, and the contents of clause eight, involve an apparent contradiction, and I think it would have been better if the former had been omitted.

"In the assessment of the owner's rate in the manner proposed, there is, I think, some hardship. Where the land-revenue has been already assessed at canal irrigated rates, it is provided that a refund of the extra revenue assessed in consequence of such irrigation is to be allowed before the owner's rate can be exacted; but no allowance is made for those cases in which the land has been assessed at wet rates by reason of irrigation from wells or sources other than canals constructed and maintained by the Government.

"Of the practical bearing of this question on the operation of this Bill, as now limited, I am unable to judge, as I am unacquainted with the facts of the case as regards the extent of well-irrigation in the Panjáb. I know that it is largely carried on in the North-Western Provinces. My contention, however, would apply, more or less, in any case, for it is one of principle. I hold that, to whatever extent the advantages of irrigation from any source have been already taken into account in the assessment of land-revenue, to such extent a proportionate allowance must in equity be made in the adjustment of the owner's rate.

"I think also that it is unwise to disturb existing settlements in the manner contemplated by the Bill, where the land-revenue has been assessed at canal irrigated rates, except in the way of extra charge for an extension of the irrigated area. I know that it is proposed to take, in the form of 'owner's rate,' no greater amount than has been previously deducted from the land-revenue assessment, and that thus, practically, the landholder in such case will be subjected to no greater charge than at present; but I hold strongly that sound policy requires a foreign government to abide, not only by the spirit, but by the letter of its engagements with its subjects, so as to avoid all reasonable grounds of suspicion and distrust which any other course is sure to excite in the minds of the people. I fully recognize the importance—I may say the absolute necessity—of maintaining a complete separation of these two items of revenue—land assessment and water-rates. I have read very able papers on this subject, and I think the arguments used in them would carry conviction to most minds as to the cogency of the reasons for dealing separately with things involving such essentially different conditions and considerations as the assessment of a water-rate and the settlement of land-revenue. But great as is the expediency of adopting this course, I would restrict it to future operations, and I deprecate the disturbance of settlements which have been already made where canal irrigation was available and fully taken into account at the making of such settlements, as likely to suggest doubts of our good faith in our dealings with the people of this country.

"The most important feature of the Bill is the provision contained in section forty-four, for the levy of a rate on lands irrigable, but not irrigated; and I would first draw attention to the rather curious position in the Bill which this provision occupies. Like the proverbial snake in the grass, it is almost hidden in the ramifications of Part III. which, though the receptacle of all sorts of unconnected matters, bears simply the unsuspicious heading—'Special powers of canal officers in relation to surveys, construction and maintenance of works and decision of differences regarding water-courses.' The principle of such an assessment was, on its first appearance in the original draft, strongly attacked, and especially reprobated in a despatch from the Secretary of State, dated 11th January 1870, from which I need make no quotation as it has been published and circulated as a paper on the Bill. But it will be said that this provision has been divested of its obnoxious character by the conditions which have been attached to the levy of a compulsory rate, and which are included in the amended Bill. To show that this is not the view taken by those who are amongst the most competent to form a sound conclusion on this point, I will read from a letter from the Government of the North-Western Provinces in regard to the amended Bill. The Lieutenant-Governor, who, it will be remembered, was the strongest opponent to the principle of a compulsory rate when the idea of levying such a rate was first started, is of opinion that the provision of the amended Bill on this subject is 'even more objectionable than as it stood in the original Bill. There, the imposition of the rate was made to depend on a distinct financial necessity, and the measure itself could not be introduced unless it were proved that the canal had failed to reach a specified percentage of profit. The character of the imposition was thus marked, and its range defined and limited. In the present Bill, neither cause nor limit is assigned. The measure will simply be based on the opinion that reasonable use has not been made by the people of the canal; and, on this opinion, an agriculturist, who never took a drop of water from the canal, or intends to take it, who finds, in fact, that it is not for his interest to bring water channels to his fields, can be charged a special rate which may reach to two rupees an acre. The injustice of such a proceeding seems to be patent on the mere statement of it.'

"There was something peculiarly offensive to the popular notion of that 'equity and good conscience' which does duty for substantive law to so large an extent in this country, in making

the non-realization of a seven per cent. return on an outlay of capital borrowed at four per cent., the main condition of the levy of this impost; but it may well be questioned whether, as the Lieutenant-Governor surmises, the new condition as to the 'reasonable use' may not press more hardly upon the landholder than the former one. In any case, by whatever conditions the action to be taken upon it may be surrounded, the principle remains unaltered, and, consequently, the objections to that principle must apply as strongly in the case of the present Bill as its predecessor. It has been asserted that the principle of the proposed tax differs in no respect from that which governs the levy of special taxation in towns for various descriptions of municipal improvements. I contend that there is no analogy whatever between these cases. In the latter, theoretically at least, the taxation is imposed by the will, or with the consent, of the representatives of the tax-payers. I say theoretically, because literally Municipal Commissioners are not the delegates of the people, yet, generally speaking, the Government makes such selections for those offices as the people, if they were vested with the power of election and were likely to make a discreet and discriminate use of it, would themselves choose. Taxation so imposed is surely something very different from the measure provided by this Bill.

"Again, in the case of municipal taxation, the tax-payers get something for their money which, however much or little they may appreciate its value, does undoubtedly ensure to them very substantial benefits; but the landholder subjected to the special rate gets no benefit in return. It will be said that the conditions under which only the rate can be levied require that the use of canal-irrigation should secure greater profit to the agriculturist than he would otherwise have obtained. It is just because cases may occur, in which it may be shown that the cultivator would have secured a better crop from the use of canal-irrigation than he would have done without it, and because such cases are extremely likely to occur and will subject the landholder to the screw of the special rate, that I regard the provisions of this Bill with so much apprehension. For it may well be that the cultivator intelligently and wisely elects not to use canal-irrigation, to forego the estimated increase of profits, in order to avoid what he may conceive to be the more than counterbalancing concomitant evils attending the use of such irrigation. He may say 'I know that I should get a much larger profit from the use of your water, but either from well-irrigation or the natural resources of the soil unaided by your water, I get a return sufficient for my wants, and I would rather forego possible increased profits than bring myself within the dominion of the canal officers. By resorting to the use of canal-irrigation, I incur all sorts of responsibilities and obligations in regard to water-courses and the like, or I must give up my wells and depend entirely upon you for a water-supply, and you may, as you have carefully freed yourselves from all pecuniary responsibility for the non-fulfilment of my just expectations, disappoint me just at the moment of my utmost need.'

"I do not, by the case which I have put, intend to suggest that the canal officers are, as a rule, in any degree less mindful of their duties to the people with whom they are brought in contact that any other body of public officers would be under similar circumstances; but I do wish to point out that the proposed law practically invests those officers—and I believe necessarily so—with very extensive authority, and that, keeping this fact in view, it must be regarded as not the least mischievous consequence of the power of levying a compulsory rate, that the inducement to use their authority wisely so as to attract a voluntary recourse to canal-irrigation by a popular administration of the system, is, through the existence of that power, to a great extent withdrawn.

"Another important argument in favour of the levy of this special rate is that, on grounds of humanity, no less than on sound financial considerations, irrigation must be promoted by the construction and maintenance of canals for which somebody must pay; and that this being so, it is more just to assign the burden of the cost of these works to those for whose benefit they are devised than to impose it on the general tax-payer.

"The first proposition may be readily admitted, subject to the reservation that no injustice or hardship is caused to individuals as the necessary consequence of these works. When that limit is overstepped, I should hold that it is not desirable to construct canals. But, in regard to the apportionment of the burden of cost, I contend that the argument is wholly unsound. Of course, every projected work of this sort is intended to benefit some people; but if, through any error of design or construction—and the history of some of the more recently constructed barracks shows that even officers of the Department of Public Works, upon which the design and execution of canals must devolve, are fallible—the work failed to achieve the general object of its design, surely it would not be just to

saddle certain persons with the cost, who have derived no advantage from the work, and have had no option whatever in the matter of its construction, merely because it *was designed* for their benefit.

"Take, as a possible illustration of such a case, the Sarda and Rohilkhund canals, which are, I believe, either being constructed or are about to be constructed. One of our honourable colleagues (Mr. Inglis) who has a thorough practical acquaintance with Rohilkhund, is of opinion that, owing to the water being so near the surface, and the consequent facilities for kacha well-irrigation which exist in the country to be traversed by these canals, the mass of the agriculturists will not take the water, and that, consequently, the canals cannot prove a profitable undertaking.

"The truth is, that canals are projected and constructed mainly in the interest of the general tax-payer to lighten his burdens, directly, by staving off the heavy cost of periodical famines, and indirectly by improving the general resources and wealth of the country. Where these works are wisely designed and carried out, they are sure to answer their purpose without the aid of section forty-four; the risk of error in design or construction should in all equity and reason be borne by the general tax-paying community, whose agent the Department of Public Works is in projecting and carrying out these schemes. That community is, on every consideration, as justly chargeable for the consequences of an unwise or unskilfully executed canal project as for the cost of barracks which, through faulty construction, may have fallen down or become otherwise unserviceable.

"Lastly, in connection with this subject, I wish to draw attention to the provision of the final paragraph of section forty-eight. It runs as follows: 'If any question shall arise whether the said conditions are complied with or not in respect of any land, it shall be determined in the same manner as suits relating to rent under the law for the time being in force. In the first place, I do not understand the object of this special reference to rent-suits in a Bill the operation of which is limited to the Panjáb, where such suits, I believe, take the same course, both as to the class of Court in which they are instituted and the form of procedure under which they are tried as any other actions for debt; but my main objection to this clause is in regard to the vague form which it prescribes for the treatment of a very important matter. It cannot be doubted that, wherever the attempt is made to levy this rate, 'a question' will arise; and I say that, if the application of these conditions is to be *anything* more than a sham and a delusion, it should be distinctly provided that, ere the rate can be levied, the 'question' must be tried in the form of a suit in which the Government is the plaintiff and the objecting landholder the defendant, so that the matter may be determined in an impartial manner, and the person resisting the imposition of the rate may have such advantage as the position of defendant, and the consequent *onus probandi* on the other party, the Government, are calculated to afford.

"The provisions of Part VI. in regard to forced labour, go much further than the conclusion arrived at on this question by the Committee, by which it was much discussed in Calcutta. The procedure of the Bill in this respect is defended on the ground that, in some districts of the Panjáb, owing to the sparseness of the population, the amount of available labour is very small, and that, morever, the system of employing 'chers,' who appear to be a species of serfs, with or without their consent, on canal-works is distinctly recognized and allowed by the existing law of the Panjáb.

"From Mr. Barkley's book on the law of that province, which has on other occassions been assumed to contain all orders and rules having the force of law, it would appear that this impressment of labour is authorized only on the Indus Canals, in the Dera Gházi Khán District, and on the Multán inundation canals, for ordinary works, such as silt clearances, and this, moreover, for stated periods, *i.e.*, from the beginning of January in each year to the middle of April. In other parts of the Panjáb, as for example, on the Upper Sutlej Canals, the resort to forced labour is restricted to emergent occasions, where serious injury is apprehended and the supply of labour available for hire is inadequate.

"This is in accordance with the conclusion of the Calcutta Committee as to the circumstances under which only the impressment of labour should be authorized, and represents, in my opinion, the extreme limit to which the extension of forced labour can be justified.

"The mere fact that in certain places the ordinary supply of labour available for hire is insufficient for the purpose, does not justify the strong measure of impressment for an occasion which can be long foreseen and, consequently, otherwise provided for.

"There are many parts of India in which the local supply of labour is insufficient for the requirements of such places, and hired labour has to be brought from a distance. That the importation of labour enhances greatly the cost of the work to be executed is no sufficient reason for the retention of the system of forced labour, even though that system may heretofore have been in some degree sanctioned by rules having the force of law.

"The Bill, as amended, in point of fact, provides for a considerable extension of the existing law, inasmuch as it is proposed to give to the local Government the power of sanctioning the use of forced labour for ordinary canal-works in any part of the province. It further includes, under the denomination of 'labour' liable to impressment, all persons exercising any handicraft, and makes the neglect on the part of any such labourers to comply with the requisition for their labour a criminal offence punishable with one month's imprisonment.

"Under the existing system, 'chers' have the option of avoiding the obligation to supply their labour by the payment of a daily fine of four annas in lieu thereof.

"I am very strongly of opinion that the tendency of new legislation in this era of advanced civilization should have been rather to relax the harshness of the existing system than to render it more stringent and far-reaching, as is now proposed, and I think the power conferred by the Bill on the Local Government in this matter open to grave objection.

"My Lord, I have thus stated the reasons, very imperfectly I feel, which, in my opinion render this Bill unfit for enactment in its present shape. I hold that, whatever may be the practical inconvenience—and it cannot be very great—which would result from the adoption of the amendment which I am now about to move, it weighs as nothing in the balance against the cogent reasons which exist for extending the essential provisions of the Bill to the North-Western Provinces, and the propriety of determining such questions as are involved in it in a Council constituted, as I pointed out when I last spoke on this subject, as it can only be constituted when it assembles in Calcutta. With these remarks, I move that this Bill be recommitted, with instructions to the Committee to report again thereon in two months."

Major General the Honourable H. W. Norman, although he had strong objections to one part of the Bill, was not prepared to support the amendment of his honourable friend Mr. Cockerell. The Bill was declared to be applicable only to the Panjáb, and he (Major General Norman) was not aware of any peculiar circumstances in connection with that province which would render the clauses referred to less objectionable there than elsewhere. It appeared to him, therefore, that the Bill might with propriety be proceeded with, sitting as the Council was in the Panjáb, with His Honour the Lieutenant-Governor and the Honourable Mr. Egerton present to share in the responsibility of passing it. Major General Norman thought this better than that the consideration of the Bill should be deferred until these gentlemen were absent, even though the Council might then be joined by gentlemen who, whatever their other merits, could not be supposed to possess much authority as judges of what is applicable to the Panjáb.

The Honourable Mr. Ellis did not intend to say much in regard to the point raised in the amendment of his honourable friend, Mr. Cockerell, as those who were in charge of the Bill would be best able to answer for the procedure which had been adopted. He (Mr. Ellis) however advocated the pressing on to completion of the measure while the Council had the advantage of the presence of His Honour the Lieutenant-Governor and the Financial Commissioner of the province. He did not think it necessary to slay the slain over again and follow his honourable friend, Mr. Cockerell, through the details he had entered into regarding the original provisions of the Bill, for these provisions were no part of the present measure; but he agreed with his honourable friend in his expression of satisfaction that their further prosecutions had been vetoed by the order of the Secretary of State. These provisions, however, were not now under discussion, and any objections that might have been taken to them, as they originally stood, were quite irrelevant, as the Bill, as now framed, was of a different character. The present Bill appeared to Mr. Ellis to be a compromise between the extreme views of those who held that, if a canal was to be made, the district through which it passed must also be made to guarantee the work paying at any price, and the views of those who held that under no circumstances should a person be called upon to pay for water which he was not disposed to use. He took this to be a compromise, and he accepted it as a fair and reasonable one. If anything was to be said against the principle adopted, it would be that it was fenced round by conditions so varied, complicated and difficult of proof, that there were too many safe-guards, rather than too few, against oppression and injustice to the people. He did not conceive, however, that it would

be necessary to put these clauses in force in the Panjáb; for, from all he could ascertain, the people of that province were only too glad to get water wherever they could; the only doubt being that, in some parts, there would not be a population sufficient to make use of the water available. This being the case, the provisions of the Bill would be harsh! and it would be asked "Why enact them at all?" The answer would be that, in carrying out large schemes of this nature, involving considerable sums of money, the Government naturally looked to the financial success of the schemes, and required a guarantee that that financial success should be ensured. He was thoroughly agreed with the Honourable member who moved the amendment, that they should not attempt to secure themselves against engineering failure by a tax upon the people for whose benefit these engineering failures were designed; but the Bill, as at present drawn, did nothing of this kind. It did not charge the people with the expense of engineering failures; if it did, then he would certainly not support the clauses. It was obvious that, so far as engineers were concerned, the success of works of this kind would depend upon two calculations—the calculation of the cost of the works, and the calculation of the area irrigable. The rates were fixed by revenue officers, and, for them, the engineers were not responsible. If the work failed because it cost more than was originally estimated, or because it is found that the supply of water was not sufficient, or that the area irrigable was not so large as was expected, then there would be an engineering failure; but in such cases, according to this Bill, no one would be liable for a single pice more than he already paid; and, this being so, Mr. Ellis could not conceive how his honourable friend imagined that the Bill under discussion was designed to cover engineering failures or to foist the cost of such failures upon the people in any way. If, however, from ignorance, wilfulness, or other similar cause, the people refused to avail themselves of the water made available to them for their profit, then he (Mr. Ellis) would say there was no hardship that these people should pay to ensure the financial success of what was carried out for their benefit; and if such success were not assured within reasonable limits, no irrigation works could be undertaken. There was an analogy between this and the case of land-revenue. Assessment was fixed on the best lands at a high rate, on the supposition that the best kind of crops would be grown thereon; but, if the landholder refused to grow the best kind of crops and grew only inferior crops, he was not the less obliged to pay a high assessment. The land was made more valuable, and, if the owner retained possession of it and had increased facilities, whether he wished to make use of them or not, there was no hardship in making him pay a higher rate for land which he retained and allowed no others to use to their advantage. Mr. Ellis therefore had no sympathy with those who raised a cry of oppression and injustice in the case of the taxation imposable under very stringent restrictions by the clauses of the Bill as at present framed.

The Honourable Mr. Stephen did not propose to address the Council at any length upon the measure, because he felt that its provisions related to subjects upon which his opinion could be of little or no value; but there were some observations which had fallen from the Honourable Mr. Cockerell upon which he should like to say a few words. These remarks would relate to the procedure which had been adopted with regard to the passing of the Bill; to the suggestion that it should be brought up in Calcutta, instead of being passed here, and to one or two observations which the Honourable member had made in connection with certain provisions which it contained. First, with regard to the passing of the Bill: in addition to the arguments put forward by Major General Norman and the Honourable Mr. Ellis, he (Mr. Stephen) thought there was one consideration which had been overlooked. The Bill as originally drawn up was applicable to Northern India, that is to say, Oudh, the North-West and Central Provinces. The Legislative Council stood, with regard to Northern India, in the position of a local Council. It seemed, therefore, to Mr. Stephen that, sitting as they were in one of the most important provinces of Northern India, they were very properly employed in discussing a Bill which referred to it, and he would remind the Council of the fact that, only a fortnight ago, they passed in that place another Bill for Northern India, without any suggestion being made that it was improper to do so. What conceivable objection could therefore arise as to the passing of the Bill at once? After considering the matter carefully, and without the smallest desire to say anything personally offensive, Mr. Stephen was of opinion that the only difference between the passing of the measure at Simla and at Calcutta was, that, in the one instance, they would have the pleasure and advantage of Mr. Inglis' presence in the Council, and, in the other, that of the Lieutenant-Governor of the Panjáb and the Financial Commissioner: other Members would no doubt be present at Calcutta, but they would be in no way specially connected with the Panjáb or with the North-Western Provinces. His honourable friend, Mr. Cockerell, mentioned the name of a gentlemen for whom he (Mr.

STEPHEN) had the greatest respect—Mr. Robinson—who was a Member of Council, and also of the committee which had taken part in the consideration of the Bill at Calcutta. Mr. Robinson's experience, however, lay entirely in Madras, and from what he (Mr. STEPHEN) could gather from the discussions which took place in the spring on this subject, the state of affairs in that Presidency, in relation to irrigation, differed from that which existed in Northern India.

His honourable friend also asked, why did we not include the North-Western Provinces in this Bill? The answer to that was, that the North-Western Provinces were not included simply out of deference to the wishes of the Lieutenant-Governor of those Provinces. The case stood thus: The Bill, as originally introduced, was intended to include these as well as Oudh and the Central Provinces. There was no difference of opinion between the Honourable Member in charge of the Bill and the Local Government of the Panjáb; but there was a difference of opinion between the Honourable Member in charge of the Bill and the North-Western Provinces. They proposed at present to pass the Bill for the Panjáb, but that did not debar the Government of India from arranging in Council with the local authorities for an extension of the measure to the North-Western Provinces, with any adaption of its provisions that might be considered suitable for their wants.

Mr. STEPHEN would have preferred, from the juridical point of view, if a single Bill could have been drawn and arranged for the whole of Northern India. But the point was not one of any real importance; and it appeared to him that the only inconvenience which could arise from the course now proposed to be taken with reference to this Bill, was that of having the subject dealt with by two Bills instead of one.

It was asked why the Bill was not passed at Calcutta in the spring? Mr. STEPHEN was surprised that any one who was a member of the Committee on that Bill should put such a question, and not himself supply the answer. It was not passed because it could not be. There were present in the Council four members of that Committee, and speaking as one of them, and in the presence of the other three, he would appeal to each of them, and to his Honourable friend, Mr. Cockerell himself, as to the amount of progress which was made by that Committee. The discussion disclosed so many differences of opinion, and so many objections were raised on the various points submitted for consideration, that it was practically impossible to get through the Bill before the Council left Calcutta. If the amendment of his Honourable friend were adopted, and they were to go back to Calcutta, and have the old Committee reassembled, the result would be that the business of the Legislative Department, already extremely heavy, would be greatly hampered, and much public time and labour would be wasted.

Mr. STEPHEN would now say a few words with regard to those principles of the measure to which his honourable friend had referred. The Honourable Member told them that the report stated that, when the Bill was introduced into the Panjáb, there was some difficulty in adapting its provisions to the whole country. The warm discussions in Committee between Honourable Members from different provinces proved the correctness of this.

With regard to the omission of the clauses relating to the rates, Mr. STEPHEN did not like to pass the matter over in silence; but, on the other hand, he believed that his opinion on the point would be of little value.

There was force in the remark that the people of the district were not consulted and did not consent to the expenditure which was thrown upon them, and it might be true that the temptation to extravagance was not removed by the fact that a rate would have to be imposed upon irrigable land.

This point, however, was subject to an observation which afforded a complete answer to it, namely, that it was one of the inconveniences of the situation in which they were placed in this country that they were not able to consult the people upon matters of that kind half so much as they would wish to do, and that they were practically obliged to act for them, undertake the management of their affairs, and do the best they could with an honest regard for their interests.

There was one other observation of the Honourable Mr. Cockerell which he (Mr. STEPHEN) wished to notice.

His honourable friend had objected to the preamble to the Bill, which stated that all rivers and other collections of water in the Panjáb were the property of the Government, and that, he said, was inconsistent with the provisions of section 8 of the Bill. Mr. STEPHEN did not think this was correct, as it seemed to him that section 8 qualified the recital, and

that recital referred to a law which was observed by every rational country in the world, namely, that great natural resources were not to be the property of individuals, but were to remain the property of the nation at large. When they were spoken of as the property of the Government, it was not to be understood that the Government were the owners as against the people: what it meant was that the public power of the country at large was to administer all these matters for the public advantage.

His Honour the LIEUTENANT-GOVERNOR said:—"I have not the slightest hesitation in supporting my honourable friend in his motion that this Bill be passed. My honourable friend, Mr. Cockerell, observed that the measure had been before the Legislative Council since 1870; but I must remark that it has been before the Government of India since February 1867, having then been sent up by the Panjáb Government. I think, therefore, that, if we had omitted to press on the Legislative Council the passing of this Bill at this season and at this place, we should have greatly neglected our duty.

"The honourable member has adverted to the lost experience of Messrs. Inglis and Robinson; but without saying anything depreciatory of the ability of these gentlemen, I must remark that Mr. Egerton and myself were, for many years, employed in these districts of the Panjáb, into which irrigation was introduced on the annexation of the country, and that we have that peculiar experience which could not possibly be enjoyed by gentlemen who have not served in the province. We have also had the benefit of Sir Richard Temple's experience, who, for many years, was employed in the Panjáb, and has full knowledge of all the circumstances connected with irrigation in that province.

"As regards the objection taken to the preamble, I may observe that the principle involved has invariably been put forward in all the Bills which have been prepared on the subject from time to time, and had the assent of the late Mr. Thomason and also that of the late Sir Henry Durand. The honourable gentleman (Mr. Cockerell) took exception to the provisions regarding the landlord's rates, and he observed that it was inexpedient to disturb the general effect of the revenue settlement; but in the Panjáb, I believe, this inconvenience cannot occur, certainly not for a long time to come.

"As regards the compulsory rate, I was originally amongst the opponents of the first draft of the Bill; but I fully accept the compromise which is offered in this Bill; and I think, if the honourable gentleman had gained, as he admits he has not had the opportunity of gaining, experience in a country liable to the effects of drought, he would have set a higher value on the inestimable advantage of the presence of water near lands irrigable. I cannot myself admit that it is in any way inequitable to put a rate upon land which the owner has it in his power to improve by bringing water to it, under the conditions proposed in the sections of the Bill. It must be remembered, also, that the Government is co-proprietor in the lands of this country, and that it has not only the strongest interest in insisting but a real right to insist, upon the improvement of land; and it seems to me that the proprietor who had it in his power to irrigate land and refused to do so under the conditions of this Bill, would be very much in the same condition as the tenant in England who refused to manure his land against the customs of the locality in which he lived.

"I consider that the honourable gentleman was under a misapprehension when he said that lands already irrigated from wells could be brought under this compulsory rate; but my understanding of section forty-eight of the Bill renders this impossible.

"The honourable gentleman has further taken objection to the levy of forced labour for the repairs of canals in the Panjáb; but in a country like that bordering the Indus, it would be absolutely impossible to bring the crops to maturity unless this labour were forthcoming at a particular time of the year; and although the honourable gentleman's objections were more pointedly addressed to the levy of forced labour in the more populous districts about the Sutlej and the Beas, I presume that, even there, the breaking of a bund or the overflow of a river, unless labour was immediately procurable, might be attended with most disastrous results to the agriculture of the country. I agree mainly, however, in the general views expressed by the honourable gentleman, and, except in cases of necessity, I should have the greatest possible objections to permitting the enforcement of labour.

"There is only one other remark which I wish to make, and that is with respect to the Sarda Canal. The project was submitted to me before I left Oudh, and I cannot understand how it is supposed to pass through a country already irrigated. Certainly in the Khérí and Sitapúr districts the water is very greatly wanted."

The Honourable Sir RICHARD TEMPLE said:—"As I consider the principles involved in this Bill to be important, I have listened carefully to the objections urged against it by my honourable friend Mr. Cockerell, and I desire to reply briefly to them, or at least to the chief of them.

"In the first place my honourable friend considers that the Bill, instead of being applied to the Panjáb alone, as proposed to-day, ought to be applied to the Panjáb and the North-Western Provinces together. He asks me whether this is right, and whether the land revenue of the North-Western Provinces is not suffering from the want of some such law, and he appeals to me in order to know what the intentions of the Government of India are. My honourable friend will doubtless see on reflection that I cannot fully state the intentions of Government on a matter which depends on the action of other departments besides my own (the Financial). But this much I will say. I support the Bill for the Panjáb on the plain ground that it embodies valuable principles, and is accepted by the Panjáb Government in whose territories this Council is sitting to-day. I hope that a similar Bill may be soon passed for the North-Western Provinces, and I will do my best to promote the passing. We are not at this moment in possession of the concurrence of the North-Western Provinces, but that is no reason why we should have delay in the Panjáb. Meanwhile I am not aware of any particular loss to the land revenue occurring from this delay.

"Mr. Cockerell next adverts to a recent despatch from the Secretary of State regarding what is known as the 'compulsory rate,' that is, the rule whereby a water-rate can be imposed on lands which are proved to be capable of canal irrigation. He seems to think that this rule, as in the Bill to-day, is contrary to that despatch. On reference to the despatch, however, I do not see how my honourable friend's construction of it can be maintained. No doubt that despatch did advert to the difficulty of enforcing the principle and did direct that caution should be exercised. But after that it went on in the following terms:—

> "'The object aimed at in the section (*i.e.*, regarding the compulsory rate) is obviously 'that of adjusting the burden of interest on loans raised for State irrigation works 'and transferring it from the shoulders of the general tax-payers to those of the 'communities for whose special benefit the works are severally undertaken, and 'in the value of this object, so far as it can be justly and conveniently obtained, I 'entirely concur; and it will therefore be satisfactory to me to learn that the section 'can be so far modified as to obviate any objections.'

"So far then the principle is approved and not objected to as Mr. Cockerell seems to think. Then, after suggesting certain modifications, the despatch runs thus:—

> "'A preferable arrangement might be one according to which cultivators, instead of 'paying in proportion to the quantity of water taken by them, that is, more in a 'dry year and less in a wet one, would be assessed at an equal rate per acre of 'their irrigable land in all years * * * *. It would, however, rest 'with Government to fix the rate; and whatever rate * * * seemed necessary 'to raise the required percentage on the cost of the canal might be fixed accord-'ingly.'

"Here, again, it is distinctly contemplated that under certain circumstances, a rate may be imposed on irrigable lands, and that such rating is to be fixed by Government on financial considerations. I shall advert presently to the details of this proposal. At this moment my object is to show that we are distinctly authorized by the Secretary of State to legislate on the subject.

"Mr. Cockerell then alludes to the analogy of municipal taxation in towns and cities; he considers that such taxation may be justifiable, because those who pay it are directly benefited thereby. He seems to think that the analogy does not apply to the proposed compulsory rating of irrigable lands. But I say that it does apply most distinctly. For will not every man who may be charged with this water-rate benefit thereby? Undoubtedly he will. He will only be so charged when it can be proved formally that he can and will benefit. Indeed the payer of this canal water-rate would benefit quite as directly by the irrigation of his fields as any townsman could benefit by the conservancy of the streets or by the improved purity of drinking water and the like.

"But if Mr. Cockerell introduced this analogy at all he ought to have pursued it further. He should have alluded to the local cesses for roads, schools, hospitals, and the like, which have been passed of late, province by province, for the whole of India. It is held by the legislature that, inasmuch as the community benefit by these things, they must be taxed. And it is considered that it is more just that such community should be taxed separately for

its own roads and schools and hospitals than that the cost should fall on 'the general tax-payer,' that is, on the revenues generally. But if this be so, then it would be equally just to charge each rural district for the canals running through it, inasmuch as a canal is at least as useful as roads and schools, indeed is perhaps more useful than any other work, perhaps even than all other works put together.

"Again, the payer of cesses for roads and schools and hospitals does not always benefit so directly as the payer of a canal water-rate. A man may be taxed for roads, though he never travels, for schools, though he has no children to educate, for dispensaries, though he never takes physic. But a man will not be compelled to pay water-rate unless it be proved that his fields can be profitably irrigated, and that the water has been brought to their boundaries.

"Therefore I say that the analogy does not, as Mr. Cockerell seems to think, militate against the canal-rate, but is actually in its favour.

"Then Mr. Cockerell quotes a passage from a letter from the Government of the North-Western Provinces, to the effect that a man may be charged for water which 'he finds it not his interest to take.' How in Northern India—or anywhere in India, save in exceptional alluvial districts—it can be otherwise than for a man's interest to take canal water if it be obtainable, I cannot understand. Notoriously it is always for his best interests to take the water; and, if so, it is just to charge him.

"But the passage which my honourable friend quotes is only a specimen of dicta which are too common in many quarters, and which involve a misapprehension, as I will endeavour to explain.

"It seems to be supposed that if it be really for a man's interest to take canal water, he will 'find' it to be so. But unfortunately in India he does not always 'find' this, or finds it only after a long delay. If our people were quick in apprehension, energetic and enterprising in disposition, they would indeed find their true interest fast enough. But they are notoriously slow, apathetic, and unenterprising. I say this without forgetting the many virtues which they do possess. And it can be proved in tens of thousands of instances that they have failed or delayed to take canal water for years and years, which nevertheless it was their true interest to take. Their taking it at last shows that they ought to have taken it from the first. I have learnt from the best departmental authority, and indeed the fact is patent from the statistics of irrigation, that whenever there is a drought there is an immediate extension of irrigation. When the drought ceases, and the seasons become good again, the irrigation, once begun, is maintained. This has occurred over and over again with tens of thousands of acres. The fact proves that in all these instances the water which was all along available might with every advantage have been taken from the first, and that the people were wrong in not taking it, and in not finding out their true interest sooner. When they find it out later, it is only after some terrible teachings from famine or distress.

"It is true that extension of irrigation arises from other causes besides, such as development of subsidiary channels; but after allowance for all this, the fact, as I have just set forth, remains.

"Again, if ever a people had an awful lesson of the consequences of drought, it was the people of Orissa. They saw the terrible mortality from famine when the rains were withheld. Nevertheless when shortly afterwards canal irrigation was brought to their very fields, they refused to take the water, because they would have to pay for it! I have heard, though I would fain hope that this cannot be altogether correct, that the landholders incited the tenants to refuse, on account of some fancied object. Be this as it may, I believe that there have been at times combinations with this view, and a considerable reluctance to use the water. Of course it *is* the interest of the Orissa people to take and pay for the water, though they often fail to find it out.

"Fortunately there has not as yet been any such tendency observable in the Panjáb. The seasons for the last decade of years have been very dry there. But I can remember cycles of wet seasons when sandy unirrigated soils, usually unproductive, became very productive without any outlay of capital, and placed the irrigated lands, cultivated with outlay of capital, at an unusual disadvantage; glutted the markets with produce; caused prices to fall; rendered it difficult for the farmers to get money wherewith to pay the revenue; and caused much economic disturbance. All this will be found in the Panjáb Reports for 1855-56. Now, if such circumstances recur, as they easily may, it is quite conceivable that the Panjábees might try to escape paying for canal water, quite forgetting that such payment

is really their insurance against cycles of dry years, which are more frequent than wet years, and forgetting that if they who benefit do not pay for the canals, the cost must fall on somebody else, and will actually fall on the general tax-payer.

"Then Mr. Cockerell stated that cultivators might have substantial reasons for not taking canal water. I felt curiosity to hear what these reasons could possibly be. At length my honourable friend gave one such reason, which was this, that the men might have wells and therefore did not want canal water; evidently supposing that well irrigation is sufficient and is nearly as good as canal irrigation. Such, however, is not at all the fact. In many parts of Northern India indeed the wells are very efficient, and have solid masonry. But, at the best, irrigation from wells is nothing like as good as irrigation from canals. The well irrigation is wholly insufficient, however useful up to a certain point, to ward off the consequences of drought; whereas canal irrigation does, to a considerable degree, suffice. Further, both in the North-Western Provinces and in the Panjáb, so completely does canal irrigation supersede the use of wells that I have seen regret expressed that more water had not been reserved for tracts which had not even the advantage of wells.

"The existence of well irrigation therefore, though it may be a reason for the canal officers reserving some part of the water for less favoured tracts, is not in truth a 'substantial reason' for a cultivator refusing canal water if it be offered to him.

"I heard Mr. Cockerell state that the power of levying a compulsory rate would place too much power in the hands of the canal officers, and would leave them less motive than heretofore to induce the people to take water by making the administration popular. But in fact, does the Bill place any such power in the hands of the canal officers? Not at all. According to the Bill the canal officer has no power to take any such steps at all; he cannot at all say to an individual 'if you do not take the water you shall be made to pay.' The process is this, according to the Bill. It may be reported by the Canal Department, or the local Government may otherwise have reason to believe that a reasonable use is not being made of the water. The local Government will then order an independent inquiry, quite irrespective of the canal officers, to be made. After that the local Government may report to the Government of India, the sanction of which latter authority is necessary to the levying of the rate in the district. I shall notice presently the equitable precautions laid down for the levying of the rate. I have said this much here, in order to show that it is quite incorrect to suppose that this Bill proposes to place any taxing power in the hands of the canal officers.

"Next Mr. Cockerell says that we may well fear that there will be errors in design, and failures in execution, of the new canals, because, as he pointedly remarked, there have actually been such misfortunes with some of the new barracks! He adduces nothing of the sort in respect to the Canal Department; the remark is confined to the barracks. But why, when we are on the subject of canals, should adverse instances be imported from the barracks? Because, as I imagine, no such instances can be found in respect to the Canal Department. If my honourable friend wishes to forecast the future of our canals by instances from the past, why does he go to barracks and military works, which have nothing to do with the subject? Why does he not resort to the canal works themselves? Let him go to the head works of the Baree Doab Canal on the banks of the Ravee; or to Hurdwar on the Ganges, or to the head works just commenced for the canal from the Sone, or to the anicut across the river Muhanuddy in Orissa, or to the vast weirs and the net-work of channels in the Deltas of the Godavery and the Kistna, or to the canal system of Tanjore and the Cauvery; let him look at the designs just sent in for the canal from the river Sarda in Oudh, let him do all this, and he will see what our Irrigation Department is capable of; he will find that it reflects honour, indeed lustre, on the British service in India; that it is not surpassed, perhaps hardly equalled, by any similar department in the world; that it is an enduring monument not only of the beneficence of our Government, but of our power of carrying beneficent designs into execution.

"Then Mr. Cockerell said that it would be unfair to saddle the cost of a canal which has failed on the community through whose villages it passes; and that such loss ought rather to be borne by the general tax-payer, that is by the whole country. Now, these remarks seem to me to arise from an utter misapprehension of this part of the Bill. The Bill is purposely so drafted that the rate cannot possibly be levied if the canal has at all failed, and can only be levied when it has palpably and demonstrably succeeded. On turning to the important section fifty, we find that the compulsory rate can only be levied—

"'When the following conditions are complied with: (*a*) that the land is cultivated, but not irrigated; (*b*) that the net annual value of the produce of the land, or the pro-

ductive powers thereof, will be increased by the irrigation thereof by canal water after deducting all necessary charges incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation; (c) that the divisional canal officer shall have tendered to the occupier or owner thereof a supply of canal water sufficient for the irrigation thereof in the manner customary in the irrigation of land from a canal; (*d*) that the divisional canal officer shall have offered to the said occupier or owner to construct the works necessary for conveying the water to the said land under section fifteen, or (if the said occupier or owner shall so prefer) to apply the provisions of sections twenty and twenty-four for the construction or transfer of a water-course; or shall have tendered an advance of money sufficient to provide for the construction of the said works; such advance to be repayable in conformity with the rules for making and recovering advances made under the Act for the time being in force as to advances for improvements in land.'

"Manifestly the proof of the canal is in the water! If the water is tendered as set forth in the conditions I have just quoted, the canal cannot have failed, and the cultivator can only be made to pay when he receives water from a canal which must, from the essence and nature of the conditions, be in an efficient working order.

"Then Mr. Cockerell quotes from a report which states that the projected Sarda canal will pass through a country already irrigated by 'kucha' wells, evidently thinking that such a tract will not really need canal irrigation and should not be made to pay for the same. In the first place the Sarda canal as now designed is not to pass through a country thus irrigated. But if it were so designed, then would the fact of its passing through such a tract be any sort of proof of its not being imperatively needed? Is irrigation from 'kucha' wells, in the least degree, a substitute for canal irrigation? Assuredly not. What is a 'kucha' well? why it is just a hole dug in the ground where ordinarily water is met with near the surface; it is unsupported by masonry, and is altogether of a temporary and uncertain character. So long as the rains are propitious, as the clouds drop fatness, as moisture is retained in the ground, these kucha wells are serviceable. But on the slightest stress of drought, or failure of season, they inevitably become useless. Their existence therefore furnishes no reason whatever for canal water being not introduced and canal rates levied. Indeed the remarks I am combatting run counter to the fundamental principle of canal irrigation in Northern India. We want something more reliable than the periodical rains, than the kucha wells which constitute the lowest and most precarious kind of irrigation, than even masonry wells of the better sort. These things depend on climatic considerations, which meteorological experience has shown to be dangerous to life and property. We cannot depend on local supply of water for Hindostan. But there is one supply of water which we can, comparatively, depend upon, and that is derived from the mighty range of Himalayan mountains which overhang Hindostan. There providence has stored an infinite quantity of snow and glacier, and perennial waters, for the use of man, for the sustenance of the people who dwell in the arid plains below, if we will only learn, by application of science, to utilize these natural advantages, and if the agriculturists will submit to the pecuniary sacrifices necessary thereto.

"Lastly, Mr. Cockerell objects to what he terms the 'forced labour' sections, that is, to those sections, seventy to seventy-three, which authorize the agriculturists in certain districts to be required to supply labourers (on due remuneration) for maintaining the canals which pass through those districts, and which prescribe penalties for refusal or failure to comply with such requisitions. In other words there are certain districts where every able-bodied villager must, at certain fixed periods, or on emergency, turn out to repair the canals, on which the very food of the community depends. My honourable friend deems it improper to sanction such a practice by law, and says that this reduces the people to a state of serfage. What, however, is the fact? The practice is an old established custom, long anterior to British rule. The people are so situated that absolutely they cannot live or exist without it. If it be not authorized by law, they must somehow enforce it by arrangement among themselves. The districts where it prevails are insalubrious and isolated, almost rainless, dependent solely on canals from certain great rivers, dependent further on a certain supply of labour for repairs of canals, yet far distant from ordinary labour markets. The people are therefore driven to rely on themselves, and every able-bodied man must put his hand to the work, on which indeed his own bread, as well as the bread of all his neighbours, depends. The custom is thus necessary; and if it must exist, then it had better be authorized by law, and thus be brought under due check. My honourable friend seems to think that it might be gradually abolished. I cannot foresee any chance of this. At present any attempt to obtain labour from a distance would probably lead to failure of the works, and would certainly lead to

great waste of money. If a man refuses to work, when he knows that he is thereby practically compelling his brethren and neighbours to work for him, and is directly shifting his own burden to the shoulder of others—just as in the crew of a ship in a storm, one man skulking or shirking, puts more work on the rest—why he does, morally, deserve some mild punishment; and, if so, he may as well have it legally.

"I have now done with my honourable friend's objections. In replying to them I have developed my own opinion, which I shall only now state by way of recapitulation.

"We are to make canals, and they must therefore be paid for, that is, the interest on the capital laid out in construction must be paid regularly. Who is to pay this? The communities through whose lands the canals pass, or the General Treasury, in other words, that inexhaustible person, the general tax-payer?

"I should say that the community which benefits ought to be charged. If it be justifiable to tax people locally for roads, schools, and drinking-water works, and street conservancy, and so on—as the legislature holds that it is—then still more is it justifiable to tax a community locally for canals, which are more beneficial than any local work that could be named. From this point of view, the taxation for canals should be so arranged as to be limited to those classes who benefit directly or indirectly by the works. Still the principle remains; if there may be a road cess or a school cess, there may be also a canal cess. If the subject be impartially viewed, it will be found impossible to distinguish between the one and the other. If there may be local taxation for anything at all, there may be such taxation for canals. It is sometimes said,—'better give the people the boon without taxation; better not render a beneficent thing odious in this way.' But this sort of specious argument, if stripped of disguise, means that people like canal water best when they can get it, not wholly at their own expense, but partly at the expense of the country at large; that districts or communities are to enjoy the benefit of canals which are paid for partly by themselves and partly by other districts and other communities. If the public were to see the transaction in this light, they would hardly approve it. Is India generally to defray the charge of canals which affect certain districts or certain provinces only? If it were possible (which it is not) to take the sense of the majority, the answer would be in the negative. Yet in practice we have done, in Northern India at least, and are still doing, something of the sort. Great canals have been constructed; doubtless their returns will some day more than cover the interest on the capital, but such is not yet the case; meanwhile a large portion of the interest is being paid by the country generally. Certainly it is not paid by the communities or the districts who benefit by the canals; nor is it even paid by the provinces in which the canals exist; for these provinces, however valuable, are not what we call surplus territories, which yield something over and above the costs of their defence and administration. Without objecting to anything that may have been done heretofore, I am bound to say, financially, that we cannot always go on doing this. It seems to me that if canals in the future are to be made, the full interest on the capital must be obtained locally, that is, from the communities or districts benefited directly or indirectly. The General Treasury cannot, and ought not to defray the charge as heretofore.

"But however sound this principle may be financially, the present Bill does not go so far as that. It limits the compulsory rating to the particular persons whose fields are irrigable, if not yet irrigated, and to whose boundaries the water is actually brought. The justice of this is plain. What reasonable motive could a man have for refusing to take and pay for the water? Perhaps the reason would be ignorance and apathy; perhaps a repugnance to incur the smallest expense for even a certain benefit; or perhaps a vague hope that he might go on a little longer in the old groove before the evil day of drought should come round. Yet from all this folly and hesitation, repeated in tens of thousands of instances, the individual suffers, for the drought overtakes him unawares, when he is unprepared by irrigation to face it; the community suffers from famine and its train of evils, which might have been averted by timely enforcement of irrigation; the State suffers in not recovering at the time the interest on the capital it has laid out for the benefit of particular places; and the loss meanwhile is inevitably, though not equitably, imposed on the country generally. It must never be forgotten that the Exchequer is in some respects only a synonyme for the country at large. Our Treasury balance is only the residue unexpended of public money, drawn from the capital of the country and held in stewardship by us on behalf of the country. Therefore if any province or district unduly trenches on these cash balances for the construction of its canals, it really imposes a burden on other provinces or on the public generally.

"Therefore I say that the compulsory rating as limited and defined in this Bill is necessary, as the enforcement of a principle essential for the interests of the people as well of the

State; for the State, as enabling it to apportion justly the burden of payment for works of material improvement; for the people, as protecting them from the consequences of their own improvidence.

"I have one more remark to make before concluding. This Bill embodies another important principle, that is, the levy of two kinds of water-rent, called now the owner's rate and the occupier's rate. Heretofore there has been only one kind of rate in the Canal Department, which corresponds to what we now call the occupier's rate. If the cultivator irrigates his field, he pays the occupier's rate. The landlord, who of course will get increased rent from land thus fertilized, will pay the owner's rate. This point is of great importance in districts where there are zemindars or other landlords. They will now have to pay owner's rate; otherwise they might, under certain circumstances, escape the payment of this just due. If the occupier be both cultivator and owner, as in the case of peasant proprietors, then he would pay both owner's rate and occupier's rate. Practically he does this now in many parts of the North-Western Provinces and the Panjáb, that is, he pays the canal water-rent and he pays an additional irrigation rate of land revenue. Though this process is sometimes complete, yet it is not always so, and its operation is uncertain, and at the best the irrigation revenue rate which is really canal income becomes mixed up with land revenue. The Bill makes all this clear. There will be no doubt of the State's obtaining its dues from the occupier or owner where they are separate, and the double rate where the two capacities are combined in one person; and the full sum of canal income will be properly exhibited. The Bill also provides that where the people are already paying the double rate under settlement, they shall not be made to pay any more now, though the designation of their payments may, as a matter of account, be changed.

"I have only now to express my hope that the Bill as amended by the Select Committee may be passed into law."

The Honourable Mr. STRACHEY said:—"MY LORD: I propose, in the remarks which I am about to make, to confine myself to one part of the Bill only; that part which provides, under certain circumstances, for imposing compulsory rates on the owners of irrigable land. In regard to the other important subjects to which this Bill refers, I think that I need say nothing, because they have been already sufficiently discussed. We all know, my Lord, what a common practice it is, in arguing, to attribute to one's adversary all sorts of opinions which he never expressed, and never held, and, having demolished one's imaginary enemy, to triumph in an imaginary victory. I am sorry to be obliged to say that there has been a great deal of this kind of argument on the present subject. I shall now endeavour to state the reasons for which I believe it to be essential that the principle regarding which there has been so much discussion, and which is affirmed by sections 44 to 49 of this Bill, should be distinctly laid down by the law.

"Although there has been much difference of opinion regarding the exact manner in which that principle should be practically applied, the principle itself has been distinctly declared by the Government of India, for several years past, as one of essential importance. This has been repeatedly said in the published orders and despatches of the Government, and also by your Excellency and by Members of the Government in the Legislative Council. The justice of that principle has been, with rare exceptions, acknowledged by the highest authorities connected with both the Supreme and Local Governments.

"The public hardly appreciates the serious financial considerations which are involved. Already, as Colonel Strachey stated last year in this Council, we have incurred, or are in progress of incurring, an expenditure on canals, in the North-West Provinces, Panjáb, and Oudh alone, of more than £20,000,000.

"Other great undertakings of a similar character are going on in other parts of India, and Colonel Strachey informed us that before long the liabilities for works of irrigation would amount to an annual charge of several millions sterling.

"The duty of executing these works, if it can be done without extreme financial danger, is obvious; for in no other way is it possible to give real and complete protection to the country against the terrible famines, which, even to this day, periodically devastate the land.

"There is a common idea that these great canals not only pay all their expenses, but that they bring a great and certain direct return to the treasury. Unfortunately this is only partly true. There is doubtless ample reason for believing that these works will ultimately be highly remunerative; but it has been proved by actual experience, as my honourable friend, Sir R. Temple, has already observed, that this result often takes a very long time to bring about. In regard to the reasons which lead to this delay in obtaining the full benefits of the canal, I shall have to speak again presently.

"I will now only say that, without at all undervaluing other reasons—such as bad management of our own officers, insufficient construction of subsidiary channels, and other causes which have often had much influence—I am satisfied that the main cause of this delay has been ordinarily the ignorance of the people, and their disinclination to embark in any novelty. They and their fathers before them, from time immemorial, have cultivated their fields with no water but the rain from heaven, or that raised laboriously from wells; and they can no more appreciate in a moment the advantages which the canal offers them, than the people of our towns can appreciate the value of clean streets and drainage, and wholesome water to drink. I will quote here a despatch, written about two years ago, from the Government of the North-Western Provinces, in illustration of this part of the subject. It was written regarding the projected new canal from the Ganges, and with particular reference to the irrigation of the autumnal crops, but it applies in principle to irrigation canals generally:—

> "'As regards the projected *kharif* canal, it will be long before the people avail themselves fully of the contemplated autumn supply for other crops than indigo, sugar, and cotton. In the Eastern Jumna Canal, the eventual proportion of nine-twentieths now taken by the people for *kharif* cultivation, is the result of an education of some forty years in the use and benefits of canal irrigation. The experience of the past year goes to show that, at the present time, cultivators in the Doáb wait looking for the rain from heaven, and only at the last moment, and therefore only in really bad seasons, resort to the canal in aid of the commoner crops. His Honour is not insensible to the benefits of *kharif* canals; and would, indeed, be glad to see the one projected by the Chief Engineer carried into effect, if it can be done with a due regard to financial considerations. But the Lieutenant-Governor holds strongly that, in the Doáb, irrigation from such a canal could not supersede, or stand instead of, *rubbee* irrigation; and also that, in calculating returns for capital invested in such an undertaking, the disinclination of the people in this part of the country must be borne in mind. Perhaps, on an average, one out of every five years may prove a failure, and lead the people to the canal for their ordinary autumnal crops; in the end, after a long series of years, they may have learned fully to appreciate and use the water irrespective of the season. But, certainly, for a considerable period the water would be but partially used during the monsoon, and the return in water-rate would be proportionally low. But delayed returns are equivalent to an increase of the capital invested; and the Lieutenant-Governor thinks that this point has not been sufficiently regarded in the calculations of the Chief Engineer.'

"There can be no doubt, I believe, that this is generally true. Ultimately, the people find out the value of the canal and every drop of water is utilized and anxiously demanded; but until this result arrives, the Government has to go on paying the interest on the borrowed money with which the canal has been made. So long as these works were upon a small scale and constructed with such funds as could be made available from the annual revenue, the matter was one of minor importance; but now that we are expending on these canals millions of borrowed money, it becomes a matter of most urgent financial necessity that there should be no doubt as to the mode by which the interest on these charges is to be secured. The Government of India maintains—and this is the general principle which underlies the sections of which I am speaking—that if, after these works have been constructed, the income be insufficient to cover the interest on the capital charge, then the deficiency ought not to be borne by the general tax-payer, but by the particular districts which have benefited by the canal, which, by its construction, have been protected against famine, and where the value of landed property has been enormously increased. That this principle is equitable and right, and that the other principle—that of throwing upon the tax-payers in distant parts of the country charges for works of local utility—is thoroughly inequitable and wrong, seems to me to be a proposition not open to doubt. It is a principle recognized in every civilized country, and it is now recognized in India in regard to all other classes of public works and objects of local utility. I should like to read to the Council what one of the wisest and most accomplished Statesmen who ever came to India, Lord Sandhurst, said upon this subject:—

> "'It was but too true that there was a sort of feeling among certain classes of the public, this including, not only the ryots and the petty landholders, but even some of our own officers in responsible situations, that there was a kind of bottomless purse, into which all were free to dip their hands at pleasure for local objects, without any local responsibility of reimbursement, this unlimited treasury being what was called the Government.

"'We could understand the ryot or the petty landholder having this notion of the Sarkár; but it was difficult to comprehend how responsible officers charged with the care of administration, who were aware of the almost infinite demands on the Government, should fall into such errors of reasoning.

"'Well, this matter seemed to be fairly set right by certain clauses in the Bill. Some alteration in the wording, some modifications, might be required; but the principle according to which these works must be carried out henceforth was described in a manner admitting of no mistake in future.

"'It could not be too clearly declared that the provinces, the districts, the populations which benefited by the reproductive works must be responsible for the expenditure incurred on account of them, and that this must not be thrown on the country at large or the system of general taxation.'

"There has been much discussion in regard to the manner in which this principle should be carried into practice. Although the procedure laid down in these sections of the Bill is absolutely just, and, so far as it goes, as it seems to me, beyond criticism, I do not pretend to say that, personally, I think it goes far enough. The Bill is, I think, needlessly tender when it provides that no compulsory rate shall be levied except on those owners of irrigable land the value of whose property has been directly increased by the canal, and who can certainly, by using the water offered to them, re-coup themselves for the charge that is imposed upon them. I think it would have been simpler, and quite equitable, to make the incidence of the rate much wider, and to impose it upon all property within the districts certainly benefited by the canal. My honourable friend, Sir Richard Temple, has already referred to the series of laws which have been passed for every province of India, laying down the principle that, if more roads and bridges and schools and hospitals and other works of local utility are required, they must be provided at the charge of the districts which want them, and not at the charge of the tax-payers in other provinces. I cannot conceive why canals are to be an exception to this general rule. It is of course true that the benefits of canals often extend beyond the local limits of the country through which they pass. The same may be said of almost every great work of public utility; but there can be no question that no works exist of which the purely local benefit is so certain and so immediate as that of an irrigation canal. I will give an example: A few months ago an Act was passed authorizing the imposition, in the permanently-settled districts of the North-Western Provinces, of a rate of two annas on every acre of cultivated land for constructing and maintaining roads and communications, for the police and district post, for schools, hospitals, lunatic asylums, markets, wells and tanks, and any other local works likely to promote the public health, comfort or convenience. I am altogether unable to understand how, if it is right to impose general local rates for such purposes as these, it can be wrong to impose them for works of irrigation, which affords absolute protection against famine, and which confer upon the people of the districts through which they pass benefits to life and property incomparably greater than those which any other public works can give. It must not be supposed that such rates would be heavy, they would never be required to meet the whole charges on account of the capital expended, but only to make good the difference between the actual income from the works, and the income required to protect the State against loss, and to secure the gradual repayment of the borrowed money.

"By no possibility could such a rate be heavy. I may give an illustration. It has been proved in the case of the greatest and most expensive project of canal irrigation ever proposed in Northern India—that of the Sarda Canal (I speak of the project in its original shape, for it has been subsequently greatly cut down)—that the financial success of the scheme could be placed beyond doubt, and a return of at least seven per cent. on a capital of £5,000,000 sterling be rendered certain, by imposing a general rate of one and a half anna, or about two pence farthing, per acre on the cultivated and culturable lands through which the canal will pass. The average rate at which the Government land revenue now falls upon these lands is about two rupees an acre. If this were increased to two rupees one anna and six pies, the people on whom the rate was levied would be for the most part absolutely ignorant that any fresh charge had been put upon them, while they could not help knowing that they had received a blessing of almost incalculable magnitude. Surely this is a fairer way of protecting the finances of the empire against loss, than imposing taxes on the people of Calcutta, Madras, and Bombay for the benefit of the people of Oudh.

"The present Bill, while it generally affirms this principle of local responsibility, applies it in practice only to a limited extent. These sections, as my honourable friend, Mr. Ellis, has observed, represent, in fact, a compromise between two opinions, both of

which, however, admitted the general principle at stake. It has been thought better at present to confine the power of imposing a special water-rate to those cases in which it can be proved that the water might be taken with actual profit to the proprietor if he chose to take it, and that, after taking the water and paying the rate, the annual value of his land would be greater than before. Most elaborate safeguards have been inserted in the Bill to prevent the possibility of hardship to individuals. They are so elaborate that I am afraid it will not be easy to apply them in practice.

"They err, however, on the safe side. They are entirely in favour of the people and against the Government. My honourable friend, Sir Richard Temple, has already stated to the Council, and I therefore need not repeat, the conditions which must be fulfilled before this special rate on irrigable lands can be imposed. My honourable friend, Mr. Cockerell, quoted with approval to the Council a description of those conditions from a despatch lately received from the Government of the North-Western Provinces. With your Excellency's permission I will again read to the Council the same passage:

> "'As the Bill now stands, this extraordinary rate may be imposed on the report of an officer that the owners and occupiers of lands irrigable by such canal have not made reasonable use of the canal for purposes of irrigation.' * * * 'The measure will simply be based on the opinion that "reasonable use" has not been made by the people of the canal, and, on this opinion, an agriculturist who never took a drop of water from the canal, or intends to take it, who finds, in fact, that it is not for his interest to bring water-channels to his fields, can be charged a special rate which may reach to two rupees an acre. The injustice of such a proceeding seems to be patent on the mere statement of it.'

"Certainly, my Lord, the injustice of such a proceeding would be patent; but why should the intention of any such proceeding be attributed to the Government of India? Not only has this Government never contemplated such injustice, but I affirm that there is not a word in this Bill to justify the charge. The simple answer to objections of this character is, that they are objections to propositions which have never been made, and to provisions which have no existence in the Bill; and that under no circumstances whatever will it be possible to impose the special rate upon any land, unless it can be proved, not only that it is irrigable from the canal, but that such irrigation will certainly increase its net annual value. No rate can be imposed on account of the canal until the value of the land has been actually increased by the construction of the canal. This answer also completely meets the objection that the power of imposing compulsory rates may encourage the execution of extravagant and unremunerative projects. It will be impossible for the Government to throw upon any one any loss arising from any such causes; for no one can be called on to pay who may not, if he chooses, derive a greater benefit from the canal than any charge which can be placed on him. It is said 'it would not be equitable to levy the special rate from those who never touched the water.' Now, I ask the Council whether something precisely equivalent is not done in hundreds of cases with which we are all familiar? I will give one illustration—the water-works of Calcutta. In this case, the Municipality—which, notwithstanding what has fallen from my honourable friend, Mr. Cockerell, on the subject of Indian Municipalities, I affirm to be virtually nothing more than a branch of the Government—borrowed half a million of money, and brought into Calcutta an excellent supply of pure water. To cover the charges for this work, a compulsory water-rate is imposed upon all owners and occupiers of houses in Calcutta. A few years ago, there was a violent opposition on the part of a certain very orthodox section of the community against the gross injustice of being made to pay for water they did not want, and which they would never touch. 'It is true,' they said, 'we could use this water if we chose, and you are pleased to think that we should be the better for it. We think differently; from time immemorial we and our forefathers have gone on without these new-fangled notions; you may say, if you like, that the water which we drink is a filthy fluid scooped up out of noisome tanks. We are satisfied with it, and we protest against the injustice of being made to pay for water which nothing shall induce us to use.' These objections did not prevail. The Government was not prepared to relieve these people from payment of their share of the water-rate. It virtually said to them 'you can use the water if you like, and it will be as beneficial to you as to your neighbours to be saved from cholera, and to have your streets made clean and wholesome. We refuse, on account of your objections, either to throw an additional burthen on your neighbours who drink the water, or to tax people in other parts of India. The objectors paid their water-rates, and now, I am happy to say, they have given up all their objections and have taken to drinking the water. The parallel is a perfectly fair one. We propose to do nothing more;

we propose, indeed, to do very much less, in the way of imposing compulsory water-rates upon people who can, if they choose to do so, use the water to their own benefit, than has been done in Calcutta and Bombay, and in half the cities of the civilized world.

"But, my Lord, there is another reason of great importance to which my honourable friend, Sir Richard Temple, has already referred, which makes it especially right to bring some pressure to bear upon agiculturists whose ignorance or dislike of change lead them to delay in availing themselves of the benefits of irrigation which are offered to them. If these people only injured themselves, we might leave them alone. If the result of their refusal to use the water were only an additional pecuniary burden on their neighbours, or on the general tax-payer, the matter would be more serious; but still the loss would be one that could be measured in money. Unfortunately, this is not the case. These canals are primarily constructed to save the country from famine, and if the water is not taken, the country is not protected. Thus, the ignorance of the agriculturists, and their disinclination to adopt new systems of cultivation, defeat the object with which these great works are undertaken. It is a fact that has, in my opinion, been conclusively proved by experience in various parts of India, that it is mainly under the pressure of famine and scarcity, and failure of the periodical rains, that irrigation makes really rapid progress. So long as the seasons are tolerably favourable, people go on in their old ways, and do not take water from the canal. There comes a failure of the rains. Then there is a rush for water, and people learn the advantage of the canal. Having once or twice broken through their old habits, they give them up and continue to take the water regularly. But this experience is gained at a fearful price to the country. It is lamentable to think of the lives that have been sacrificed, and of the vast amount of property that have perished, during the last ten years, to say nothing of earlier periods, in consequence of the difficulty and slowness with which these ignorant peasants learn the real value of canal irrigation. The present sections may, I hope, act very advantageously in placing upon the owners of irrigable land, instead of the terrible pressure which is now brought to bear by natural calamity of season, a pressure of a different and purely beneficial kind. This pressure may induce them to co-operate with the Government in extending irrigation, and thereby obtaining for themselves, and for the country generally, the only effectual remedy against the utter ruin which too often falls upon them in the shape of famine.

"I have one other reason to give in reply to the objections that have been made to these sections. The power which the Government now proposes to declare that it possesses is in principle strictly similar to that which is recognized by the existing law as possessed by every proprietor of land. I believe this to be true of the whole Bengal Presidency. It is certainly true of Bengal and of the North-Western and Central Provinces. It has been ruled by the High Court of Allahabad that, when a landlord provides facilities for irrigation, of which his tenants with occupancy rights can avail themselves if they choose—if, that is, the landlord at his own cost makes unirrigated land irrigable— he may claim an enhanced rent from his tenants.

> "'It is true,' say the High Court, 'that a landlord cannot compel a tenant to use water from wells or other works constructed for facilitating irrigation; but if a landlord constructs such works, and provides facilities for irrigation of which the tenants may, without expense, avail themselves; if he brings the water to their holdings, we are not at all prepared to hold that he could not, after the service of a proper notice, enhance the rent-rates paid by tenants of the holdings to which such facilities were given, up to the rates paid by tenants of a similar class holding *lands with similar advantages* in places adjacent. A tenant of unirrigated land, if his landlord makes that land irrigable without cost to the tenant, must pay at the rates paid by other similar tenants for irrigable lands in the neighbourhood. If this were not allowed, landlords would have no motive for improving occupancy holdings, a conclusion at which we should arrive with much reluctance.'

"Nor is this all. It has been ruled by the High Court that a 'proprietor is clearly entitled to claim an enhanced rate of rent in consequence of the productive powers of the land having been permanently increased by the proximity of the Ganges Canal independently of the agency of the ryot.' So, also, it has been, on more than one occasion, ruled by the High Court of Calcutta, that a tenant is liable to enhancement of rent when the productive powers of his land have been increased by improvements constructed at the cost of Government. It comes therefore to this. The Government, the chief landlord of the country, asks only for a power which private landlords possess already. If the Government makes a canal, and water becomes available for the irrigation of an estate, the private landlord may say to his tenant—'Why do not you take the water that is at your disposal, and thus increase

the productive powers of the land which you occupy? Why, on account of your neglect, and of your bad husbandry, am I to suffer and get from you only the rent of unirrigated land? Take the water and increase the value of your holding, and pay to me in future a rent proportionate to the real value which the land now possesses, and equal to that which good tenants, your neighbours, who have availed themselves of the advantages offered to them, pay for similar land close by.' The Courts would support the landlord in his perfectly reasonable demand. We now ask the legislature to acknowledge that the State possesses similar rights, and that it may equitably demand to receive from those who are virtually its tenants, a similar return for the improvement by which it has permanently increased the value of the land.

"My Lord, I have only one thing more to say. My honourable friend, Mr. Cockerell, has told the Council that there have been many protests and expressions of disapprobation against this part of the Bill from many eminent public officers. I admit that the high authority of Sir William Muir may be quoted in support of the views of my honourable friend. But with this exception, to which I fully concede that high importance must be attached, I venture to assert that it would be difficult to quote a longer list of eminent names in favour of any great measure which has lately come before this legislature, than can be quoted in support of the main principle involved in these sections. I will not refer to the opinions held by your Excellency, or by any one who is now a member of this Council. But it ought to be remembered that the justice of the principle now under discussion was admitted and advocated by Sir Henry Maine, by Sir Henry Durand, by Lord Sandhurst, and by Sir Donald McLeod; that it has been accepted by three successive Lieutenant-Governors of the Panjáb, and by three, out of the four, Local Governments of Northern India.

His Excellency THE PRESIDENT said:—"I am content to leave to public judgment, in reference to the important principles involved in this measure, the statements that have been made to-day by my colleagues.

"I am glad a discussion has taken place, because the principle which is contained in portions of this Bill has been for some time rather lost sight of; and it is a matter of satisfaction to me that an opportunity has been given to those who think them right and sound to explain them in the able and complete manner as has been done to-day.

"I have really little to add to what has been said in the discussion now about to close.

"I will not refer to the amendment immediately before the Council. It appears to meet with little favour. At this I am not surprised, for it suggests that this Council should discuss, in the enforced absence of those who are best informed and most interested in the matter, a question which most intimately affects, and affects only, the province in which we sit.

"It seems to me that the observations of my honourable friend contained, from the beginning of his speech to the end, an enunciation of principles which, if they were carried into effect, might prove the doom of those great works in which we are engaged.

"It is twenty-five or thirty years since great irrigation works were begun in Northern India; the circumstances of the country are much changed since then. At that time they were conducted on no distinct financial principle; the annual expenditure was not very large, the money to carry them on was generally found according as it was wanted, and the payments on account of interest had not become serious in amount; but, as the wants of the country developed, and the great and important character of these works was perceived, all wise men who looked to the future of our financial position discovered that, if these works were to be carried on at all, they must be continued on a fixed principle.

"Government then determined on distinguishing the expenditure involved thereon from the ordinary expenditure of the year.

"In that they recognised the principle that these great works should be carried on only on the assumption that they were to be, to a great extent, reproductive, and that their finance was to be, as far as possible, separated from the ordinary finance of the empire.

"The principle involved in the clauses which have been so much discussed to-day, and which contain, to a limited extent, the principle of a compulsory rate, is nothing more or less that the logical consequence of the policy which has been adopted for some years with regard to these great works—the principle that local works of a beneficial character should be, as far as possible, defrayed from local resources.

"It is said that this is a question of principle as between the Government of India and some of the Local Governments. For my own part, I cannot too strongly express my satisfaction at having heard from the most distinguished member of the Local Administration that

the clause does not in any way involve a question of principle as between the Supreme and Local Governments. But if we talk of a principle of this kind being discussed between the Local Governments and the Government of India, without laying myself open to any accusation of presumption, I may say that it is the Government of India whose duty it is mainly to decide. The Government of India appears in this case in the joint capacity of a body who are responsible for the general interests of the country, who represent that co-partnership in the land, which is the property of the public, and who are also in the position of the lender who has to lend trust-money for certain purposes, and whose duty it is to see that it is lent on good and sufficient security.

"Therefore, as between the Government of India and the Local Government, I am bound to say the position of the Government of India, and the responsibilities which attach to it, are tenfold greater than any responsibility that can possibly attach to a Local Government in such a matter.

"I know that we are as anxious as any Local Government that these works should be carried out to the utmost extent.

"I do not believe that any Government that ever ruled in India recognised more thoroughly than we do, the enormous advantage of these great works of irrigation, and the paramount duty that lies upon us to promote them by every means in our power.

"But we believe that, by adopting these principles of sound, and, perhaps, apparently severe, finance—and by no other means—the certainty of a continuance of these works can be secured. We believe that if you attempt to throw upon the general resources of the empire at any time huge burdens in the shape of expenditure, which will necessitate unpopular, onerous, and almost impossible taxation, the certain result of such a step will be the stoppage of all useful works.

"The extent to which this good principle ought to be carried out is, according to my view, not sufficiently developed in this Bill; but the measure is good as far as it goes, and I believe that, in its working, it will have the double effect of making those under whose authority and under whose direction these works are constructed very much more careful as to economy and efficiency of construction than they would otherwise be; and it will also have the effect of affording to the Government, which is only another term for the general public, great additional security against loss.

"If it has that effect, it will be impossible for any future Administration materially to limit the construction of irrigation works which are wisely designed, and which can certainly be completed without immoderate charge upon our annual revenues.

"It has been said that, if errors in design and mistakes in construction occur, the incidence of re-payment should be changed and placed on the shoulders of the people at large.

"I can see no force in that argument, and really, when we come to details, we find that the officers who conduct these works, and are really entrusted with their construction, and to whose errors and mistakes (if they occur) misfortunes must be attributed, are more under the influence of the Local Governments, than under that of the Government of India.

"Who are the officers who are now conducting these works? The officers of Local Governments; and though these officers require no such incentive to the due exercise of their duties, still, the fact of their being officers of the Local Governments, and under the control of the Lieutenant-Governors and Chief Commissioners of those provinces in which the works are undertaken, must have the effect of making them careful and energetic.

"I think that is sufficient to show that there is no strength in the argument that, because it is possible that errors in design and mistakes in construction may be committed by the officers of Provincial Governments, therefore the whole people of India should pay.

"It has occurred to me through the whole of this discussion that a sort of anxiety is apparent that, in an expenditure which is incurred for the sole benefit of a particular class or district, some other class or distant province ought to partake in the liabilities, and should, under certain circumstances, be made to pay.

"This puts me in mind of the old saying of Sydney Smith—'Charity is common to mankind. A sees B in distress, and he is most anxious that C should relieve him.'

"I cannot help thinking that this is the sort of feeling which underlies many of these propositions, and there is an intention or a hope, that those who benefit should pay a good deal, but that, under certain circumstances, others should be bound to contribute.

"I do not think that any great undertaking, whether it is in private or public hands, can ever be successfully carried on, on such principles.

"My honourable friend, Mr. Strachey, has alluded to a most apt parallel, in quoting the Calcutta water-works.

"It is the principle which has been adopted with success, not only in India, but in Europe, where it has always been laid down that, where a great local work is undertaken for the benefit of the majority, there is nothing improper—nay, that there is absolute justice—in making every one who may be benefited pay his share, whether he accepts the boon derived from the undertaking or not.

"The principle has been carried out in all our great works at home. It would never have been admitted for a moment that, if, for instance, a great drainage canal is made across a man's estate, which must enrich him as well as all his neighbours, and if he prefers to leave his land to the occupation of wild ducks and snipes, instead of growing clover and corn, therefore he is to escape paying his share for a boon by which the whole country is benefited.

"I believe this principle can, through the agency of our officers, be carried out without the smallest particle of oppression.

"I rejoice to hear from my honourable colleagues, the Lieutenant-Governor and Mr. Egerton, that the desire for obtaining water will be so great in the Panjáb, that it is probable that a compulsory rate will never be necessary.

"I believe that; and I do believe at the same time, that the value of laying down this principle by an Act in this Legislative Council is so great, that such assurances, however, gratifying they may be, ought to have little weight with us. We are quite justified in adopting a general principle of justice and right as a precaution, notwithstanding that it is possible it may never be necessary to carry it into practical effect; but I believe that the knowledge that this principle is involved in the Bill, and may be enforced, will render the people more disposed to take the water; and we know that experience goes to show that, if once water is taken by the cultivator, the use of it is seldom completely renounced.

"I have only to repeat my belief that, if a strict, sound, and straightforward system is pursued with regard to these works, they will go on, be self-supporting, and will create no future difficulty for the Government; but I believe at the same time that, if you endeavour to adopt the hap-hazard principle by which there is to be any uncertainty as to your security for these vast loans, and as to how and when and by whom such works are to be paid for—if a system of scrambling finance is to be adopted with regard to them—they will become a source of serious difficulty and much damage, and that those who resist such wise and necessary precautions and oppose measures similar to this (though they may have the best intentions) are really obstructing, hindering, and possibly endangering the future success of the most beneficent undertakings that any Government has ever promoted for the welfare of its people."

The amendment was then put and the Council divided—

Aye.	Noes.
Honourable Mr. Cockerell.	His Excellency the President.
	His Honour the Lieutenant-Governor of the Panjáb.
	Honourable Mr. Strachey.
	Honourable Sir R. Temple.
	Honourable Mr. Stephen.
	Honourable Mr. Ellis.
	Major General the Honourable H. W. Norman.
	Honourable Mr. Egerton.

So the amendment was negatived.

The Honourable Mr. Egerton's motion was then put and agreed to.

The Honourable Mr. Stephen, with the permission of his Excellency the President, moved as amendments—

That the following clause be added to section eight, after clause (3):—

"(4). Injury done in respect of any water-course or the use of any water to which any person is entitled under the law relating to the acquisition of ownership by possession:"

Also that the following clause be added to the same section, after clause (*e*) :—

"None of the advantages referred to in the above clauses (*a*), (*b*), (*c*), (*d*), and (*e*), shall be deemed an easement."

The Motion was put and agreed to.

The Honourable Mr. EGERTON then moved that the Bill as amended be passed.

The Honourable Mr. COCKERELL moved, by way of amendment, that sections 44 to 49 inclusive be omitted, and that the numbers of the subsequent sections be altered accordingly.

Major General the Honourable H. W. NORMAN said that, after all that had passed with regard to this important measure, it was with much reluctance he was bound to express himself in support of Mr. Cockerell's amendment. He believed that, by the retention of the clauses under discussion, not only much injustice, and, perhaps, oppression would arise, but much discouragement would be thrown upon irrigation projects generally; for it was quite clear that those who considered these clauses applicable to the Panjáb should endeavour to extend them elsewhere, and this no doubt would throw cold water upon the desire which now existed for various irrigation extensions. It seemed presumptuous in him to express an opinion contrary to these clauses which had received the sanction of the high authority of the Mover, and, he understood, of the Lieutenant-Governor; but, having given a good deal of consideration to the subject, he felt he was bound to do so. While thoroughly agreeing with His Excellency as to the necessity for all irrigation projects being based upon sound financial principles, it seemed to him that these clauses were not required in aid of those interests or of those of the tax-payers. If anything of the kind were required, he believed that the clauses in question would be quite insufficient for the purpose. While they were unnecessary, they would be made the instruments of oppression, and, certainly, a means of holding out threats and of causing considerable apprehension.

He (Major General NORMAN) was not aware that it was the case that, in any well-projected and well-constructed work of irrigation, devised to meet an actual want, there had been any want of financial success or a real backwardness on the part of the people in taking the water when once the canals had been brought into operation. While admitting that the clauses were guarded by some judicious restrictions, it did not seem to him that they guarded sufficiently against the evils to be apprehended. He also observed that, while a person could be compelled to take the water, these provisions did not appear to offer him any remedy against the Government in case the supply of water failed. It was a matter of great regret to him that His Excellency the Commander-in-Chief was not able to be present to give the Council the benefit of his experience of canals, both in the Panjáb and elsewhere, particularly as the Council must be aware that, from what His Lordship had said on a previous occasion, he would view the introduction of these clauses with much regret. The Honourable Member concluded his remarks by supporting Mr. Cockerell's motion.

The amendment was put and the Council divided—

AYES.	NOES.
Honourable Mr. COCKERELL.	His Excellency the President.
Major General the Honourable H. W. NORMAN.	His Honour the Lieutenant Governor of the Panjáb.
	Honourable Mr. STRACHEY.
	Honourable Sir R. TEMPLE.
	Honourable Mr. STEPHEN.
	Honourable Mr. ELLIS.
	Honourable Mr. EGERTON.

So the amendment was negatived.

The original Motion was then put and agreed to.

The Council adjourned to Monday, the 30th October 1871.

H. S. CUNNINGHAM,

Officiating Secretary to the Council of the Governor General for making Laws and Regulations.

SIMLA :
The 26th October 1871.

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