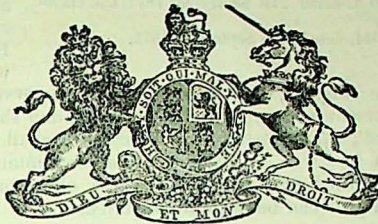


THE



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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th October 1871 :—

- We, the undersigned, the members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to which the Bill to regulate the construction and maintenance of public works for irrigation, navigation, and drainage was referred, have the honour to report that we have considered the Bill, and the papers noted in the margin.
- We have made the Bill applicable to the Panjáb only instead of to the North-Western Provinces, the Panjáb, Oudh, and the Central Provinces. This 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.
- From Public Works Department, No. 342½ I, dated 20th September 1869, and enclosures.
- „ Joint-Secretary to Government, North-Western Provinces, Public Works Department, No. 40 D—C, dated 13th January 1870 and enclosures.
- „ Assistant Secretary to Chief Commissioner, Central Provinces, No. 211—8, dated 31st January 1870, and enclosure.
- „ Secretary to Government, Panjáb, No. 96, dated 2nd February 1870, and enclosures.
- „ Officiating Secretary to Chief Commissioner, Oudh, No. 479, dated 3rd February 1870, and enclosure.
- „ Public Works Department, No. 89 I, dated 16th February 1870, forwarding Despatch from the Secretary of State for India, No. 4, dated 11th January 1870.
- „ John Michel, Esq., C.E., dated 8th March 1870, and enclosures.
- „ Nawab Syed Mohummud Ally Shah, of Sirdana, Zemindar.
- Memorandum by Colonel the Honourable R. Strachey, dated 29th March 1870.
- From Assistant Secretary to Chief Commissioner, Central Provinces, No. 1264—103, dated 19th May 1870.
- „ Secretary to Government, Panjáb, No. 707, dated 2nd November 1870.
- „ Government North-Western Provinces, No. 35, dated 30th November 1870, and enclosures.
- „ Secretary to Chief Commissioner, Oudh, No. 2063, dated 2nd December 1870.
- Telegram from Government of Madras, dated 11th January 1871.
- Memorandum by Colonel the Honourable R. Strachey, dated 2nd April 1871.
- From Public Works Department, No. 253 I, dated 28th June 1871, forwarding letter from Officiating Joint-Secretary to Government, North-Western Provinces, No. 5194, dated 7th June 1871.

To Officiating Secretary to Government, North-Western Provinces, No. 958, dated 19th August 1871, and enclosure.  
 Telegram from Government, North-Western Provinces, dated 6th September 1871.  
 From ditto ditto, No. 34 A, dated 7th September 1871.  
 „ ditto ditto, No. 35 A, dated 14th September 1871, and enclosures.  
 „ ditto ditto, No. 40 A, dated 21st September 1871, and enclosure.  
 To ditto ditto, No. 1044, dated 28th September 1871.

We have omitted from the preamble of the Bill the words "subject, in certain cases, to rights acquired by usage or grant," and have detailed the rights which may be so acquired in another part of the Bill. We have altered Part II. of the Bill considerably, with a view to simplify it and

improve the arrangement of the subjects, and we have, in section seven, defined the matters in which rights may be acquired in Government waters, for which compensation shall be awarded when the supply of water is stopped or diminished; the matters in which no rights shall be deemed to have accrued, and for which no compensation shall be given on account of loss or diminution of the supply of water; the measure of compensation to be awarded when the market-value of the property is not ascertainable, and the conditions under which such rights can be in future acquired.

Part III. of the Bill has been re-arranged and simplified; but its provisions are, in the main, unaltered. In section twenty-eight, we have provided more distinctly than was done in the original Bill, that compensation for land occupied for private water-courses may be awarded either in the manner prescribed by Act X. of 1870, by a permanent alienation, or by a rent charge payable by the occupier, at the option of the person to be compensated. Sections thirty-one and thirty-two, regarding conditions of the supply of water, have been so framed as to leave the Government freedom as to the disposal of the water of a canal, and to prevent the growth of prescriptive rights to any particular measure of water which might hereafter prevent the expansion and extension of irrigation.

We have re-arranged and modified Chapter IV. of the original Bill, regarding charges for the use of canal water, and have omitted the provisions originally made for punitive stoppages of water-supply.

In sections thirty-seven to forty-three of the Bill, as amended, we have defined "the owner's rate"—the conditions under which it may be imposed, the limit of the rate, and the persons liable to pay it—more fully than in the original Bill.

We have so modified the provisions of the original Bill regarding the rates on land irrigable, but not irrigated, as to avoid the possibility of their being needlessly or oppressively enforced.

Sections fifty-four to sixty-seven of the Bill, as amended, are substantially the same as in the Bill as introduced.

Sections sixty-eight to seventy-one contain the provisions which relate to the mode in which labour may be obtained for repairing canals on emergencies and for effecting necessary annual silt clearances. The system of statute labour does already exist in the Panjáb, and we have prescribed the conditions under which it may be exacted, and have empowered the local Government to make rules regarding the payment of labourers, and for regulating the exercise of the power of calling out such labour.

In Part VII., we have empowered divisional canal officers to decide summarily disputes regarding the use, construction, or maintenance of water courses, or to refer them to the Deputy Commissioner; and we have made such summary decisions final for the time which is required for ripening any crop which is on the ground, by restraining the Civil Courts from decreeing specific performance.

In Part VIII. of the Bill, as amended, we have defined the offences regarding canals, which we consider should be made punishable, and the penalties which may be inflicted. These are mainly the same as in the Bill introduced.

In section seventy-nine, we have given the Local Government general power to frame rules, with the previous sanction of the Governor General in Council, and have thus obviated the necessity of constant reference to the powers in the several sections of the Bill.

We recommend that the Bill, as thus amended, be passed.

R. E. EGERTON.  
 R. H. DAVIES  
 J. STRACHEY.  
 R. TEMPLE.  
 J. F. STEPHEN.

*Simla, The 12th October 1871.*

I cannot subscribe the recommendation "that this Bill be passed," because I dissent from some of its most important provisions on the following considerations:

- 1st.—That it is highly inexpedient to curtail, in the manner proposed, the local extent of the enactment, of which the essential provisions in regard to the acquisition of water-courses, the construction and maintenance of irrigation and drainage works, and the general administration of the whole system of canal irrigation, are no less, if not more, urgently needed in the North-Western Provinces than in the Panjáb.
- 2nd.—That the impressment of manual labour, except under emergent circumstances where danger to life and property is reasonably to be apprehended, is unjustifiable.
- 3rd.—That to tax any particular classes, as is contemplated by the provisions in regard to the levy of a special rate on lands not irrigated, for assumed benefits of which they may have, for good and substantial reasons, elected not to avail themselves, is wholly inequitable.

*The 12th October 1871.*

F. R. COCKERELL.

## Amended Bill.

PANJA'B CANAL AND DRAINAGE  
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## SCHEDULE.

*A Bill to regulate Irrigation, Navigation, and  
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WHEREAS all lakes, rivers, streams and other natural drainage-channels and collections of water in the Panjáb are the property of the Government, and whereas it is expedient to amend the law relating to irrigation, navigation and drainage; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called "The Panjáb Canal and Drainage Act, 1871."  
Short title.
- It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Panjáb.  
Local extent.
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3. In this Act, unless there be something repugnant in the context—  
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- "Canal." (1) "Canal" includes—  
(a) all canals, channels and reservoirs constructed, maintained or controlled by Government for the storage or supply of water;  
(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;  
(c) all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands;  
(d) all water-courses as defined in the second clause of this section;  
(e) any part of a river, stream, lake or natural collection of water, or natural drainage-channel to which the Local Government has applied the provisions of Part II. of this Act:
- (2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel:
- (3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part V. of this Act; but does not include works for the removal of sewage from towns:
- (4) "Vessel" includes boats, rafts, timber and other floating bodies:  
"Vessel."
- (5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner:

(6) "Deputy Commissioner" means the head Revenue Officer of a District, and includes any officer appointed under this Act to exercise all or any of the powers of a Deputy Commissioner:

(7) "Canal Officer" means an officer appointed under this Act to exercise control or jurisdiction over any canal or part thereof:

A Superintending Canal Officer means an officer exercising general control over a canal or portion of a canal:

A Divisional Canal Officer means an officer exercising control over a division of a canal:

A Sub-Divisional Canal Officer means an officer exercising control over a sub-division of a canal:

All such officers shall be respectively subject to the orders of such officers as the Local Government shall, from time to time, direct:

(8) "District" means a district as fixed for "District." revenue purposes.

4. The Local Government may, from time to time, declare by notification in the official Gazette the officers by whom, and the local limits within which, all or any of the powers or duties herein-after conferred or imposed shall be exercised or performed.

## PART II.

### PROCEDURE FOR APPLYING A WATER-SUPPLY TO PUBLIC PURPOSES, AND AWARDED COMPENSATION FOR LOSS ARISING THEREON.

5. Whenever it appears expedient to the Local Government that the water of any river, stream, lake, natural drainage, channel or other collection of water should be applied by the Government for the purpose of any existing or projected canal or drainage-work,

such Government may, by notification in the official Gazette, declare that the said water will be so applied by the Government after a day to be named in the said notification, not being earlier than three months from the date thereof.

6. At any time after the day so named, any Canal officer may take possession. Canal officer acting under the orders of the Local Government in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application of the said water.

7. As soon as is practicable after the publication of such notification, the Deputy Commissioner shall cause public notice to be given at convenient places, stating that the Government intends to apply the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in the next section may be made before him.

8. Compensation may be allowed in respect of any of the following matters—

(1.) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the passing of this Act.

(2.) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, natural or artificial, in use at the passing of this Act.

(3.) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation for the five years next before the passing of this Act.

But no compensation shall be given for any loss caused by—

(a) stoppages or diminution of percolation, or floods;

(b) alteration of climate or soil;

(c) diminution of natural products;

(d) stoppage of navigation, of the means of drifting timber, of watering cattle, or stoppage of fisheries;

(e) displacement of labour or deprivation of any accessory advantage or opportunity of profit other than those referred to in the first three clauses of this section.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value of the property in question occasioned by the application in respect of which compensation is demanded; and where the market-value of such property is not ascertainable, the amount of compensation to be awarded shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property occasioned by such application.

No right to any such supply of water as is referred to in clauses one, two or three of this section in respect of a work or channel not in use at the passing of this Act shall hereafter be acquired as against the Government except by grant or prescription.

9. No claim for compensation for any such diminution or stoppage shall be entertained, unless it be made within one year next after such stoppage or diminution has commenced.

10. The Deputy Commissioner shall proceed to inquire into any such claim, and to determine the amount of compensation, if any, which should be given; and sections nine to twelve, fourteen and fifteen, eighteen to twenty-three, twenty-six to forty, fifty-one, fifty-seven, fifty-eight and fifty-nine of Act No. X. of 1870 shall apply to such inquiries:

Provided that instead of the last clause of section twenty-six the following shall be read: "The provisions of this section and of section seven of the Panjáb Canal and Drainage Act, 1871, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

11. Every tenant holding under an unexpired lease, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allow-

ed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land on the ground that the interruption reduces the value of the holding.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of any such tenant of such land may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood before the abatement.

13. All sums of money payable for compensation under this Part shall be held to be due three months after the claim is made in respect of such stoppage or diminution; and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months.

### PART III.

#### SPECIAL POWERS OF CANAL OFFICERS IN RELATION TO SURVEYS, CONSTRUCTION AND MAINTENANCE OF WORKS, AND DECISION OF DIFFERENCES REGARDING WATER-COURSES.

##### Surveys.

14. Any Canal officer and any person acting under the general or special order of a Canal officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon; and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks, and water-gauges.

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Canal officer;

and, where otherwise such inquiry cannot be completed, may cut down and clear away any part of any standing crop, fence or jungle;

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of any such canal;

Provided that if such Canal officer or person proposes to enter into any building, or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he must previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

In every case of entry under this section such Canal officer shall at the time of such entry tender compensation for any damage which may be occasioned as aforesaid, and in case of dispute as to

the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Deputy Commissioner, and such decision shall be final.

##### Entry on Lands in case of Accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal officer and any person acting under his general or special orders, may enter upon any lands adjacent to the canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

In every such case, such Canal officer or person shall tender compensation to the proprietors or occupiers of the said lands for all injury done to the same. If such tender is not accepted, the Canal officer shall refer the matter to the Deputy Commissioner, who shall proceed to award compensation for the land as though the Local Government had directed its occupation under section forty-three of Act No. X. of 1870.

##### Construction and Maintenance of Works.

16. Any person or persons desiring to use the water of any canal, may make an application in writing to the Divisional or Sub-Divisional Canal officer of the Division or Sub-Division of the Canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicant.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicant is willing to pay for the same, or whether he engages to pay the actual cost as settled by the Divisional Canal officer, and how the payment is to be made.

When the assent of the Superintending Canal officer is given to such application, all the persons who have signed it shall be jointly and severally liable for the cost of such works to the extent mentioned therein.

Any amount becoming due under the terms of such an application which is not paid to the Divisional Canal officer or the person authorized by him to receive the same, on or before the date on which the payment becomes due, shall, on the demand of such officer, be recoverable by the Deputy Commissioner as if it were an arrear of land-revenue.

17. There shall be provided at the cost of Government, suitable means of crossing canals, constructed or maintained at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands. On an application in writing, signed by not less than five persons who are owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Deputy Commissioner shall cause inquiry to be made into the circumstances of the case, and if he thinks that the allegation is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional Canal officer may issue an order to the person or persons using any water-course to construct suitable bridges, culverts, or other works for the passage of the water of such water-course across any public road, canal or drainage-channel, which was in use before the said water-course was made, or to repair any such works.

May require construction of works to pass water across roads, water-courses and drainage-channels.

Such order shall specify a reasonable period within which such construction or repairs shall be completed; and if, after the receipt of such order, the person to whom it is addressed does not, within the said period, construct or repair such works to the satisfaction of the said Canal officer, such officer may, with the previous approval of the Superintending Canal officer, himself construct or repair the same; and if the said person shall not, when required to do so, pay the cost of the work or repairs as declared by the Divisional Canal officer, the amount shall be recoverable from the said person on the demand of the Divisional Canal officer by the Deputy Commissioner, as if it were an arrear of land-revenue.

19. If any person jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal officer, on receiving an application from any person injured by such neglect or refusal, shall give a fortnight's notice to all the parties concerned that he is about to investigate the case, and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit. Such order shall be appealable to the Commissioner, whose order shall be final.

May settle disputes as to cost of construction and maintenance of water-courses.

If such order direct the payment of any sum to be made within a specified period, such sum may, if not paid within such period, be recovered by the Deputy Commissioner from the person directed to pay the same, as if it were an arrear of land-revenue.

20. Whenever application is made to a Divisional Canal officer for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to the person or persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making inquiry on such day, the Divisional Canal officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

May give right of passage of water through a water-course, and prescribe the conditions of such grant of passage.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal officer,

be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal officer shall determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal officer, stating

(1) that he has been unable to come to terms with the owners of the land through which such water-course will pass;

(2) that he desires the said Canal officer in his behalf and at his cost, to do all things necessary for acquiring a right to so much of the said land as will be necessary for such water-course;

(3) that he is able to defray all costs involved in acquiring such land and constructing such water-course.

Procedure of Divisional Canal officer thereupon.

22. If the Divisional Canal officer considers

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true, he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which may become due under section twenty-eight;

and, upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of the notice to the Deputy Commissioner of every district in which any part of such land is situate.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal officer stating

(1) that he has been unable to come to terms with the owner of such water-course;

(2) that he desires the said Canal officer, in his behalf and at his cost, to do all things necessary for the transfer to him of such water-course;

(3) that he is able to defray the cost of such transfer.

If the Divisional Canal officer considers

(1) that the said transfer is expedient,

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village through which the said water-course passes, and shall send a copy of the notice to the Deputy Commissioner of every district through which such water-course passes.

24. Within thirty days from the publication of

a notice under either of the two next preceding sections any person interested in the land or water-course to which the notice refers, may apply to the Deputy Commissioner by petition, stating his objection to the construction or transfer for which application has been made. The Deputy Commissioner may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal officer of the place and time at which such inquiry will be held. The Deputy Commissioner shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or if the Deputy Commissioner over-

rules the objections made, he shall give notice to the Divisional Canal officer to that effect, and shall proceed forthwith to place the said applicant in occupation of land marked out or of the watercourse to be transferred, as the case may be.

26. If the Deputy Commissioner considers any

objection taken as aforesaid to be valid, he shall inform the Divisional Canal officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notices under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Deputy Commissioner shall thereupon proceed as before provided.

27. If the Canal officer disagrees with the Deputy Commissioner, the

matter shall be referred for decision to the Commissioner. Such decision shall be final, and the Deputy Commissioner, if he is so directed by such decision, shall forthwith cause the said applicant to be placed in occupation of land so marked out or of the water-course to be transferred, as the case may be.

28. No such applicant shall be placed in occupation of such land or

water-course, until he has paid to the person named by the Deputy Commissioner such amount as the Deputy Commissioner shall determine to be due as compensation for the land or water-course so occupied or transferred, and for any damage occasioned by the marking out and occupation of such land, together with all expenses incidental to such occupation or transfer.

In determining the compensation to be made under this section, the Deputy Commissioner shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so wish, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Deputy Commissioner as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

29. When any such applicant is placed in

occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

*First.* All works necessary for the passage across such water-course of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal officer.

*Second.*—Land occupied for a water-course under the provisions of section twenty-four shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal officer within one year after occupation of the land is given to the applicant.

In cases in which land is occupied or a water-course is transferred on the terms of a rent charge,

*Fourth.*—the applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as shall be determined by the Deputy Commissioner when occupation is given.

*Fifth.*—If the right to occupy the land shall cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid by way of compensation for any injury done to the said land such amount and to such persons as the Deputy Commissioner shall determine.

*Sixth.*—The Deputy Commissioner may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation, and if any such be not paid by the applicant or his representative in interest, the Deputy Commissioner may recover the amount, with interest thereon at the rate of six per centum per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the persons to whom it is due.

If any of the rules or conditions prescribed by this section is not complied with, or

if any water-course constructed or transferred under this Act is disused for three years continuously,



the right of the applicant, or of his representative in interest to occupy such land or water-course, shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

*Conditions of the supply of water.*

31. In the absence of a written agreement, or so far as any such agreement does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be issued by the Local Governments in respect thereof.

32. Such contracts and such rules shall be consistent with the following conditions:

(a) The Divisional Canal officer may not stop the supply of water to any person except in the following cases:

- (1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous consent of the Local Government.
- (2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom.

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal officer considers necessary; but the person who suffers such loss may claim such remission of the ordinary charges payable for the use of the water as shall be authorized by the Local Government.

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the preceding clause, the occupier or owner of such land may present a petition for compensation to the Deputy Commissioner for any loss arising from such interruption, and the Deputy Commissioner may award reasonable compensation. Such award shall be final unless the Local Government shall otherwise direct.

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to endure only until that crop shall come to maturity, and to apply

only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to be for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

(e) Unless with the permission of the Superintending Canal officer, no person entitled to use the water of any canal or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use; but all contracts made between Government and the owner or occupier of any land or other property as transferable to the supply of canal-water to such land or property, shall be transferable with such land or property, and shall be presumed to have been so transferred whenever a transfer of such land or property takes place.

Contracts for water transferable with the land. No right to arise from user.

(f) No prescriptive right to the use of the water of a canal can be acquired by user or lapse of time, nor shall Government be bound to supply any person with water except in accordance with the terms of a specific agreement.

*Liability to Charges.*

33. If water supplied through a water-course be used in an unauthorized manner, and if the person, by whose act or neglect such use has occurred, cannot be identified,

the person on whose land such water has flowed, if such land has derived benefit therefrom, and if he cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable to the charges made for such use.

All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under this section, shall be decided by the Divisional Canal officer, and his decision shall be final unless the Local Government shall otherwise direct.

34. If water supplied through a water-course be suffered to run to waste, and if, after inquiry by the Divisional Canal officer, the person through whose act or neglect such water was suffered to run to waste, cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

35. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

*Water-rates on Irrigated Lands.*

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly. A rate so charged shall be called the occupier's rate.

Charge on occupier for water for irrigation, or occupier's rate.

37. In addition to the occupier's rate, a rate to be called the "owner's rate," may be imposed on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

"Owner's rate."

The introduction of canal irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a general revision of settlement had taken place under which the revenue payable in respect of such land had been increased.

38. The owner's rate shall not exceed one-half of the increase produced by the canal-irrigation in the net annual value of the land in respect of which it is imposed.

Amount of owner's rate.

39. If such land is occupied by the owner, or if it is occupied by an occupier whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land have been increased by irrigation, such owner or occupier shall pay the owner's rate as well as the occupier's rate.

40. In the case of a tenant with a right of occupancy, the Local Government shall make rules for dividing the owner's rate between the landlord and such tenant proportionately to the extent of the beneficial interest of each.

41. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land have been increased by irrigation, or if, when the amount of rent was fixed, the land was irrigated from the canal, the owner shall pay the owner's rate.

42. No owner's rate shall be chargeable either on the owner or occupier of land assessed to pay land-revenue at canal-irrigation rates, unless a reduction has been made in such land-revenue equal to the amount by which it has been increased on account of the canal-irrigation of the land:

No owner's rate to be chargeable on land assessed to pay revenue at irrigated rates till corresponding reduction has been made in revenue.

Provided that the owner's rate shall, in no case during the currency of an unexpired settlement, exceed the amount by which such land-revenue was so reduced.

43. A tenant not liable to enhancement of rent on the ground stated in section thirty-one, who is charged with, and pays the owner's rate on land

Tenants liable to pay owner's rate under certain circumstances.

assessed at canal-irrigation rates, may deduct from his rent a sum equal to any sum which may, under the last section, be deducted from the revenue payable by the owner of the land.

*Water-rate on Lands irrigable but not irrigated.*

44. At any time not less than five years after the commencement of irrigation from any canal, the Special rate on irrigable land may be charged. Local Government may

order an inquiry to be made by an officer appointed for that purpose into the condition of such canal and the irrigation therefrom. If, upon the report of such officer, the Local Government is satisfied that the owners or occupiers of lands irrigable by such canal have not made reasonable use of the canal for purposes of irrigation, the Local Government may, with the previous sanction of the Governor General in Council, issue a notification in the official Gazette declaring that the owners of such lands within local limits, to be specified in the notification, shall be charged with a special rate according to the provisions hereinafter contained.

45. Such special rate shall be levied yearly or half-yearly as the Local Government shall direct.

Special rate how to be levied.

46. No such special rate shall exceed one rupee per half-year per acre of land in respect of which the rate is charged.

Amount of special rate.

47. No such special rates shall be charged in respect of any land, if during the year or half-year (as the case may be) in respect of which such yearly or half-yearly rate might otherwise be claimed, water sufficient for the irrigation of such land has not been supplied when required by the owner or occupier thereof.

48. For the purposes of section forty-four, land shall be deemed irrigable by a canal when the following conditions are complied with in respect thereto:—

(a)—That it is cultivated and not irrigated;

(b)—That the net annual value of the produce of the land or the productive 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 sixteen, or (if the said occupier or owner shall so prefer) to apply the provisions of sections twenty-one to 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 re-payable in

conformity with the rules for recovering advances made under the Act for the time being in force as to advances for improvements in land.

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.

49. The provisions of section thirty-nine, forty, and forty-one shall apply to the payment of a special rate charged under section forty-four, as though such rate had been an owner's rate.

*Water-rate on land benefited by percolation.*

50. If it shall appear to the Divisional Canal officer that any cultivated land situate within three hundred yards of the edge of any canal maintained by Government receives by percolation from such canal an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation, he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for such a supply to land similarly cultivated. For the purposes of this Act land charged under this section shall be deemed to be land irrigated from a canal.

*Recovery of charges.*

51. Any sum, certified by the Divisional Canal officer to be lawfully due under this Act, which remains unpaid after the day on which the same becomes due, shall be recoverable by the Deputy Commissioner from the person liable for the same as though it were an arrear of land-revenue.

52. The Divisional Canal officer or the Deputy Commissioner may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person shall make default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Deputy Commissioner under section fifty-one, and if such sum or any part of it be still due by such third party, then such sum or such part of it may be recovered in like manner by the Deputy Commissioner from such third party.

53. The Deputy Commissioner may require the *lambardár* or person under engagement to pay the land-revenue of any estate to collect and pay any sums payable under this Act by a third party in respect of any land or water, in such estate.

PART IV.

NAVIGATION.

54. Any vessel which enters or navigates any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the vessels therein, may be removed and detained by the Divisional Canal officer, or by any person duly authorized in that behalf.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal officer shall, with the approval of the Superintendent Canal officer, determine to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

55. A fine imposed, under the provisions of this Act, upon the owner of any vessel, or the servant or agent of such owner, or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine shall so direct, as though it were a charge due on account of such vessel.

56. If any charge due under the provisions of this Part in respect of a vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize and detain such vessel and the furniture thereof, until the charge due, together with all expenses and additional charges arising from such seizure and detention, are paid in full.

57. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in canal-lands or warehouses, is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize such cargo or goods, and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, be paid in full.

58. Within a reasonable time after any such seizure, as is described in the two last preceding sections, the said Canal officer shall give notice to the owner or person in charge of the property seized that it or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as near as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the same.

59. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal or stored on or in canal lands or warehouses be left unclaimed for a period of two months, the Divisional Canal officer may take possession of the same. A Divisional officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel or cargo are not so claimed, he may at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale have taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Canal officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal officer. If the Divisional Canal officer is doubtful to whom such property or proceeds of such sale should be made over, he may direct the property to be sold as aforesaid, and the proceeds of the sale to be paid into the district treasury, there to be held until the right thereto be decided by a court of competent jurisdiction.

## PART V. DRAINAGE.

### *Removal of obstructions of Drainage-channels.*

60. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other alteration of such obstruction. And thereupon, so much of the said river, stream, or drainage-channel as shall be comprised within such limits, shall be held to be a drainage-work as defined in this Act.

61. The Divisional Canal officer, or other person authorized by the Local Government in that behalf may, after the publication of such notification, issue an order to the person causing or having control over any such obstruction to remove or alter the same.

If, within a time to be fixed in the order, such person shall not remove or alter such obstruction, the said Canal officer may himself remove or alter

it; and if the person to whom the order was issued shall not, when called upon, pay the expenses involved in such removal or alteration, such expenses shall be recoverable from him or his representative as an arrear of land-revenue.

### *Improvement of drainage of Lands.*

62. Whenever it appears to the Local Government that any drainage works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river is required for any lands,

such Local Government may cause a scheme for such drainage works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

63. The persons authorized by Government to draw up such scheme may exercise all or any of the powers conferred on Canal officers in section fourteen of this Act.

64. An annual rate, in respect of such scheme, may be charged on the owners of all lands which shall in the manner herein-after provided be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

(1.) Six per centum per annum on the first cost of the said works, adding thereto the estimated cost of the annual maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

(2.) In the case of agricultural land, one-half of the estimated increase to the annual value of the land due to the improvement to be effected by the works.

Such rate may be varied from time to time within such maximum by the said Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Government, or any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect, so far as it is due to such work or obstruction, shall be borne by the Government or such person.

65. Any such drainage-rate shall be recoverable as a water-rate.

66. Whenever, in pursuance of a notification made under section sixty, any obstruction is removed, or whenever any drainage-work is carried out under section sixty-two, all claims for compensation on account of any loss consequent on the removal of the said obstruction or construction of such work, may be made before the Deputy Commissioner, and he shall deal with the same in the manner provided in section ten.

67. No such claim shall be entertained unless it be made within one year next after the commencement of the loss complained of.

## PART VI.

### OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

68. For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft which shall be specified in rules to be made in that behalf by the Local Government.

69. In any district in which any canal or drainage-work is projected, constructed or maintained by Government, the Local Government may, if it thinks fit, direct the Deputy Commissioner to ascertain the proprietors, sub-proprietors or farmers, or any of them whose villages or estates are or will be, in the judgment of the Deputy Commissioner, benefited by such work, and to set down in a list, having due regard to the circumstances of the district, and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons jointly or severally, from any such village or estate, for employment on any such work when required as hereinafter provided.

The Deputy Commissioner may from time to time add to or alter such list or any part thereof.

70. When it appears to a Divisional Canal officer, duly authorized by the Local Government, that, unless some work is immediately executed, serious injury will arise in or happen to any canal or drainage-work, whereby the proper operation of such canal or drainage-work will be stopped or so much interfered with as to prevent the established course of irrigation or drainage being continued, or to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to avoid such consequences,

the said officer may require any person named in such list to furnish so many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer shall seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state the nature and locality of the work to be done, the number of labourers to be supplied by the person upon whom the requisition is made, the approximate time for which and the day on which the labourers will be required; and a copy thereof shall be immediately sent to the Superintending Canal officer for the information of the Local Government.

The rates to be paid to any such labourers in excess of the highest rates paid in the neighbourhood for similar work, shall be fixed by the Local

Government, and the payment shall extend to the whole period during which any such labourer is absent from his ordinary home.

The Local Government may direct that the provisions of this chapter shall be applicable to any district or part of a district for the purpose of effecting necessary annual silt clearances.

71. When any requisition has been made on any such person, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

## PART VII.

### JURISDICTION.

#### *Decision of differences regarding Water-courses.*

72. Unless where otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts, but no such Court shall in any case pass an order as to the supply of canal water to any crop sown or growing at the time of such order.

73. Whenever a difference arises between any persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may present an application in writing to the Divisional Canal officer stating the matter in dispute, and such officer thereupon shall give notice to the other persons interested that on a day to be named in such notice he will proceed to inquire into the said matter. And after inquiry the said officer shall pass his order thereon, unless he transfers the matter to the Deputy Commissioner, who thereupon shall inquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

## PART VIII.

### OFFENCES AND PENALTIES.

74. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) injures, alters, enlarges or obstructs any canal or drainage-work;
- (2) interferes with, increases or diminishes the supply of water in or the flow of water from, through, over or under, any canal or drainage-work;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, injure, or render less useful any canal or drainage-work;
- (4) being responsible for the maintenance or using a water-course, neglects to take proper precautions for the prevention of waste of the water in such water-course, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the authorized rules laid down for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VI. fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VI., neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by authority of a public servant;

(11) violates any rule made under this Act for breach whereof a penalty may be incurred;

shall be liable, on conviction before any Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

75. Any officer empowered under this Act to conduct any inquiry may exercise all the powers connected with the summoning and examining witnesses conferred on Civil Courts by the Code of Civil Procedure, and any such inquiry shall be deemed a judicial proceeding.

76. Nothing contained herein shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

77. Whenever any person is fined for an offence under this Act, the Magistrate may direct that any part of such fine may be paid to the person who has suffered by such offence by way of compensation.

Liability to pay compensation for loss caused by offences.

An appeal shall lie to the Commissioner against any decision as to compensation under this section.

78. Any person in charge of, or employed upon, any canal or drainage-work, may remove from the lands or buildings

Power to arrest without warrant in certain cases.

belonging to such canal or drainage-work, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police station, to be dealt with according to law, any person who, within his view, commits any of the following offences:—

(1) wilfully injures or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, injure or render less useful any canal or drainage-work;

(3) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal or drainage-work, contrary to authorized rules, after he has been desired to desist therefrom.

*Rules to be made.*

79. The Local Government may, with the previous sanction of the Governor General in Council, make, and may, with the like sanction from time to time, alter or cancel rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under the Act;

(5) and generally to carry out the provisions of the Act.

Such rules, alterations or cancellments shall, when published in the official Gazette, have the force of law.

The Local Government may, with the sanction of the Governor General in Council, direct that a breach of any of the said rules shall be punishable with a fine not exceeding fifty rupees, and, in default of payment, with imprisonment of either description for a period not exceeding fifteen days.

SCHEDULE.

Number and Year.	Title.	Extent of Repeal.
VII. of 1845 .....	An Act for regulating the levy of Water Rent, Tolls and Dues on certain canals for irrigation and navigation constructed by Government in the North-Western Provinces, and for the protection of the said canals from injury.	The whole.
XII. of 1866 .....	An Act to provide for the compulsory taking of rights to form and maintain private water-courses from Public Works of irrigation.	The whole.

H. S. CUNNINGHAM,

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