

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 19TH SEPTEMBER 1872.

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 Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th September 1872, and was referred to a Select Committee with instructions to report thereon in a month:—

Bill No. 21 of 1872.

THE NORTHERN INDIA CANAL AND DRAINAGE BILL, 1872.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Repeal of Acts.
3. Interpretation-clause.
4. Power to appoint officers.

PART II.

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

5. Notification to issue when water-supply is to be applied for public purposes.
6. Powers of Canal officer.
7. Notice as to claims for compensation.
8. Matters in respect of which compensation may be allowed.
Losses for which compensation shall not be allowed.
9. Limitation of claims.
10. Inquiry into claims and amount of compensation.

VI.—127

SECTION.

11. Abatement of rent on interruption of water-supply.
12. Enhancement of rent on restoration of water-supply.
13. Compensation when due.
Interest to be allowed.

PART III.

SURVEYS, CONSTRUCTION AND MAINTENANCE OF WORKS, IMPOSITION AND RECOVERY OF CHARGES.

Surveys.

14. Power to enter adjacent lands and survey, &c.
Power to clear land.
Power to inspect and regulate water-supply.
Notice of intended entry into houses.
Compensation for damage caused by such entry.
Entry on lands in case of accidents.
15. Power to enter for repairs and to prevent accidents.
Compensation for injury.
Construction and maintenance of works.
16. Application by person desiring to use Canal water.
Contents of application.
Liability of applicants for cost of works.
Recovery of amount due.
17. Government to provide means of crossing Canals.
18. Persons using water-course to construct works for passing water across roads, &c.
If they fail, Canal officer may construct, and recover cost.
19. Adjustment of claims between persons jointly using water-course.
Recovery of amount adjudged to be due.
20. Supply of water through intervening water-course.
21. Application for construction of new water-course.
22. Procedure of Canal officer thereupon.
23. Application for transfer of existing water-course.
Procedure thereupon.
24. Objections to construction or transfer applied for.

SECTION.

25. When applicant may be placed in occupation.
26. Procedure when objection is held valid.
27. Procedure when Canal officer disagrees with Collector.
28. Expenses to be paid by applicant before receiving occupation.
Procedure in fixing compensation.
Recovery of compensation and expenses.
29. Conditions binding on applicant placed in occupation.
30. Procedure applicable to occupation for extensions and alterations.

Conditions of the Supply of Water.

31. In absence of written contract, water-supply to be subject to rules.
32. Conditions, for contracts and rules, as to power to stop water-supply ;
claims to compensation in case of failure or stoppage of supply ;
claims on account of interruption from other causes ;
duration of supply ;
sale or sub-letting of canal-water ;
transfer, with land, of contracts for water ;
right acquired by user.

Liability to charges.

33. Liability when person using unauthorizedly cannot be identified.
34. Liability when water runs to waste.

Water-rates on Irrigated Lands.

35. Charge on occupier for water how determined.
"Occupier's rate."
36. "Owner's rate."
Effect of introduction of Canal irrigation on landlord's right to enhance rent.
37. Amount of owner's rate.
38. When occupier is to pay both owner's rate and occupier's rate.
39. Local Government to make rules for apportioning owner's rate.
40. When owner is to pay owner's rate.
41. Reduction to be made in land revenue assessed at Canal irrigation rates before owner's rate is charged.
42. Deduction from rent of tenant paying owner's rate.
43. Water-rate by whom payable when charged on land held by several owners.

Water-rate on land benefited by percolation.

44. Rate on land adjacent to Canal, indirectly benefited.

Recovery of charges.

45. Certified dues recoverable as land-revenue.
46. Power to contract for collection of canal-dues.]
47. Lambardárs may be required to collect canal-dues.

PART IV.

NAVIGATION.

48. Detainer of vessels violating rules.
Liability of owners of vessels causing damage.
49. Recovery of fines for offences in navigating Canals.
50. Power to seize and detain vessel on failure to pay charges.
51. Power to seize cargo or goods, if charges due thereon are not paid.
52. Procedure for recovery of such charges after seizure.
53. Procedure in respect of vessels abandoned and goods unclaimed.
Disposal of proceeds of sale.

PART V.

DRAINAGE.

SECTION.

54. Power to prohibit obstructions or order their removal.
55. Power to remove obstructions after prohibition.
Improvement of drainage of lands.
56. Preparation of schemes for works of improvement.
57. Powers of persons employed on such schemes.
58. Rate on lands benefited by works.
59. Recovery of rate.
60. Disposal of claims to compensation.
61. Limitation of such claims.

PART VI.

OBTAINING LABOUR FOR CANALS AND DRAINAGE WORKS.

62. Definition of "labourer."
63. Power to prescribe number of labourers to be supplied by persons benefited by canal or drainage-work.
64. Procedure for obtaining labourers for works urgently required.
65. Liability of labourers under requisition.

PART VII.

JURISDICTION.

66. Jurisdiction of Civil Courts.
67. Settlement of differences in regard to mutual rights and liabilities of persons interested in water-course.
68. Powers, as to witnesses, of officers conducting inquiry under Act.

PART VIII.

OFFENCES AND PENALTIES.

69. Offences under Act.
Penalty.
70. Saving of prosecution under other laws.
71. Compensation to person injured.
72. Power to arrest without warrant in certain cases.

PART IX.

POWER TO MAKE RULES.

73. Local Government may make, alter, and cancel rules.
Publication of rules.
SCHEDULE.

A Bill to regulate Irrigation, Navigation, and Drainage in Northern India.

Whereas all lakes, rivers, streams, and other natural collections of water and drainage-channels in Northern India are the property of the Government ; and whereas it is expedient to amend the law relating to irrigation, navigation, and drainage in Northern India ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be called "The Northern India Canal and Drainage Act, 1872" ;
Short title.
It extends to the territories for the time being respectively under the government of the Lieutenant Governors of the North-Western Provinces
Local extent.

and the Panjáb and under the administration of the Chief Commissioners of Oudh and the Central Provinces ;

Commencement. And it shall come into force on the passing thereof.

2. The Acts mentioned in the schedule hereto annulled are repealed to the extent specified in the third column of the said schedule.

3. In this Act—unless there be something repugnant in the context—
Interpretation-clause. “Canal.” (1) “Canal” includes—

(a) all canals, channels, and reservoirs constructed, maintained or controlled by Government for the supply or storage 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 ;

(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) “Collector” means the head revenue officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector ;

(7) “Canal officer” means an officer appointed under this Act to exercise control or jurisdiction over a Canal or any part thereof ;

A Superintending Canal officer means an officer exercising general control over a Canal or portion of a Canal ;

A Division 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, from time to time, directs.

“District.” (8). “District” means a district as fixed for 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 AWARDING COMPENSATION FOR LOSS ARISING THEREON.

5. Whenever it appears expedient to the Local Government that the water of any lake, river, stream, or other natural collection of water or drainage-channel should be applied by the Government for the purpose of any existing or projected Canal or drainage-work, the Local Government may, by notification in the official Gazette, declare that the said water will be so applied 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, 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 issue of such notification, the Collector 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 section eight may be made before him.

8. Compensation may be allowed in respect of which 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 :

(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.

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

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

Losses for which compensation shall not be allowed.

- (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.

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

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 clause 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 stoppage or diminution shall be entertained, unless it be made within one year next after such stoppage or diminution has commenced.

10. The Collector 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 the said section twenty-six, the following shall be read : "The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1872, 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, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply in respect of which compensation is allowed 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 the tenant 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.

Such enhancement shall be on account only of the restored water-supply, and shall not affect

the liability of the tenant to enhancement of rent on any other grounds.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation 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.

SURVEYS, CONSTRUCTION AND MAINTENANCE OF WORKS, IMPOSITION AND RECOVERY OF CHARGES.

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, the Canal officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section ; 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 such Canal, and may execute all works

the person to be compensated so desire, 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 Collector 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-two 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 are determined by the Collector when occupation is given.

Fifth.—If the right to occupy the land 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 Collector determines.

Sixth.—The Collector 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 rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. 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 and 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 contract, or so far as any such contract does not extend, every contract, water-supply to be subject to rules. In absence of written contract, water-supply to be subject to rules. 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 Government in respect thereof.

32. Such contracts and rules must be consistent with the following conditions:—

(a) The Divisional Canal officer may not stop the supply of water to any water-course, or 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 sanction 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;
- (3) within periods fixed from time to time by the Divisional Canal officer:

(b) No claim shall be made against the Government for compensation in case of failure or stoppage of supply; 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 any 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 suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is 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 last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award reasonable compensation:

(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 comes 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:

(c) 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; Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

But all contracts made between Government and the owner or occupier of any land or other property, as 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:

Transfer, with land, of contracts for water; and the owner or occupier of any land or other property, as 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:

(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 contract.

Liability to charges.

33. If water supplied through a water-course using unauthorizedly cannot be identified, 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 otherwise directs.

34. If water supplied through a water-course is 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.

Water-rates on Irrigated Lands.

35. 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."

36. 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.

If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, 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 revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

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

38. If such land is occupied by the owner, or if it is occupied by a tenant 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.

39. 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.

40. 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.

41. 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:

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.

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

43. 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

Water-rate by whom payable when charged on land held by several owners.

When occupier is to pay both owner's rate and occupier's rate, and owner's rate.

When owner is to pay owner's rate.

Local Government to make rules for apportioning owner's rate.

Reduction to be made in land-revenue assessed at canal-irrigation rates before owner's rate is charged.

Reduction from rent of tenant paying owner's rate.

Water-rate by whom payable when charged on land held by several owners.

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 Collector, 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, after due attestation thereof before the Collector, 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 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 Collector 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 the cost of Government, 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 Collector 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 drain-

age channel, which was in use before the said water-course was made, or to repair any such works.

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 such construction or repairs as declared by the Divisional Canal officer, the amount shall, on the demand of the Divisional Canal officer, be recoverable from the said person by the Collector, 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 serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will 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 thereon shall be final.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, be recovered by the Collector 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.

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

Application for construction of new water-course. new water-course may apply in writing to the Divisional Canal officer, stating—

(1) that he has endeavoured unsuccessfully to enter into an agreement 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 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 he may consider likely to become due under section twenty-eight ;

and, upon such deposit being made, he 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 such notice to the Collector of every district in which any part of such land is situate.

23. Any persons desiring that an existing

Application for transfer of existing water-course. 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 endeavoured unsuccessfully to enter into an agreement 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.

Procedure thereupon. If the Divisional Canal officer considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course,

(b) 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, and shall send a copy of the notice to the Collector 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 Collector by petition, stating his objection to the construction or transfer for which application has been made. The Collector 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 Collector 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 Collector 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 water-course to be transferred, as the case may be.

When applicant may be placed in occupation. Procedure when objection is held valid. 26. If the Collector 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 notice under section twenty-two; and the procedure herein before provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

27. If the Canal officer disagrees with the Collector the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, 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 Collector such amount as the Collector determines 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 Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if

Procedure in fixing compensation.

Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if

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-rate on land benefited by percolation.

44. If it appear to the Divisional Canal officer that any cultivated land situate within three hundred yards of the edge of any artificial 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.

45. 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 Collector from the person liable for the same as though it were an arrear of land-revenue.

46. The Divisional Canal officer or the Collector 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 Collector under section forty-five; 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 Collector from such third party.

47. The Collector 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.

Such sums shall be recoverable as if they were arrears of land-revenue due on such estate; and for the purpose of collecting such sums from the subordinate zamindárs, ryots, or tenants, such lambardárs or persons may exercise the powers and shall be subject to the rules laid down in the law for the time being in force, in respect to the collection by them of the rents of land or of shares of land revenue.

PART IV.

NAVIGATION.

48. Any vessel entering or navigating 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 other person duly authorized to do so.

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, with the approval of the Superintending Canal officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

49. Any fine imposed under 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 so directs, as though it were a charge due on account of such vessel.

50. If any charge due under the provisions of this part in respect of any 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, is paid in full.

51. 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.

52. Within a reasonable time after any seizure under either of 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.

53. If any vessel be found abandoned in a Canal, or any cargo or goods carried in a Govern-

Procedure in respect of vessels abandoned and goods unclaimed.

ment 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 be 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,

Disposal of proceeds of sale.

or, if a sale has 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 should be made over, he may direct the property to be sold as aforesaid, and the proceeds 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.

54. Whenever it appears to the Local Govern-

Power to prohibit obstructions or order their removal.

ment 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 published 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.

Thereupon so much of the said river, stream, or drainage channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

55. The Divisional Canal officer, or other per-

Power to remove obstructions after prohibition.

son authorized by the Local Government in that behalf, may, after such

publication, 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 does 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.

56. 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,

the 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.

57. The persons authorized by the Local Go-

Powers of persons employed on such schemes.

vernment to draw up such scheme may exercise all or any of the powers

conferred on Canal officers by section fourteen.

58. An annual rate, in respect of such scheme, may be charged on the owners of all lands which shall, in the manner hereinafter 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 cent. 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, the amount which under the rules ordinarily in force would be assessed on such land as land-revenue.

Such rate may be varied from time to time within such maximum by the Local 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 Local Government or any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person.

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

60. Whenever, in pursuance of a notification made under section fifty-four any obstruction is removed, or whenever any

drainage-work is carried out under section fifty-six, 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 Collector, and he shall deal with the same in the manner provided in section ten.

61. No such claim shall be entertained unless it be made within one-year next after the accrual of the loss complained of.

PART VI.

OBTAINING LABOUR FOR CANALS AND DRAINAGE-
WORKS.

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

63. In any district in which a Canal or drainage-work is projected, Power to prescribe number of labourers to be supplied by persons benefited by Canal or drainage-work. age-work is projected, constructed or maintained by Government, the Local Government may, if it thinks fit, direct the Collector to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-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 canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

64. Whenever it appears to a Divisional Canal Procedure for obtaining labourers for works urgently required. officer duly authorized by the Local Government, that unless some work is immediately executed,

serious injury will happen to any Canal or drainage-work, whereby its proper operation 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 seems 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 Part shall be applicable to any district or part of a district for the purpose of effecting necessary annual silt clearances.

65. 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.

66. Unless where herein 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.

67. 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 shall thereupon 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 such inquiry the said officer shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon 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.

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

PART VIII.

OFFENCES AND PENALTIES.

69. 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 of 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 rules prescribed by the Local Government 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 the authority of a public servant;

(11) 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.

(12) 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.

70. Nothing herein contained 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.

71. 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.

72. Any person in charge of or employed upon any Canal or drainage-work, may remove from the lands or buildings belonging thereto, 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.

PART IX.

POWER TO MAKE RULES.

73. The Local Government may, with the previous sanction of the Governor General in Council, make rules to regulate the following matters:—

Local Government may make, alter and cancel rules.

(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 of manner at or in which, anything for the doing or which provision is made in this Act, shall be done;

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

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

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Such rules, alterations, and cancellments shall be published in the local official Gazette, and shall thereupon have the force of law.

SCHEDULE.

(See Section 2.)

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.
XIV. of 1863 ...	An Act to amend Act X. of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	Section fifteen.
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.
XXX. of 1871 ...	An Act to regulate Irrigation, Navigation and Drainage in the Panjáb.	The whole.

STATEMENT OF OBJECTS AND REASONS.

The Secretary of State having disapproved the sections (forty-four to forty-nine) of the Panjáb Canal and Drainage Act (No. XXX. of 1871), which provide for the imposition of a water-rate upon lands irrigable, but not irrigated, it is proposed not only to repeal those sections, but to re-enact the whole measure, making it applicable not merely to the Panjáb, but also to the North-Western Provinces, Oudh, and the Central Provinces. With these exceptions, the provisions of this Bill are almost exactly similar to those of the Panjáb Canal and Drainage Act. A few changes of no great importance have been made.

The "Deputy Commissioner" of Act XXX. of 1871 is replaced by "Collector," which word is defined to include a Deputy Commissioner.

To the section (twelve) providing for the enhancement of rent on restoration of a water-supply,

has been added a declaration that such enhancement shall not affect the tenant's liability to enhancement on any other ground.

In section sixteen provision is made for attesting applications for the construction or improvement of water-courses.

In section thirty-two the power of the Divisional Canal officer is recognized to stop the water-supply within periods which may be fixed from time to time. This is in accordance with universal and long established practice.

The case of a ryot using water supplied by the owner of a water-course for irrigating the ryot's land is excepted from the prohibition (section thirty-two, clause (e) of the sale or sub-letting of canal-water.

Provision is made in section forty-seven for the recovery by the lambardárs of Canal dues.

In the case of agricultural land benefited by drainage-works, the rate will not, under section fifty-eight, exceed the amount ordinarily assessable on such land as land-revenue. This limitation appears simpler than that contained in clause two, section sixty-four of the Act.

(Signed) J. STRACHEY.

SIMLA,

The 20th August 1872.

WHITLEY STOKES,

Secretary to the Government of India.