

THE



Bombay Government Gazette.

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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 Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 12th October 1872, and was referred to a Select Committee with instructions to report thereon in three months:

Bill No. 27 of 1872.

A Bill for the repeal of certain obsolete enactments.

Whereas it is expedient that the enactments mentioned in the Schedule to this Act, which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, should be expressly and specifically repealed; It is hereby enacted as follows:

1. The enactments described in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of the same Schedule;

Provided that the repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated, or referred to.

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing.

2. This Act may be cited as "The Repealing Act, 1872;" and it shall come into force on the passing thereof.

Short title.
Commencement.

SCHEDULE.

PART I.—STATUTES.

Year and Chapter.	Subject or Title.	Extent of Repeal.
7 Jac. I., cap. 5 ...	Suits against Justices of the Peace and other Officers.	The whole.
21 Jac. I., cap. 12 ...	Making perpetual 7 Jac. I., cap. 5 ...	The whole.
8 & 9 Wm. III., cap. 11.	An Act for the better preventing frivolous and vexatious suits.	The whole.
24 Geo. II., cap. 44 ...	An Act for the rendering Justices of the Peace more safe in the execution of their office and for indemnifying constables and others acting in obedience to their warrants.	The whole.
33 Geo. III., cap. 52 ...	<i>An Act whose title begins with the words—An Act for continuing in the East India Company, and ends with the words and Bombay.</i>	Section twenty-eight.

Year and Chapter.	Subject or Title.	Extent of Repeal.
42 Geo. III., cap 85 ...	<i>An Act whose title begins with the words.—An Act for the trying, and ends with the words safe custody.</i>	Section six, so far as it relates to suits in British India.
49 Geo. III., cap. 126...	An Act for the further prevention of the sale and brokerage of offices.	Section fifteen, so far as it relates to British India.
53 Geo. III., cap. 155...	<i>An Act whose title begins with the words.—An Act for continuing, and ends with the words Company's charter.</i>	Sections ninety-seven and one hundred and twenty-one, and section one hundred and twenty-three, so far as it relates to suits in British India.
2 & 3 Vic., cap. 34 ...	An Act to confirm certain Rules and Orders of the Supreme Courts of Judicature at Fort William and Madras, and to empower the same Courts and the Supreme Court of Judicature of Bombay to make rules and orders concerning pleadings.	The whole.
3 & 4 Vic., cap. 37 ...	<i>An Act whose title begins with the words—An Act to consolidate, and ends with the words in service.</i>	Sections forty-three to forty-seven (both inclusive).

PART II.—ACTS.

Number and Year.	Subject.	Extent of Repeal.
X. of 1836 ...	Indigo Contracts	In section four the words "to examine both the plaintiff and the defendant, whenever the Court shall deem such examination necessary to the ends of justice; and"
XXII. of 1836 ...	Eastern Canal Tolls	The whole.
XXV. of 1836 ...	Warehousing ports	So much as has not been repealed.
XVI. of 1837 ...	Custom house	So much as has not been repealed.
XXV. of 1837 ...	Judiciary system	So much as has not been repealed.
I. of 1841 ...	Pattidári estates	The whole Act, so far as it applies, or is applicable, to the territories subject to the Lieutenant-Governor of the Panjáb.
XVII. of 1841 ...	Appeals in Sadr Courts (Bengal)	So much as has not been repealed.
XV. of 1843. ...	Unconvenanted Deputy Magistrates... ..	So much as has not been repealed.
I. of 1845 ...	Sales of land for arrears of revenue	The whole Act, so far as it applies to the territories subject to the Lieutenant-Governor of the Panjáb.
XIV. of 1845 ...	Munsifs (Bengal Presidency)	The whole.
XIX. of 1845 ...	Assam Tea Company	The whole.
VII. of 1848 ...	Customs duties	So much as has not been repealed.
X. of 1850 ...	Aden	The whole.
XXXI. of 1850 ...	Bombay Salt Revenue	Sections one and two.
XXIX. of 1852 ...	Circuits of Judicial Commissioners (Bombay)	So much as has not been repealed.
VI. of 1853 ...	Summary suits (Bengal)	Section nine.
X. of 1853 ...	Amending Act XXII. of 1836	The whole.
X. of 1855 ...	Evidence	Section nine.
XXIX. of 1855 ...	Customs	So much as has not been repealed.
VII. of 1857 ...	Unconvenanted Agency	The whole Act, so far as it relates to Deputy Magistrates.

Number and Year.	Subject.	Extent of Repeal.
VI. of 1859 ...	Ahmadabad Magistracy ...	The whole.
XV. of 1860 ...	Calcutta Canal ...	The whole.
XXIII. of 1865 ...	Panjab Chief Court ...	The whole.
X. of 1869 ...	Police Superannuation Funds ...	The whole.
IX. of 1870 ...	Elphinstone Land Company ...	The whole.
XI. of 1870 ...	Weights and measures ...	The whole.
XII. of 1870 ...	Native Passenger ships ...	Section three down to and including the words "repealed; and."
XIV. of 1870 ...	The Repealing Act, 1870 ...	The whole.
XXIII. of 1870 ...	Coinage... ...	Section two and the schedule.
XXV. of 1870 ...	Timber Duties, Burma ...	The whole.
XXVI. of 1870 ...	Prisons ...	Section two and the schedule.
XXVIII. of 1870 ...	Commitments from Andamans ...	Section two.
I. of 1871 ...	Cattle trespass ...	Section two (except as to the pounds and pound-keepers therein mentioned) and the schedule.
III. of 1871 ...	Paper Currency ...	Section two (except as to the appointments, rules, circles, notifications and notes therein referred to) and the schedule.
IV. of 1871 ...	Coroners... ...	Section two and the first schedule.
V. of 1871 ...	Prisoners ...	Section two and the schedule.
VI. of 1871 ...	Bengal Civil Courts ...	Section two and the schedule.
VII. of 1871 ...	Emigration ...	Section two (but not so as to affect the contracts, appointments and licenses therein mentioned) and Schedule I.
IX. of 1871 ...	Limitation ...	Section two and the first schedule.
X. of 1871 ...	Excise ...	Section two and the schedule.
XII. of 1871 ...	Income Tax ...	The whole.
XIII. of 1871 ...	Tariff ...	Section nine and Schedule C.
XX. of 1871 ...	Panjab Local Rates ...	Section one, from and including "inclusive" down to and including "Acts."
XXIII. of 1871 ...	Pensions ...	Section two (but not so as to affect the rules therein mentioned) and the schedule.
XXVI. of 1871 ...	Land Improvement Act ...	Section two and the schedule.
XXIX. of 1871 ...	Bengal Regulations Repeal ...	The whole.
XXXII. of 1871 ...	The Oudh Civil Courts Act ...	Section three and the schedule.
XXXIII. of 1871 ...	Panjab Land Revenue ...	Section sixty-three and the second clause of section sixty-seven.
I. of 1872 ...	Evidence ...	Section two, clause (3) and the schedule.
IV. of 1872 ...	Panjab Laws ...	Section four and the second schedule.
VII. of 1872 ...	Burma Courts ...	Section five and the schedule.
IX. of 1872 ...	Contract Law ...	In section one the words "the enactments mentioned in the schedule hereto are repealed to the extent specified in the third column thereof," and the schedule.
XI. of 1872 ...	Foreign Jurisdiction and Extradition ...	Section two and the first schedule.
XVII. of 1872 ...	Postponement of Act X. of 1872 ...	The whole.
XXIV. of 1872 ...	Repealing Bombay Regulation XIII. of 1827, section 34, clause 9 ...	The whole.
Madras Act II. of 1869.	Repealing Act ...	The whole.
Bombay Act X. of 1863.	Bank of Bombay... ...	The whole.
Bombay Act IV. of 1864	Repeal of enactments relating to law officers ...	The whole.
Bombay Act III. of 1865	Amending Wager Act ...	The whole.

Number and Year.	Subject.	Extent of Repeal.
Bombay Act V. of 1866.	Repealing Bombay Regulation XVI. of 1827, section 10.	The whole.
Bombay Act XV. of 1866.	Amending Bombay Act X. of 1863	The whole.
Bombay Act I. of 1867.	Reducing capital of Bombay Bank	The whole.
Bombay Act I. of 1869.	Bhore Ghaut Accident	The whole.
Bombay Act I. of 1870.	Repealing certificate tax	The whole.
PART III.—REGULATIONS.		
Bengal Regulation XVIII. of 1806.	Eastern Canal Tolls	The whole.
Bengal Regulation VIII. of 1824.	Tolls on certain rivers	The whole.
Madras Regulation II. of 1820.	Publication of certain sections of 53 Geo. III., c. 155.	The whole.
Madras Regulation VII. of 1832.	Cantonments	The whole.
Bombay Regulation I. of 1827.	A Regulation for forming into a regular Code all Rules that may be enacted for the internal Government of the Territories subordinate to the Presidency of Bombay.	So much as has not been repealed.
Bombay Regulation XIII. of 1827.	Criminal Courts	Section thirty-two and the first and second clauses of section thirty-three.
Bombay Regulation XXXIV. of 1827.	Nawáb of Surat	The whole.
Bombay Regulation IV. of 1828.	Stamps... ..	The whole.
Bombay Regulation IX. of 1828.	Repealing Regulation I. of 1828 and part of Regulation XXVII. of 1827.	The whole.
Bombay Regulation X. of 1828.	Repealing Regulation II. of 1828 and part of Regulation XXVII. of 1827.	The whole.
Bombay Regulation XI. of 1828.	Assistant Judges	The whole.
Bombay Regulation I. of 1834.	Repealing Regulation V. of 1828	Section one, and the second clause of section two.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to facilitate the preparation of a revised edition of the Indian Statute Book, by expressly repealing, in whole or in part, some eighty-eight enactments, which have ceased to be in force otherwise than by express repeal.

The Statutes 7 Jac. I. cap. 5, and 21 Jac. I. cap. 12, were extended to India by 42 Geo. III, c. 85, s. 6, and, though quite obsolete, have never been repealed.

A like remark applies to 8 & 9 Wm. III, c. 11, which was held by the late Supreme Court at Fort William, to extend to India.

24 Geo. II., c. 44 was held in *Griffin v. Dealkeer*, to be in force in India. It is rendered unnecessary by Act XVIII. of 1850.

Stat. 2 & 3 Vic, c. 34, is rendered useless by the extension to the High Courts of the Code of Civil Procedure.

Stat. 3 & 4 Vic, c. 37, secs. 43—47 relate to the extinct Indian Navy.

The other fragments of Statutes which the Bill proposes to repeal require no special notice.

With regard to the Acts proposed to be repealed:—

Acts XXII. of 1836, X. of 1853 and XV. of 1860 were repealed by Bengal Act V. of 1864 as to the navigable channels to which the latter Act has been extended. It is believed that they may now be wholly repealed.

Acts XXV. of 1836, XVI. of 1837, VII. of 1848, X. of 1850, and XXIX. of 1855, are still nominally in force as to salt and opium.

Act XXV. of 1837, though repealed by Act XVI. of 1868 as to the Lower and North-Western Provinces, may still be supposed to be in force elsewhere.

Acts I. of 1841 and I. of 1845 have been thought to be in force throughout the Panjáb. The latter Act is certainly in force in the Hissár Division. They are superseded by the Panjáb Land Revenue Act XXXIII. of 1871, and should be expressly repealed.

Act XVII. of 1841, section one (the rest is repealed), is rendered useless by the Charter of 1865.

Act XV. of 1843, sections one and two (the rest is repealed by Act X. of 1872), are useless, as there are now no Deputy Magistrates in Bengal.

Act XIV. of 1845 has already been repealed as to the Lower and North-Western Provinces, but may be supposed to be in force elsewhere.

Act XIX. of 1845 (as to the Assam Company) has expired, but has never been expressly repealed.

Act XXXI. of 1850, sections one and two, have been superseded by later legislation, and should be expressly repealed. See a note by Mr. Raymond West in his edition of the Acts and Regulations in force in the Presidency of Bombay.

Act XXIX. of 1852, is superseded by Act XIII. of 1865, section twenty-four.

Act X. of 1855, section nine, is superseded by the Evidence Act I. of 1872, and should have been expressly repealed thereby.

Act VI. of 1859 is useless, as the villages to which it applies are now under the Káthiáwád Agency.

Act XXIII. of 1865 never came into force, as the Secretary of State for India in Council did not give the previous sanction required by 3 & 4 Wm. IV., c. 85, s. 46. It is, however, still on the Statute Book and should be expressly repealed.

Acts X. of 1869 and IX. of 1870 and Bombay Act I. of 1869 are spent.

Act XI. of 1870 was disallowed by the Secretary of State, and should be expressly repealed.

Bombay Act III. of 1865 forms part of Act XXI. of 1848, which is repealed and replaced by Act IX. of 1872.

As to the Regulations proposed for repeal, Madras Regulation II. of 1820 provides for the translation and publication of certain sections of the Stat. 53 Geo. III., c. 155, all of which (save one) have been repealed. The Regulation is quite useless.

The unrepealed sections (8—1) of Bombay Regulation XIII. of 1827 purport to empower the Governor of Bombay in Council to suspend, by proclamation, civil and criminal law, and to deal with the trial and punishment of offences as he thinks fit. They cannot now be in force, at any rate as to the laws passed by the Supreme Council under 3 & 4 Wm. IV., c. 85, and 24 & 25 Vic., c. 67.

Of Bombay Regulation XIII. of 1827, section thirty-two relates to the old Sadr Faujdari Adalat, and cannot be binding on the present High Court. The first two clauses of section thirty-three are superseded by the Letters Patent.

The other proposed repeals do not seem to require any special notice. Most of them merely repeal previous enactments, the revival of which (if the Bill becomes law) will be prevented by Act I. of 1868, section three, clause (1).

(Signed) A. HOBHOUSE.

SIMLA;

The 30th September 1872.

WHITLEY STOKES,

Secretary to the Government of India.

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 1872 :—

- From Officiating Secretary to Government, North-Western Provinces, No. 50-A, dated 17th November 1871.
- From Officiating Secretary to Government, North-Western Provinces, No. 11, dated 2nd February 1872.
- From Officiating Secretary to Government, North-Western Provinces, No. 19-A, dated 27th March 1872.
- Despatch from Secretary of State, No. 9, dated 14th March 1872.
- Office Memorandum from Public Works Department, No. 542-I, dated 4th July 1872, and enclosure.
- Endorsement by Department of Agriculture, Revenue, and Commerce, No. 872, dated 12th September 1872, forwarding—
- Letter from Secretary to Chief Commissioner, Central Provinces, No. 3142—166, dated 3rd September 1872.
- Endorsement by Department of Agriculture, Revenue, and Commerce, No. 902, dated 19th September 1872, forwarding—
- Letter from Secretary to Chief Commissioner, Oudh, Public Works Department, No. 1605, dated 10th September 1872.
- Endorsement by Department of Agriculture, Revenue, and Commerce, No. 949, dated 30th September 1872, forwarding—
- Letter from Secretary to Government, North-Western Provinces, No. 1578, dated 20th September 1872, and enclosures.

We, the undersigned Members of the Select Committee, to which the Northern India Canal and Drainage Bill, 1872, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

We have altered the introductory recital so as to limit the right of the Government therein declared to the use of running water and of the water in lakes and other natural collections of still water.

We have re-drawn section eight in accordance with the suggestions of the Government of the North-Western Provinces. From the list of matters for which compensation is not to be allowed, we have struck out "diminution of natural products," "stoppage of fisheries," and "any accessory advantage or opportunity of profit other than those" therein referred to. On the other hand, we have provided that compensation may be awarded for any substantial damage, not expressly brought within or excluded from the section, which is capable of being ascertained at the time of the award.

In the clause (9) relating to the limitation of claims for compensation, we have empowered the Collector in proper cases to admit a claim after the expiration of the prescribed period.

In section thirty-seven we have provided that the "owner's rate" shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on the land on account of the increase in its annual value or produce caused by the canal irrigation.

Section forty-one has been made to apply to owners of land assessed to pay land-revenue at irrigation (not canal irrigation) rates.

In section forty-seven we have provided that the sums therein referred to shall be recoverable as if they were arrears of revenue due *in respect of the defaulter's share* in the estate. And we have added a clause declaring that the Local Government shall either indemnify, or provide for the remuneration of, persons collecting sums under this section.

In section fifty-eight (as to the rate on land benefited by drainage works) we have provided that, in the case of agricultural land, the rate shall not exceed the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of its annual value or produce caused by the work.

We have amended the clause (64) relating to labour for works urgently required, by declaring that payments to labourers shall continue for the whole period during which, in consequence of these rules, they are debarred from their ordinary occupation; and we have provided that except in particular districts, and with the previous sanction of the Governor General in Council, Part VI. shall only be put in force with the object of preventing sudden and extensive public injury.

We have confined the jurisdiction over offences under the Act to Magistrates of such class as the Local Government directs.

We have made some verbal amendments, and recommend that the Bill thus altered be passed. But, in the first place, we recommend that it be re-published, with this report, in the *Gazette of India*.

JOHN STRACHEY,
R. H. DAVIES,
R. TEMPLE,
A. HOBHOUSE,
R. E. EGERTON.

SIMLA;
The 30th September 1872.

THE NORTHERN INDIA CANAL AND DRAINAGE BILL, 1872.

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SCHEDULE.

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

[AS AMENDED BY THE SELECT COMMITTEE.]

Whereas throughout the territories to which this Act extends the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels and of all lakes, and other natural collections of still water; and whereas it is expedient to amend the

law relating to irrigation, navigation, and drainage in the said territories; 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 and the Panjáb and under the administration of the Chief Commissioners of Oudh and the Central Provinces;
- Local extent.
- And it shall come into force on the passing thereof.
- Commencement.
2. The Acts mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.
- Repeal of Acts.
3. In this Act—unless there be something repugnant in the subject or 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;
- "Water-course."
- (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;
- "Drainage-work."
- (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;
- "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;
- "Collector."

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

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, from time to time, directs.

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

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 hereinafter conferred or imposed shall be exercised or performed.
- Power to appoint officers.

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 river or stream flowing in a natural channel, or of any lake or other natural collection of still water should be applied or used 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 or used 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.
- Powers of Canal officer.

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 or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.
- Notice as to claims for compensation.

8. No compensation shall be allowed, for any damage caused by—

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle,
- (d) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded 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, whether 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 within the five years next before the passing of this Act:

(4.) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, Part IV.

(5.) Any other substantial damage, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (1), (2) or (3) of this section, in respect of a work or channel not in use at the passing of this Act, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, Part IV.

And no right to any of the advantages referred to in clauses (a), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

9. No claim for compensation for any such stoppage or diminution shall be made after the expiration of one year next from such stoppage or diminution unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

10. The Collector shall proceed to inquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections nine to twelve (inclusive), 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 when due 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 or other 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, such officer or other person may cut down

Power to clear land. 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

Power to inspect and regulate water-supply. 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 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 the Land Acquisition Act, 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 water-course to construct suitable bridges, culverts or other works for the passage 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.

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 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 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—

Application for transfer of existing water-course.

(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.

Objections to construction or transfer applied for. 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 (were such objections made) if the Collector over-rules them, 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.

26. If the Collector considers any objection made 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 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 are 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 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; or 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 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:

(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: 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:

(f) No right to the use of the water of a Canal shall be or deemed to have been required under the Indian Limitation Act, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

Liability to charges.

33. If water supplied through a water-course is 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 liable or jointly liable, as the case may be, 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 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.

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."

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 land-lord'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.

36. The owner's rate shall not exceed the sum which, under the rules for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value or produce thereof caused by the canal irrigation.

37. 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 tenant shall pay the owner's rate as well as the occupier's rate.

38. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant, and his land-lord proportionately to the extent of the beneficial interest of each.

39. 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 has or 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.

40. No owner's rate shall be chargeable either on the owner or occupier of land assessed to pay land-revenue at 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:

41. 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, 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 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-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, subject to the rules made under section 73, 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 in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamindárs, ryots, or tenants, such lambardár or person may exercise the powers and shall be subject to the rules laid down in the law for the time being in force, in respect of the collection by them of the rents of land or of shares of land-revenue.

The Local Government shall either provide for the remuneration of persons collecting sums under this section or indemnify them against loss incurred by reason of the collection.

Nothing in this or the two preceding sections applies to fines.

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

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 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 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, 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 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 published in the official Gazette, prohibit, within limits to be defined in such notification, the for-

mation 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 person 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 Government 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 sum which, under the rules then in force for the assessment of land revenue might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage work.

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 as the case may be.

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, 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, 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 officer duly authorized by the Local Government, that unless some work is immediately executed, such serious injury will happen to any Canal or drainage-work, as 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 as 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,

and 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, in the case of every such labourer, the payment shall continue for the whole period during which he is in consequence of these rules, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall be applicable, either permanently or temporarily (as the case may be) to any district or part of a district for the purpose of effecting necessary annual silt clearances, or to prevent the proper operation of a Canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

65. When any requisition has been made on any person, named in the said list, 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 Offences under Act. 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 drainagework ;

(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, by breach whereof a penalty may be incurred,

shall be liable, on conviction before any Magistrate, of such class of the Local Government directs in this behalf, 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) willfully 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 :—

(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 Punjab.	The whole.

WHITLEY STOKES,

Secretary to the Government of India.