

Northern India Canal and Drainage Act, 1873

Act No. 8 of 1873

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

[Received the assent of His Excellency the Governor-General on 11th February, 1873]

Preamble. - 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 collection 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. Short title. - This Act may be called "The Northern India Canal and Drainage Act, 1873."

Local extent. - It extends to Uttar Pradesh and the territories which, immediately before the 1st November, 1956, were comprised in the States of Punjab and Delhi and applies to all lands whether permanently settled, temporarily settled or free from revenue.

2. Repeal of Acts. - Repealed by Act XII of 1873.

3. Interpretation clause. - In this Act, unless there be something repugnant in the subject or context :-

(1) Canal - "Canal" includes -

- (a) all canals, channels and reservoirs constructed, maintained or controlled by the State 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 watercourses, as defined in the second clause of this section;
- (d) any part of a river, stream, lake or natural collection of water or natural drainage channel, to which the State Government has applied the provisions of Part II of this Act;
- (e) a field drain for the purposes of section 70 of this Act.

[(1A) Temporary water course. - "Temporary watercourse" means a watercourse which has been in existence for a continuous period of not less than six months prior to the date of its demolition, alteration, enlargement or obstruction, but which may not be a recognised watercourse as hereinafter defined.]

- (2) Watercourse. - "Watercourse" means any channel which is supplied with water from a canal, but which is not maintained at the cost of the State Government, and all subsidiary works belonging to any such channel;
- (3) Drainage work. - "Drainage work" includes escape channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from floods or from erosion, formed or maintained by the State Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;
- (4) Vessel. - "Vessel" includes boats, rafts, timber and other floating bodies;
- (5) Commissioner. - "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. - "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. - "Canal Officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;
- "Superintending canal officer" means an officer exercising general control over a canal or portion of a canal;
- "divisional canal officer" means an officer exercising control over a Division of canal;
- "Sub-divisional canal officer" means an officer exercising control over a sub-division of a canal;
- "Deputy collector" means an officer appointed as such by the State Government who assists the Divisional Canal Officer in revenue matters arising in a Division of a Canal.
- (8) District. - "District" means a district as fixed for revenue purposes.
- (9) Shareholder. - means a person who is interested in the land which is irrigated or likely to be irrigated by a canal and also includes a person who is interested in a field drain.
- (10) Field drain. - includes drains, escape channels and other similar works formed or maintained by landowners themselves.
- (11) Culturable commanded area. - means that portion of the culturable irrigated area which is commanded by flow or lift irrigation from an irrigation channel, outlet or State tube-well.

4. Power to appoint officers. - The State Government may from time to time declare by notification in the Official Gazette [the officers of the State Government or of the Punjab State Tubewell Corporation Limited by whom] and the local limits within which all or any of powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in sections three, clause (7) shall be respectively, subject to the orders of such officers as the State Government may from time to time direct.

Part II

Of the Application of water for Public Purposes

5. Notification to issue when water supply is to be applied for public purposes. - Whenever it appears expedient to the State 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 State Government for the purposes of any existing or projected canal or drainage work, the State 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. Powers of Canal officers. - At any time after the day so named, any Canal Officer, acting under the orders of the State 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 or use of the said water.

7. Notice as to claims for compensation. - As soon as practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the State 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.

8. Damage for which compensation shall not be awarded. - No compensation shall be awarded for any damage caused by -

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

Matter in respect of which compensation may be awarded. - But compensation may be awarded in respect of any of the following matters :-

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground in use at the date of the said notification;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit on any channels whether natural or artificial, in use at the date of the said notification;
- (g) 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 date of the said notification;
- (h) 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, 1877, Part IV (XV of 1877)];

- (i) 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 power conferred by this Act.

No right to any such supply of water as is referred to in clause (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the State Government except by grant or under the [Indian Limitation Act, 1877 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 State Government under the same part.

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

10. Enquiry into claims and amount of compensation. - The Collector shall proceed to enquire 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 (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty- eight and fifty-nine of the Land Acquisition Act, 1870, shall apply to such enquiries :

Provided that, instead of the last clause of the said section twenty-six the following shall be read :-

"The provision of this section and of section eight of the Northern India Canal and Drainage Act, 1873 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. Abatement of rent on interruption of water supply. - Every tenant holding under an unexpired lease, [XXX] 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. Enhancement of rent on restoration of water supply. - 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 is stood immediately 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 ground.

13. Compensation when due. - 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 the stoppage, diminution or damage complained of.

Interest. - 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, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

Part III

Of the Construction and Maintenance of Works

14. Power to enter and survey, etc. - 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 subsoil;

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 enquiry relating to any existing or projected canal under the charge of the said Canal Officer;

15. Power to enter for repairs and to prevent accidents. - In case of any accident happening or being apprehended to a canal any Divisional Canal Officer or any person acting under his general or special orders in this behalf 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.

Compensation for damage to land. - In every such case such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage 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 damage as though the State Government had directed the occupation of the land under section forty-three of the Lands Acquisition Act, 1870.

16. Omitted vide Act XXIII of 1965.

17. State Government to provide means of crossing canals. - There shall be provided, at the cost of the State Government, suitable means of crossing canals constructed or maintained at the cost of the State Government at such places as the State Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing signed by not less than five of the owners of such lands, to the effect that suitable crossing have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the State Government and the State Government shall cause such measure in reference thereto to be taken as it thinks proper.

18. Persons using watercourse to construct works for passing water across roads, etc. - The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such of water-course across any public road, canal or drainage channel 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;

If they fail Canal Officer may construct . - and if after the receipt of said order the persons to whom it is addressed, do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may with the

previous approval of the Superintending Canal Officer, himself construct or repair the same;

and recover cost. - and if the said persons do not when so required 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 them by the Collector as if it were an arrear of land revenue.

19. Adjustment of claims between persons jointly using water-course. - 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 in writing 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.

Recovery of amount found due. - Any sum directed by such order to be paid within a specified period may, if not paid within such period and if the order remains in force, be recovered by the Collector from the person directed to pay the same, as if it were an arrear of land revenue.

20. Supply of water through intervening water-course. - Whenever application is made to a Divisional Canal Officer for 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 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 enquiry on such day, the Divisional Canal Officer shall determine whether and on what condition 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 watercourse 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 may 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. Omitted by Punjab Act 23 of 1965.

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

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal Officer, in this behalf and at his cost, to do all things necessary for procuring such transfer;

(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; and

(b) that the statements in the application are true, he shall call upon the applicant to make such deposits as the Divisional Canal Officer 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 deposits being made, he shall publish a notice of the application in every village, and shall send a copy of the notice of the Collector of every district through which such water-course passes.

24. Objections to transfer applied for. - Within twenty-one days from the publication of a notice under section 23, any person interested in the water-course to which the notice refers may apply to the Collector by petition stating, his objection to the 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. When applicant may be placed in occupation. - If no such objection is made, or (where such objection is made), if the Collector overrules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the water-course to be transferred.

26. Procedure when objection is held valid. - If the Collector considers any objection made as aforesaid to be valid he shall inform the Divisional Canal Officer accordingly.

27. Procedure when Canal Officer disagrees with the Collector. - 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 the water-course to be transferred.

28. Expenses to be paid by applicant before receiving occupation. - No such applicant shall be placed in occupation of such 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 water-course so transferred, together with all expenses incidental to such transfer.

Procedure in fixing compensation. - 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 desires, award such compensation in the form of a rent charge payable in respect of the water-course transferred.

Recovery of compensation and expenses. - 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. Condition binding on applicant placed in occupation of water-course. -

When any such applicant is placed in occupation of a water-course as aforesaid the following rules and conditions shall be binding on him and his representatives in interest :-

First. - All works necessary for the passage across such water-course 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 the water-course shall be used only for the purpose of such water-course.

In cases in which a water-course is transferred on the terms of a rent- charge.

Third. - The applicant or his representative in interest shall, so long as he occupies such water-course pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fourth. - 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 centum per annum from the date on which it became due, as if it were an arrear of land revenue, and shall pay the same, when recovered, to the person 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 transferred under this Act, is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such water-course shall cease absolutely.

30. Omitted by Punjab Act 23 of 1965, Section 2.

30A. Preparation of draft scheme. - (1) Notwithstanding anything contained to the contrary in this Act and subject to the rules prescribed by the State Government in this behalf the Divisional Canal Officer may on his own motion or on the application of a shareholder prepare a draft scheme to provide for all or any of the matters namely:-

- (a) the construction, alteration, extension and alignment of any water-course or re-alignment of any existing water-course;
- (b) re-allotment of areas served by one water-course to another;
- (c) the lining of any water-course;
- (cc) the occupation of land for the deposit of soil from water- course clearances;
- (d) any other matter which is necessary for the proper maintenance and distribution of supply of water from a water-course.

(2) Every scheme prepared under sub-section (1) shall amongst other matters, set out the estimated cost thereof, the alignment of the proposed water-course or re-alignment of the existing water-course, as the case may be, the site of the outlet, the particulars of the share-holders to be benefited and other persons who

may be affected thereby and a sketch plan of the area proposed to be covered by the scheme.

30B. Publication of a scheme. - (1) Every scheme shall, as soon as may be after its preparation, be published in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions with respect thereof within twenty-one days of the publication.

[(2) The Divisional Canal Officer may after considering the objections and suggestions, if any, approve, modify or reject scheme.]

(3) The Superintending Canal Officer may suo motu within a period of thirty days from the date of publication under section 30-C or on an application, by a person aggrieved by the approval, modification or rejection of the scheme, made within a like period, call for the record of the scheme from the Divisional Canal Officer and may after examining the same, confirm the action taken by the Divisional Canal Officer or may, after affording to the person affected an opportunity of being heard, approve or modify the scheme in such form as he may deem fit or may reject the same.]

30C. Publication of scheme. - The Divisional Canal Officer shall, as soon as may be publish the particulars of the scheme, as approved or modified by him under sub-section (2) of section 30-B or by the Superintending Canal Officer under sub-section (3) of that section as the case may be, in the prescribed manner and call upon share-holders to implement it at their own cost within the period to be specified therein :

Provided that where the scheme has been rejected under sub- section (2) of section 30-B the fact that it has been rejected shall also be published in the prescribed manner :

Provided further that where the record of the case has been called by the Superintending Canal Officer, under sub-section (3) of section 30-B, the share-holders shall not be called upon to implement the scheme till the Superintending Canal Officer has finally disposed of the matter.

30D. Publication of notice of intention to acquire land. - (1) The Divisional Canal Officer may, either of his own motion or on the application of a share-holder, publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.

(2) Any person interested in the land notified under sub-section (1) may within fifteen days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objections to the proposed acquisition of his rights.

(3) After considering the objections, the Divisional Canal Officer may proceed to take the occupation of the land so required on behalf of the share-holder.

(4) Compensation, to be fixed by the Divisional Canal Officer on the principles set out under section 23 of the Land Acquisition Act, 1894, shall be payable by the share-holders in proportion to the culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount shall be recoverable as arrears of land revenue.

A person aggrieved from the order of the Divisional Canal Officer in respect of compensation may prefer an appeal within thirty days of the passing the order to the Collector whose decision shall be final.

30E. Cost of execution of works to be met by share-holders. - On failure of any share-holder to execute the work within the period specified in the notice under section 30-C the Divisional Canal Officer may proceed to carry out the work himself and the cost in proportion to the culturable commanded area under

the scheme held by them shall be recoverable from the share-holders as arrears of land revenue.

[30F. Maintenance of water-course to be done by share-holders.] - (1) On execution of the scheme, the Divisional Canal Officer shall, by requisition in writing, direct the share-holders to take over and maintain the water-course.

(2) Where after taking over the water-course in terms of the directive issued under sub-section (1) the share-holders fail to maintain the same accordingly, the Divisional Canal Officer shall arrange to carry out the necessary repairs at the cost of the share-holders and for that purpose he shall recover in advance an amount to cover the cost of repairs tentatively determined by him from the share-holders in proportion to the culturable commanded area held by them under the scheme.

(3) As soon as after the completion of the repairs carried out under sub-section (2), the Divisional Canal Officer shall work out or cause to be worked out the actual cost of the repairs.

(4) If the actual cost worked out under sub-section (3) exceeds the amount tentatively recovered under sub-section (2) the difference shall be recoverable from the share-holders in the proportion to the culturable commanded area held by them under the scheme and if any balance remains with the Divisional Canal Officer, it shall be refunded to the share-holders in the same proportion.

(5) Any amount recoverable from the share-holders under this section may be recovered as arrears of land revenue.

[30FF. Alteration of a water-course or damage thereto be made good by the person responsible for it.] - (1) If a person demolishes, alters, enlarges or obstructs [a water-course or a temporary water-course] or causes any damage thereto, any person affected thereby may apply to the Divisional Canal Officer for directing the restoration of [the water-course or the temporary water-course] to its original condition.

(2) On receiving an application under sub-section (1) the Divisional Canal Officer may, after making such enquiry as he may deem fit, require by a notice in writing served on the person found to be responsible for so demolishing, altering, obstructing or causing damage, to restore at his own cost, [the water-course or the temporary water-course] to its original condition within such period as may be specified in the notice.

(3) If such person fails, to the satisfaction of the Divisional Canal Officer, to restore [the water-course or temporary water-course to its original condition within the period specified in the notice served on him under sub-section (2) the Divisional Canal Officer may cause [the water-course or the temporary water-course to be restored to its original condition and recover the cost incurred in respect of such [restoration along with a penalty not exceeding one thousand rupees as may be imposed by the Divisional Canal Officer] from the defaulting person.

(4) Any person aggrieved by the order of the Divisional Canal Officer, may prefer an appeal within thirty days of the passing of such order to Superintending Canal Officer whose decision on such appeal shall be final.

(5) Any sum which remains unpaid within a period to be specified for this purpose by the Divisional Canal Officer may be recovered by the Collector from the defaulting person as if it were an arrear of land revenue.]

30G. Bar of Jurisdiction of Civil Court. - Notwithstanding anything contained in this Act or any other law for the time being in force no Civil Court shall have jurisdiction to entertain or decide any question relating to matters falling under section 30-A to [30-FF.]

Part IV

Of the Supply of Water

31. In absence of written contract, water supply to be subject to rules. - 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 made by the State Government.

32. Conditions as to. - Such contracts and rules must be consistent with the following conditions :-

- (a) Power to Stop Water Supply. - 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 purposes of executing any work ordered by competent authority and with the previous sanction of the State 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) Claims to compensation in case of failure or stoppage of supply. - No claim shall be made against the State Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the State 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 authorised by the State Government;
- (c) Claims on account of interruption from other causes. - If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner prescribed 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 to the petitioner reasonable compensation for such loss;
- (d) Duration of supply. - When the water of a canal is supplied for irrigation of a single crop, the permission to use such water shall be held to continue 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 continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year;

- (e) Sale or subletting of right to use canal water. - 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 sublet 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;

- (f) Transfer, with land, of contracts for water. - But all contracts made between the State Government and the owner or occupier of any immovable property, as to the supply of canal water to such property, shall be transferable therewith and shall be presumed to have been so transferred whenever a transfer of such property takes place;
- (g) No right acquired by user. - No right to the use of the water of a canal shall be or be deemed to have been acquired under the Indian Limitation Act, 1887, Part IV, nor shall the State Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

Part V

Of Water Rates

33. Liability when person using unauthorisedly cannot be identified. - If water supplied through a [Canal] be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified - The person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such [Canal], shall be liable or jointly liable, as the case may be, to the charges made for such use.

34. Liability when water runs to waste. - If water supplied through a [Canal] be suffered to run to waste, and if, [-] the persons 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 canal shall be jointly liable for the charges made in respect of the water so wasted.

35. Charges recoverable in addition to penalties. - (1) All charges for the unauthorised use or waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All questions, including questions pending for disposal on the commencement of the Northern India Canal and Drainage (Punjab) Amendment Act, 1965, under Section 33 or 34 shall be decided by the Collector.

(3) An appeal shall lie to the Commissioner against the decision of the Collector under sub-section (2) within a period of thirty days from the date of such decision.

(4) The Financial Commissioner may suo motu at any time or on an application made in this behalf by an aggrieved person within a period of thirty days from the date of the order, revise an order passed in appeal under sub-section (3).

36. Charge on occupier for water how determined. - The rates to be charged for the canal water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the State Government and such occupiers as accept the water shall pay for it accordingly.

Occupier's rate. - A rate so charged shall be called the "occupier's rate."

The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate of tenants and of persons to whom tenants may have sublet their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.

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

38. Amount of owner's rate. - 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 such land, on account of the increase in the annual value or produce thereof caused by the canal irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

39. Owner's rate when not chargeable. - No owner's rate shall be chargeable either on the owner or occupier of the land temporarily assessed to pay land revenue at irrigation rates, during the currency of such assessment.

[40 to 43]. - Repealed by Act XVI of 1887 (The Punjab Tenancy Act), Section 3 and schedule.

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

Recovery of Charges

45. Certified dues recoverable as land revenue. - Any sum lawfully due, under this part and certified by the Divisional Canal Officer to be so due which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land revenue.

46. Power to contract for collection of canal dues. - The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the State 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 makes 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 45 : and, if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

47. Lambardars may be required to collect canal dues. - The Collector may require the lambardar 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 by the Collector as if they were arrears of land revenue due in respect of the defaulters' share in such estate;

And for the purpose of collecting such sums from the subordinate zamindars, raiyats, tenant or sub-tenants, such lambardar 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 to the collection by him of the rents of land or of shares of land revenue.

The State Government shall provide -

- (a) for remunerating persons collecting sums under this section; or
- (b) for indemnifying them against expenses properly incurred by them in such collection; or
- (c) for both such purposes.

48. Fines excluded from Sections 45, 46, 47. - Nothing in sections forty- five, forty-six or forty-seven applies to fines.

Part VI

Of Canal Navigation

49. Detainer of vessel violating rules - Any vessel entering or navigating any canal contrary to the rules made in that behalf by the State Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained or both removed and detained by the Divisional Canal Officer or by any other person duly authorised in this behalf.

Liability of owners of vessels causing damage. - The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the State 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.

50. Recovery of fines for offences in navigating canals. - Any fine imposed under this Act upon the owner of any vessels, 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 in respect of such vessel.

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

52. Power to seize cargo or goods, if charges due thereon are not paid. - 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 lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorised 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, is paid in full.

53. Procedure for recovery of such charges after seizure. - Within a reasonable time after any seizure under section 51 or section 52, 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 nearly 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 property seized.

54. Procedure in respect of vessels abandoned and goods unclaimed. - 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 lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

The 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, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale. - 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 Divisional 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 VII

Of Drainage

55. Power to prohibit obstructions or order their removal. - Whenever it appears to the State 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 State 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 modification 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.

56. Power to remove obstruction after prohibition. - The Divisional Canal Officer, or other person authorised by the State 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 modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land revenue.

57. Preparation of Schemes for works of improvement. - Whenever it appears to the State 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 State 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 State Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

[57A. Application for Sections 30-A to 30-G to "field drains".] - The provision contained in section 30-A to 30-G shall apply to Field Drains as well.

58. Powers of persons employed on such schemes. - The persons authorised by the State Government to draw up such schemes may exercise all or any of the powers conferred on the Canal Officers by section fourteen.

59. Rate on lands benefitted by works. - [(1) The proportion of the cost other than that which is to be defrayed by Government in respect of such scheme, may be charged from the owners of all lands made chargeable under section 57 in accordance with rules made by the State Government in this behalf.]

(2) An owner shall be competent to contribute towards the charges payable by him either wholly or in part in terms of land, labour or cash in the manner prescribed by rules made in this behalf.

[60. Recovery of rate.] - Any sum certified by the Divisional Canal Officer to be due under the last preceding section and which remains unpaid after the expiry of the period during which it was payable; shall be recoverable from the owner liable for the same as if it were an arrear of land revenue.

61. Disposal of claims as to compensation. - Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified, or whenever any drainage work is carried out under section 57, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such works, may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

62. Limitation of such claims. - No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Part VIII

Of Obtaining Labour on Canal and Drainage Works

63 to 66. Omitted by Punjab Act XIV of 1968.

Part IX

Of Jurisdiction

67. Jurisdiction under this Act of Civil Courts. - Except where herein otherwise provided, all claims against the State 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.

[68. Power of Deputy Collector to order use or distribution of water and settlement of differences as to mutual rights and liabilities of persons interested in water-course.] - (1) The Deputy Collector may, if in his opinion it is necessary so to do, pass an order as to the use or distribution of water from a water-course amongst persons in any estate or a group of estates or in any holding or group of holdings in such estate or estates:

Provided that no such order shall be passed by the Deputy Collector without making an inquiry into the matter and without giving a notice, to all the persons interested that, on a day to be named in such notice, he shall proceed to inquire into the said matter.

(2) Whenever a difference arises between two or more 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 apply in writing to the Deputy Collector stating the matter in dispute.

(3) On the receipt of an application under sub-section (2), the Deputy Collector shall give notice to the other persons interested that on a day to be named in such notice, he shall proceed to inquire into the said matter and after the enquiry he shall pass an order thereon.

(4) An order passed under sub-section (1) or sub-section (3) as to the use or distribution of water for any crop sown or growing at the time when such order is made or with regard to the construction or maintenance of water-course shall subject to an order passed on appeal or revision under sub-section (5) and (6), be final.

(5) An appeal shall lie to the Divisional Canal Officer against an order referred to in sub-section (4) within a period of thirty days from the date of such order.

(6) The Superintending Canal Officer, within whose jurisdiction the water-course is situated, may, suo motu on or an application made in this behalf by an aggrieved person, revise an order passed in appeal by a Divisional Canal Officer under sub-section (5):

Provided that no such application shall lie unless it is made within a period of thirty days from the date of such order.

(7) No order passed under this section shall be liable to be called in question in any civil court.

69. Power to summon and examine witnesses. - Any officer empowered under this Act to conduct any enquiry 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 enquiry shall be deemed a judicial proceeding.

Part X

Of Offences and Penalties

70. Offences under the Act. - Whoever, without proper authority and voluntarily, does any of the acts following, that is to say :-

- (1) damages, 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, damage or render less useful any canal or drainage work;
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of water thereof or interferes with the authorized distribution of the water therefrom or uses such water in an unauthorised 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 for the time being prescribed by the State 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) and (9) Omitted by Punjab Act 14 of 1968;
- (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 rules made under this Act after he has been desired to desist therefrom;
- (12) violates any rule made under this Act for breach whereof a penalty may be incurred -

Penalty. - shall be liable on conviction before a Magistrate of such class as the State Government directs in this behalf, [to a minimum fine of five thousand rupees, but not exceeding fifty thousand rupees or to imprisonment not exceeding six months, or with both.]

[70A. Order of the Divisional Canal Officer. - (1) Whenever water is used by any person in an unauthorized manner or does any act under the provisions of clauses (1) to (7) and clauses (10) to (12) of section 70, the Divisional Canal Officer by an order, shall stop the supply thereof to such person for his next two turns for the first offence and for the second offence stop the supply for full turn

during the crop season. In case, any person still continues to use water in an unauthorized manner, he shall be excluded from the command area of the canal for a period of two years.

(2) An appeal against every order passed by the Divisional Canal Officer shall lie to the Superintending Canal Officer, No appeal shall be entertained, unless it is filed within a period of thirty days from the date of communication of such order.

(3) When supply of water of the offender is stopped, his share of canal water shall be distributed judiciously amongst the other share holder falling in the command area of the canal from where offender is drawing canal water.]

71. Saving of prosecution under other laws. - Nothing hereinafter 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.

72. Compensation to person injured. - Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

73. Powers to arrest without warrant. - Any person incharge 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 nearest police station, to be dealt with according to law, any person who, within his view, commits any of the following offences :-

(1) Wilfully damages 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, damage or render less useful any canal or drainage work.

74. Definition of "Canal". - In this part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by the State 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 the State Government, upon such land.

Part XI

Of Subsidiary Rules

75. Power to make, alter and cancel Rules. - The State Government may, from time to time, 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 provisions of this Act, and not expressly provided for as regards appeal, shall be appealable.

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

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

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

The State Government may, from time to time alter or cancel any rules so made.

Publication of rules. - Such rules, alterations and cancelments shall be published in the Official Gazette and shall thereupon have the force of law.