THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873

ARRANGEMENT OF SECTIONS

PREAMBLE

PART I

PRELIMINARY SECTIONS

1. Short title.

Local extent.

2. [*Repealed.*]

3. Interpretation clause.

4. Power to appoint officers.

PART II

OFTHE APPLICATIONOF WATERFOR PUBLIC PURPOSES 5. Notification to issue when water-supply is to be applied for public purposes. 6. Powers of Canal-officer.

7. Notice as to claims for compensation.

8. Damage for which compensation shall not be awarded.

Matters in respect of which compensation may be awarded.

9. Limitation of claims.

10. Enquiry into claims and amount of compensation.

11. Abatement of rent on interruption of water-supply.

12. Enhancement of rent on restoration of water-supply.

13. Compensation when due.

Interest.

PART III

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS 14. Power to enter and survey, etc.

Power to clear land.

Power to inspect and regulate water-supply.

Notice of intended entry into houses.

Compensation for damage caused by entry.

15. Power to enter for repairs and to prevent accidents.

Compensation for damage to land.

16. Application by persons desiring to use canal-water.

Contents of application.

Liability of applicants for cost of works.

Recovery of amount due.

17. Government to provide means of crossing canals.

***Subject to verification and confirmation by Ministry.**

SECTIONS

18. Persons using water-course to construct works for passing water across roads, etc. If they fail, Canal-officer may construct, and recover cost.

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

Recovery of amount found due.

20. Supply of water through intervening water-course.

21. Application for construction of new water-course.

22. Procedure of Canal-officer thereupon.

23. Application for transfer of existing water-course.
Procedure thereupon.

24. Objections to construction or transfer applied for.

25. When applicant may be placed in occupation.

26. Procedure when objection is held valid.

27. Procedure when Canal-officer disagrees with Collector.

28. Expenses to be paid by applicant before receiving occupation.
Procedure in fixing compensation.
Recovery of compensation and expenses.

29. Conditions binding on applicant placed in occupation.

30. Procedure applicable to occupation for extensions and alterations.

PART IV

OFTHE SUPPLYOF WATER

31. In absence of written contract, water-supply to be subject to rules.

32. Conditions as to—
power to stop water-supply;
claims to compensation in case of failure or stoppage of supply;
claims on account of interruption from other causes;
duration of supply;
sale or sub-letting of right to use canal-water;
transfer, with land, of contracts for water;
no right acquired by user.

PART V

OF WATER-RATES

33. Liability when person using unauthorizedly cannot be identified.

34. Liability when water runs to waste.

35. Charges recoverable in addition to penalties.
Decision of questions under sections 33 and 34.

36. Charge on occupier for water, how determined.
"Occupier's rate."

37. "Owner's rate."

38. Amount of owner's rate.

39. Owner's rate, when not chargeable.

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

SECTIONS

41. Power to make rules for apportioning owner's rate.

42. When owner is to pay 'owner's rate.

43. Effect of introduction of canal-irrigation on landlord's right to enhance.

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

Recovery of charges 45.

Certified dues recoverable as land-revenue.

46. Power to contract for collection of canal-dues.

47. Lambardars may be required to collect canal-dues.

48. Fines excluded from sections 45, 46 and 47.

PART VI OF

CANAL NAVIGATION 49. Detainer of vessels violating rules.

Liability of owners of vessels causing damage.

50. Recovery of fines for offences in navigating canals.

51. Power to seize and detain vessel on failure to pay charges.

52. Power to seize cargo or goods, if charges due thereon are not paid.

53. Procedure for recovery of such charges after seizure.

54. Procedure in respect of vessels abandoned and goods unclaimed.

Disposal of proceeds of sale.

PART VII OF

DRAINAGE 55. Power to prohibit obstructions or order their removal.

56. Power to remove obstructions after prohibition.

57. Preparation of schemes for works of improvement.

58. Powers of persons employed on such schemes.

59. Rate on lands benefited by works.

60. Recovery of rate.

61. Disposal of claims to compensation.

62. Limitation of such claims.

PART VIII

OF OBTAINING LABOURFOR CANALSAND DRAINAGE-WORKS 63.

Definition of "labourer".

64. Power to prescribe number of labourers to be supplied by persons benefited by canal. 65. Procedure for obtaining labour for works urgently required.

66. Liability of labourers under requisition.

PART IX

OF JURISDICTION

SECTIONS

67. Jurisdiction under this Act of Civil Courts.

68. Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

69. Power to summon and examine witnesses.

PART X

OF OFFENCESAND PENALTIES

70. Offences under Act.

Penalty.

71. Saving of prosecution under other laws.

72. Compensation to person injured.

73. Power to arrest without warrant.

74. Definition of "canal".

PART XI

OF SUBSIDIARY RULES

75. Power to make, alter and cancel rules.

Publication of rules.

SCHEDULE.—[*Repealed.*]

THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873

ACT NO. 8 OF 1873

[11*th February*, 1873.]

An Act to regulate irrigation, navigation and drainage in Northern India.

Preamble.—WHEREAS, throughout the territories to which this Act extends, the State 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. Short title.—This Act may be called the Northern India Canal and Drainage Act, 1873.

Local extent.—It extends to [1][Uttar Pradesh and the [2][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.

[3]* * * * *

2.[*Repeal of Acts.*] *Rep. by the Repealing Act,* 1873 (12 *of* 1873), *s.* 1 *and Schedule.*

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 water-courses 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;

(*2*) **"Water-course".—**"water-course" 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 flood 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](*4*) **"Vessel".—**"vessel" includes boats, rafts, timber and other floating bodies;

1. Subs. by the A.O.1948, for the original words as amended by the A.O.1937. The Act originally extended to the territories which are now the U.P., the Punjab, and the C.P. It has been rep. in the C.P. by the C.P. Irrigation Act, 1931 (C.P. Act 3 of 1931). It has been declared not to apply to any canal which is included for the time being under Sch. I or Sch. II to the Punjab Minor Canals Act, 1905 (Pun. Act 3 of 1905), *see* s. 2 (*3*)of that Act. The Act has been amended and in Punjab by Pun. Acts 19 of 1953, 22 of 1960 and 18 of 1974', in U.P. by U.P. Acts 30 of 1956 and 16 of 1974; and in Haryana by Haryana Acts 4 of 1971 and 29 of 1974.

2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "States of Punjab and Delhi".

3. The commencement paragraph rep. by Act 16 of 1874, s. 1 and Schedule.

4. *Cf.* definitionin the General Clauses Act, 1897 (10 of 1897), s. 3.

(*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;

[1](*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".—"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal-officer".—"Divisional Canal-officer" means an officer exercising control over a division of a canal;

"Sub-divisional Canal-officer".—"Sub-divisional Canal-officer" means an officer exercising control over a sub-division of a canal;

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

STATE AMENDMENT

Uttar Pradesh

Amendment of section 3 of Act No. VIII of 1873.— In clause (*8*) of section 3 of the Northern India Canal and Drainage Act, 1873 (hereinafter called the principal Act) for the full stop a semi-colon shall be substituted and thereafter the following shall be added as new clauses (*9*) and (*10*) ;

"(9) 'irrigable command area' means such area of culturable land or grove land which, for purposes of irrigation, can be commanded through a single outlet in a canal or by a single tube-well and the limits of which are fixed in this behalf by the Divisional Canal Officer ; and

(10) 'Prescribed' means prescribed by rules made under this Act.

[*Vide* Uttar Pradesh Act V of 1963, s. 2]

4. Power to appoint officers.—The State Government may from time to time declare, by notification in the Official Gazette, the officers by whom, and the local limits within which, or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section 3, clause (*7*), shall be respectively subject to the orders of such officers as the State Government from time to time directs.

STATE AMENDMENT

Uttar Pradesh

Amendment of section 4 of Act No. XVII of 1878.—In the first proviso to section 4 of the Northern India Ferries Act, 1878, as amend in its application to Uttar Pradesh, between the words "two States" and the words "the powers", the words "to which this Act applies" shall be inserted.

[*Vide* Uttar Pradesh Act IV of 1960, s. 2]

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 purpose of any existing or projected canal or drainage-work, the State Government

1. *Cf.* definitionin the General Clauses Act, 1897 (10 of 1897), s. 3 (*11*).

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-officer.—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 is 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 8 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 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:—

(*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 channel, 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 [1]Indian Limitation Act, 1877 (15 of 1877), Part IV;

(*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 diminut ion 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 nett 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 clauses (*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 [1]Indian Limitation Act, 1877 (15 of 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 damage 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 claim within such period.

1. *See* now the Indian Limitation Act, 1963 (36 of 1963).

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 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the [1]Land Acquisition Act, 1870 (10 of 1870), shall apply to such enquiries:

Provided that, instead of the last clause of the said section 26, the following shall be read:—"The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873 (8 of 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, 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 8, 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.

STATE AMENDMENT

Uttar Pradesh

Amendment of section 11 of Act XVII of 1878.— In section 11 of the Northern India Ferries Act, 1878, for the words "one month's thin" the word "three months" shall be substituted.

[*Vide* Uttar Pradesh Act XXIX of 1948, s. 2]

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 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 grounds.

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. perannum 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.—AnyCanal-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 enquiry relating to any existing or projected canal under the charge of the said Canal-officer;

1. *See* now the Land Acquisition Act, 1894 (1 of 1894).

Power to clear land.—and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle;

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

Notice of intended entry into houses.—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 shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.—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 Collector, and such decision shall be final.

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 lands under section 43 of the [1]Land Acquisi-tion Act, 1870 (10 of 1870).

16. Application by persons desiring to use canal-water.—Any persons desiring to use the water of any canal may apply 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 applicants.

Contents of application.—The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of applicants for cost of works.—When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

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

17. 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.

1. *See* now the Land Acquisition Act, 1894 (1 of 1894).

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings 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 measures in reference thereto to be taken as it thinks proper.

18. Persons using water-course 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 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 such 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 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 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 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 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. Application for construction of new water-course.—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 acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(*2*) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

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

22. Procedure of Canal-officer thereupon.—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 the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 28;

and, upon such deposit being made, he shall cause enquiry 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. 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 his 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 deposit 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 28 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. Objections to construction or transfer applied for.—Within thirty days from the publication of a notice under section 22 or section 23, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. When applicant may be placed in occupation.—If no such objection is made, or (where such objection is made) if the Collector over-rules 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 land marked out or of the water-course to be transferred, as the case may be.

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; and, if such officer sees fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out, and may give fresh notice under section 22; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

27. Procedure when Canal-officer disagrees with 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 28, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

28. Expenses to be paid by applicant before receiving occupation.—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 caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or 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[1] (10 of 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 land or water-course occupied or 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. Conditions binding on applicant placed in occupation.—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 22 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 the applicant is placed in occupation of the land.

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

1. *See* now the Land Acquisition Act, 1894 (1 of 1894).

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 the applicant is placed in occupation.

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 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 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. Procedure applicable to occupation for extensions and alterations.—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.

STATE AMENDMENT

Uttar Pradesh

Addition of new section 30-A to 30-G in Act No. VIII of 1873.—After section 30 of the principal Act, the following shall be added as new sections 30-A to 0-G :

"**30-A**. **Preparation of the scheme for an irrigable command area.—**The Divisional Canal Officer may, with a view to providing for or improving irrigation facilities in an irrigable command area, prepare a scheme for the construction of water-courses and the carrying out of any work connected therewith in such area, anything to the contrary contained in any other law notwithstanding. The scheme shall contain—

(*i*) a plan showing the site of the outlet, the existing water-courses, if any, the proposed water-courses and works connected therewith, and the areas already served and to be served by the existing or proposed watercourses;

(*ii*) a statement showing the estimated cost of constructing the proposed water-courses and works connected therewith ;

(*iii*) a memorandum showing the manner in which the scheme may be implemented; and

(*iv*) such other particulars as may be prescribed.

30-B. Calling upon the Gaon Sabhas to implement the scheme.—(*1*) The Divisional Canal Officer shall, as soon as may be, forward a copy of the scheme prepared under section 30-A to each of the Gaon Sabhas and Block Development Officers within whose jurisdiction the land affected thereby is situate, and call upon the Gaon Sabhas to submit to him within a period of thirty days from the date of receipt of the copy, their approval or the scheme, or any objections, suggestions or modifications thereto.

(*2*) The copy of the scheme shall, within three days of its receipt by the Gaon Sabha, be affixed by it on its notice board, and shall, within twelve days thereafter, be considered in a meeting of the Gaon Panchayat convened for the purpose and the decision of the Gaon Panchayat shall be deemed to be for and on behalf of the Gaon Sabha concerned. The decision shall be communicated to the Divisional Canal Officer within the time allowed under sub-section (1).

(*3*) If no objections, modifications or suggestions are submitted by any of the Gaon Sabhas within the time specified in sub-section (1), the Gaon Sabhas shall be deemed to have approved the scheme, which shall thereupon become final.

(*4*) Upon receipt of the objections, modifications or suggestions, made by the Gaon Sabhas under sub-section (2), the Divisional Canal Officer may either confirm the scheme or amend or modify it and thereupon the scheme so confirmed, amended or modified, shall become final.

(*5*) When the scheme has become final, the Divisional Canal Officer shall, by notice in writing, call upon the Gaon Sabhas concerned to take all such steps as may be necessary for the implementation of the scheme, and in particular to construct or cause to be constructed, the water-courses and carry out, or cause to be carried out, all works connected therewith, within the period fixed therefor in the notice, which may be extended from time to time.

30-C. Securing or acquiring land for the scheme.—(1) Upon receipt of the notice mentioned in sub-section (5) of section 30-B, the Gaon Sabha shall give to all persons on whose land any water-course is proposed to be constructed, or on which any work connected therewith is proposed to be carried out, option to transfer by way of gift or surrender, as the case may be, free from all encumbrances, within the period provided therefor in the notice, so much of the said land in its favour as may be necessary for the implementation of the scheme.

(*2*) Where any land required for the implementation of the scheme is not transferred to, or surrendered in favour of the Gaon Sabha under subsection (1), it may —

(*i*) either purchase the land at such rates as may be prescribed ; or

(*ii*) move the State Government to acquire the same under the Land Acquisition Act, 1894 (Act no. 1 of 1894) ; or

(*iii*) If the land for construction of water-courses is likely to be required for a limited period only, apply to the Requisitioning Authority under section 6 of U. P. Rural Development (Requisitioning of Land) Act, 1948 (U.P. Act no XXVII of 1948) to requisition the land ;

Provided that if it appears after the construction of water-courses on the land so requisitioned that the alignment of the water-courses as constructed will be retained unchanged for long the Gaon Sabha shall, as early as possible, move the State Government to acquire the land on a permanent basis.

(*3*) Where, on the application of the Gaon Sabha under sub-section (2), any land has been acquired in accordance with the provisions of the Land Acquisition Act, 1894 (Act no. 1 of 1894), the State Government shall, subject to such terms and conditions as may be imposed by it in this behalf, transfer to, or vest in, the Gaon Sabha, the land so acquired for the implementation of the scheme.

(*4*) The land transferred to, or vested in, the Gaon Sabha under subsection (3), or of which the management has been vested in the Gaon Sabha under section 11 of the U. P. Rural Development (Requisitioning of Land) Act, 1948 (U.P. Act no. XXVII of 1948), shall be utilized by the Gaon Sabha for the implementation of the scheme, and it shall construct or cause to be constructed, in the manner hereinafter provided, the water-courses, and carry out or cause to be carried out, all works connected therewith as may be necessary for the implementation of the scheme.

(*5*) In implementing the scheme the Gaon Sabha shall, in the first instance, give option, by notice in writing, published the manner prescribed, to all persons having a holding in the irrigable command area, to construct, within such time as may be fixed therefor in the notice, the water courses, and carry out all such work connected therewith, as may be necessary for the implementation of the scheme.

(*6*) Where the persons concerned fail to construct the whole or any part of any water-course, or to carry out any work connected therewith, in accordance with the scheme, the Gaon Sabha shall construct, or carry out, or cause to be constructed, or carried out, the same in the manner provided under section 17 of the Uttar Pradesh Panchayat Raj Act, 1947, for the execution of small Irrigation projects.

30-D. Inspection of work by the Divisional Canal Officer.—(*1*) On the expiry of the period or extended period, as the case may be, specified in the notice under sub-section (*5*) of section 30-B, the Divisional Canal Officer shall inspect, or cause to be inspected, the water courses and all works connected therewith, constructed or carried out, by the Gaon Sabha, either directly or through the tenure-holders of the irrigable command area, and if the same are in accordance with scheme and otherwise properly constructed, or carried out, approve the same.

(*2*) Where the water-courses or all works connected therewith, have not been properly constructed or carried out in accordance with the scheme, the Divisional Canal Officer, shall, by order in writing, require the Gaon Sabha concerned to remove and remedy, or cause to be removed and remedied, all the defects within the period specified in the order.

(*3*) On the expiry of the period allowed in the order under sub-section (*2*), the Divisional Canal Officer shall again inspect, or cause to be inspected, the water-courses, and all works connected therewith, and shall either approve or dis-approve the same.

30-E.Implementation of the scheme by the State Government. —Where the Gaon Sabha fails —

(*i*) to take all or any of the steps required to be taken by it in accordance with the provisions of section 30-C ; or

(*ii*) to construct, or cause to be constructed, the whole of the watercourses, or to carry out all works connected therewith, in accordance with the scheme, within the period or the extended period provided therefor in the notice under sub-section (*5*) of section 30-B ; or

(*iii*) to remove the defects in the water-courses or in any work connected therewith as required to be done under sub-section (*2*) of section 30-D, or to obtain final approval of the Divisional Canal Officer in respect of them under sub-section (*3*) of the said section ;

the State Government shall take all such steps, including acquisition of the land, as may be necessary for the implementation of the scheme, and cause to be constructed and carried out the water-courses and all works connected therewith in accordance with the scheme.

30-F.Vesting of water-courses etc. in the Gaon Sabha.—With effect from the date a notification in this behalf is published in the Gazette by the State Government, and subject to such terms and conditions as may be prescribed, all the water-courses and all works carried out by the State Government in connection with the implementation of the scheme, shall vest in the Gaon Sabha within whose jurisdiction the same lie.

30-G.Maintenance of the watercourses, etc.—The Gaon Sabha shall at all times maintain and keep in good repairs all the water-courses, and all the works connected therewith, constructed or carried out by it, or vested in it under section 30-F.

[*Vide* Uttar Pradesh Act V of 1963, s. 3]

Uttar Pradesh

Insertion of new section 30-EE is Act no. 8 of 1873.—Aftersection 30-E of the Northern India Canal and rainage Act, 1873, amended in its application to Uttar Pradesh, the following section shall be inserted, namely :—

"**30-EE.Special provisions in respect of major irrigation projects.—**(1) In any area covered by the Command of the Gandak, the Sharda Sahayak or the Ram Ganga Irrigation Project or any other major project specified in this behalf by the State Government by notification in the Gazette, the Divisional Canal Officer of the Irrigation Division may prepare a scheme containing the particulars referred to in section 30-A, and hereupon he may take all such steps as may be necessary for the implementation of the scheme, and cause to be constructed and carried out water-courses and all works connected therewith in accordance with the scheme, and nothing in sections 30-B, 30-C, 30-D and 30-E, shall apply in relation to such scheme.

(*2*) Without prejudice to the generality of the provisions of sub-section (1), the Divisional Canal Officer may —

(*a*) apply to the requisitioning authority under the U. P. Rural Development (Requisitioning of Land) Act, 1948, to requisition any land required for implementation of the scheme ; or

(*b*) move the State Government to acquire under the Land Acquisition Act, 1894, any land required for implementation of the scheme ; or

(*c*) take action both under clauses (*a*) and (*b*), namely, to have land requisitioned in the first instance, and thereafter acquired.

(*3*) The Divisional Canal Officer may delegate his functions under sub-section (*2*) to a Sub-divisional Canal Officer.

(*4*) The provisions of sections 30-F, 30-G and 36-A, shall apply in relation to a scheme prepared under this section and to water-courses and other works constructed under such scheme as they apply to any scheme referred to in sections 30-A, 30-B, 30-C, 30-D and 30-E and to water-courses and other works constructed in accordance therewith."

[*Vide* Uttar Pradesh Act 16 of 1974, s. 2]

PART IV

OFTHE SUPPLYOF 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 in respect thereof.

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 purpose 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 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 to the petitioner reasonable compensation for such loss:

(*d*)**duration of supply.—**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 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:

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:

*(f)***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 [1]Indian Limitation Act, 1877 (15 of 1877), 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 water-course be used in an unauthorised 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 water-course, 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 water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

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

Decision of questions undersections 33 and 34.—All questions under section 33 or section 34 shall be decided by the Divisional Canal-officer, subject to an appeal to the head Revenue-officer of the district, or such other appeal as may be provided under section 75.

STATE AMENDMENT

Uttar Pradesh

Amendment of section 36 of Act no. VIII of 1873.—In section 35 of the Northern India Canal and Drainage Act, 1873, hereinafter referred to as the principal Act, for the words "shall be determined by the rules to be made by the State Government", the words "and any other incidental charges shall be determined by the rules to be made by the State Government", shall be substituted.

[*Vide* Uttar Pradesh Act 22 of 1979, s. 2]

36. Charge on occupier for water, how determined.—The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules

1. *See* now the Indian Limitation Act, 1963 (36 of 1963).

to be made by the State Government, and such occupiers as accept the water shall pay for accordingly.

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

1[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.]

STATE AMENDMENT

Uttar Pradesh

Addition of new section 36-A in Act no. VIII of 1873.— After section 36 of the principal Act, the following shall be added as a new section 36-A:—

"36-A. (1) There shall be levied on and collected from in the manner prescribed, the persons mentioned in sub-section (2) a development charge for recovering the cost of the land acquired or requisitioned and the cost of construction of the water-courses, and all works carried out, in connection with the implementation of the scheme, calculated —

(i) for the cost of acquisition and requisition of the land at the rate of 40 Naya Paise per acre per annum ; and

(ii) for the cost of constructing the water-courses and for carrying out the works connected therewith, at the rate of 60 Naya Paise per acre per annum.

(2) Every person having a holding in the irrigable command area except those who have surrendered or transferred by way of gift, as the case may be, to the Gaon Sabha such portion of their land on which any watercourse has been constructed, or on which any work connected therewith has been carried out, shall be liable and pay till such time as the cost together with interest at 4 per cent per annum on the same, has been realized in full to the State Government, if the cost of acquisition has been met out of the Consolidated Fund of the State, or to the Gaon Sabha, if the compensation for acquisition or requisition has been paid by the Gaon Sabha, a development charge levied under clause (i) of sub-section (1), and

every person in that area, who has failed to implement the scheme in accordance with the provisions of sub-section (5) of section 30-C, or sub-section (2) of section 30-D, so far as it relates to his land, shall, in lieu of the benefits derived from the implementation of the scheme, pay till such time as the expenditure incurred in this connection, together with interest at 4 per cent per annum on the same, has been realized in full, to the State Government or the Gaon Sabha, whose ever may have constructed the water-courses or carried out the works connected therewith, in the implementation of the scheme, a development charge levied at the rate provided in clause (ii) of sub-section (1) ;

Provided however that the development charges shall in the first instance be payable to the State Government till such time as theexpenditure incurred by it in this connection, together with interest at 4 per cent per annum on the same, has been realized in full."

[*Vide* Uttar Pradesh Act V of 1963, s. 4]

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 of produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land which is permanently settled

1. Ins. by Act 16 of 1899, s. 2.

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 land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

[1]**40. When occupier is to pay both owner's rate and occupier's rate.—**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 has or have been increased by irrigation,

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

[1]**41. Power to make rules for apportioning owner's rate.—**In the case of a tenant with a right of occupancy, the State Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

[1]**42. When owner is to pay owner's rate.—** 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 a rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

[1]**43. Effect of introduction of canal-irrigation on landlord's right to enhance.—**If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

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.

1. ss. 40 to 43 rep. in the Punjab by the Punjab Tenancy Act, 1887 (16 of 1887), s. 3 and the Schedule.

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 defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamindars, raiyats, [1][tenants 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 45, 46 or 47 applies to fines.

PART VI

OF CANAL-NAVIGATION

49. Detainer of vessels 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 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[2] or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

51. Power 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 authorised to 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.

1. Subs. by Act 16 of 1899, s. 3, for "or tenants".

2. *See* now the Code of Criminal Procedure, 1973 (2 of 1974).

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 51or 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, theretobe 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 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 3.

56. Power to remove obstructions 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.

58. Powers of persons employed on such schemes.—The persons authorised by the State Government to draw up such scheme may exercise all or any of the powers conferred on the Canal-officers by section 14.

59. Rate on lands benefited by works.—An annual rate, in respect of such scheme, may be charged, according to rules to be made by the State Government, on the owners of all lands which shall, in the manner prescribed by such rules, 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 yearly cost of the 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 State 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 State Government or by 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.

60. Recovery of rate.—Any such drainage-rate may be collected and recovered in manner provided by sections 45, 46 and 47 for the collection and recovery of water-rates.

61. Disposal of claims 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 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 work 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

OFOBTAINING LABOURFORCANALSAND DRAINAGE-WORKS

63. Definition of "labourer".—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 State Government.

64. Power to prescribe number of labourers to be supplied by persons benefited by canal.—In any district in which a canal or drainage-work is constructed, maintained or projected by the State Government, the State Government, may, if it thinks fit, direct the Collector —

(*a*) 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

(*b*) to set down in a list, having due regard to the circumstances of the districts 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.

65. Procedure for obtaining labour for works urgently required.—Whenever it appears to a Divisional Canal-officer duly authorised by the State Government that, unless some work is immediately executed, such serious damage 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 prevent such injury, 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—

(*a*) the nature and locality of the work to be done;

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made : and

(*c*) 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 State Government.

The State Government shall fix, and may from time to time alter the rates to be paid to any such labourers:

Provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The State Government may [1]*** direct that the provisions of this Part shall apply, 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.

1. The words "with the previous sanction of the G. G. in C." omitted byAct 4 of 1914, s. 2 and the Schedule.

66. Liability of labourers under requisition.—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, forthe purposes aforesaid.

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. Settlement of differences as to mutual rights and liabilities of persons interested in water-course.—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 Divisional Canal-officer stating the matter in dispute. 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, he 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.

69. Power to summon and examine witnesses.—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 [1]Code of Civil Procedure, and every such inquiry shall be deemed a judicial proceeding.

PART X

OF OFFENCESAND PENALTIES

70. Offences under 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 the water thereof, or interferes with the authorised 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;

1. *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(*8*) being liable to furnish labourers under Part VIII of this Act, 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 VIII of this Act, 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 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.—shallbe liable, on conviction before a Magistrate of such class as the State Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

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. Power to arrest without warrant.—Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:—

(*1*) wilfully damages or obstructs anycanal 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 lands.

PART XI

OF SUBSIDIARY RULES

75. Power to make, alter and cancel rules.—The State Government may, from time to time [1]*** 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;

1. The words "subject to the control of the G. G. in C." omitted by Act 38 of 1920.

(*3*) the persons by whom, [1][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, [2]*** 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.

STATE AMENDMENT

Uttar Pradesh

Amendment of section 75 of Act VIII of 1873.— Section 75 of the principal Act shall be re-numbered as sub-section (1) thereof, and the following shall be added as sub-sections (2) and (3) thereof ;

"(2) Without prejudice to the generality of the powers contained under sub-section (1), the rules may provide for —

(i) the particulars to be mentioned in the scheme repaired under this chapter ;

(ii) the manner of implementation of the scheme ;

(iii) the manner of publication of the scheme and giving or publishing of notice under this chapter ; and

(iv) the manner of doing or execution of such other things as can be, or may be, prescribed for giving effect to the provisions of this chapter.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect, from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may agree to make ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder."

[*Vide* Uttar Pradesh Act V of 1963, s. 5]

Uttar Pradesh

Amendment of section 75.—In section 75 of the principal Act, in sub-section (1), for clause (4), the following clause shall be substituted, namely :—

"(4) the amount of any charges made under this Act and the manner in which they shall be realized ; and"

[*Vide* Uttar Pradesh Act 22 of 1979, s. 3]

1. Ins. by Act 12 of 1891.

2. The words "subject to the like control" omitted by Act 38 of 1920.