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1882

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In exercise of the power conferred by the Madras Irrigation Act, 1882, the Governor in Council is pleased to make the following Rules for the administration of Canals in the Madras Presidency :—

I.—Application for Water for Irrigation.

Applications not required.

1. No application is required for water for land which has been irrigated for wet crop in the preceding year.

Applications under Section 26 how to be made.

2. For the irrigation of land not before irrigated, or for which irrigation has been relinquished, application must be made in duplicate in the form of Appendix No. I to the Executive Engineer of the Division, or to some other canal officer duly empowered to receive such applications. Blank copies of the form will be supplied to intending applicants free of charge.

Similar applications will be required for all second wet crop irrigation, and for all dry crop irrigation.

Both copies of the application will, if the application be granted, be forwarded by the Executive Engineer to the Divisional Revenue Officer after column 8 has been duly filled in, and the Divisional Revenue Officer will, after filling in column 9, transmit the original to the applicant, and return the duplicate to the Executive Engineer.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer of the Division, or other officer aforesaid.

Rejection of application.

3. If an application for water be rejected, the cause of rejection will be noted in column 10 of the form.

Causes of rejection.

4. The causes of rejection which are authorized are—

(1) the water not being available ;

(2) the means of irrigating the land entered in the application not being available, *i.e.*, there being no Government distribution channel capable

of supplying the applicant's water-course ;

(3) the land to be irrigated not being levelled and embanked for irrigation.

Priority of right to water when supply proves deficient.

5. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the Division :

Provided always that the claims of those whose lands were irrigated in the preceding year shall have priority over all claims dating from the current year.

II.—Closing of Canals for Repairs, &c.

Except in cases of emergency, canal not to be closed without sanction of Chief Engineer for Irrigation.

6. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Chief Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under Section 27 (*d*) on account of the execution of such repairs, &c., due notification being made in the District Gazette at least one month previous to such closure wherever feasible. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

III.—Water-supply Rates for Irrigation.

Rates how to be fixed.

7. The rates leviable for canal-water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated, and according as the water is obtainable from the canal by lift or flow.

Provisions applicable to supply from escape channels.

8. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Rate leviable for such supply.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall

be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for supply of water obtained without permission.

9. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Water-supply Rates for Non-irrigational purposes.

For non-irrigational purposes rates will be charged for by volume or otherwise.

10. Water supplied from a canal for any purpose other than irrigation will be charged for by volume or otherwise at such rate as Government shall from time to time determine.

IV.—Occasional Rates.

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

11. The charge to be made under Section 44 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely) :—

(*a*) if the water so used has flowed on any land, and such land has derived benefit therefrom,	double the highest rate leviable for a single crop ;
(*b*) if the water has flowed on any land, but such land has not derived benefit therefrom,	double the lowest rate leviable for a single crop ;
(*c*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be

imposed under the Act on the person who unauthorizedly used the water.

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

12. The charge to be made under Section 45 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

(*a*) if the water has flowed on any land,	double the lowest rate leviable for a single crop;
(*b*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—Remissions.

Remissions under last paragraph of Section 30 may be granted by Collector.

13. Remissions of water-rate under the last paragraph of Section 30 may be allowed by the Collector, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Claims for such remissions to whom and when to be made.

14. Claims for such remissions shall be preferred to the Collector, who, before granting such remission, shall in every case take measures to obtain the opinion of the Executive Engineer of the Division.

VI.—Miscellaneous.

Free grants of water-supply.

15. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works (Irrigation) Department, and no such grant shall be made without the previous sanction of Government.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

16. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the Division to have been in good

order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Certain acts forbidden to canal officers, &c.

21. No canal officer or other officer or subordinate shall—

(1) acquire, directly or indirectly, any share or interest in the distribution of water from any canal; or,

(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 52, Clause (10) of the Act.

Returns.

17. The Collector shall furnish the Executive Engineer of the Division with annual returns in the form of Appendix II not later than 20th September each year.

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

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(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

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1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

Ref. No. 3003 w dt. 13th Nov. 02

11

Provisions as to Supply.

Power to stop water-supply.

27. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

28. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with the property in respect of which supply is given.

29. Every agreement for the supply of canal water to any land, building, or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

30. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Provided that no compensation shall be so awarded in respect of any damage arising from

Exceptions.

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by Section four, if no use have been made of such supply within the five years next before the date of the issue of the notification under Section thirty-six, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

31. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

32. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Summary Decisions.

Compensation for damage caused by entry on land, &c.

33. In every case of entry upon any land or building under Section five, Section six, Section seven, or Section eight, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

34. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of Section thirty, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of the last two sections to be conclusive.

35. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if any rule framed under Section sixty-one such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

36. As soon as practicable after the issue of a notification under Section four, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of Sections thirty and thirty-one shall be annexed to every such notice.

Claims to be preferred to the Collector.

37. All claims for compensation under this Act other than claims of the nature provided for in Sec-

tions thirty-three and thirty-four, must be made before the Collector of the district in which such claim arises.

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

38. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and Sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight 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 provisions of this section and of Sections thirty and thirty-nine of the Madras Irrigation and Navigation Act, 1882, 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."

Diminution in market-value to be considered in fixing the amount of compensation.

39. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

Compensation when due.

40. All sums of money payable for compensation awarded under Section thirty-eight shall become due three months after the claim for such compensation was made;

Interest.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Abatements of Land Revenue and Rent.

Abatement of revenue demand on interruption of water-supply.

41. If compensation is awarded under Section thirty-eight on account of a stoppage or diminution of supply of water to any land paying

revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

42. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.—Of Water Rates.

Supply Rates.

Rates for supply of canal water to be determined by Government.

43. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal, or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by the owner of the land irrigated, or by any person who uses the water so supplied.

Occasional Rates.

Liability when person using water unauthorizedly cannot be identified.

44. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

may be held liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under Section sixty-one.

Liability when water runs to waste.

45. If water supplied through a water-course be suffered to run to waste, to the manifest detriment of cultivators lower down the same water course, and if, after enquiry the person through whose act or neglect such water was suffered to run to waste, cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course, may be held liable, or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under Section sixty-one.

All questions arising under this, and the last preceding section shall, subject to the provisions of Section fifty-eight, be decided by a canal officer duly empowered in this behalf.

Charges recoverable in addition to penalties.

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

Percolation and Leakage Rates.

Land deriving benefit from percolation liable to water-rate.

47. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

such land may be charged with a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of Water-rates and other Dues in Arrears.

Water-rates when and to whom to be paid.

48. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Arrears to be recoverable as land revenue.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III of this Act which is not paid when demanded, shall be recoverable according to the law, and under the rules for the time being in force for the recovery of arrears of land revenue.

Rent due to owners of water-courses to be recoverable as arrears of land revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course, shall be payable in such instalments, and on such dates, as the canal officer duly empowered to act under Section twenty-two shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always, that no more shall at any time be payable to the owner than is actually recovered from the said person.

PART VII.—Of Navigable Canals.

Rules and bye-laws to be conformed to.

49. Whenever any canal is made available for navigation, all persons so using it shall conform to the rules and bye-laws made by the Governor in Council under Section sixty-one

of this Act, and for the time being in force; whether these rules relate to the conduct of the navigation, to the charges to be levied for the use of the canal for navigation, or to the regulation of the traffic at particular places.

PART VIII.—Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

50. Whenever it appears to a canal officer duly empowered to act under this section, that unless some work or repair is immediately executed, such damage will happen to any canal as to cause serious loss of revenue or injury to person or property,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides in the vicinity of the locality where such repair, clearance, or work has to be executed, or who may be interested directly or indirectly in the maintenance of the work, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

Reports to be made by canal officer.

51. All orders made under Section fifty shall be immediately reported to the Collector, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART IX.—Of Penalties.

52. Whoever voluntarily and without proper authority,

For damaging canal, &c.

(1) damages, alters, enlarges, or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

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

(4) destroys, defaces or moves any land, bench, or level mark or water-gauge fixed by the authority of a public servant;

(5) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under Section seventy, after he has been desired to desist therefrom;

(7) causes or permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8) removes earth without permission from the bed of any canal, or any flood-embankment, or establishes any building, fence, hedge, ditch, or plantation alongside any canal within the limits of the ground taken up for such canal;

(9) neglects, without reasonable cause, to assist in the execution of any repair, clearance, or work,

when lawfully bound so to do under Section fifty;

(10) violates any rule made under Section sixty-one for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred; and whoever—

(11) 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 authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under Section twenty-two;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

53. Whoever without proper authority,

(1) pierces or cuts through, or attempts to pierce or cut through, or damages, endangers, or destroys the stability of any canal;

(2) opens, shuts, or obstructs, or attempts to open, shut, or obstruct, any sluice in any canal;

(3) makes any dam or obstruction in a river, or canal, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprison-

ment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

54. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Person employed on canal may take offenders into custody.

55. Any person in charge of, or employed upon any canal, 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—

(1) wilfully damages, obstructs, or fouls any canal, or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

56. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act : provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

57. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART X.—Miscellaneous.

Appeals against orders under this Act.

58. Every order passed by a canal officer under Sections twelve, seventeen, twenty-four, twenty-nine, forty-four, forty-five, and forty-seven shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Board of Revenue.

Power to summon and examine witnesses.

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

Service of notices.

60. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules.

61. The Governor in Council may from time to time make rules not inconsistent with this Act to re-

gulat the following matters:—

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

(*b*) the cases in which, 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;

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

(*d*) the amount of any charge to be made under this Act,

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

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Fort Saint George Gazette*, and shall thereupon have the force of law.

Publication of Rules.

62. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

Saving of Municipal water-works.

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

of supplying the applicant's water-course;

(3) the land to be irrigated not being levelled and embanked for irrigation.

5. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the Division:

Priority of right to water when supply proves deficient.

Provided always that the claims of those whose lands were irrigated in the preceding year shall have priority over all claims dating from the current year.

II.—Closing of Canals for Repairs, &c.

6. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Chief Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under Section 27 (*d*) on account of the execution of such repairs, &c., due notification being made in the District Gazette at least one month previous to such closure wherever feasible. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

Except in cases of emergency, canal not to be closed without sanction of Chief Engineer for Irrigation.

III.—Water-supply Rates for Irrigation.

7. The rates leviable for canal-water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated, and according as the water is obtainable from the canal by lift or flow.

Rates how to be fixed.

8. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Provisions applicable to supply from escape channels.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall

be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

9. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Rate leviable for supply of water obtained without permission.

Water-supply Rates for Non-irrigational purposes.

10. Water supplied from a canal for any purpose other than irrigation will be charged for by volume or otherwise at such rate as Government shall from time to time determine.

For non-irrigational purposes rates will be charged for by volume or otherwise.

IV.—Occasional Rates.

11. The charge to be made under Section 44 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely):—

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

(*a*) if the water so used has flowed on any land, and such land has derived benefit therefrom,	double the highest rate leviable for a single crop;
(*b*) if the water has flowed on any land, but such land has not derived benefit therefrom,	double the lowest rate leviable for a single crop;
(*c*) in any other case ...	double the rateable under Rule 13 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be

imposed under the Act on the person who unauthorizedly used the water.

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

12. The charge to be made under Section 45 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

(*a*) if the water has flowed on any land, ... double the lowest rate leviable for a single crop;

(*b*) in any other case ... double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—Remissions.

Remissions under last paragraph of Section 30 may be granted by Collector.

13. Remissions of water-rate under the last paragraph of Section 30 may be allowed by the Collector, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Claims for such remissions to whom and when to be made.

14. Claims for such remissions shall be preferred to the Collector, who, before granting such remission, shall in every case take measures to obtain the opinion of the Executive Engineer of the Division.

VI.—Miscellaneous.

Free grants of water-supply.

15. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works (Irrigation) Department, and no such grant shall be made without the previous sanction of Government.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

16. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the Division to have been in good

order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Certain acts forbidden to canal officers, &c.

21. No canal officer or other officer or subordinate shall—

(1) acquire, directly or indirectly, any share or interest in the distribution of water from any canal; or,

(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 52, Clause (10) of the Act.

Returns.

17. The Collector shall furnish the Executive Engineer of the Division with annual returns in the form of Appendix II not later than 20th September each year.

In exercise of the power conferred by the Madras Irrigation Act, 1882, *the Governor in Council is pleased to make the following Rules for the administration of Canals in the Madras Presidency :—*

I.—Application for Water for Irrigation.

Applications not required.

1. No application is required for water for land which has been irrigated for wet crop in the preceding year.

Applications under Section 26 how to be made.

2. For the irrigation of land not before irrigated, or for which irrigation has been relinquished, application must be made in duplicate in the form of Appendix No. I to the Executive Engineer of the Division, or to some other canal officer duly empowered to receive such applications. Blank copies of the form will be supplied to intending applicants free of charge.

Similar applications will be required for all second wet crop irrigation, and for all dry crop irrigation.

Both copies of the application will, if the application be granted, be forwarded by the Executive Engineer to the Divisional Revenue Officer after column 8 has been duly filled in, and the Divisional Revenue Officer will, after filling in column 9, transmit the original to the applicant, and return the duplicate to the Executive Engineer.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer of the Division, or other officer aforesaid.

Rejection of application.

3. If an application for water be rejected, the cause of rejection will be noted in column 10 of the form.

Causes of rejection.

4. The causes of rejection which are authorized are—

(1) the water not being available ;

(2) the means of irrigating the land entered in the application not being available, *i.e.*, there being no Government distribution channel capable

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

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Collector.

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1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

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1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

A

BILL

FOR THE REGULATION AND ENFORCEMENT OF KUDIMARAMAT OR UNPAID VILLAGE-LABOR IN THE PRESIDENCY OF FORT ST. GEORGE.

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General.*
WHEREAS it is expedient to make better provision for the regulation and enforcement of Kudimaramat, or unpaid village-labor, in the Presidency of Fort St. George; It is hereby enacted as follows:— (Preamble.)		
I. This Act may be cited as the Madras Kudimaramat Act, 1882; it extends to the whole of the Presidency of Fort St. George, excepting the districts of Madras, Malabar, South Canara and Nilgiris, and the canals and distributaries irrigating more than one village in the Godávari and Kistna Deltas; and it shall come into force on the passing thereof.	I. No remark.	I. No remark.
II. Section 6 of Act I of 1858 is hereby repealed.	II. No remark.	II. No remark.
III. The following repairs to irrigation and drainage works, shall be performed by Kudimaramat or unpaid labor, contributed as hereinafter laid down by those who own, or cultivate lands, under such works: Provided that no one shall be liable to furnish Kudimaramat to an irrigation work under which he does not hold land:— (Description of Kudimaramat Works.)	III. The following repairs to irrigation and drainage works shall be performed by Kudimaramat or unpaid labor, contributed as hereinafter laid down by those who own *in whole or in part* or cultivate lands, under such works: Provided that no one shall be liable to furnish Kudimaramat to an irrigation work under which he does not *own in whole or in part or cultivate land*:—	III. (The words "under such works" seems to him hardly definite enough. What is meant he thinks is that persons who own or cultivate, in any village, lands which receive water from the irrigation or drainage works appertaining to such village shall be bound to contribute labor. If, on the other hand, all persons who own or cultivate lands in the village, are bound to contribute, whether the lands receive water or not, or whether the owners of the lands are or are not entitled to receive water for some or all of their lands, it would be well that such intention should be expressed in the Bill in clearer terms than it is. Is it the intention that all owners of lands, whether the cultivation adopted is wet or dry cultivation, shall contribute, or only the owners of lands for the cultivation of which water is or may hereafter be supplied from the irrigation works?)

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General.*
(1) The filling up of gullies, ruts, and holes, especially at the back of revetments, and all petty repairs of a like nature essential for the safety of bunds of tanks, channel-banks, or other irrigation works appertaining to the village.	(1) No remark.	(1) No remark.
(2) The prevention of the growth on village irrigation works of prickly-pear, wild croton, young trees and other vegetation endangering the safety or concealing the condition of the work.	(2) No remark.	(2) No remark.
(3) The preservation of such bushes and grasses as have been planted for the protection of the interior water-slopes of bunds of tanks.	(3) No remark.	(3) No remark.
(4) The clearance of silt from sluices, supply, and distributing channels of tanks, spring-channels and also when not maintained by the State from river-channels.	(4) No remark.	(4) No remark.
(5) To clear the spaces between the upright stones of calingulahs (waste weirs with upright stones) and to regulate the latter according to the requirements of the season.	(5) No remark. The Board suggest the following addition to Section III :— *The Engineer in charge of the work, or where there may be no professional officer in charge thereof, the Revenue-officer in charge of the division in which the work may be situated shall be the judge whether prickly-pear, wild croton, young trees and other vegetation endanger the safety or conceal the condition of the work. Such officer shall also initiate repairs under the Act.*	(5) *The clearances of spaces* between the upright stones of calingulahs (waste weirs with upright stones) and *the regulation of calingulahs* according to the requirements of the season. The Advocate-General suggests the addition of the following paragraph to Section III :— *The Government may, from time to time, by notification in the "Fort St. George Gazette" and in the Gazette of the district, exempt any district or part of a district, or any locality or work, from the operation of this section, or any part thereof, and may from time to time in like manner cancel such notifications.*
IV. The Government shall have power to require the performance of any description of work not included in Section III, on satisfactory evidence being adduced of its recognition as Kudimaramat in any district or part of a district, and similarly to declare that in any locality, or on any work, Section III or any part of it, shall not be applicable.	IV. No remark.	*IV. In any district or part of a district to which this Act applies, the Government may from time to time by such notification as aforesaid require that any work not included in Section III, shall be performed by unpaid labor, upon being satisfied that such work has been heretofore performed by unpaid labor in such district or part of a district and may from time to time in like manner, cancel such notifications.* (The Advocate-General cannot suggest a better word than "heretofore," but thinks that instead of it a date might be mentioned in the Act).

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General.*
V. The actual cultivator, or tenant of the land, where the owner or proprietor of the land is not forthcoming, shall be bound to contribute the quota of labor as defined by Section VI of this Act, and it shall be lawful for such cultivator or tenant, to deduct the value of such labor at the current rate of wages in the village, from the rent payable to the owner or proprietor.	*V. Where the owner or proprietor of the land is not forthcoming, the actual cultivator or tenant of the land shall be bound to contribute the quota of labor as defined by Section VI of this Act, and he shall be entitled to deduct the value of such labor at the current rate of wages in the village from the rent payable to the owner or proprietor.*	V. Suggests the following addition to this paragraph :— *In case of any dispute as to the amount which the cultivator or tenant is entitled to deduct from his rent under this section, the same shall be determined upon summary inquiry by the Divisional Revenue-officer.*
VI. The quota of labor to be furnished by individuals will be determined by the proportion between the assessment of the lands occupied by them under the irrigation work, and the total assessment of the occupied lands under such work. In the case of Inam or rent-free lands the full assessment which such lands would bear if they were not Inam shall be taken to be the assessment of such lands for the purposes of this section. Whenever a majority of the persons bound to contribute labor are willing to settle among themselves the details of its apportionment, it shall be open to them to do so, the Divisional Revenue-officer being empowered to appoint a *Panchayat* for this purpose under the provisions of Regulation V of 1816.	VI. No remark.	VI. Remarks that this section also has the words "under the irrigation work," and that the words may be quite intelligible to those who are conversant with the subject.
VII. Whenever an irrigation work supplies the lands of more than one village, every village concerned shall be liable to furnish labor for its Kudimaramat. In such cases the shares of work to be done shall be, for tanks and their connected works, settled under the orders of the Divisional Revenue-officer by apportioning to each village a definite length of the tank-bund, supply-channel, distributaries, &c., after which the headman of the village will be responsible that the share of his village is regularly performed. In the case of channels irrigating more than one village, the shares of individual villages shall in like manner be arranged from time to time under the orders of the Divisional Officer and subject to the Collector's approval.	VII. Whenever an irrigation work supplies the lands of more than one village, every village concerned shall be liable to furnish labor for its Kudimaramat. In such cases the shares of work to be done shall be, for tanks and their connected works, settled under the orders of the Divisional Revenue-officer, *subject to revision by the Collector*, by apportioning to each village a definite length of the tank-bund, supply-channel, distributaries, &c., after which the headman of the village will be responsible that the share of his village is regularly performed. In the case of channels irrigating more than one village, the shares of individual villages shall in like manner be arranged from time to time under the orders of the Divisional Officer, and subject to the Collector's approval.	VII. Whenever an irrigation work supplies the lands of more than one village, every village *supplied* shall be liable to furnish labor for its Kudimaramat. In such cases the shares of work to be done shall be, for tanks and their connected works, settled under the orders of the Divisional Revenue-officer, *subject to the Collector's approval*, by apportioning to each village a definite length of the tank-bund, supply-channel, distributaries, &c., after which *it shall be the duty of the headman of such village to see that the works for his village are performed in the manner prescribed, and to report any failure or neglect in the execution thereof without unnecessary delay to the Tahsildar or Divisional Revenue-officer*. In the case of channels irrigating more than one village, the shares of *such* villages shall in like manner be arranged from time to time under the orders of the Divisional Officer, and subject to the Collector's approval.

Who liable to contribute.

Quota of labor.

In case of Inam lands.

Details of apportionment of labor by Panchayat.

Works supplying more than one village.

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General.*
		(Remarks that no penalty is provided in the section or in the Bill for failure by the headman to perform the duties imposed upon him, and that perhaps the liability to dismissal from office has been deemed sufficient.)
VIII. It will be the duty of the Tahsildar to prepare and maintain registers for each village in his taluk showing the number and description of the works, upon which Kudimaramat labor is required under the provisions of this Act, and also the names of those who are bound to contribute this labor, and the share for which each one of them is responsible. The village registers shall be corrected annually by the Tahsildar, all alterations in holdings, or relinquishment of lands, being duly noted. Copies of the registers shall be furnished to the headman of the village to which they relate, in view to their contents being made known as widely as possible among the villagers. Tahsildar to keep registers of works. To correct them. To furnish copies to village headmen.	VIII. No remark.	VIII. It will be the duty of the Tahsildar to prepare and maintain registers for each village in his taluk, showing the number and description of the works upon which Kudimaramat labor is required under the provisions of this Act, and also the names of those who are bound to contribute this labor, and the share for which each one of them is responsible. The village registers shall be corrected annually by the Tahsildar, all alterations in holdings, or relinquishment of lands, being duly *entered*. Copies of the registers shall be furnished to the headman of the village to which they relate, in view to their contents being made known as widely as possible among the villagers. *Such registers and the copies thereof furnished to the headmen shall be open to the inspection of the public at all reasonable times.*
IX. It shall be the duty of the headman of every village concerned, to see that the Kudimaramat required for his village is duly contributed, and applied to the purposes specified in Section III. Whenever the labor so required is withheld by the person bound to contribute the same, it shall be the duty of the headman of the village to cause the immediate execution of the work by hiring labor at the prevailing rate of wages, at the same time reporting his proceedings to the Tahsildar of the taluk, who shall thereupon hold a summary inquiry into the facts of the case, and may recover the value of the labor withheld from the person who should have contributed it. If it appears to him that the labor has been withheld without good and sufficient reason, he may in addition adjudge the defaulter to pay a penalty not exceeding twice the value of the labor withheld. Refusal to contribute labor. Penalty to be imposed.	IX. It shall be the duty of the headman of every village concerned to see that the Kudimaramat required for his village is duly *and promptly* contributed, &c., (the rest of the section to be printed as in column 1).	IX. It shall be the duty of the headman of every village to see that the Kudimaramat required for his village is duly contributed, and applied to the purposes specified in Section III. Whenever the labor so required is withheld by the person bound to contribute the same, it shall be the duty of the headman of the village to cause the immediate execution of the work by hiring labor *at the lowest rate of wages at which it can be procured. Whenever such headman hires labor under the authority of this section, he shall report all the facts of the case to the Tahsildar of the taluk without unnecessary delay. The Tahsildar shall hold a summary inquiry into the facts, and he may direct that the persons making default do pay to the headman the amount expended or due for such hired labor, and in addition to pay into the local treasury a penalty not exceeding twice the amount so expended or due. Such headman shall be entitled to receive from the Collector all moneys expended or due by him for hired labor under this section in cases in which he does not recover the same from the defaulters. All penalties paid under this section shall be applied, as far as may be necessary, to providing a fund from*

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General*
		which the Collector may pay the headmen all moneys expended or due by them for hired labor under this section, and the surplus, if any, shall be spent upon irrigation works in the district.
X. The cost of the labor hired, as well as the penalty which may be adjudged under the preceding section, shall be forthwith recoverable in the manner prescribed for the recovery of arrears of land-revenue in the Madras Presidency.	X. No remark.	X. The cost of the labor hired as well as the penalty which may be adjudged under the preceding section shall be recoverable in the manner prescribed for the recovery of arrears of land-revenue.
Mode of recovery of penalty.		
XI. When any of the persons who, under the provisions of this Act, are bound to furnish labor, prefer individually or collectively to compound for the whole or any part of such obligation by an annual money-payment, it shall be lawful for the Collector to admit such composition for a period not exceeding three years at such rates as shall be fully equivalent to the money-value of the obligation, and to undertake the execution of the work so compounded for, provided that the whole of the sum so raised shall be spent on the irrigation work in respect of which it is collected.	XI. (Remark that it seems desirable to require that any composition should be made at a fixed date in order to prevent complications which might arise by proposals to compound being advanced when an emergency is imminent.)	XI. No remark.
Composition allowed.		
For three years.		
XII. The Collector shall fix the dates within which each party to the above composition shall pay the share due by him: and every sum not so paid shall be deemed to be an arrear of land-revenue and be recoverable under the provisions of Act II of 1864.	XII. No remark.	XII. The Collector shall fix the dates within which each party to the above composition shall pay the share due by him: and every sum not so paid shall be deemed to be an arrear of land-revenue, *and be recoverable in the manner prescribed for the recovery of arrears of land-revenue.*
XIII. All decisions or orders passed by a Tahsildar under the provisions of this Act shall be appealable to the Divisional Officer, provided such appeal be made within two months from the date of such decision or order: and a further appeal shall lie to the Collector if made within one month from the date of the Divisional Officer's decision or order. Orders passed by the Collector on such appeals shall be final. From every original decision or order of a Collector or Divisional Officer an appeal shall lie to the Board of Revenue, if preferred within three months from the date of such order or decision.	XIII. All decisions or orders passed by a Tahsildar under the provisions of this Act shall be appealable to the Divisional Officer, provided such appeal be made within two months from the date of such decision or order: and a further appeal shall lie to the Collector if made within one month from the date of the Divisional Officer's decision or order. Orders passed by the Collector on such appeals shall be final. From every original decision or order of a Collector or Divisional Officer an appeal shall lie *to the Collector* if preferred within three months from the date of such order or decision.	XIII. No remark.
XIV. No Court of Civil Judicature shall have authority to take into consideration or decide any questions relating to the liability to	XIV. No remark.	XIV. *No Civil Court* shall have authority to take into consideration or decide any questions relating to the liability to contribute labor or

Original Draft.	*As proposed by the Revenue Board.*	*As proposed by the Advocate-General.*
contribute labor or money, the rates of composition, and the expenditure of the money raised under this Act.		money, the rates of composition, and the expenditure of the money raised under this Act.
XV. The Government may, from time to time, make and when made may alter or cancel rules to regulate the following matters :— (1) The proceedings of any officer who under any provision of this Act is required to take action in any matter. (2) And generally to carry out the provisions of this Act. Such rules, alterations, and cancelments shall be published in the *Fort St. George Gazette*, and shall thereupon have the force of law.	XV. No remark.	XV. No remark.

Government may make rules.

Enactment

Bill

Note for Committee
meeting 20/6/82

An Act to provide for Irrigation and Navigation in the Madras Presidency.

WHEREAS it is necessary to make provision for the construction, maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied in the Madras Presidency; It is enacted as follows :—

Preamble.

PART I.—PRELIMINARY.

1. This Act may be called "The Madras Irrigation Act, 1882."

Short title.

It extends to the whole of the Presidency of Madras.

Local extent.

2. In this Act, unless there be something repugnant in the subject or context,

Interpretation section.

(1) "canal" includes—

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

"Canal."

(*b*) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, aqueducts or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, aqueducts or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of Section five, or of which the water has been applied or used

before the passing of this Act for the purposes of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated under the orders of Government, for the purpose of such canal;

(2) "water-course" means any channel, pipe, or aqueduct, not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel, pipe, or aqueduct, except the sluice or outlet through which water is supplied from a canal to such channel or pipe;

"Water-course."

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of Section fourteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns;

"Drainage-work."

(4) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments;

"Flood-embankment."

(5) "Collector" means the head Revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act;

"Collector."

(6) "canal officer" means any officer lawfully appointed or invested with powers under Section three ;

"Canal Officer."

(7) "owner" includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every serson having such joint interest in the ownership.

"Owner."

3. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

Appointment of Canal officers.

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit ;

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit :

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

Proviso.

PART II.—Of the Construction and Maintenance of Canals.

Application of Water for purposes of Canals.

4. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

Notification to issue when water-supply is to be applied for purposes of any canal.

the Governor in Council may, by notification in the *Fort Saint George 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.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

5. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ such subordinates and other persons as he deems fit.

Entry for inquiry.

6. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of Section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water-supply.

7. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter any land, structure, 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 land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

8. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any

such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

9. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

10. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

11. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Fort Saint George Gazette* prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

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

Canal officer may issue order to person causing obstruction.

12. Any canal officer duly empowered in this behalf may, after such publication, issue an order in writing to any person causing or having control over any such obstruction to remove or modify the same within a reasonable time to be fixed in such order.

13. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, forthwith pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

14. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage works are necessary, Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by Sections six, seven, and eight, and shall be liable to the obligations imposed upon canal officers by Sections nine and thirty-three.

PART III.—Of Water-courses.

Construction of New Water-courses.

15. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

16. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

Application may be made for construction by a canal officer of a new water-course.

(1) that he is ready to defray all the expenses necessary for the acquiring the land and constructing such water-course;

(2) that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

17. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal officer considers construction of such water-course expedient.

and upon such deposit being made, 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 notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

Person wishing to be joint owner must make his application within thirty days.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

If his application is admitted, he will be liable for a share of the cost.

18. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under Section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under Section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under Section seventeen of the said Act.

Collector to acquire land.

19. On being put in possession of the land, the canal officer shall construct the required water-course;

Procedure after construction of water-course.

and on its completion shall give to the owner notice thereof and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Rights and Obligations of Owners of Water-courses.

Obligations of owner of water-course.

20. Every owner of a water-course shall be bound—

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of Section twenty-two;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

Rights of owners and users of water-courses.

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under Section forty-three and by the rules made by the Governor in Council under Section sixty-one.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties or to any condition imposed under Section twenty-two, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

21. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal officer after enquiry may authorize supply, or declare applicant to be a joint owner.

23. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

24. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of Section twenty; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under Section twenty-two at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the

Person who uses the water-course to pay a share of the expenses of repair.

execution of such repairs as shall be determined by the said canal officer.

Settlement of Disputes concerning Water-courses.

Settlement of disputes as to mutual rights and liabilities of persons interested in a water-course.

25. Whenever a dispute 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, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, 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 enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.—Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application,

26. Every person desiring to have a supply of water from a canal for the first time, or for a renewed supply after relinquishment, shall submit a written application to that effect to a canal officer duly empowered to receive such application in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

Provisions as to Supply.

Power to stop water-supply.

27. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority ;

(*b*) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom ;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water ;

(*d*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

28. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with the property in respect of which supply is given.

29. Every agreement for the supply of canal water to any land, building, or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

30. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation :

Provided that no compensation shall be so awarded in respect of any damage arising from

Exceptions.

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by Section four, if no use have been made of such supply within the five years next before the date of the issue of the notification under Section thirty-six, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

31. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

32. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Compensation for damage caused by entry on land, &c.

33. In every case of entry upon any land or building under Section five, Section six, Section seven, or Section eight, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

34. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of Section thirty, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of the last two sections to be conclusive.

35. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if any rule framed under Section sixty-one such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

36. As soon as practicable after the issue of a notification under Section four, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of Sections thirty and thirty-one shall be annexed to every such notice.

Claims to be preferred to the Collector.

37. All claims for compensation under this Act other than claims of the nature provided for in Sec-

tions thirty-three and thirty-four, must be made before the Collector of the district in which such claim arises.

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

38. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and Sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight 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 provisions of this section and of Sections thirty and thirty-nine of the Madras Irrigation and Navigation Act, 1882, 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."

Diminution in market-value to be considered in fixing the amount of compensation.

39. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

Compensation when due.

40. All sums of money payable for compensation awarded under Section thirty-eight shall become due three months after the claim for such compensation was made;

Interest.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Abatements of Land Revenue and Rent.

Abatement of revenue demand on interruption of water-supply.

41. If compensation is awarded under Section thirty-eight on account of a stoppage or diminution of supply of water to any land paying

revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

42. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.—Of Water Rates.

Supply Rates.

Rates for supply of canal water to be determined by Government.

43. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal, or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

by the owner of the land irrigated

Occasional Rates.

Liability when person using water unauthorizedly cannot be identified.

44. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, the person or 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, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under Section sixty-one.

Liability when water runs to waste.

45. If water supplied through a water-course be suffered to run to waste, and if, after enquiry the person through whose act or neglect such water was suffered to run to waste, cannot be discovered,

the person or 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, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under Section sixty-one.

All questions arising under this, and the last preceding section shall, subject to the provisions of Section fifty-eight, be decided by a canal officer duly empowered in this behalf.

Charges recoverable in addition to penalties.

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

Percolation and Leakage Rates.

Land deriving benefit from percolation liable to water-rate.

47. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

such land may be charged with a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of Water-rates and other Dues in Arrears.

48. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Water-rates when and to whom to be paid.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III of this Act which is not paid when demanded, shall be recoverable according to the law, and under the rules for the time being in force for the recovery of arrears of land revenue.

Arrears to be recoverable as land revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course, shall be payable in such instalments, and on such dates, as the canal officer duly empowered to act under Section twenty-two shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always, that no more shall at any time be payable to the owner than is actually recovered from the said person.

Rent due to owners of water-courses to be recoverable as arrears of land revenue.

PART VII.—Of Navigable Canals.

49. Whenever any canal is made available for navigation, all persons so using it shall conform to the rules and bye-laws made by the Governor in Council under Section sixty-

Rules and bye-laws to be conformed to.

of this Act, and for the time being in force; whether these rules relate to the conduct of the navigation, to the charges to be levied for the use of the canal for navigation, or to the regulation of the traffic at particular places.

PART VIII.—Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

50. Whenever it appears to a canal officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance, or work has to be executed, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

Reports to be made by canal officer.

51. All orders made under Section fifty shall be immediately reported to the Collector, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART IX.—Of Penalties.

For damaging canal, &c.

52. Whoever voluntarily and without proper authority,

(1) damages, alters, enlarges, or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

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

(4) destroys, defaces or moves any land, bench, or level mark or water-gauge fixed by the authority of a public servant;

(5) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under Section seventy, after he has been desired to desist therefrom;

(7) causes or permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8) removes earth without permission from the bed of any canal, or any flood-embankment, or establishes any building, fence, hedge, ditch, or plantation alongside any canal within the limits of the ground taken up for such canal;

(9) neglects, without reasonable cause, to assist in the execution of any repair, clearance, or work,

when lawfully bound so to do under Section fifty;

(10) violates any rule made under Section sixty-one for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred; and whoever—

(11) 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 authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under Section twenty-two;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

53. Whoever without proper authority,

(1) pierces or cuts through, or attempts to pierce or cut through, or damages, endangers, or destroys the stability of any canal;

(2) opens, shuts, or obstructs, or attempts to open, shut, or obstruct, any sluice in any canal;

(3) makes any dam or obstruction in a river, or canal, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprison-

ment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

54. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Person employed on canal may take offenders into custody.

55. Any person in charge of, or employed upon any canal, 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—

(1) wilfully damages, obstructs, or fouls any canal, or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

56. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act : provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

57. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART X.—Miscellaneous.

Appeals against orders under this Act.

58. Every order passed by a canal officer under Sections twelve, seventeen, twenty-four, twenty-nine, forty-four, forty-five, and forty-seven shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Board of Revenue.

Power to summon and examine witnesses.

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

Service of notices.

60. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules

61. The Governor in Council may from time to time make rules not inconsistent with this Act to re-

gulate the following matters :—

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

(*b*) the cases in which, 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 ;

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

(*d*) the amount of any charge to be made under this Act,

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

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Fort Saint George Gazette*, and shall thereupon have the force of law.

Publication of Rules.

62. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

Saving of Municipal water-works.

An Act to provide for Irrigation and Navigation in the Madras Presidency.

WHEREAS it is necessary to make provision for the construction maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied in the Madras Presidency; It is enacted as follows:—

Preamble.

PART I.—PRELIMINARY.

1. This Act may be called "The Madras Irrigation Act, 1882." It extends to the whole of the Presidency of Madras.

Short title.

Local extent.

2. In this Act, unless there be something repugnant in the subject or context,

Interpretation section.

(1) "canal" includes—

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

"Canal."

(*b*) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, aqueducts or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, aqueducts or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of Section five, or of which the water has been applied or used before the passing of this Act for the purposes of any existing canal;

(*e*) all land belonging to Government which is situate on a bank

of any canal as hereinbefore defined, and which has been appropriated under the orders of Government, for the purpose of such canal ;

(2) "water-course" means any channel, pipe, or aqueduct, not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel, pipe, or aqueduct, except the sluice or outlet through which water is supplied from a canal to such channel or pipe ;

"Water-course."

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of Section fourteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns ;

"Drainage-work."

(4) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments ;

"Flood-embankment."

(5) "Collector" means the head Revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act ;

"Collector."

(6) "canal officer" means any officer lawfully appointed or invested with powers under Section three ;

"Canal Officer."

(7) "owner" includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

"Owner."

3. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

Appointment of Canal officers.

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit ;

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit :

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

Proviso.

PART II.—Of the Construction and Maintenance of Canals.

Application of Water for purposes of Canals.

4. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

Notification to issue when water-supply is to be applied for purposes of any canal.

the Governor in Council may, by notification in the *Fort Saint George 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.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

5. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ such subordinates and other persons as he deems fit.

Entry for inquiry.

6. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of Section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water-supply.

7. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter any land, structure, 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 land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

8. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works

which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

9. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

10. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

11. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Fort Saint George Gazette* prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

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

Canal officer may issue order to person causing obstruction.

12. Any canal officer duly empowered in this behalf may, after such publication, issue an order in writing to any person causing or having control over any such obstruction to remove or modify the same within a reasonable time to be fixed in such order.

13. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, forthwith pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

14. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage works are necessary, Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by Sections six, seven, and eight, and shall be liable to the obligations imposed upon canal officers by Sections nine and thirty-three.

PART III.—Of Water-courses.

Construction of New Water-courses.

15. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

16. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

Application may be made for construction by a canal officer of a new water-course.

(1) that he is ready to defray all the expenses necessary for the acquiring the land and constructing such water-course;

(2) that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

17. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal officer considers construction of such water-course expedient.

and upon such deposit being made, 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 notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

Person wishing to be joint owner must make his application within thirty days.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

If his application is admitted, he will be liable for a share of the cost.

18. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under Section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under Section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under Section seventeen of the said Act.

Collector to acquire land.

19. On being put in possession of the land, the canal officer shall construct the required water-course; and on its completion shall give to the owner notice thereof and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

20. Every owner of a water-course shall be bound—

Obligations of owner of water-course.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of Section twenty-two;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

Rights of owners and users of water-courses.

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under Section forty-three and by the rules made by the Governor in Council under Section sixty-one.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties or to any condition imposed under Section twenty-two, any such person as aforesaid may at any time, by giving three months'

previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

21. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal officer after enquiry may authorize supply, or declare applicant to be a joint owner.

23. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

24. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of Section twenty; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any con-

Person who uses the water-course to pay a share of the expenses of repair.

dition imposed under Section twenty-two at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

Settlement of Disputes concerning Water-courses.

Settlement of disputes as to mutual rights and liabilities of persons interested in a water-course.

25. Whenever a dispute 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, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, 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 enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.—Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application,

26. Every person desiring to have a supply of water from a canal for the first time, or for a renewed supply after relinquishment, shall submit a written application to that effect to a canal officer duly empowered to receive such application in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

Provisions as to Supply.

Power to stop water-supply.

27. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

28. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with the property in respect of which supply is given.

29. Every agreement for the supply of canal water to any land, building, or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

30. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is

capable of being ascertained and estimated at the time of awarding such compensation:

Exceptions.

Provided that no compensation shall be so awarded in respect of any damage arising from

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by Section four, if no use have been made of such supply within the five years next before the date of the issue of the notification under Section thirty-six, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

31. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

32. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Summary Decisions.

Compensation for damage caused by entry on land, &c.

33. In every case of entry upon any land or building under Section five, Section six, Section seven, or Section eight, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

34. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of Section thirty, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of the last two sections to be conclusive.

35. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if by any rule framed under Section sixty-one such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

36. As soon as practicable after the issue of a notification under Section four, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of Sections thirty and thirty-one shall be annexed to every such notice.

Claims to be preferred to the Collector.

37. All claims for compensation under this Act other than claims of the nature provided for in Sec-

tions thirty-three and thirty-four, must be made before the Collector of the district in which such claim arises.

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

38. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and Sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight 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 provisions of this section and of Sections thirty and thirty-nine of the Madras Irrigation and Navigation Act, 1882, 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."

Diminution in market-value to be considered in fixing the amount of compensation.

39. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

Compensation when due.

40. All sums of money payable for compensation awarded under Section thirty-eight shall become due three months after the claim for such compensation was made;

Interest.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Abatements of Land Revenue and Rent.

Abatement of revenue demand on interruption of water-supply.

41. If compensation is awarded under Section thirty-eight on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

42. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.—Of Water Rates.

Supply Rates.

Rates for supply of canal-water to be determined by Government.

43. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal, or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by the owner of the land irrigated, or by any person who uses the water so supplied.

Occasional Rates.

44. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

Liability when person using water unauthorizedly cannot be identified.

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

may be held liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under Section sixty-one.

45. If water supplied through a water-course be suffered to run to waste, to the manifest detriment of cultivators lower down the same water-course, and if, after enquiry the person through whose act or neglect such water was suffered to run to waste, cannot be discovered,

Liability when water runs to waste.

the person or all the persons chargeable in respect of the water supplied through such water-course, may be held liable, or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under Section sixty-one.

All questions arising under this, and the last preceding section shall, subject to the provisions of Section fifty-eight, be decided by a canal officer duly empowered in this behalf.

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

Charges recoverable in addition to penalties.

Percolation and Leakage Rates.

47. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

Land deriving benefit from percolation liable to water-rate.

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

such land may be charged with a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of Water-rates and other Dues in Arrears.

48. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Water-rates when and to whom to be paid.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III of this Act which is not paid when demanded, shall be recoverable according to the law, and under the rules for the time being in force for the recovery of arrears of land revenue.

Arrears to be recoverable as land revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course, shall be payable in such instalments, and on such dates, as the canal officer duly empowered to act under Section twenty-two shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always, that no more shall at any time be payable to the owner than is actually recovered from the said person.

Rent due to owners of water-courses to be recoverable as arrears of land revenue.

PART VII.—Of Navigable Canals.

49. Whenever any canal is made available for navigation, all persons so using it shall conform to the rules and bye-laws made by the Gov-

Rules and bye-laws to be conformed to.

ernor in Council under Section sixty-one of this Act, and for the time being in force; whether these rules relate to the conduct of the navigation, to the charges to be levied for the use of the canal for navigation, or to the regulation of the traffic at particular places.

PART VIII.—Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

50. Whenever it appears to a canal officer duly empowered to act under this section, that unless some work or repair is immediately executed, such damage will happen to any canal as to cause serious loss of revenue or injury to person or property,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides in the vicinity of the locality where such repair, clearance, or work has to be executed, or who may be interested directly or indirectly in the maintenance of the work, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

Reports to be made by canal officer.

51. All orders made under Section fifty shall be immediately reported to the Collector, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART IX.—Of Penalties.

For damaging canal, &c.

52. Whoever voluntarily and without proper authority,

(1) damages, alters, enlarges, or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

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

(4) destroys, defaces or moves any land, bench, or level mark or water-gauge fixed by the authority of a public servant;

(5) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under Section seventy, after he has been desired to desist therefrom;

(7) causes or permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8) removes earth without permission from the bed of any canal, or any flood-embankment, or establishes any building, fence, hedge, ditch, or plantation alongside any canal within the limits of the ground taken up for such canal;

(9) neglects, without reasonable cause, to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under Section fifty;

(10) violates any rule made under Section sixty-one for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred; and whoever—

(11) 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 authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under Section twenty-two;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

53. Whoever without proper authority,

(1) pierces or cuts through, or attempts to pierce or cut through, or damages, endangers, or destroys the stability of any canal;

(2) opens, shuts, or obstructs, or attempts to open, shut, or obstruct, any sluice in any canal;

(3) makes any dam or obstruction in a river, or canal, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

54. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Person employed on canal may take offenders into custody.

55. Any person in charge of, or employed upon any canal, 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—

(1) wilfully damages, obstructs, or fouls any canal, or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

56. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

57. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART X.—Miscellaneous.

Appeals against orders under this Act.

58. Every order passed by a canal officer under Sections twelve, seventeen, twenty-four, twenty-nine, forty-four, forty-five, and forty-seven shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Board of Revenue.

Power to summon and examine witnesses.

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

Service of notices.

60. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules.

61. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters:—

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

(*b*) the cases in which, 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;

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

(*d*) the amount of any charge to be made under this Act,

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

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Fort Saint George Gazette*, and shall thereupon have the force of law.

Publication of Rules.

Saving of Municipal water-works.

62. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

An Act to provide for Irrigation and Navigation in the Madras Presidency.

WHEREAS it is necessary to make provision for the construction maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied in the Madras Presidency; It is enacted as follows :—

Preamble.

PART I.—PRELIMINARY.

1. This Act may be called "The Madras Irrigation Act, 1882." It extends to the whole of the Presidency of Madras.

Short title.

Local extent.

2. In this Act, unless there be something repugnant in the subject or context,

Interpretation section.

(1) "canal" includes—

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

"Canal."

(*b*) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, aqueducts or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, aqueducts or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of Section five, or of which the water has been applied or used before the passing of this Act for the purposes of any existing canal;

(*e*) all land belonging to Government which is situate on a bank

of any canal as hereinbefore defined, and which has been appropriated under the orders of Government, for the purpose of such canal ;

(2) "water-course" means any channel, pipe, or aqueduct, not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel, pipe, or aqueduct, except the sluice or outlet through which water is supplied from a canal to such channel or pipe ;

"Water-course."

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of Section fourteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns ;

"Drainage-work."

(4) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments ;

"Flood-embankment."

(5) "Collector" means the head Revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act ;

"Collector."

(6) "canal officer" means any officer lawfully appointed or invested with powers under Section three ;

"Canal Officer."

(7) "owner" includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

"Owner."

3. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

Appointment of Canal officers.

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit ;

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit :

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

Proviso.

PART II.—Of the Construction and Maintenance of Canals.

Application of Water for purposes of Canals.

4. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

Notification to issue when water-supply is to be applied for purposes of any canal.

the Governor in Council may, by notification in the *Fort Saint George 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.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

5. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ such subordinates and other persons as he deems fit.

Entry for inquiry.

6. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of Section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water-supply.

7. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter any land, structure, 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 land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

8. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works

which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

9. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

10. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

11. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Fort Saint George Gazette* prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

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

Canal officer may issue order to person causing obstruction.

12. Any canal officer duly empowered in this behalf may, after such publication, issue an order in writing to any person causing or having control over any such obstruction to remove or modify the same within a reasonable time to be fixed in such order.

13. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, forthwith pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

14. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage works are necessary, Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by Sections six, seven, and eight, and shall be liable to the obligations imposed upon canal officers by Sections nine and thirty-three.

PART III.—Of Water-courses.

Construction of New Water-courses.

15. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

16. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

Application may be made for construction by a canal officer of a new water-course.

(1) that he is ready to defray all the expenses necessary for the acquiring the land and constructing such water-course;

(2) that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

17. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal officer considers construction of such water-course expedient.

and upon such deposit being made, 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 notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

Person wishing to be joint owner must make his application within thirty days.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

If his application is admitted, he will be liable for a share of the cost.

18. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under Section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under Section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under Section seventeen of the said Act.

Collector to acquire land.

19. On being put in possession of the land, the canal officer shall construct the required water-course; and on its completion shall give to the owner notice thereof and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

20. Every owner of a water-course shall be bound—

Obligations of owner of water-course.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of Section twenty-two;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

Rights of owners and users of water-courses.

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under Section forty-three and by the rules made by the Governor in Council under Section sixty-one.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties or to any condition imposed under Section twenty-two, any such person as aforesaid may at any time, by giving three months'

previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

21. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal officer after enquiry may authorize supply, or declare applicant to be a joint owner.

23. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

24. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of Section twenty; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any con-

Person who uses the water-course to pay a share of the expenses of repair.

dition imposed under Section twenty-two at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

Settlement of Disputes concerning Water-courses.

Settlement of disputes as to mutual rights and liabilities of persons interested in a water-course.

25. Whenever a dispute 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, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, 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 enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.—Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application.

26. Every person desiring to have a supply of water from a canal for the first time, or for a renewed supply after relinquishment, shall submit a written application to that effect to a canal officer duly empowered to receive such application in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

Provisions as to Supply.

Power to stop water-supply.

27. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

28. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with the property in respect of which supply is given.

29. Every agreement for the supply of canal water to any land, building, or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

30. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is

capable of being ascertained and estimated at the time of awarding such compensation :

Provided that no compensation shall be so awarded in respect of any damage arising from

Exceptions.

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by Section four, if no use have been made of such supply within the five years next before the date of the issue of the notification under Section thirty-six, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation ;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

31. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

32. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Summary Decisions.

33. In every case of entry upon any land or building under Section five, Section six, Section seven, or Section eight, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

Compensation for damage caused by entry on land, &c.

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

34. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of Section thirty, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Compensation on account of interruption of water-supply.

35. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if by any rule framed under Section sixty-one such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Decision as to amount of compensation under either of the last two sections to be conclusive.

Formal Adjudications.

36. As soon as practicable after the issue of a notification under Section four, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

Notice as to claims for compensation in certain cases.

A copy of Sections thirty and thirty-one shall be annexed to every such notice.

37. All claims for compensation under this Act other than claims of the nature provided for in Sec-

Claims to be preferred to the Collector.

tions thirty-three and thirty-four, must be made before the Collector of the district in which such claim arises.

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

38. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and Sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight 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 provisions of this section and of Sections thirty and thirty-nine of the Madras Irrigation and Navigation Act, 1882, 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."

Diminution in market-value to be considered in fixing the amount of compensation.

39. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

Compensation when due.

40. All sums of money payable for compensation awarded under Section thirty-eight shall become due three months after the claim for such compensation was made;

Interest.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Abatements of Land Revenue and Rent.

Abatement of revenue demand on interruption of water-supply.

41. If compensation is awarded under Section thirty-eight on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

42. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.—Of Water Rates.

Supply Rates.

Rates for supply of canal-water to be determined by Government.

43. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal, or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by the owner of the land irrigated, or by any person who uses the water so supplied.

Occasional Rates.

44. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

Liability when person using water unauthorizedly cannot be identified.

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

may be held liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under Section sixty-one.

45. If water supplied through a water-course be suffered to run to waste, to the manifest detriment of cultivators lower down the same water-course, and if, after enquiry the person through whose act or neglect such water was suffered to run to waste, cannot be discovered,

Liability when water runs to waste.

the person or all the persons chargeable in respect of the water supplied through such water-course, may be held liable, or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under Section sixty-one.

All questions arising under this, and the last preceding section shall, subject to the provisions of Section fifty-eight, be decided by a canal officer duly empowered in this behalf.

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

Charges recoverable in addition to penalties.

Percolation and Leakage Rates.

47. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

Land deriving benefit from percolation liable to water-rate.

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

such land may be charged with a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of Water-rates and other Dues in Arrears.

48. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Water-rates when and to whom to be paid.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III of this Act which is not paid when demanded, shall be recoverable according to the law, and under the rules for the time being in force for the recovery of arrears of land revenue.

Arrears to be recoverable as land revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course, shall be payable in such instalments, and on such dates, as the canal officer duly empowered to act under Section twenty-two shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always, that no more shall at any time be payable to the owner than is actually recovered from the said person.

Rent due to owners of water-courses to be recoverable as arrears of land revenue.

PART VII.—Of Navigable Canals.

49. Whenever any canal is made available for navigation, all persons so using it shall conform to the rules and bye-laws made by the Gov-

Rules and bye-laws to be conformed to.

ernor in Council under Section sixty-one of this Act, and for the time being in force; whether these rules relate to the conduct of the navigation, to the charges to be levied for the use of the canal for navigation, or to the regulation of the traffic at particular places.

PART VIII.—Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

50. Whenever it appears to a canal officer duly empowered to act under this section, that unless some work or repair is immediately executed, such damage will happen to any canal as to cause serious loss of revenue or injury to person or property,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides in the vicinity of the locality where such repair, clearance, or work has to be executed, or who may be interested directly or indirectly in the maintenance of the work, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

Reports to be made by canal officer.

51. All orders made under Section fifty shall be immediately reported to the Collector, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART IX.—Of Penalties.

For damaging canal, &c.

52. Whoever voluntarily and without proper authority,

(1) damages, alters, enlarges, or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

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

(4) destroys, defaces or moves any land, bench, or level mark or water-gauge fixed by the authority of a public servant;

(5) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under Section seventy, after he has been desired to desist therefrom;

(7) causes or permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8) removes earth without permission from the bed of any canal, or any flood-embankment, or establishes any building, fence, hedge, ditch, or plantation alongside any canal within the limits of the ground taken up for such canal;

(9) neglects, without reasonable cause, to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under Section fifty;

(10) violates any rule made under Section sixty-one for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred; and whoever—

(11) 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 authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under Section twenty-two;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

53. Whoever without proper authority,

(1) pierces or cuts through, or attempts to pierce or cut through, or damages, endangers, or destroys the stability of any canal;

(2) opens, shuts, or obstructs, or attempts to open, shut, or obstruct, any sluice in any canal;

(3) makes any dam or obstruction in a river, or canal, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

54. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Person employed on canal may take offenders into custody.

55. Any person in charge of, or employed upon any canal, 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—

(1) wilfully damages, obstructs, or fouls any canal, or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

56. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

57. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART X.—Miscellaneous.

Appeals against orders under this Act.

58. Every order passed by a canal officer under Sections twelve, seventeen, twenty-four, twenty-nine, forty-four, forty-five, and forty-seven shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Board of Revenue.

Power to summon and examine witnesses.

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

Service of notices.

60. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules.

61. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters:—

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

(*b*) the cases in which, 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;

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

(*d*) the amount of any charge to be made under this Act,

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

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Fort Saint George Gazette*, and shall thereupon have the force of law.

Publication of Rules.

Saving of Municipal water-works.

62. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

An Act to provide for Irrigation and Navigation in the Madras Presidency.

WHEREAS it is necessary to make provision for the construction maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied in the Madras Presidency; It is enacted as follows:—

Preamble.

PART I.—PRELIMINARY.

1. This Act may be called "The Madras Irrigation Act, 1882."

Short title.

It extends to the whole of the Presidency of Madras.

Local extent.

2. In this Act, unless there be something repugnant in the subject or context,

Interpretation section.

(1) "canal" includes—

"Canal."

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

(*b*) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, aqueducts or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, aqueducts or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of Section five, or of which the water has been applied or used

before the passing of this Act for the purposes of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated under the orders of Government, for the purpose of such canal;

(2) "water-course" means any channel, pipe, or aqueduct, not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel, pipe, or aqueduct, except the sluice or outlet through which water is supplied from a canal to such channel or pipe; "Water-course."

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of Section fourteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns; "Drainage-work."

(4) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments; "Flood-embankment."

(5) "Collector" means the head Revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act; "Collector."

(6) "canal officer" means any officer lawfully appointed or invested with powers under Section three;

"Canal Officer."

(7) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every serson having such joint interest in the ownership.

"Owner."

3. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

Appointment of Canal officers.

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit;

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

Proviso.

PART II.—Of the Construction and Maintenance of Canals.

Application of Water for purposes of Canals.

4. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other collection of still water should be applied or used by the Government for the purpose of any existing or projected canal;

Notification to issue when water-supply is to be applied for purposes of any canal.

the Governor in Council may, by notification in the *Fort Saint George 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.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

5. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ such subordinates and other persons as he deems fit.

Entry for inquiry.

6. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of Section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

Power to inspect and regulate water-supply.

7. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter any land, structure, 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 land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

8. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any

such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

9. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

10. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

11. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Fort Saint George Gazette* prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

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

Canal officer may issue order to person causing obstruction.

12. Any canal officer duly empowered in this behalf may, after such publication, issue an order in writing to any person causing or having control over any such obstruction to remove or modify the same within a reasonable time to be fixed in such order.

13. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, forthwith pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

14. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage works are necessary, Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by Sections six, seven, and eight, and shall be liable to the obligations imposed upon canal officers by Sections nine and thirty-three.

PART III.—Of Water-courses.

Construction of New Water-courses.

15. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

16. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

Application may be made for construction by a canal officer of a new water-course.

(1) that he is ready to defray all the expenses necessary for the acquiring the land and constructing such water-course;

(2) that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

17. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal officer considers construction of such water-course expedient.

and upon such deposit being made, 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 notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

Person wishing to be joint owner must make his application within thirty days.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

If his application is admitted, he will be liable for a share of the cost.

18. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under Section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under Section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under Section seventeen of the said Act.

Collector to acquire land.

19. On being put in possession of the land, the canal officer shall construct the required water-course;

Procedure after construction of water-course.

and on its completion shall give to the owner notice thereof and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Rights and Obligations of Owners of Water-courses.

Obligations of owner of water-course.

20. Every owner of a water-course shall be bound—

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of Section twenty-two;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

Rights of owners and users of water-courses.

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under Section forty-three and by the rules made by the Governor in Council under Section sixty-one.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties or to any condition imposed under Section twenty-two, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

21. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal officer after enquiry may authorize supply, or declare applicant to be a joint owner.

23. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

24. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of Section twenty; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under Section twenty-two at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the

Person who uses the water-course to pay a share of the expenses of repair.

execution of such repairs as shall be determined by the said canal officer.

Settlement of Disputes concerning Water-courses.

Settlement of disputes as to mutual rights and liabilities of persons interested in a water-course.

25. Whenever a dispute 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, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, 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 enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.—Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application,

26. Every person desiring to have a supply of water from a canal for the first time, or for a renewed supply after relinquishment, shall submit a written application to that effect to a canal officer duly empowered to receive such application in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

In exercise of the power conferred by the Madras Irrigation Act, 1882, *the Governor in Council is pleased to make the following Rules for the administration of Canals in the Madras Presidency :—*

I.—Application for Water for Irrigation.

Applications not required.

1. No application is required for water for land which has been irrigated for wet crop in the preceding year.

Applications under Section 26 how to be made.

2. For the irrigation of land not before irrigated, or for which irrigation has been relinquished, application must be made in duplicate in the form of Appendix No. I to the Executive Engineer of the Division, or to some other canal officer duly empowered to receive such applications. Blank copies of the form will be supplied to intending applicants free of charge.

Similar applications will be required for all second wet crop irrigation, and for all dry crop irrigation.

Both copies of the application will, if the application be granted, be forwarded by the Executive Engineer to the Divisional Revenue Officer after column 8 has been duly filled in, and the Divisional Revenue Officer will, after filling in column 9, transmit the original to the applicant, and return the duplicate to the Executive Engineer.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer of the Division, or other officer aforesaid.

Rejection of application.

3. If an application for water be rejected, the cause of rejection will be noted in column 10 of the form.

Causes of rejection.

4. The causes of rejection which are authorized are—

(1) the water not being available ;

(2) the means of irrigating the land entered in the application not being available, *i.e.*, there being no Government distribution channel capable

of supplying the applicant's water-course;

(3) the land to be irrigated not being levelled and embanked for irrigation.

Priority of right to water when supply proves deficient.

5. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the Division:

Provided always that the claims of those whose lands were irrigated in the preceding year shall have priority over all claims dating from the current year.

II.—Closing of Canals for Repairs, &c.

Except in cases of emergency, canal not to be closed without sanction of Chief Engineer for Irrigation.

6. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Chief Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under Section 27 (*d*) on account of the execution of such repairs, &c., due notification being made in the District Gazette at least one month previous to such closure wherever feasible. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

III.—Water-supply Rates for Irrigation.

Rates how to be fixed.

7. The rates leviable for canal-water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated, and according as the water is obtainable from the canal by lift or flow.

Provisions applicable to supply from escape channels.

8. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Rate leviable for such supply.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall

be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for supply of water obtained without permission.

9. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Water-supply Rates for Non-irrigational purposes.

For non-irrigational purposes rates will be charged for by volume or otherwise.

10. Water supplied from a canal for any purpose other than irrigation will be charged for by volume or otherwise at such rate as Government shall from time to time determine.

IV.—Occasional Rates.

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

11. The charge to be made under Section 44 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely):—

(*a*) if the water so used has flowed on any land, and such land has derived benefit therefrom,	double the highest rate leviable for a single crop;
(*b*) if the water has flowed on any land, but such land has not derived benefit therefrom,	double the lowest rate leviable for a single crop;
(*c*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be

imposed under the Act on the person who unauthorizedly used the water.

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

12. The charge to be made under Section 45 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

(*a*) if the water has flowed on any land,	double the lowest rate leviable for a single crop;
(*b*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—Remissions.

Remissions under last paragraph of Section 30 may be granted by Collector.

13. Remissions of water-rate under the last paragraph of Section 30 may be allowed by the Collector, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Claims for such remissions to whom and when to be made.

14. Claims for such remissions shall be preferred to the Collector, who, before granting such remission, shall in every case take measures to obtain the opinion of the Executive Engineer of the Division.

VI.—Miscellaneous.

Free grants of water-supply.

15. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works (Irrigation) Department, and no such grant shall be made without the previous sanction of Government.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

16. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the Division to have been in good

order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Certain acts forbidden to canal officers, &c.

21. No canal officer or other officer or subordinate shall—

(1) acquire, directly or indirectly, any share or interest in the distribution of water from any canal; or,

(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 52, Clause (10) of the Act.

Returns.

17. The Collector shall furnish the Executive Engineer of the Division with annual returns in the form of Appendix II not later than 20th September each year.

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

In exercise of the power conferred by the Madras Irrigation Act, 1882, *the Governor in Council is pleased to make the following Rules for the administration of Canals in the Madras Presidency :—*

I.—Application for Water for Irrigation.

Applications not required.

1. No application is required for water for land which has been irrigated for wet crop in the preceding year.

Applications under Section 26 how to be made.

2. For the irrigation of land not before irrigated, or for which irrigation has been relinquished, application must be made in duplicate in the form of Appendix No. I to the Executive Engineer of the Division, or to some other canal officer duly empowered to receive such applications. Blank copies of the form will be supplied to intending applicants free of charge.

Similar applications will be required for all second wet crop irrigation, and for all dry crop irrigation.

Both copies of the application will, if the application be granted, be forwarded by the Executive Engineer to the Divisional Revenue Officer after column 8 has been duly filled in, and the Divisional Revenue Officer will, after filling in column 9, transmit the original to the applicant, and return the duplicate to the Executive Engineer.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer of the Division, or other officer aforesaid.

Rejection of application.

3. If an application for water be rejected, the cause of rejection will be noted in column 10 of the form.

Causes of rejection.

4. The causes of rejection which are authorized are—

(1) the water not being available ;

(2) the means of irrigating the land entered in the application not being available, *i.e.*, there being no Government distribution channel capable

of supplying the applicant's water-course ;

(3) the land to be irrigated not being levelled and embanked for irrigation.

Priority of right to water when supply proves deficient.

5. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the Division :

Provided always that the claims of those whose lands were irrigated in the preceding year shall have priority over all claims dating from the current year.

II.—Closing of Canals for Repairs, &c.

Except in cases of emergency, canal not to be closed without sanction of Chief Engineer for Irrigation.

6. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Chief Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under Section 27 (*d*) on account of the execution of such repairs, &c., due notification being made in the District Gazette at least one month previous to such closure wherever feasible. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

III.—Water-supply Rates for Irrigation.

Rates how to be fixed.

7. The rates leviable for canal-water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated, and according as the water is obtainable from the canal by lift or flow.

Provisions applicable to supply from escape channels.

8. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Rate leviable for such supply.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall

be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for supply of water obtained without permission.

9. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Water-supply Rates for Non-irrigational purposes.

For non-irrigational purposes rates will be charged for by volume or otherwise.

10. Water supplied from a canal for any purpose other than irrigation will be charged for by volume or otherwise at such rate as Government shall from time to time determine.

IV.—Occasional Rates.

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

11. The charge to be made under Section 44 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely) :—

(*a*) if the water so used has flowed on any land, and such land has derived benefit therefrom,	double the highest rate leviable for a single crop ;
(*b*) if the water has flowed on any land, but such land has not derived benefit therefrom,	double the lowest rate leviable for a single crop ;
(*c*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be

imposed under the Act on the person who unauthorizedly used the water.

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

12. The charge to be made under Section 45 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

(*a*) if the water has flowed on any land,	double the lowest rate leviable for a single crop;
(*b*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—Remissions.

Remissions under last paragraph of Section 30 may be granted by Collector.

13. Remissions of water-rate under the last paragraph of Section 30 may be allowed by the Collector, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Claims for such remissions to whom and when to be made.

14. Claims for such remissions shall be preferred to the Collector, who, before granting such remission, shall in every case take measures to obtain the opinion of the Executive Engineer of the Division.

VI.—Miscellaneous.

Free grants of water-supply.

15. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works (Irrigation) Department, and no such grant shall be made without the previous sanction of Government.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

16. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the Division to have been in good

order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Certain acts forbidden to canal officers, &c.

21. No canal officer or other officer or subordinate shall—

(1) acquire, directly or indirectly, any share or interest in the distribution of water from any canal; or,

(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 52, Clause (10) of the Act.

Returns.

17. The Collector shall furnish the Executive Engineer of the Division with annual returns in the form of Appendix II not later than 20th September each year.

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

22nd November 1881, No. 1583.

Archæology.

Read the following paper :—

From Captain H. H. COLE, R.E., Curator of Ancient Monuments in India, to the Chief Secretary to Government, dated Simla, 15th September 1881, *No.* 423 [*Current No.* 1992].

I have the honor to forward by packet post (twenty-five sent first) fifty copies of a preliminary report on the artistic and historical monuments in Madras visited by me in February last.

2. The various recommendations recorded will, I hope, lead to orders being passed for ameliorating the condition of the buildings.

3. It would be very desirable to obtain the plans and detailed illustrations specified in the report, and this work might be undertaken partly by my department and partly by the Madras Public Works Department.

4. I hope therefore that I may be informed what action will be taken, in order that I may know what further steps to take.

ORDER THEREON, 22nd November 1881, No. 1583.

Of the places mentioned by Captain Cole, the following are under the care of Government :—

(*a*) The Seven Pagodas.
(*b*) Vellore Pagoda.
(*c*) Trichinopoly Dar-ul-Umra or Nawáb's Palace; and the site of the little bathing-room in the garden of the house of Mr. Bird, the Circuit Judge, where Bishop Heber died.
(*d*) Hampi—Ruins of Vijayanagar.

With the rest the Government has no direct concern, viz. :—

Trichinopoly—Temples on the Rock. Fortified pagoda at Wyacondan Tirumalai. Teppakulam and Mantapam. Chanda Sahib's tomb.

Srírangam,
Madura,
Tanjore,
Kumbakónam,
Chidambaram,
Conjeeveram,
} Temples more or less richly endowed.

In so far as concerns the suggested work at the Seven Pagodas and the Vellore temple, much, if not all, has some time since been undertaken by the Public Works Department at both places. The Vellore work particularly has been very satisfactorily performed. A sum of Rs. 200 has also been expended by the Collector of Bellary in clearing the ruins at Hampi from vegetation growing in the masonry.

Copies of G.Os., 12th April 1881, No. 967 W., 17th May 1881, No. 1255 W., 17th May 1881, No. 1160 W., and 21st May 1881, No. 1298 W. will be forwarded to Captain Cole for information.

The report will be communicated to the Revenue and Public Works Departments and to the Collectors of the districts concerned, the attention of the Public Works Department being called to the remarks and suggestions of Captain Cole regarding (*a*), (*b*), (*c*), and (*d*). Copies will also be given to the wardens of the other buildings for information.

2. As regards the surveys, detailed illustrations and photographs, which Captain Cole considers necessary, the Government observe that he is about to undertake the survey of Srírangam in his own department. When this has been completed his party might with advantage proceed next to Conjeeveram. The value of any work undertaken by Captain Cole in this direction would doubtless be enhanced if executed after consultation with Dr. Burgess, who it is believed may have analogous work to perform with reference to many other ancient Dravidian structures in this Presidency. Orders will be passed in the Public Works Department in communication with Captain Cole regarding the proposed survey of the Hampi remains.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To Captain H. H. Cole, R.E., with G.Os.
„ the Revenue Department,
„ the Public Works Department,
„ the Collector of North Arcot,
„ „ of South Arcot,
„ „ of Bellary,
„ „ of Chingleput,
„ „ of Trichinopoly,
„ Dr. J. Burgess,
„ R. Sewell, Esq., C.S.,
} with Book.

Exd. J. Wright.

B No 3003 Wdy-13-11-82

Recorded.

Initd/ R&L

11-11-82

Govt. of (1881) Madras.

PUBLIC.

To

CAPTAIN H. H. COLE, R.E.,

&c., &c., &c.

Dated November, 22nd.

Issued

Recd. *Encl.*

G.O., 22nd November 1881, *No.* 1583.

NOVEMBER.

Archæology.—Orders passed on letter from the Curator of Ancient Monuments in India, forwarding copies of a preliminary report on the artistic and historical monuments in Madras visited by him in February 1881.

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