19. Subject to any rules made by Government under the preceding section and with the previous sanction of the Deputy Commissioner of the district, a Committee may, in respect of a market under its management, make bye-laws for the regulation of the business and the conditions of trading therein and may provide that contravention thereof shall, on conviction by a Magistrate, be punishable with fine which may extend to fifty rupees.

20. (1) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by a Court inferior to that of a District Magistrate or a Magistrate of the first class.

(2) All fines recovered from an offender shall be paid to the Committee.

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THE CANAL ACT.

[Burma Act II. 1905.] (22nd April, 1905.)

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels and of all lakes and other natural collections of still water, and to assume the control and undertake in whole or in part the maintenance of any work designed for irrigation, drainage or protection against floods or against erosion, upon such terms, if
any, as to compensation as it deems just, whenever it appears to be necessary in the public interest to do so; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories: It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1-2. * * *

3. In this Act, unless there is anything repugnant in the subject or context,—

"Canal." (1) "canal" includes—

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

(b) all works, embankments, structures, supply and escape channels connected with such canals, channels or reservoirs;

(c) all lands occupied by the Government for the purposes of such canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce occupied by or belonging to the Government, upon such land;

(d) all water-courses as defined in the third sub-section of this section;

(e) any part of a river, stream, lake or natural collection of water or natural drainage-channel, to which the President of the Union has applied the provisions of Chapter II of this Act:

"Village canal." (2) "village canal" means a canal, channel or reservoir declared by the Collector to be a village canal for the purposes of this Act.

"Water-course." (3) "water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to such channel:

"Drainage-work." (4) "drainage-work" includes escape channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Chapter VIII of this Act, but does not include works for the removal of sewage from towns:

"Village drainage-work." (4a) "village drainage-work" means any drainage-work declared by the Collector to be a village drainage-work for the purposes of this Act:

"Vessel." (5) "vessel" includes boats, rafts, timber and other floating bodies:

"Canal-officer." (6) "Canal-officer" means an officer appointed by the President of the Union to exercise control over a canal or any part thereof:

"Superintending Canal-officer." (7) "Superintending Canal-officer" means an officer exercising general control over a canal or part of a canal:
Canal

(8) "Divisional Canal-officer" means an officer exercising control over a division of a canal:

"Divisional Canal-officer."

(9) "Subdivisional Canal-officer" means an officer exercising control over a subdivision of a canal:

"Subdivisional Canal-officer."

(10) "district" means a district as fixed for revenue purposes:

"District."

(11) "water-rate" as used in section 47 (1) (c) includes rates for irrigation or drainage-works.

"Water-rate."

4. The provisions of Chapters II to V and VII to XI shall apply to village canals and village drainage-works only in the manner and to the extent provided in Chapter VI.

5. (1) The President of the Union may from time to time declare, by notification, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section 3, sub-sections (6), (7), (8) and (9), shall be, respectively, subject to the orders of such officers as the President of the Union from time to time directs.

(2) The President of the Union may, by notification, confer on any person all or any of the powers of a Collector under this Act and the rules thereunder.

CHAPTER II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

6. Whenever it appears expedient to the President of the Union that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work, the President of the Union may, by notification, 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.

7. At any time after the day so named, any Canal-officer, acting under the orders of the President of the Union in this behalf, may enter on any land and remove any obstructions, and may close any channels and do any other thing necessary or proper for such application or use of the said water.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that...
the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 9 may be made before him.

9. No compensation shall be awarded for any damage caused by—
   (a) stoppage or diminution of percolation or floods;
   (b) deterioration of climate or soil;
   (c) stoppage of navigation or of the means of floating timber or watering cattle;
   (d) displacement of labour.

But compensation may be awarded in respect of any of the following matters:

   (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification;
   (f) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
   (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;
   (h) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Limitation Act;
   (i) any other substantial damage to property, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

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

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

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

10. No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.
11. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant: and sections nine to fourteen (inclusive), eighteen to twenty-two (inclusive), twenty-five to thirty-one (inclusive), thirty-four, forty-five, fifty-one, to fifty-five (inclusive), of the Land Acquisition Act shall apply to such enquiries.

CHAPTER III.

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

12. On such parts of any river, stream, lake or natural collection of water as the President of the Union may, by notification, declare to be within the provisions of this section, no person shall construct any dam, weir, embankment, sluice, channel or other work for purposes of irrigation without the previous sanction of the Collector.

13. Any Canal-officer, or other person acting under the general or special order of a Canal-officer, may enter upon any lands adjacent to or in the neighbourhood of any canal or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil; and make and set up suitable landmarks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal-officer;

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

14. A Canal-officer appointed by the Divisional Canal-officer in this behalf may, at any time during the construction of a canal or after its completion, enter upon any lands in the neighbourhood of such canal and align and construct such water-courses thereon as he may deem necessary.

15. (1) In every case of entry under section 13 or section 14, the Canal-officer or other person making such entry shall at the time of such entry tender compensation for any damage which may be occasioned by any proceeding under such section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final:

Provided that no compensation other than that for damage to trees or standing crops shall be payable in respect of any land to be occupied by a
270 Canal.

water-course, if the land immediately adjacent thereto on either side will be entitled to irrigation from the said water-course and is also the property of the owner of the land to be so occupied.

(2) If any Canal-officer or other person, in exercise of powers conferred by section 13 or section 14, proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

16. The cost of any water-courses constructed under section 14 and of any water-courses constructed or in the course of being constructed before the 22nd April, 1905, 1 shall be chargeable to the owners or occupiers of lands to which water is supplied from such water-courses in such proportion according to the area of land so supplied and in such manner as the Divisional Canal-officer may determine.

Any portion of such cost becoming due and not paid shall be recoverable as if it were an arrear of land-revenue.

For the purposes of this section "cost" means the cost of construction and includes all sums of money that have been paid or that may be payable by way of compensation, all such interest charges as may be ordered by the President of the Union in accordance with financial rules and all collection charges.

Any order passed by a Divisional Canal-officer under this section shall be subject to appeal to the Superintending Canal-officer, whose decision shall be final:

Provided that this section shall apply to water-courses constructed or in the course of being constructed before the 22nd April, 1905, only if such water-courses might have been constructed under the provisions of section 14 if this Act had been in force.

17. No water-course to which the provisions of section 16 applies may be altered without the consent of the Divisional Canal-officer.

18. In case of any accident happening or being apprehended to a canal, or in case of urgency when any new work is immediately required to prevent serious detriment to the efficiency of a canal, or whenever necessary for the proper maintenance of a canal, any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to, or in the neighbourhood of, such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident or for constructing any new work in case of urgency or for the proper maintenance of the canal.

1 Date of commencement of this Act.
In every such case such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the President of the Union had directed the occupation of the land under section 38 of the Land Acquisition Act.

19. The Divisional Canal-officer, or any person acting under his general or special orders in this behalf, may, within such distance from the canal as the President of the Union may by rule (made in accordance with the provisions of section 79) determine, enter upon land and—

(i) deposit upon it soil excavated from the canal, or
(ii) excavate from it earth for repairs to the banks of a canal.

Compensation shall, in such cases, be tendered or awarded in the manner provided by section 18:

Provided that no compensation shall be payable on account of the excavation of land to a depth of not more than one foot for the purpose of repairs to the bank of any canal, unless such excavation is made on the site of a previous excavation, or causes damage to crops or things attached to the land, or unfit the land, or renders it less fit, for the purpose to which it was applied before the excavation.

20. (1) When any land or the use thereof is required for canal purposes either temporarily or permanently, the officer assessing compensation therefor shall, in addition to any powers held by him under this Act or under the Land Acquisition Act, have power, subject to the general or special sanction of the President of the Union and the consent of the person entitled to compensation—

(a) to direct that the rights to the land and the use thereof shall continue in such claimant, subject to a right of user, so long as it may be required, for the purposes of the canal or water-course on payment of the compensation awarded for such right of user only;
(b) to confer on the claimant, in lieu of or as part of any compensation, a right to a supply of water from the canal.

(2) Subject to the conditions of any award or order made under sub-section (1), clause (a) or (b), the person entitled to the land may, if the land has been occupied for canal purposes for a period exceeding three years, request the Collector to make a complete acquisition of the land under the Land Acquisition Act, and the land shall be acquired accordingly.

21. Any persons desiring to use the water of any canal may apply in writing to the Divisional or Subdivisional Canal-officer of the division or subdivision of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.
The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall be jointly and severally liable for the cost of such works to the extent mentioned therein, or if the applicants have engaged to pay the actual cost, for such actual cost.

Any amount so becoming due under the terms of such application and not paid on or before the date on which it becomes due shall be recoverable as if it were an arrear of land-revenue.

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

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

The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

Such order shall specify a reasonable period within which such construction or repairs shall be completed:

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same:

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall be recoverable from them as if it were an arrear of land-revenue.

If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Subdivisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all parties concerned that, on the expiration of fifteen
days from the service, he will investigate the case: and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Superintending Canal-officer, whose order thereon shall be final.

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

25. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed: and after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of the maintenance of such water-course so long as he uses it.

26. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating—

(i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course:

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

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

27. If the Divisional Canal-officer considers—

(i) that the construction of such water-course is expedient, and

(ii) that the statements in the application are true.

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings.
and the amount of any compensation which he considers likely to become due under section 33:

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

28. Any person desiring that an existing water-course should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

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

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

(iii) that he is able to defray the cost of such transfer.

If the Divisional Canal-officer considers—

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

(b) that the statements in the application are true.

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 33 in respect of such transfer:

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

29. Within thirty days from the publication of a notice under section 27 or section 28, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

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

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

30. If no such objection is made, or (where such objection is made) if the Collector overrules it, he shall give notice to the Divisional Canal-officer
31. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and if such officer sees fit he may, in the case of an application under section 26, alter the boundaries of the land so marked out, and may give fresh notice under section 27; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

32. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner. Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 33, cause the said applicant to be placed in occupation of the land so marked out or the water-course to be transferred, as the case may be.

33. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered as if it were an arrear of land-revenue, and shall, when recovered, be paid to the person entitled to receive the same.

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

_First._—All works necessary for the passage, across such water-course, or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.
Second.—Land occupied for a water-course under the provisions of section 27 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

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

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

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and, if any such rent or compensation be not paid by the applicant or his representative in interest, the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, may be recovered as if it were an arrear of land-revenue, and the same, when recovered, shall be paid to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

35. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of the land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

36. In case of wilful damage to or enlargement of an outlet, the cost of repairs may be recovered as an arrear of land-revenue from the persons entitled to use the water-course, and the supply of water to the water-course may be stopped, as provided in section 39, clause (a), sub-division (ii).
37. In cases where there are numerous water-courses running for a long distance side by side and so close together that it is difficult or expensive for the owners to clear them owing to there being no room for the deposit of the silt.

the Divisional Canal-officer, if applied to for that purpose or on his own motion, may, with the sanction of the Superintending Canal-officer, after such notice as the President of the Union may by rule made in accordance with section 79 direct, shut off the supplies of any or all such water-courses until the owners have made arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by the Superintending Canal-officer:

Provided that such conversion shall not be made if it shall diminish the amount of water to which any owner of a water-course is entitled.

CHAPTER IV.

OF THE SUPPLY OF WATER.

38. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the President of the Union in accordance with the provisions of section 79 in respect thereof.

39. The following provisions shall apply to every supply of canal-water, namely:

(a) the Divisional Canal-officer shall not stop the supply of water to any water-course, or to any person, except in the following cases:

(i) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the President of the Union;
(ii) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;
(iii) within periods fixed from time to time by the Divisional Canal-officer;

(b) Government shall not be liable for loss caused by the failure or stoppage of the water in a canal by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein or for maintaining the established course of irrigation which the Divisional Canal-officer considers
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necessary; but the foregoing provisions shall not prevent the person suffering such loss from claiming such remission of the ordinary charges payable for the use of water as is authorized by the President of the Union:

(c) if the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the Collector may award to the occupier or owner of such land reasonable compensation for the loss arising from such interruption:

(d) when the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

(e) unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use:

Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied to him by his landlord for the irrigation of the land held by such tenant:

but all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

(f) no right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Limitation Act, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

CHAPTER V.

OF WATER-RATES.

40. If water is taken from a canal in an unauthorized manner, the person on whose land such water has flowed, if such land has derived benefit therefrom, shall be liable to the charges made for such use, unless and until the person by whose act or neglect the water has been so taken is ascertained.

41. If water supplied through a water-course be used in an unauthorized manner, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person is not ascertained, or if such land
has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course, shall be liable or jointly liable, as the case may be, to the charges made for such use, unless and until the person by whose act or neglect such use occurred is ascertained.

42. If water supplied through a water-course be suffered to run to waste, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted, unless and until, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste is ascertained.

43. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section 40, section 41 or section 42 shall be decided by the Divisional Canal-officer, subject to an appeal to the Collector, or such other appeal as may be provided by rules framed under section 79, sub-section (2).

44. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the President of the Union in accordance with the provisions of section 79, and such occupiers as accept the water shall pay for it accordingly.

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

**CHAPTER VI.**

**Village Canals and Village Drainage-works.**

46. This Chapter shall apply only to village canals and village drainage-works.

Application of Chapter VI to village canals and village drainage-works only
47. (1) In respect of any village canal or village drainage-work, whether such canal or drainage-work has hitherto been maintained by the Government or not, the Collector may ascertain and record—

(a) the nature of the canal or drainage-work and of all embankments, channels, weirs, sluices and other works subsidiary thereto;
(b) the lands capable of being benefited by the canal or drainage-work;
(c) the water-rate, if any, chargeable on the lands capable of being benefited by the canal or drainage-work;
(d) the customs relating to the raising of funds for the efficient maintenance and repair of the canal or drainage-work and of all embankments, channels, weirs, sluices and other works subsidiary thereto and the liability of persons or villages to contribute jointly or severally to such funds;
(e) the obligation to labour or provide labourers or render any service in connection with the maintenance or repair of the canal or drainage-work or for the purpose of effecting the silt clearances necessary for its efficient working resting jointly or severally on persons or villages;
(f) the privileges or exemptions enjoyed by any persons or villages subject to the liability or obligation referred to in clauses (d) and (e); and
(g) any provisions agreed to by specified persons as binding on such persons and their representatives in interest.

(2) Every record prepared under the preceding sub-section shall be published in such manner as the Collector may direct.

(3) A record prepared under this section may be corrected under the hand of the Collector and such correction shall be published in such manner as the Collector may direct.

48. (1) In any case in which persons desire that the terms on which they have agreed amongst themselves to construct a projected village canal or village drainage-work may be reduced to writing by the Collector for the purpose of having the same subsequently entered in a record under section 47. sub-section (1), clause (g), the Collector may prepare a statement of such terms specifying the persons on whom and whose representatives in interest such terms will be binding in the event of the same being subsequently embodied in a record under that section.

(2) In the event of such canal or drainage-work being notified as a village canal or village drainage-work under section 3, sub-section (2) or (4a), the Collector may embody such statement in the record.

49. The Commissioner may make rules for the enforcement of all or any of the customs, liabilities and obligations recorded and published under section 47, and may by such rules prescribe that any person subject thereto
who fails to comply therewith shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable—

(a) by order of the person or persons appointed to the management of the village canal or village drainage-work to fine not exceeding rupees five payable in money or in kind, or

(b) on conviction by a Magistrate to fine not exceeding rupees fifty, or imprisonment for a term not exceeding one month, or both.

Such rules shall be published in the Gazette and shall thereupon have the same effect as if enacted by this Act.

50. (1) The Financial Commissioner may by general order declare any of the provisions of this Act to be applicable to village canals and village drainage-works generally, or in any local area, and such provisions shall so apply, subject to such limitations, modifications and conditions as may have been expressed in the general order aforesaid and in respect of any particular canal or drainage-work only in so far as they are not inconsistent with the customs, privileges, liabilities and obligations recorded and published under section 47.

(2) The Commissioner may by special order declare any of the provisions of this Act to be applicable to any village canal or village drainage-work, the record of which has been published under section 47, notwithstanding anything to the contrary therein but subject to such limitations, modifications and conditions as may be expressed in the special order aforesaid.

(3) Every such general or special order as aforesaid shall be made by notification in the Gazette.

51. The President of the Union, whenever it appears to be necessary in the public interests, may upon such terms as to compensation (if any) as he deems just assume the control and undertake in whole or in part the maintenance of any village canal or village drainage-work and shall thereupon be entitled to levy a water-rate on all lands capable of being benefited by such canal or work.

51A. The following monies, if not paid on or before the date on which they become due, shall be recoverable from the persons liable to pay them as if they were arrears of land-revenue—

(i) fines imposed under clause (a) of section 49;
(ii) fees for summoning persons, payments in lieu of personal labour or of supplying materials, and contributions to funds for the special repair of village canals and village drainage-works, payable under the rules made under section 49, provided that no process for the recovery of such contributions shall be issued without the previous sanction of the Collector.
CHAPTER VII.

OF CANAL NAVIGATION.

52. Such tolls as the President of the Union may, from time to time, by notification direct shall be levied from all vessels entering or navigating any canal.

53. Any vessel entering or navigating any canal, contrary to the rules made in that behalf under the provisions of section 79 by the President of the Union, or so as to cause danger to the canal or to the other vessels therein, may be removed or detained by a Canal-officer, or by any other person duly authorized in this behalf.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the cost of repairing such damage, or of such removal or detention, as the case may be.

54. If any toll or charge due under this Act in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof until such toll or charge, together with all expenses arising from such seizure and detention, is paid in full.

55. If any charge due to the Government in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods, and detain it or them until the charge so due, together with all expenses arising from such seizure and detention, is paid in full.

56. Within a reasonable time after any seizure under section 54 or section 55, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim is discharged before the day so named; and, if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due together with the expenses of such seizure and sale. The residue (if any) of such property and of the proceeds of the sale shall be made over to the owner or person in charge of the property seized.
57. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same.

The officer so taking possession shall publish a notice, in such manner as the President of the Union may by rule made in accordance with the provisions of section 79 direct, that if such vessel and its contents, or such cargo or goods, is or are not claimed previously to a day to be named in the notice not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods is or are not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or if a sale has taken place, the proceeds of the sale after paying all tolls and charges due in respect of the vessel, cargo or goods and all expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal-officer.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

58. If any goods which the Divisional Canal-officer has seized under section 55, or taken possession of under section 57, are of so perishable a nature as, in the opinion of that officer, to render an early or immediate sale necessary or advisable, that officer may within such period as he thinks fit sell by public auction the said goods, in which event such notice shall be given to the owner of the goods (if known) as the urgency of the case will permit of, and the proceeds shall be applied in the manner provided in section 56 or section 57, as the case may be.

CHAPTER VIII.

OF DRAINAGE.

59. Whenever it appears to the President of the Union that injury to any public land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel he may, by notification, declare so much of the said river, stream or drainage-channel as is specified in the notification to be a drainage-work.

60. (1) After the issue of a notification under section 59, the Divisional Canal-officer, or such other person as may be authorized in this behalf by the President of the Union may issue any order—

(a) directing the removal of any obstruction in the drainage-work within such time as may be specified in the order; or
(b) directing the modification of any obstruction in the drainage-work in such manner and within such time as may be specified in the order; or

c) prohibiting the formation of any obstruction in the drainage-work without his approval in writing being first obtained.

Such order shall state whether it is for an indefinite period or for a specified limited period or for a particular period or particular periods during each year.

(2) If the person served with an order under sub-section (1) fails to comply with it within the time specified, the person issuing the order may himself remove or modify the obstruction, and if the person to whom the order was issued does not when called upon pay the expenses involved in such removal or modification, such expenses shall be recoverable from him or his representative in interest as an arrear of land-revenue.

61. Whenever it appears to the President of the Union that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, the President of the Union may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

62. The persons authorized by the President of the Union to draw up such scheme may exercise all or any of the powers conferred on a Canal-officer by section 13.

63. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the President of the Union under the provisions of section 79, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:

(i) six per cent. per annum on the first cost of the works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate;

(ii) in the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the annual value or produce thereof caused by the drainage-work.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Government
or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by the Government or such person, as the case may be.

64. Any such drainage-rate may be collected and recovered in manner provided by section 45 for the collection and recovery of water-rates.

65. (1) Whenever, in pursuance of a notification made under section 59, any obstruction is removed or modified, or whenever any drainage-work is carried out under section 61, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in the Land Acquisition Act.

(2) No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

CHAPTER IX.

OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

66. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the President of the Union may, if he thinks fit, direct the Collector—

(a) to ascertain the villages whose lands are or will be, in the judgment of the Collector, benefited by such canal or drainage-work or, in the case of a navigation-canal, which are situate in the neighbourhood thereof; and

(b) to set down in a list, having due regard to local customs, the number of labourers which the headman of each such village shall be liable to furnish for employment on any such canal or drainage-work when required as hereinafter provided.

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

67. Whenever it appears to a Divisional Canal-officer that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as will cause sudden and extensive public injury, and that the labourers or materials necessary for the proper execution of such work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such damage, such officer may, by an order under his hand, direct that the provisions of this section shall be put into operation for the execution of such work, and thereupon—

(a) the headman of any village named in the aforementioned list shall, if required so to do by such officer or by any person...
authorized by him in this behalf, be bound to furnish such number of labourers, not being in excess of the number mentioned in the said list, as such officer or person may require of him; and all labourers called upon by the headman of their village shall be bound to assist in the work by labouring thereon as such officer or person directs;

(b) such officer or any person authorized by him in this behalf may enter in and upon any immovable property in the neighbourhood of any such canal or drainage-work, and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, ropes or other materials found in or upon such property, and use the same for the purposes of such work.

Every person authorized as mentioned in this section shall be deemed to be a public servant within the meaning of the Penal Code.

68. All persons labouring or detained for the purpose of labouring in compliance with a requisition made under section 67 or whose materials may be taken under that section, shall, as soon as may be reasonably practicable, be paid by the Divisional Canal-officer for their labour and detention or for such materials (as the case may be) at a rate not being less than the highest market-rates for similar labour or materials for the time being prevailing in the neighbourhood.

Any dispute arising between the Canal-officer and any person as to the amount to be paid to such person under this section may be referred by either party to the Collector, whose decision thereon shall be final.

69. Whenever, from the removal under section 67 of any trees, bamboos or other materials, any damage over and above the price payable for such materials results directly to any person, the Divisional Canal-officer shall pay to such person such sum as may be agreed upon as compensation for such damage. In case of dispute as to the amount so to be paid, either party may refer such dispute to the Collector, whose decision thereon shall be final.

70. The President of the Union may, by notification, declare that the provisions of the preceding sections of this Chapter shall apply to any district or part of a district for the purpose of constructing water-courses under the provisions of section 14.

71. The President of the Union may direct that the provisions of this Chapter shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage, work being stopped or so much interfered with as to stop the established course of irrigation or drainage:
Provided that, where annual silt-clearances are effected or any work necessary for its efficient working is done on a water-course, no payment shall be made for labour or for materials supplied by villages which are supplied with water from the water-course.

CHAPTER X.

Of Jurisdiction.

72. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

73. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such inquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a civil Court.

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

CHAPTER XI.

Of Offences and Penalties.

75. Whoever, without proper authority and voluntarily, does any of the following acts, that is to say:

(1) damages, alters, enlarges or obstructs any canal or drainage-work;
(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal or drainage-work;
(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;
(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of water therefrom, or interferes with the authorized distribution of water therefrom, or uses such water in an unauthorized manner;

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

(6) causes any vessel to enter or navigate, or to remain at any place in any canal contrary to the rules for the time being prescribed by the President of the Union for entering, navigating or remaining in such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels therein;

(8) being liable to furnish labourers under Chapter IX of this Act, fails, without reasonable cause, to furnish or to assist in furnishing the labourers required of him;

(9) being a person liable to labour under Chapter IX of this Act, refuses or neglects, without reasonable cause, so to labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal or drainage-work, contrary to rules made in accordance with the provisions of section 79, after he has been desired to desist therefrom;

(12) pastures any animals on the banks of a canal, or allows any animals belonging to him or under his charge to graze on such banks;

(13) violates any rule made in accordance with the provisions of section 79 to which a penalty has been attached by a rule made under that section,

shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment for a term not exceeding three months or to both.

76. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence, or with the consent of the Collector, in the case of an offence relating to a village canal or village drainage-work, to any fund created under rules made under section 49 relating to such village canal or village drainage-work.

77. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner, or any other person in charge of a vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the
Magistrate imposing the fine so directs, as though it were a charge under this Act due in respect of such vessel.

78. Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may arrest without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the offences mentioned in sub-sections (1), (2) and (3) of section 75.

CHAPTER XII.
SUPPLEMENTARY PROVISIONS.

Rules.

79. The President of the Union may make rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
(3) the persons by whom, and the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;
(4) the terms on which the right to collect tolls or other charges under this Act may be let;
(5) the amount of any charge made under this Act; and
(6) generally to carry out the provisions of this Act.

The President of the Union may, in making any rule under this Act, attach to the breach of it the penalty specified in section 75.

All rules made by the President of the Union under this Act shall be published in the Gazette, and shall thereupon have the same effect as if enacted by this Act.

Letting of Tolls or other charges leviable under this Act.

80. (1) The right to collect tolls or other charges leviable under this Act may be let by public auction. The officer conducting an auction under this section may refuse to accept the offer of the highest bidder and accept any other bid or may withdraw from the auction.
(2) The lessee and his servants shall conform to the provisions of this Act and of the rules thereunder relating to the tolls or other charges which the lessee has been authorized to collect.
Recovery of rent.

81. All fees, rents or other monies due to Government in respect of any lease made under section 80 may be recovered from the lessee or his sureties, if any, or from any person who has agreed to take a lease, as if they were arrears of land-revenue.

By whom sums recoverable.

82. The President of the Union may, by notification, prescribe by whose order and on whose application any sum recoverable under this Act may be recovered.

THE EMBANKMENT ACT.

[BURMA ACT IV, 1909.] (15th October, 1910.)

1-2. * * * *

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

"Embankment." (1) “embankment” means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment;

"Katin." (2) “katin” means any small bank or ridge surrounding or dividing a field;

"Embankment-officer." (3) “Embankment-officer” means any officer appointed by a notification of the President of the Union to be an Embankment-officer in respect of any embankment; and

"Cattle." (4) “cattle” includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

List of villages in neighbourhood of embankment of which the residents are liable to labour on embankment when so required.

4. The Deputy Commissioner of any district in which the whole or any part of an embankment is situated shall cause to be prepared—

(a) a list of the village-tracts in the neighbourhood of the embankment of each of which the headman shall be liable to furnish able-bodied persons for employment on such embankment when so required under section 5, clause (a);

(b) a list or lists setting down the maximum number of such able-bodied persons which each headman shall be liable to furnish.

The Deputy Commissioner may, from time to time, add to or alter such lists.

Circumstances under which this Act may be put in operation.

5. Whenever it appears to the Embankment-officer that, unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary