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(No. 3 of 1931)

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# THE MADHYA PRADESH IRRIGATION ACT, 1931

(No. 3 of 1931)<sup>1</sup>

An Act to consolidate and amend the law relating to Irrigation in [Madhya Pradesh]<sup>2</sup>.

## Preamble

Whereas it is expedient to consolidate and amend the law relating to irrigation in [Madhya Pradesh]<sup>2</sup>; and whereas the Governor-General has given his previous sanction to the passing of this Act as required by sub-section (3) of section 8-A of the Government of India Act;

It is hereby enacted as follows :—

1. (1) This Act may be called the [Madhya Pradesh]<sup>2</sup> Irrigation Act, 1931.

Short title, extent and commencement.

[(2) It extends to and shall be in force in the whole of Madhya Pradesh]<sup>3</sup>

## CHAPTER-I

### Definitions

2. (1) Unless there is anything repugnant in the subject or context, any expression used in this Act which is defined or explained in the Central Provinces Land Revenue Act, 1917 (II of 1917), or in the Central Provinces Tenancy Act, 1920 (I of 1920)<sup>4</sup> shall have the meaning therein assigned to it.

Interpretation.

(2) Every expression, which is defined or explained in any part of this Act, is used in every part of this Act in conformity with such definition or explanation.

3. "Canal" includes—

Canal.

[(a) all canals, channels and reservoirs including submerging tanks, tubewells, drainage works, and lift irrigation works constructed, maintained or controlled by the State Government for the supply or storage of water for irrigation;]<sup>5</sup>

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

1. For Statement of Objects and Reasons and Report of Select Committee, see Central Provinces Gazette dated the 7th February, 1931 and 1st August, 1931, Part VII, pages 9 to 34 and 47 to 69, respectively. For discussion, see Central Provinces Legislative Council proceedings, dated the 25th February, 1931 and 28th August, 1931, pages 296 to 299 and 169 to 193 of Volumes I and II, respectively.

2. Subs. by M. P. Act 23 of 1958, S. 3 (4), for "the Central Provinces and Berar"

3. Subs. by S. 3 (3), Schedule, Part A, item 26, *ibid.*

4. Now see M.P. Land Revenue Code, 1959. (20 of 1959).

5. Sub. by M.P. Act 42 of 1973, S. 2.

- (c) all uncompleted works which, when completed, will fall within clause (a) or (b); and
- (d) all land acquired or set apart for any of the above, but does not include a water-course.

Water-course.

4. "Water-course" means any channel which is supplied with water from a canal but is not maintained at the cost of the Government, and all subsidiary works belonging to such channel [and includes a field channel constructed in accordance with the provisions of this Act.]<sup>1</sup>

Field channel.

[4-A. "Field channel" means a channel which conveys or distributes water from an outlet or an opening in a water-course for irrigation of fields belonging to private owners.]<sup>2</sup>

Canal system.

5. "Canal system" means all canals supplied from one or more common sources or head-works, together with all water-courses supplied therefrom and all lands commanded thereby.

Private irrigation work.

6. "Private irrigation work" means a work, which is not the property of the Government, constructed or maintained for the supply or storage of water for irrigation, [and includes a private water-course.]<sup>3</sup>

Private water course.

[6-A. "Private water-course" means a water-course constructed at the cost of a permanent holder.]<sup>3</sup>

Grant-in-aid irrigation work.

7. "Grant-in-aid irrigation work" means a private irrigation work constructed or improved by or on behalf of a permanent holder partly or wholly by means of a grant of money from the Government.

Commanded.

8. Land is said to be commanded by a canal when it may be irrigated from that canal by the flow of water under gravity, and without the need of lifting or pumping the water [ \*\* ]<sup>4</sup> :

Provided that the Executive Engineer, with the previous sanction of the Superintending Engineer, may declare any land to be not commanded if it can be irrigated only by an excessive expenditure of water or by means of a water-course which passes through an area which the Executive Engineer considers it desirable to avoid.

**Explanation.**—Land which would not otherwise be commanded may become commanded by the construction of a crossing for the passage of water across a natural drainage, channel or ridge.

- 
1. Added by M.P. Act 23 of 1960 S. 2.
  2. Ibid. S. 3.
  3. Ins. by M. P. Act 23 of 1958, S. 3 (3) Schedule part A, item 26.
  4. Words "or of obstructing its flow in a canal or water course" omitted by C. P. and Berar Act 55 of 1948, S. 2.

Wet.

9. Land is said to be wet—

- (a) When it is classed in the annual papers of the village under any description which the State Government may, by rules made under this Act, declare to have the meaning of “wet” for the purposes of this definition; or
- (b) when it has been declared by the Executive Engineer, with the sanction of the Superintending Engineer, to be wet.

Irrigable.

10. Land is said to be irrigable when—

- (a) it is commanded by a canal ;
- (b) it is under cultivation ;and
- (c) it is not wet.

[**Explanation.**—Land which has been cultivated with any crop at any time during two years preceding that from which an irrigation agreement has effect shall be deemed to be under cultivation.]<sup>1</sup>

11. An “outlet” is an opening, constructed by [the State Government]<sup>2</sup> in a canal, through which water is delivered into a water-course or directly on to any land.

Outlet.

12. (1) A “chak” is that area of land on one side of a canal, or below a tail, which would be commanded by a single outlet so situated that it would command the greatest possible area of land on that side of the canal in that neighbourhood.

Chak.

**Explanation.**—The fact that, in order to secure a more efficient flow of water, two or more outlets are constructed for one chak, does not convert that chak into two or more chaks.

(2) In cases of doubt, the Executive Engineer shall have power to determine the boundaries of chaks ; and in all cases he shall have power so to determine them that no single chak shall include land in more than one village.

[12-A. “Compulsorily assessed area” means an area notified as compulsorily assessed to water-rate in accordance with rules made under this Act and the expression “compulsorily assessed” shall be construed accordingly.]<sup>3</sup>

Compulsorily assessed area.

13. An “occupier” of land is any person holding or professing to hold the right to cultivate such land for the time being.

Occupier.

[14. A “permanent holder” of any land means the Bhumi-swami of such land and includes an occupancy tenant thereof.]<sup>4</sup>

Permanent holder.

1. Subs. by C. P. and Barar Act 55 of 1948, S. 3.  
 2. Subs. by A. O 1937, for “Government”.  
 3. Ins by C. P. and Barar Act, 11 of 1945, S. 2.  
 4. Subs. by M. P. Act 23 of 1960, S. 4.

Canal revenue.

[15. "Canal revenue" includes irrigation cess levied under chapter VI-B and all sums, payable to the Government for the use of, right to use of, or waste of water from, a canal.]<sup>1</sup>

Water-rate.

16. A "water-rate" is the amount of canal revenue payable for the use of water or for the right to use water for irrigation for a single crop on one acre of land.

**Explanation.**—A single crop includes two crops of the same product within the same year.

## CHAPTER-II

### *Canal officials and their charges and powers*

Canal officers.

17. There shall be the following classes of canal officers, namely :—

- (a) The Chief Engineer ;
- (b) Superintending Engineers ;
- (c) Executive Engineers ;
- (d) Sub-Divisional Officers ; and
- (e) Canal Deputy Collectors.

Canal charges.

18. (1) The State Government may group together into circles areas in which canals have been or are to be constructed ; and may divide circles into divisions, and divisions into sub-divisions.

(2) The State Government may at any time born new circles, divisions or sub-divisions, abolish existing circles, divisions or sub-divisions, or alter the limits of existing circles, divisions or sub-divisions.

(3) The State Government shall appoint a Chief Engineer to be in-charge of the irrigation department generally, a Superintending Engineer to be in-charge of each circle, an Executive Engineer to be in-charge of each division, and a Sub Divisional Officer to be in charge of each sub-division.

(4) The State Government may appoint persons to be additional canal officers in any sub-division, division or circle, and may invest them with any or all of the powers of a Sub-Divisional Officer, Executive Engineer or Superintending Engineer, respectively.

(5) The State Government may invest Superintending Engineers with the power to appoint Sub-Divisional Officers to sub-divisions within their circles.

Additional canal officers.

[18-A. The State Government may, by notification in the Official Gazette, appoint the Canal Officers of any neighbouring State to be Additional Canal Officers in any sub-division or circle of this State and to exercise such powers and to perform such duties under this Act as may be specified in the notification.]<sup>2</sup>

1. Subs. by M. P. Act 42 of 1973, S. 3.

2. Ins. by M. P. Act 23 of 1958, S. 3(3), Schedule, Part-A, Item 26.

19. The Chief Engineer shall be subordinate to the State Government; Subordination of canal officers.

all other canal officers shall be subordinate to the Chief Engineer;

all canal officers in a circle shall be subordinate to the Superintending Engineer; and

all canal officers in a division shall be subordinate to the Executive Engineer.

20. (1) The State Government may appoint a Canal Deputy Collector to one or more divisions. Canal Deputy Collectors.

(2) A Canal Deputy Collector shall be subordinate to the Executive Engineer of any division to which he is appointed.

(3) The State Government may invest a Canal Deputy Collector with any or all of the powers of a Sub-Divisional Officer under this Act, and may invest a Sub-Divisional Officer with all or any of the powers of a Canal Deputy Collector.

21. (1) The Chief Engineer may, subject to rules made under this Act, divide a sub-division into subordinate charges, may appoint canal subordinates to such charges, and may prescribe the duties of such subordinates. Canal Subordinates

(2) All canal subordinates in a sub-division shall be subordinate to the Sub-Divisional Officer.

(3) The State Government may, by notification, invest any canal subordinate with any of the powers of canal officer, except a power to decide appeal.

(4) The Chief Engineer may, subject to rules made under this Act, delegate to Superintending Engineers or to Executive Engineers any or all of his powers under sub-section(1).

22. (1) When under this Act any duty is to be performed or power is to be exercised by a canal officer, and the class of canal officer is not specified, rules made under this Act regulating the performance of such duty or exercise of such power may prescribe the class of canal officers by which it is to be performed or exercised. Power to allot duties among canal officers.

(2) In addition to the above, rules may be made under this Act prescribing generally the class of canal officer who is to perform any duty or exercise any power which, under this Act, is to be performed or exercised by a canal officer.

(3) When the class of canal officer who is to perform any duty or exercise any power under this Act is not prescribed under sub-section (1) or sub-section (2), such duty shall be performed or such power exercised by the Sub-Divisional Officer.

## Appeals.

23. (1) Save as provided for in this Act and the rules made thereunder, no appeal shall lie from an order passed by a Commissioner, [Collector]<sup>1</sup>, canal officer, or canal subordinate.

(2) The following appeals shall lie—

- (a) if an order under section 34 is passed by a [Collector]<sup>1</sup>, or canal officer, to the Commissioner;
- (b) if an order under section 38 is passed by a canal officer subordinate to the Executive Engineer, to the Executive Engineer;
- (c) if an order under section 44 is passed by a canal officer, to the [Collector]<sup>1</sup>;
- (d) if an order under section 47 is passed by a canal subordinate; to the Canal Deputy Collector or Sub-Divisional Officer; and, if it is passed by a Canal Deputy Collector or Sub-Divisional Officer otherwise than on appeal, to the Executive Engineer;
- (e) if an order under section 56 is passed by a Superintending Engineer, to the Chief Engineer;
- (f) if an order under sub-section (1) of section 62 is passed by a [Collector]<sup>1</sup>, to the Commissioner; and
- (g) if an order under section 73 is passed by an Executive Engineer, to the Superintending Engineer.

(3) No appeal shall lie—

- (a) to the Commissioner or Chief Engineer—after the expiration of sixty days from the date of the order to which objection is made; or
- (b) to the [Collector]<sup>1</sup>, Superintending Engineer or Executive Engineer—after the expiration of thirty days from the date of the order to which objection is made; or
- (c) to the Canal Deputy Collector or Sub-Divisional Officer—after the expiration of ten days from the date of the communication of the order to which objection is made:

Provided that no appeal shall lie to the [Collector]<sup>1</sup> against an order passed by an Executive Engineer under section 44 either after the expiration of thirty days from the date of such order or after the cutting of the crop for whose irrigation the water was supplied.

(4) An appeal may be admitted after the period of limitation prescribed therefor if the applicant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

1. Subs. by M. P. A. O. 1956, for "Deputy Commissioner."

(5) No appeal to a canal officer shall require to be stamped.

(6) No legal practitioner shall be permitted to appear in any appeal under this Act or under the rules made thereunder except in appeals before the Commissioner.

(7) Rules may be made under this Act providing for appeals from the orders of canal officers and canal subordinates, regulating the procedure to be followed in such appeals, and prescribing periods of limitation therefor.

(8) Such rules may require that specified appeals or classes of appeals shall lie only to a specified revenue officer.

24. A Commissioner may, at any time, inquire into the propriety of any order passed by a [Collector] <sup>1</sup> who is subordinate to him, and any canal officer may, at any time, inquire into the propriety of any order passed by a canal officer or canal subordinate who is subordinate to him, and may pass such order in reference thereto as he may think fit:

Revision.

Provided that he shall not reverse or vary any order so as to affect adversely the rights of any private person without having given to such person an opportunity to be heard.

[25. The Canal Officer conducting an enquiry in the discharge of his duties under this Act, or the rules made thereunder shall have the powers of a civil court under the Code of Civil Procedure, 1908 ( V of of 1908), for the purposes of receiving evidence, administering oaths, enforcing the attendance of witness and compelling the discovery and production of documents and all such proceedings under this Act and the rules made thereunder shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code, 1860 (No. 45 of 1860) ]. <sup>2</sup>

Canal officers to have certain powers of civil court.

### CHAPTER—III

#### *RIGHTS IN WATER*

26. All rights in the water of any river, natural stream or natural drainage channel, natural lake or other natural collection of water shall vest in the Government, except to the extent to which rights may have been acquired in water affected by a notification published under section 27 prior to the publication of such notification.

Government's right in water.

27. When the State Government proposes to construct a canal, it shall publish a notification declaring its intention and indicating the site of the head-works, and thereupon no right shall be acquired against the Government under section 15 or section 16 of the Indian Easements Act, 1882 ( V of 1882 ), in the water of any river, natural stream or drainage channel, lake or other natural collection of water, any of whose waters will supply the canal when constructed.

Bar of accrual of rights in water to the detriment of a projected canal.

1. Subs. by M.P. A. O. 1956, for "Deputy Commissioner".

2. Subs. by M. P. Act, 42 of 1973, S. 4.

Bar of accrual of rights in water to the detriment of an existing canal.

28. No rights shall be acquired against the Government under section 15 or section 16 of the Indian Easements Act, 1882 (V of 1882), in the water of any river, natural stream or natural drainage channel, lake or other natural collection of water, any of whose waters supply a canal existing or under construction at the commencement of this Act.

Rights to supply of water from a canal.

29. No rights shall be acquired against the Government, whether under section 15 or section 16 of the Indian Easements Act, 1882 (V of 1882), or otherwise, to the supply of water from a canal, save in accordance with the provisions of this Act or under a grant from the Government.

Compensation for damage.

30. (1) No claim for compensation shall lie against the Government for any damage arising from—

- (a) the stoppage or diminution of the percolation or flow of water; or
- (b) the deterioration of climate or soil ; or
- (c) the stoppage of navigation, or of the means of drifting timber or watering cattle:

Provided that compensation shall be payable where, as a result of the construction of a canal,—

- (i) the rent or revenue of any land has been reduced, or
- (ii) the supply of water to or from a tank or other constructed work has been diminished.

[ (1—A) 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 fifteen 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. ]<sup>1</sup>

(2) Claims under this section may be enforced by application made to the [Collector]<sup>2</sup> within one year from the reduction of the rent or revenue, of the diminution or the supply.

(3) Any person aggrieved by the decision of the [Collector]<sup>2</sup> under sub-section (2) may, within six months from the date of such decision, institute a suit in a civil court to have such decision set aside or modified.

#### CHAPTER-IV

#### CONSTRUCTION AND MAINTENANCE OF CANALS

Power to enter and survey, etc.

31. (1) Any canal officer, or any person acting under the general or special order of a canal officer, may—

1. Ins. by M. P. Act 23 of 1958, S. 3. (3). Schedule, Part A, item 26.  
2. Subs. by M. P. A. O. 1956 for "Deputy Commissioner."

- (a) enter upon any lands adjacent to any canal or water-course or through which any canal or water-course is to be made, and undertake surveys or levels thereon;
- (b) dig and bore into the sub-soil;
- (c) make and set up suitable land-marks, level-marks, water-gauges and other apparatus;
- (d) do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal or water-course under the charge of the said canal officer;
- (e) where otherwise such inquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle; and
- (f) enter up on any land or building for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with canal revenue and of doing all things necessary for the proper regulation and management of any canal:

Provided that, if such canal officer or person proposed to enter into any building or any enclosed court to a attached dwelling-house, he shall give the occupier of such building or court at least three days, notice in writing of his intention to do so.

(2) After entry under this section, the canal officer shall, before leaving, tender compensation for any damage which may have been caused by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall refer the matter for decision by the [Collector]<sup>1</sup> such decision shall be final, and no suit shall lie in a civil court to have it set aside or modified.

32. (1) In case of any accident happening or being apprehended to a canal, any canal officer or canal subordinate, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

(2) In every such case the Executive Engineer shall tender compensation to the proprietors or occupiers of the said lands for all damage caused thereto. If such tender is not accepted, the Executive Engineer shall refer the matter to the [Collector]<sup>1</sup>, and compensation for the damage shall be determined as though the State Government had directed the occupation of the land under Part VI of the Land Acquisition Act, 1894 (1 of 1894).

1. Subs. by M. P. A. O. 1956 for "Deputy Commissioner."

Power to prohibit obstructions or to order their removal.

33. Whenever it appears to the State Government that injury to any land or to the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage channel, it may, by notification published in the Official Gazette, prohibit, within limits to be defined in such notification the formation of any obstruction, or may, within such limits, order the removal or modification of such obstruction.

Power to remove obstructions.

34. (1) The [Collector]<sup>1</sup> or any canal officer authorised by the State Government in this behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify it within a time fixed in the order.

(2) If, within the time so fixed, such person does not comply with the order, the [Collector]<sup>1</sup> or side canal officer may remove or modify the obstruction, and the expenses incurred in such removal or modification shall be recoverable as arrears of land revenue.

Government to provide means of crossing canals.

35. (1) In accordance with rules made under this Act a revenue officer and canal officer shall make a joint inspection of the alignment of all canals to be constructed and maintained at the cost of the Government, and shall make a second joint inspection of all such canals after not less than three years from the completion of such canals and shall report to the [Collector]<sup>1</sup> where, in their opinion, means of crossing such canals should be provided for the reasonable convenience of the inhabitants of the adjacent lands.

(2) The State Government shall cause suitable means of crossing such canals to be constructed at the cost of the Government at such places as it thinks fit.

(3) If at any time after the second of such inspections five or more of the permanent holders of such lands apply to the [Collector]<sup>1</sup> for the construction of further means of crossing, he shall cause an inquiry to be made and, if he thinks that further means of crossing should be constructed, he shall forward his opinion to the State Government, which shall cause such measures to be taken as it thinks proper:

Provided that, if the local inhabitants deposit, half the estimated cost of constructing such a means of crossing for the passage of traffic, the State Government shall cause it to be constructed, such crossing to be the property of the Government; and if the estimated cost exceeds the actual cost, [the State Government shall refund ]<sup>2</sup> half the difference:

Provided further that, if the [Collector],<sup>1</sup> has once caused an inquiry to be made under this section, it shall not be necessary for him to cause a second inquiry to be made into the same matter.

1. Subs. by M. P. A. O. 1956, for "Deputy Commissioner".

2. Subs. by A. O. 1937, for "Government shall refund".

(4) No suit shall lie in a civil court against the Government to enforce the construction of a crossing of a canal, or to enforce the alteration of a crossing or for compensation for damage arising from the absence or inadequacy of any crossing, or to modify or set aside any scheme framed or order passed under this section.

**Explanation.**—Suitable means of crossing canals include means for the passage of traffic and of water.

36. (1) Whenever it appears to the Executive Engineer, or to any Sub-Divisional Officer acting under his general or special orders in this behalf, that, unless some work is immediately executed, such serious damage will happen or continue to any canal as is likely to cause or continue to cause serious public injury or serious interruption of the normal course of irrigation,

Power to impress labour  
in emergency

and that the labour necessary for the proper execution thereof cannot be obtained in the ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time,

the Executive Engineer, or any Sub-Divisional Officer acting under the said orders, may by public proclamation by beat of drum, require every permanent holder and occupier of irrigable land resident in any village within five miles of the place where the work is to be executed, and every agricultural labourer employed by them, to attend in person at such place and to carry out such duties as may be allotted to them.

(2) If, in the opinion of the Executive Engineer, or of any Sub-Divisional Officer acting under the said orders, the amount of labour likely to attend in pursuance of an order under subsection (1) is not sufficient, he may at any time in like manner and subject to the same conditions, issue a like order requiring the attendance [of all persons]<sup>1</sup> resident within five miles of the place where the work is to be executed.

(3) The rates or wages to be paid for such work shall exceed those current in the neighbourhood for similar work, and any person attending in compliance with the proclamation shall be paid for the whole period during which he is thereby prevented from following his ordinary occupation.

(4) No person shall be required to carry out any duties under this section for which such person is unfitted by reason of age, sex [or bodily infirmity].<sup>2</sup>

1. Subs by M. P. Act 2 of 1953. S. 2 (1) for "of all cultivators or of all agricultural labourers, or of both".

2. Subs. by S. 2 (ii), ibid for "bodily infirmity of social position"

## CHAPTER - V

## THE SUPPLY OF WATER FROM CANALS AND CHARGES THEREFOR

Purpose for which water map be supplied.

37. (1) Water may be supplied from a canal -
- under an irrigation agreement, in accordance with the provisions of Chapter VI ;
  - on demand, for the irrigation of specified areas ;
  - to supplement a village tank ;
  - for industrial, urban or other purposes not connected with agriculture ;
  - for the irrigation of a compulsorily assessed area.]<sup>1</sup>

Reduction or remission or charges for supply of water.

(2) Charges for the supply of water under clause (a), [(b), (c) or (e)]<sup>2</sup> of sub-section (1) shall be paid at such rates as may be fixed by the State Government in accordance with rules made under this Act.

Submerging tank.

[37-A. Notwithstanding anything contained in this Act or the rules made thereunder, the State Government may, by notification, reduce, or remit the whole or any part of the charges for the supply of water under sub-section (1) of section 37.]<sup>3</sup>

[37-B. (1) The State Government may, on an application made by not less than fifty per cent of the permanent holders and occupiers of land in any particular area for construction of a submerging tank in that area, undertake the construction of such tank at the cost of the Government subject to such terms and conditions as may be prescribed.

(2) Where the State Government undertakes to construct a submerging tank under sub-section (1), the terms and conditions prescribed under sub-section (1) shall be binding on all the permanent holders and occupiers of land likely to be covered by the submerging tank irrespective of the fact whether they are signatories to the application or not.

(3) Where submerging tanks constructed and maintained by the State Government are in existence prior to the commencement of the Madhya Pradesh Irrigation (Amendment) Act, 1973, the terms and conditions prescribed under sub-section (1) shall be binding on all the permanent holders and occupiers of lands covered by the submerging tank.

(4) The Canal Officer or any other officer authorised for execution for the purpose of this section shall during the period between 15th September and 1st October every year, in the presence of the permanent holders and occupiers or their representatives-in-interest mark out the land actually submerged under water of the submerging tank in the village map by a contour line and obtain signatures on the map of the permanent holders and occupiers or their representatives-in-interest present on the spot.

1. Ins. by C. P. and Berar Act 11 of 1945, S. 3 (i).

2. Sub. by S. 3 (ii), *ibid.* for "(b) or (c)"

3. Ins. by C. P. and Berar Act 55 of 1948, S. 4.

(5) The permanent holders and occupiers of lands within the contour line on the map shall be liable to pay water-rate at such rates as may be determined by rules.]<sup>1</sup>

38. (1) Water may be supplied from a canal at any time for the irrigation of specified areas at the discretion of the Executive Engineer.

Supply of water on demand.

(2) Water supplied on demand shall be paid for according to the area actually irrigated. In the determination of such area the decision of the Executive Engineer shall be final and shall not be modified or set aside by any civil court.

The water-rates for such supply are called "demand rates"

(3) Rules may be made under this Act regulating the procedure of canal officers in receiving applications for water on demand, in supplying water on demand, and in assessing canal revenue.

39. (1) Water may be supplied at any time to supplement a village tank at the discretion of the Executive Engineer.

Supply of water to supplement village tanks.

(2) Rules may be made under this Act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal officers in giving such supply.

40. The conditions for the supply of water for industrial, urban or other purposes not connected with agriculture, and the charges thereon, shall be as agreed upon between the State Government and the company, firm, private person or local body concerned and fixed in accordance with rules made under this Act.

Supply of water for Industrial, urban or other purposes.

[40-A. (1) Water may be supplied from a canal at any time to irrigate a compulsorily assessed area in accordance with rules made under this Act.

Supply of water to compulsorily assessed area.

(2) Rules may be made under this Act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal officers in giving such supply.]<sup>2</sup>

41. Water for the irrigation of land, or to supplement village tanks, or for an industrial, urban or other purpose not connected with agriculture, may be taken only from such outlets as may be determined from time to time by the Executive Engineer for the special needs of such land, system or purpose.

Control of supply of water from outlets.

42. If, as a result of the construction of a canal, the area irrigated from any private irrigation work in its proximity is increased beyond the area recorded as irrigable at the last settlement, the state Government may, without prejudice to its rights, if any, recorded at such settlement, direct that such water-rate as it may deem fit shall be charged on such increase of area:

Power of State Government with regard to irrigation from private irrigation works.

1. Ins. by M. P. Act. 42 of 1973, S. 5.

2. Ins. by C. P. and Bearar Act, 11 of 1945, S. 4

Provided that no water-rate shall be charged, if on inquiry it is found that the increase in the area has been due to any improvement of the private work since the settlement.

Unauthorised use and waste of water.

43. (1) Water is said to be used in an "unauthorised" manner when its use gives rise to, or may be expected to give rise to, benefits of any kind and,—

(a) when it is allowed or caused to flow on to land, or into a village tank, or into a private system of irrigation, or into any system for the supply of water for an industrial, urban or other purpose not connected with agriculture, so that the owners or occupiers of such land or system thereby obtain for such land or system water to which they are not entitled under the provisions of this Act or of the rules or of any agreement or contract made thereunder; or

(b) when it is taken from any canal, outlet or water-course in contravention of any of the provisions of this Act or of the rules made thereunder or of any order by a canal officer passed thereunder.

(2) Water which is allowed or caused to escape from a canal, water-course or field in such a manner that no benefits arise from its consumption is said to be "wasted".

Rates for unauthorised use and waste of water.

44. (1) Cultivated land on which water has been used in an unauthorised manner shall be subject to the payment of water-rates; such rates are called "rates for unauthorised use".

(2) Rates for unauthorised use shall be payable by the occupiers of the land concerned:

Provided that, if such occupiers can prove to the satisfaction of a canal officer that the unauthorised use was due to the act or omission of another person, the canal officer may levy such rates, or apportion thereof, from such other person.

(3) When water is used in an unauthorised manner otherwise than on cultivated land, the Executive Engineer may make an estimate of the volume of water used, and may determine the persons responsible for such use and the persons who have been benefited thereby. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible and the persons benefited by such use at the discretion of the Executive Engineer.

(4) When water is wasted, the Executive Engineer may make an estimate of the volume of water wasted, and may determine the persons responsible for such wastage. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible at the discretion of the Executive Engineer.

(5) The levy of rates for unauthorised use or for waste shall not bar a prosecution for any offence connected with such use or waste.

(6) No suit shall lie in a civil court contesting any decision made by a canal officer under this section or by the [Collector]<sup>1</sup> on appeal from such decision.

(7) Rules may be made under this Act regulating the procedure of canal officers in imposing liability for, and in assessing, canal revenue payable under this section.

[44-A. (1) All rights in the water discharged as waste water after its use for the purpose for which it was supplied under section 40 shall vest in the Government.

Discharged waste water to vest in State Government.

(2) The use of waste water by any person other than the one who discharges such water after use shall be subject to payment of water rate at such rates as may be prescribed and such water rates shall be payable by the person utilising such waste water.

44-B. The permanent holders and occupiers of land situate outside the boundary of a submerging tank who utilise water discharged from the sluice and escapes of the said tank for purpose of cultivation shall be liable to pay water rate at such rates as may be prescribed.]<sup>2</sup>

Water rate for utilisation of drain out water from submerging tank.

## CHAPTER-VI

### IRRIGATION AGREEMENTS

[45. (1) Agreements may be made, between the State Government and the permanent holders of land for the supply of water for irrigation either for a short term not exceeding one year or for a long term exceeding one year, at such rates as may be fixed by the State Government, from time to time.

Power to make irrigation agreements.

Provided that, if the State Government considers it necessary so to do, short term agreement may also be made with occupiers of land.

(2) Agreements made in accordance with sub-section (1) are called "Irrigation Agreements" and the water rates payable thereunder are called "agreement rates".

(3) The State Government may divide the State into zones for the purpose of short term agreements and long term agreements and may declare any area wherefor no agreements shall be made.

(4) Agreements under this section shall be made in accordance with the provisions of this Chapter and the rules made thereunder.]<sup>3</sup>

1. Subs. by M. P. A. O. 1956, for "Deputy Commissioner"

2. Ins. by M. P. Act 42 of 1973, S. 6.

3. Subs. by M.P. Act 42 of 1973, S. 7.

Scope of irrigation agreements.

46. Irrigation agreements—

- (a) shall be for the irrigation of one or more specified crops, which are called "crops under agreement";
- (b) shall be made with the permanent holders of all irrigable land in a village, mahal or chak cultivated with the crops under agreement;

<sup>1</sup>[(c) when duly made in accordance with the provisions of this Chapter, shall be binding, according to the terms of the agreement, on the permanent holders and occupiers of—

- [(i) all irrigable land in the village, mahal or chak under cultivation with the crops under agreement at the time from which the agreement has effect or at any time during two years prior thereto:

Provided that where a scheme of consolidation has been confirmed in respect of any land under the provisions of the Central Provinces Consolidation of Holdings Act, 1928 (VIII of 1928) the irrigation agreements shall, from the year in which the permanent holders and occupiers, if any, are put into possession of the holdings—

- (a) be binding on the permanent holders and occupiers, if any, of all cultivable land newly received in exchange for land which has ceased to be under cultivation; and
- (b) ceased to be binding on the permanent holders and occupiers, if any, of all land which has to cease to be under cultivation],<sup>2</sup>
- (ii) all land described in sub-clause (i) together with such land as may be cultivated with the crops under agreement at any time during the period of the agreement,

land on the permanent holders and occupiers where of an agreement is binding is called "land under agreement".]

47. In addition to any incidents applying generally to liability for payment of water-rates, all irrigation agreements shall be subject to the following incidents, namely:—

[(a) Canal revenue payable thereunder shall be payable—

- (i) if the case falls under clause (c) (i) of section 46, for every year on all land under agreement, whether it has been sown or not and irrigated or not, and

Main incident of irrigation agreements.

1. Ins. by C. P. Act 8 of 1936, S. 3.

2. Subs. by C. P. and Berar Act 55 of 1948, S. 5.

- (ii) if the case falls under clause (c) (ii) of section 46, for any year on all land under agreement, which has been sown that year with any of the crops under agreement, whether it has been irrigated or not; ]<sup>1</sup>
- (b) the canal revenue payable on any land for any year shall be collected from the occupier, or, on his default, from the permanent holder of such land;
- (c) at any time when the amount of water available is deficient, or when damage is anticipated to the canal if a full discharge of water is delivered, its supply may be regulated in such manner as the Executive Engineer may determine;
- (d) no claim shall arise against the Government for compensation for any loss arising from a failure or shortage in the supply of water for irrigation or from an excess of such supply :

Provided that rules may be made under this Act providing for the remission of agreement rates where there has been a failure of crops or a failure to deliver water owing to a defect in the head-works or distribution system.

48. (1) Where the title of an occupier of irrigable land who is not the permanent holder thereof is such that it will lapse on or before the expiry of the agricultural year next following the date of an irrigation agreement applicable to such and, the consent of the permanent holder to such agreement shall be binding on such occupier in respect of such land.

Consent to agreement where land is in possession of sub-tenants.

(2) Where the title of an occupier of irrigable land, who is not the permanent holder thereof, is such that it will continue after the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of such occupier shall be necessary to the validity of the consent of the permanent holder.

49. (1) Where land is held jointly by two or more co-sharers in the proprietary right of a village, the consent of the lambardar or lambardar-gumashta appointed for such land under section 187 of the Central Provinces Land Revenue Act, 1917 (C. P. Act. II of 1917),<sup>2</sup> shall be binding on every co-sharer in respect of such land if he has received notice of the proposed agreement and has failed, within a week from the receipt of notice, to lodge an objection in writing with the canal officer taking the agreement.

Consent to agreement where land is jointly by proprietors.

(2) Notwithstanding anything contained in sub-section (1), when co-sharers holding not less than two-thirds of the interest in land held jointly by two or more co-sharers in the proprietary right of a village or mahal have given their consent to a proposed agreement in accordance with the provisions of this Chapter, the consent of the co-sharers holding the remaining interest shall be deemed to have been given.

1. Subs. by C. P. Act 8 of 1935. S. 4.  
2. See now M. P. Land Revenue Code, 1959 (20 of 1959).

Consent to agreement where land is held by non-resident proprietor.

50. Where land is held by a proprietor of a village who does not reside in the village, the consent of the lambardar or lambardar-gumashta appointed for such land under section 187 of the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917)<sup>1</sup> shall be binding on such proprietor in respect of such land, if after receiving notice of the proposed agreement he fails, within a week from the receipt of notice, to lodge an objection in writing with the canal officer taking the agreement.

Special rule when all permanent holders do not consent.

51. When either the permanent holders of not less than two-thirds of, or not less than 95 per cent of the permanent holders of, all the irrigable land in a village, mahal or chak cultivated with crops under agreement have given their consent to a proposed irrigation agreement in accordance with the provisions of this Chapter, the proposed agreement, if accepted by a Canal Deputy Collector or by an irrigation inspector specially authorised in this behalf by the Executive Engineer, shall be deemed to be an irrigation agreement binding on the permanent holders of all irrigable land in such village, mahal or chak cultivated with crops under agreement :

Provided that no agreement for a mahal or chak shall be accepted without the general or special consent of the State Government or of a canal officer specially authorized in this behalf by the State Government.

No consent to be presumed without previous notice.

52. (1) The provisions of sections 49, 50 and 51 shall not apply unless a notice has been published in the village concerned by a canal officer that he proposes to take an irrigation agreement in that village.

(2) Such notice shall be posted in writing in some prominent place in the village, and shall be proclaimed by beat of drum at least fourteen clear days before the agreement is finally made.

Inclusion of wet land.

53. The permanent holder of wet land which is commanded by a canal may apply to a canal officer to have his wet land included in an irrigation agreement relating to the village, mahal or chak in which such land is situated, and, if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this Act.

Inclusion of land irrigated by lift.

54. The permanent holder of land which is not commanded but is capable of being irrigated from a canal or water-course by means of any mechanical contrivance designed to lift the water therein, may apply to a canal officer to have such land included in an irrigation agreement, and, if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement, in so far as they may be applicable, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this Act.

1. See now M. P. Land Revenue Code, 1959. (20 of 1959).

55. (1) An irrigation agreement may be cancelled by mutual consent between [the State Government]<sup>1</sup> and the permanent holders of not less than two-thirds of, or not less than 95 per cent of the permanent holders of, the land under agreement at the time of such cancellation.

Cancellation of agreement by mutual consent.

(2) The provisions of sections 48, 49, 50, 51 and 52 shall apply to the cancellation of an irrigation agreement as if consent to the cancellation were consent to the making of such agreement.

56. (1) The Superintending Engineer may, at any time, after giving notice, cancel an irrigation agreement if, in his opinion, the permanent holders and occupiers bound thereby persistently fail to maintain their water courses in proper repair.

Cancellation of agreement for failure to maintain water-courses.

(2) An order by the Superintending Engineer under this section shall be in writing, and shall be published in the village concerned by beat of drum.

(3) Thereupon the irrigation agreement shall cease to have effect, and no suit shall lie in a civil court contesting the validity of the Superintending Engineer's order or making any claim whatsoever against the Government by reason of such cancellation.

57. (1) With the previous sanction of the State Government the Superintending Engineer may at any time cancel any irrigation agreement ; and in such case the measure of damages in respect of any land under agreement shall be double the amount of the canal revenue which would have been payable in respect of such land for the remainder of the period of the agreement.

General Power to cancel agreements.

(2) Rules may be made under this Act regulating the distribution among permanent holders and occupiers of the damages payable by the Government, and regulating the procedure of canal officers in making such distribution.

(3) When damages have been distributed and paid or tendered in accordance with the provisions of this section and the rules made thereunder, no suit shall lie in a civil court contesting the validity of the cancellation or making any claim whatsoever against the Government by reasons of such cancellation.

58. In addition to any rules for which provision is made in this Chapter, rules may be made under this Act—

Power to make rules.

- (a) prescribing the periods and the crops for which irrigation agreements may be made ;
- (b) prescribing the forms of irrigation agreements, and providing for the inclusion therein of incidents and conditions in addition to but consistent with those contained in this Act ; and
- (c) regulating the procedure of canal officer in carrying out their duties under this Chapter.

1 by A. O. 1937, for "Government".

## CHAPTER VI-A

## BETTERMENT CONTRIBUTION

Definitions of "new canal"  
and "commanded area"

[58-A. For the purposes of this Chapter—

- (a) the expression "new canal" means—
- (i) a canal, the construction of which has been undertaken on or after the 1st April, 1951; or
- (ii) such existing canal, the improvement or extension of which has been undertaken on or after the said date ;  
and the cost of construction or improvement or extension, as the case may be, where of is 5 lakhs of rupees or more or which has an irrigable capacity of one thousand acres or more; and which has been notified as a new canal by the State Government;
- (b) "commanded area" in relation to a new canal means the area comprising of all land which may be irrigated from that canal by the flow of water under gravity and without the need of lifting or pumping the water:

Provided that in relation to a new canal provided by improving or extending an existing canal, the area which was being irrigated already by such existing canal shall be deemed not to have been comprised in the commanded area.]<sup>2</sup>

[58-B. \* \* \* \* \*]<sup>3</sup>

Levy of betterment contribution.

[58-C.(1) As from such date as the State Government may, by notification, appoint, such date being not earlier than three years from the commencement of the operation of a new canal, there shall be levied on every permanent holder of land, whose land is situated within the commanded area, betterment contribution at the following rates—

- (a) Rs. 140 per acre, payable in one lump sum; or
- (b) Rs. 224 per acre payable consecutively for twenty years, excluding the years in which recovery there of may be postponed by the State Government in accordance with section 58-I, as under :—
- (i) Rs. 8 per acre per year for the first five years;
- (ii) Rs. 12 per acre per year for the next fourteen-years ;
- (iii) Rs. 16 per acre for the twentieth years.

1. Ins. by M. P. Act 7 of 1956, S. 2.  
2. Subs. by M. P. Act 13 of 1968, S. 2.  
3. Omitted by S. 3, *ibid.*

(2) The betterment contribution levied under sub-section (1) may, at the option of the permanent holder, be paid by him in one lump sum within three months from the date appointed under sub-section (1) or in twenty annual instalments, the first instalment being payable within two months from the date appointed under sub-section (1) and the subsequent annual instalments being payable within one month from the date on which they would fall due for payment in each subsequent years :

Provide that if the permanent holder who has under taken to pay the betterment contribution in annual instalment desires, at any time after the payment of the first or subsequent instalment, to make payment in one lump sum, he shall be required to pay per acre in full the amount equal to the difference between Rs. 140 together with interest thereon calculated at the rate of  $4\frac{1}{2}$  per cent per annum for the period from the date appointed under sub-section (1) till the date of such payment in lump sum and the amount already paid by him by way of such instalments.

(3) Any instalment of betterment contribution or part thereof which remains unpaid on the expiry of the period under sub-section (2), shall, with effect from the date on which such period expires, carry interest at the rate of six per centum:

Provided that when the recovery of any instalment is postponed under section 58-I, such instalments shall not be deemed to be remaining unpaid for the purpose of this sub-section during which the recovery thereof remains postponed.

(4) If the State Government is satisfied that the levy of betterment contribution is likely to cause hardship to any permanent holder or class of such holders in any commanded area, the State Government may, by notification, exempt such holder or such class of holders in such area from payment of the amount of betterment contribution in whole or in part, as may be specified in the notification, subject to such terms and conditions, if any, as the State Government may deem fit to impose.

**Explanation.**—For the purposes of sub-section (4), the levy of betterment contribution shall be deemed to cause hardship if,—

- (i) as a result of new canal, the prices of land situate in a commanded area has not risen by more than fifty per centum over the prices prevailing prior to availability of irrigation facilities from such new canal;
- (ii) the permanent holder who having already constructed private irrigation work, prior to the commencement of the operation of the new canal, on his land does not desire to avail of the irrigation facilities from such new canal.

Notification of commanded area by State Government.

58-D. Before appointing the date under sub-section (1) of section 58-C from which betterment contribution shall be levied, the State Government shall issue a notification—

- (i) specifying the commanded area defining the boundaries thereof;
- (ii) appointing the place or places at which the particulars of holding of permanent holders whose lands are situated in the commanded area specified in clause (i) can be seen;
- (iii) appointing a Revenue Officer not below the rank of a Sub-Divisional Officer (hereinafter referred to as the Authorised Officer) who shall enquire into and determine the amount of betterment contribution payable by each permanent holder; and
- (v) specifying a date not less than three months from the date of the publication of such notification and requiring every permanent holder in the said area who objects to the inclusion of any land within the Commanded area or to the correctness of any particulars regarding his holding to present to the Authorised Officer a written objection on or before such date, stating the nature of his objection and the relief sought by him.

Proclamation by Authorised Officer.

58-E. The Authorised Officer shall, as soon as may be, after the issue of the notification, cause to be published in the regional language of the commanded area a notice of the issue of such notification by beat of drum and also by affixing copies of the notice at conspicuous places in all villages in the commanded area specified in the notification issued under section 58-D. Such notice shall also state the time and place at which the Authorised Officer shall enquire into the objections preferred under section 58-D.

Enquiry by Authorised Officer.

58-F. The Authorised Officer shall, at the place stated in the notice under section 58-E, make such enquiry into the objections preferred under section 58-D as may appear necessary and after giving an opportunity of being heard to the permanent holder preferring an objection, pass such orders thereon as he may think fit.

Powers of Authorised Officer.

58-G. For the purposes of section 58-F, the Authorised Officer shall exercise the powers conferred on a Revenue Officer of his grade and follow the procedure laid down for the purpose in the Madhya Pradesh Land Revenue Code, 1959(20 of 1959), and the rules made thereunder.

Determination of betterment contribution payable by holders.

58-H. After the objections, if any, preferred under section 58-D have been disposed of, the Authorised Officer shall make an order specifying—

- (a) the lands (with Khasra Nos. and area) commanded by the new canal;

- (b) the betterment contribution payable by each permanent holder in respect of the land specified under (a) above.

(2) The order shall be notified in the prescribed manner, and a copy thereof shall be placed for public inspection at such place or places and for such time, as may be prescribed.

58-HH. An appeal shall lie against every order passed under section 58-H to the authority competent to hear appeals under sub-section (1) of section 44 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), from an officer of the same grade under the said Code and the provisions of sub-section (2) of the said section shall thereon apply accordingly:

Appeal.

Provided that no appeal shall be entertained unless—

- (i) in the case of first appeal, it is filed within 60 days from the date of the order appealed against; and  
(ii) in the case of second appeal, it is filed within 90 days from the date of the order appealed against:

Provided further that—

- (i) in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded; and  
(ii) the provisions of section 5 of the Limitation Act, 1963 (No. 36 of 1963), shall apply to such appeals.

58-HHH. Subject to the orders passed in appeal under section 58-HH, the order made under section 58-H shall be final.]<sup>1</sup>

Finality of award.

58-I. When the total land revenue or rent, as the case may be, payable by the permanent holder in respect of any land for which he is liable to pay betterment contribution is suspended in any year, the State Government may, notwithstanding anything to the contrary contained in this Chapter or rules made thereunder, postpone for such period as it thinks fit the recovery of any instalment of betterment contribution.

Suspension of payment of instalment.

[58-J. (1) The betterment contribution under this Chapter shall be payable to the Revenue Officers in the same manner as land revenue, and in default of payment, it shall be recoverable as arrears of land revenue.

Betterment contribution to be recoverable as arrears of land revenue.

(2) The amount of betterment contribution realised shall be credited as State revenue under such head as may be prescribed. ]<sup>2</sup>

58-K. Rules may be made for the purpose of carrying out the purposes of this Chapter but in the absence of any rules so made the rules framed under section 63 shall, so far as may be, apply in this behalf.

Power to make rules,

1. Subs. by M. P. Act 13 of 1968, S. 4.

2. Subs. by M. P. Act 13 of 1968, S. 5.

## [CHAPTER-VI-B

## IRRIGATION CESS

Levy of Irrigation Cess.

58-L. (1) In addition to the water rates or other charges or levy leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called the irrigation cess at such rates and for such period as may be fixed by the State Government by notification :

Provided that having regard to the potentiality of perennial or seasonal supply of water from a canal different rates may be fixed for different canals.

(2) The irrigation cess shall be payable by every permanent holder or occupier of land in the irrigable command of the canal.

58-M. Subject to the rules made under this Act, the State Government may, by notification reduce or remit the whole or any part of the irrigation cess levied under section 58-L.]<sup>1</sup>

## CHAPTER-VII

## COLLECTION OF CANAL REVENUE

Dates of payment of canal revenue

59. (1) Canal revenue payable under an irrigation agreement, or for the supply of water on demand, or for the supply of water to supplement a [village tank, or, for the supply of water to a compulsorily assessed area]<sup>2</sup> shall fall due on such dates as may be prescribed in this behalf by rules made under this Act.

(2) Canal revenue payable for the supply of water for industrial, urban or other purposes, not connected with agriculture, shall fall due on the dates specified in the agreement relating thereto.

(3) Canal revenue payable for the unauthorised use of, or for the waste of, water shall fall due on the date on which demand is made for the payment thereof.

Definition of arrear.

60. Any sum payable as canal revenue which remains unpaid on the day following the date on which it is due is an arrear of canal revenue.

Mode of recovery of arrears.

61. Arrears of canal revenue shall be recoverable as arrears of land revenue.

Irrigation panchayats.

62. [(1) In accordance with the rules made under this Act, an Irrigation Panchayat shall be established for every village, or chak, and at the discretion of the Collector, for a group of villages in the commanded area of the canal. Such

1. Ins. by M. P. Act 42 of 1973, S. 8.

2. Subs. by C. P. and Berar Act 11 of 1945, S. 5, for "Village tank"

Panchayats shall consist of a Sarpanch and two or more members elected by the premanent holders and occupiers of the land from among themselves. Such election shall be subject to the approval of the Collector, who shall have power to nominate one member to any Panchayat, and, for reasons to be recorded in writing, to dismiss any member and to dissolve any Panchayat subject to an appeal to the Commissioner.]<sup>1</sup>

(2) Irrigation Panchayats shall—

[(a) x x x x ]<sup>2</sup>

- (b) assist the officer of the Irrigation Department in detecting and preventing encroachments on canal lands, prevent damage to irrigation works, and report any wilful damage caused to irrigation works ;
- (c) assist the officers of the Irrigation Department in arranging for the construction of water-courses, in recording and checking irrigation, and in making measurements and settling diputes;
- (d) collect irrigation revenue and remit it to the treasury; and
- (e) arrange for the repair of water-courses.

[(3) Irrigation Panchayat shall have power to accept from any person against whom a reasonable suspicion exists that he has committed an offence specified in rules made under this Act, a sum not exceeding fifty rupees for composition of such offence.]<sup>3</sup>

(4) Money collected by a Panchayat under sub-section (3) shall be expended by the Panchayat, subject to the control of the [Collector],<sup>4</sup> on any work of public utility in the village.

(5) A member of such Panchayat shall be deemed to be a public servant for the purposes of the Indian Penal Code.

63. Rules may be made under this Act regulating the procedure of canal officers and canal subordinates in assessing canal revenue and in applying to revenue officers for the collection of arrears of canal revenue and the procedure of revenue officers in collecting canal revenue.

Power to make rules for assessment and collection.

64. All sums due to the Government for the right to [cut grass, to graze cattle, to fish, to cultivate land, or to do other acts on land or in water under the charge of the Irrigation Department shall be recoverable as arrears of land revenue.

Mode of recovery of miscellaneous revenue.

1. Subs. by M. P. Act 42 of 1973, S.9 (a).

2. Omitted by C. P. and Berar Act 55 of 1948, S.6 (ii).

3. Subs. by M. P. Act 42 of 1973, S.9 (b).

4. Subs. by M. P. A. O. 1956, for "Deputy Commissioner".

## CHAPTER VIII

*CONSTRUCTION AND MAINTENANCE OF WATER-COURSES*

[Power to make water-course contracts.

65. Contracts may be made in accordance with the provisions of this Chapter whereby Government undertakes to construct water-courses and to bear the cost of construction and the permanent holders of irrigable land undertake to maintain them and to bear the cost of maintenance. Such contracts are called "water-course contracts".

Scope of water-course contracts.

66. Water-course contracts—

(a) shall relate to the construction of water-courses for the irrigation of all irrigable land in a village, mahal or chak cultivated with one or more specified crops; and

(b) shall be made with the permanent holders of all such land in a village, mahal or chak :

Provided that, when not less than one-half of such permanent holders, holding not less than two-thirds of all such lands, have given their consent to a water course contract in accordance with the provisions of this Chapter, the proposed contract, if accepted by Government, shall be deemed to be a water-course contract made with the permanent holders of all irrigable land in the village, mahal or chak cultivated with such crop or crops.

Consent in certain cases.

67. The provisions of sections 48, 49, 50 and 52 shall apply to water-course contracts as if such contracts had been irrigation agreements.

Water courses to be property of Government.

68. Water-courses constructed under a water-course contract shall be the property of the Government.

Constructions of water-courses for irrigating compulsorily assessed area.

[68-A. Water-courses may be constructed by the State Government for the irrigation of a compulsorily assessed area. Such water-courses shall be the property of the [Government]<sup>1</sup> but they shall be maintained by the permanent holders of land comprised in the compulsorily assessed area for the irrigation of which they are constructed and by such other permanent holders as may actually make use of them for irrigation purposes.]<sup>2</sup>

Construction of water-courses for irrigating a chak.

[68-B. (1) Where, in a chak not less than half a mile long or 80 acres in area, the State Government considers it expedient to construct water-courses, it may, notwithstanding anything in section 66, construct such water-courses for such chak.

(2) Water-courses constructed under sub-section (1) shall be the property of the [Government]<sup>1</sup> but they shall be maintained by the permanent holders of the chak for the irrigation of which

1. Subs. by A. O. 1937 for "Crown".

2. Ins. by C. P. and Berar Act 11 of 1945, S. 7.

such water-courses are constructed and by such other permanent holders as may actually make use of them for irrigation purposes.]<sup>1</sup>

2[69. Subject to the provisions of section 68-A and section 68-B]<sup>3</sup> the Irrigation Panchayat shall, in accordance with the rules made under this Act, be responsible for the proper maintenance of all water-courses constructed for that village [mahal or chak, as the case may be,]<sup>4</sup> and may call upon the permanent holders and occupiers of all land whether under an agreement or within a compulsorily assessed area which is ordinarily irrigated or may be irrigated through a water-course to render assistance in maintaining it, and in case of default to pay such sums as may be assessed by the Executive Engineer.]

Irrigation panchayat to be responsible for maintenance of water-courses.

70. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, [the State Government]<sup>5</sup> may, subject to rules made under this Act, enter in to a contract with one or more of the permanent holders of irrigable land in a village, mahal or chak whereby [the State Government]<sup>5</sup> undertakes to construct water-courses and the permanent holders undertake to bear the cost of construction and maintenance.

Power to construct water courses at cost of permanent holders

(2) When land not held by a permanent holder bound by such contract is required for the construction of a water-course, it shall be deemed to be required for a public purpose and shall be acquired in accordance with the provisions of the Land Acquisition Act, 1894 (1 of 1894).

71. (1) A water-course constructed<sup>4</sup> [under section 68-A or section 68-B]<sup>7</sup> or section 70] shall be deemed to be an improvement affecting all the land for whose irrigation the water-course was constructed, within the meaning of clause (5) of section 2 of the Central Provinces Tenancy Act, 1920 (C.P. Act 1 of 1920).

Water-courses to be an improvement.

(2) When any village servant, who has entered into a water-course contract in respect of any land in his village service holding, acquires the rights of an occupancy tenant under the provisions of section 48 of the Central Provinces Tenancy Act, 1920 (C. P. Act 1 of 1920) he shall be deemed to have held the rights of an occupancy tenant under section 52 of the said Act at the time he entered into the contract.

72. Where [the State Government]<sup>5</sup> has constructed water-courses in a raiyatwari village, it may require raiyats holding irrigable land in that village to maintain such water-courses when, in the opinion of [the State Government]<sup>5</sup> such raiyats are in a position to do so.

Power to require raiyats in raiyatwari village to maintain water-courses.

1. Ins. by C. P. and Berar Act 25 of 1949, S. 2.
2. Subs. by C. P. and Berar Act 11 of 1945, S. 3.
3. Sub. by C. P. and Berar Act 25 of 1949, S. 3, for "section 68-A".
4. Ins. by C. P. and Berar Act 55 of 1948, S. 7.
5. Subs. by A. O. 1937, for "Government".
6. Subs. by C. P. and Berar Act 11 of 1945 S. 9 for "under S. 70".
7. Subs. by C. P. & Berar Act 25 of 1949, S. 4 for "section 68—A".

Power to have water-courses repaired.

73. If at any time Executive Engineer considers that a water-course, which has been constructed under agreement<sup>1</sup>[or under [section 68-A] or section 68-B]<sup>2</sup> or which the raiyats in raiyatwari village have been required to maintain, is not in proper repair—

- (a) he may by public proclamation in the village, require that the repairs be made to his satisfaction on or before a specified date; and
- (b) if the repairs are not made to his satisfaction by such date, he may stop the supply of water to the water-course; or
- (c) he may cause the repairs to be made and may collect a sum not exceeding twice the cost thereof from the permanent holders or occupiers in proportion to the areas held by them in the land which is ordinarily irrigated or may be irrigated under an agreement through such water-courses :

[Provided that where a village, mahal or chak has ceased to be under an agreement or any area has ceased to be compulsorily assessed to water-rate, the State Government shall not require the maintenance of water-courses therein until such village, mahal or chak again comes under agreement or such area is again compulsorily assessed.]<sup>3</sup>

Recovery of sums due to State Government.

74. All sums recoverable by [the State Government]<sup>4</sup> under any of the provisions of this Chapter or recoverable by irrigation panchayats under section 69 may be recovered as arrears of land revenue.

Powers to make rules.

75. Rules may be under this Act—

- (a) prescribing the forms of water-course contracts;
- (b) regulating the procedure of canal officers in discharging their duties under this Chapter;

[ \* \* \* \* ]<sup>5</sup>

[(bb) determining under section 68-B the liability of permanent holders and the manner in which it shall be discharged;]<sup>6</sup>

- (c) prescribing the liabilities of permanent holders and occupiers of land under section 69;

- [(d) prescribing the circumstances in which the assessment in a compulsorily assessed area may be cancelled.]<sup>7</sup>

1. Ins by C. P. and Berar Act 11 of 1945 S.10 (i).

2. Subs. by C. P. and Berar Act 25 of 1949. S. 5 for "Section 68-A".

3. Subs. by C. P. and Berar Act 11 of 1945, S. 10 (ii)

4. Subs by A. O. 1937, for "Government"

5. Word "and" omitted by C. P. and Berar Act 11 of 1945. S. 11 (i).

6. Ins by C. P. and Berar Act 25 of 1949, S. 6.

7. Ins by C. P. and Berar Act 11 of 1945. S. 11 (ii).

## [CHAPTER VIII-A

CONSTRUCTION AND MAINTENANCE OF FIELD  
CHANNELS

75-A. The provisions of this Chapter shall apply to such area and from such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.

Power to apply provisions of this Chapter.

75-B. (1) If the Executive Engineer considers it expedient or necessary in the interests of the general public that any permanent holder or occupier of irrigable land in a chak should construct or dig a field channel either singly or jointly with other holders or occupiers of such land, he may by a notice, call upon the permanent holders or occupiers concerned to show cause by a date not earlier than three weeks after the date of the issue of the notice to be specified therein as to why they should not be required to undertake the work specified in the notice.

Power to require permanent holders and occupiers to construct or dig field channels.

(2) The notice under sub-section (1) shall state the place where the plans and specifications of the works as approved by the Executive Engineer may be inspected and shall be in such form as may be prescribed.

(3) Any permanent holder or occupier on whom a notice is served under sub-section (1), may—

- (i) prefer an objection in writing before the date specified in the notice;
- (ii) if he desires to be heard in person, appear before the Executive Engineer on such date;
- (iii) state, whether he would execute the work himself or would prefer it to be executed at his cost by the State Government.

(4) The Executive Engineer shall, after considering the objections that may be received, hearing the persons as may appear before him, and such further enquiry as he may deem necessary, pass orders specifying therein—

- (i) the nature of the work to be undertaken,
- (ii) the names of the permanent holders or occupiers required to undertake the work;
- (iii) the period within which the work should be completed:

Provided that where not less than half of the permanent holders and occupiers on whom a notice is served under sub-section (1) have expressed their willingness for the work being undertaken at their cost by the State Government, the Executive Engineer may undertake the work and if so, the order shall state accordingly.

## THE MADHYA PRADESH IRRIGATION ACT, 1931

(5) A copy of the order under sub-section (4) shall be served upon every permanent holder or occupier to whom it relates and shall be published in such other manner as the Executive Engineer may deem fit.

(6) Any person aggrieved by the order of the Executive Engineer may prefer an appeal to the Collector within 30 days from the date of the order and the provisions of sub-sections (4) and (6) of section 23 shall apply to such appeals. Subject to the decision in the appeal, the order of the Executive Engineer under sub-section (4) shall be final.

(7) No appeal under sub-section (6) shall require to be stamped.

Apportionment and recovery of expenses where work undertaken by Executive Engineer.

75-C. Where the work is undertaken by the Executive Engineer in pursuance of the proviso to sub-section (4) of section 75-B he shall apportion and recover the expenses incurred in the execution of the work in the manner laid down in subsection (4) of section 75-D.

Permanent holder or occupier to comply with the order of Executive Engineer.

75-D. (1) Unless the Executive Engineer has, in pursuance of the proviso to sub-section (4) of section 75-B, undertaken to execute the work, every permanent holder or occupier who is required to undertake the work under the said subsection shall, subject to orders of the Collector in appeal, if any, undertake and complete the work in accordance with the order as passed by the Executive Engineer.

(2) If out of the permanent holders or occupiers named in the order, the work is undertaken and completed by some of them, they shall on completion of the same report the matter to the Executive Engineer stating therein the total expenses incurred in the execution of the work and the contribution of each towards the expenses so incurred.

(3) On receipt of the report under sub-section (2) the Executive Engineer shall in the prescribed manner, apportion the expenses amongst the persons named in the final order under section 75-B with due regard to the benefit likely to be derived by each of them from the work. If any person fails to pay his contribution towards the expenses as determined by the Executive Engineer, within the time specified in the order, the amount of such contribution shall be recoverable from him as an arrear of canal revenue. The amount so recovered shall be distributed amongst the persons to whom it is due.

(4) If the work is not undertaken or is not completed within the period specified for the completion of such work or is not executed in accordance with the approved plans and specifications, the Executive Engineer may cause the work to be undertaken, completed or properly executed at the expense of the permanent holders or occupiers concerned, and where two or more persons were required so to undertake the work, shall apportion the expenses incurred in doing so among such persons, in such manner as may be prescribed with due regard to the benefit which each of them is likely to derive from the

work. If any person fails to pay his contribution towards the expenses as determined by the Executive Engineer within the time specified in the order, the amount of such contribution shall be recoverable from him as an arrear of canal revenue.

75-E. (1) Every permanent holder and occupier of land receiving supply of water from a field channel constructed in accordance with the provisions of this Chapter shall —

Maintenance of field channels.

- (i) maintain it in a fit state of repairs;
- (ii) allow the use of it to any person entitled to take water therefrom; and
- (iii) construct and maintain all works necessary for the passage across such field channel and for affording proper communications across it for the convenience of the permanent holders and occupiers of the neighbouring land.

(2) If the Executive Engineer finds that any field channel is not maintained in a fit state of repairs of any work required to be constructed or maintained under clause (iii) of sub-section (1) is not so constructed or maintained, he may, after such notice as may be prescribed to the permanent holder and occupier concerned, cause the field channel to be repaired or other works to be constructed or maintained at the cost of such permanent holder and occupier.

(3) The expenses incurred by the Executive Engineer under sub-section (2) shall be recoverable as an arrear of canal revenue from the permanent holders or occupiers required to construct or dig field channel under section 75-B in such proportion as the Executive Engineer may determine, in accordance with rules framed under this Chapter.

75-F. (1) No person shall, except in accordance with such rules as may be prescribed, do anything which obstructs or interferes or is likely to obstruct or interfere with the flow of water in any field channel.

Obstruction or interference with water flow in field channel prohibited in certain cases.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

75-G. (1) No suit or other legal proceedings shall lie against the Government, at the instance of any person—

Bar of suits and proceedings.

(a) in respect of any act done or purporting to be done under this Chapter; or

(b) on the ground that any field channel interferes or is likely to interfere with his rights in any manner.

(2) No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for any—

thing which is in good faith done or intended to be done in pursuance of the provisions of this Chapter or any rule made thereunder.

Power to make rules.

75-H. The Government may make rules to carry out the purposes of this Chapter.]

## CHAPTER IX

### CONSTRUCTION AND MAINTENANCE OF PRIVATE IRRIGATION WORKS

Power to make grants or loans for construction of private irrigation works.

76. Subject to rules made under this Act, the State Government may make a grant or loan of money to a permanent holder towards the cost of the construction or improvement of a private irrigation work.

Grant of permission to permanent holder to construct dam, etc. in any river, natural stream, etc.

[ 76-A. (1) Any permanent holder desiring to construct a dam or any other work of a similar nature in any river, natural stream, natural drainage channel, natural lake or other natural collection of water as part of a private irrigation work or a grant-in-aid irrigation work, may apply in writing in the prescribed form to the State Government through the [Collector]<sup>2</sup> for permission to construct such dam or work

(2) If, after making such inquiry as the [Collector]<sup>2</sup> thinks fit, he is satisfied that the application is in order, he shall cause public notice of such application to be given at convenient places in the village and to be published in such newspapers as he considers necessary.

(3) Such notice shall state the prescribed particulars and shall require all persons having interest in such waters to appear personally or by agent before the [Collector]<sup>2</sup> at a time and place therein mentioned (such time not being earlier than thirty days after the date of publication of notice), and to state the nature of the respective interests in the waters in respect of which permission is sought and objections, if any. The [Collector]<sup>2</sup> may, in any case, require such statements to be made in writing and signed by the party or his agent.

(4) On the day so fixed, or on any other day to which the inquiry may be adjourned, the [Collector]<sup>2</sup> shall enquire in to the respective interests of the persons who appear before him and the objections made to the grant of permission, if any.

(5) After completing such inquiry, the [Collector]<sup>2</sup> shall forward to the State Government the application together with the papers of the inquiry and his report. The State Government may, thereupon, either refuse the application or grant the necessary permission in the prescribed form subject to such conditions, as it may deem fit, including the condition, where necessary, regarding payment to the person who in the opin-

1 Ins by C. P. and Berar Act 50 of 1949, S.2.

2 Subs. by M P. A.O. 1956 for "Deputy Commissioner".

ion of the State Government is entitled to it, for the water likely to be appropriated by the permanent holder at a rate not exceeding the rate which the permanent holder would have been required to pay if the same quantity of water had in similar circumstances been given to the permanent holder from any canal maintained by Government.

(6) The decision of the State Government, granting or refusing such application or imposing conditions including the condition regarding the rate at which payment for water likely to be appropriated by the permanent holder is to be made shall be final and conclusive.

(7) Where the State Government decides to impose a condition regarding payment for the water likely to be appropriated by the permanent holder, the payment of the amount fixed under such condition to the person declared by the State Government to be entitled to it shall be a full discharge of the State Government and the permanent holder from all liability in respect of such payment, but shall not prejudice any rights in respect of the right to receive such payment to which any other person may be entitled by due process of law to enforce against the person to whom payment is made as aforesaid.

(8) Any sum payable under any condition attached to the permission under this section which remains unpaid on the day following the date fixed in that behalf shall be recoverable as arrears of land revenue.

(9) No claim for compensation shall lie against the [Government]<sup>1</sup> in respect of anything done by the State Government under this section and no claim for compensation shall lie against the permanent holder in respect of any action taken in accordance with the permission received by him except as provided in sub-section (5) of section 90.]

77. Where any grant-in-aid irrigation work has been constructed or improved by or on behalf of a permanent holder he and his representatives-in-interest shall, in accordance with rules made under this Act, keep such work fit for the purpose for which it was constructed or improved. If such work is at any time or in any manner rendered unfit or appears likely to be rendered unfit for such purpose, the permanent holder or his representatives-in-interest shall at once report the matter to the Executive Engineer and shall carry out such repairs as the [Collector]<sup>2</sup>, on consideration of the Executive Engineer's report, may prescribe. If the permanent holder or his representatives-in-interest fails to make such a report or to comply with the [Collector's]<sup>2</sup> order within such time as the [Collector]<sup>2</sup> may specify, the grant received from [the State Government]<sup>3</sup> for that work may be recovered from the permanent holder or his representatives-in-interest in such instalments and with such interest as may have been agreed upon between the

Power to enforce maintenance of grant-in-aid irrigation works.

1. Subs. by A.O. 1950, for "Crown"

2. Sud. by M.P. A.O. 1956 for "Deputy Commissioner".

3. Subs. by A.O. 1937, for "Government"

permanent holder and [the State Government]<sup>1</sup> at the time when such grant was received by him. Any sum so due which remains unpaid after the date fixed for its repayment shall be recoverable as an arrear of land revenue.

Applications for acquisitions of land for grant-in-aid irrigation works.

78. Any permanent holder who desires to construct a private irrigation work, towards the construction of which [the State Government]<sup>1</sup> has sanctioned a grant or loan of money, and to acquire for such purpose the land of another may apply in writing to [the State Government]<sup>1</sup> through the [Collector]<sup>2</sup>, stating—

(a) that he has endeavoured unsuccessfully to acquire the land; and

(b) that he desires the [Collector]<sup>2</sup>, on his behalf and at his cost, to acquire the land for him under this Act.

Demarcation of land required for grant-in-aid irrigation works and estimate of cost.

79. (1) If the [Collector]<sup>2</sup>, after making such inquiry as may be prescribed by rules under this Act, considers that the application should be granted, he shall require the applicant to deposit, within such time as the [Collector]<sup>2</sup> may specify, the estimated cost of the demarcation of the land which in his opinion it will be necessary to occupy for the construction of the work, and, when such deposit has been made, the [Collector]<sup>2</sup> shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

(2) If such deposit is not made within the specified time the [Collector]<sup>2</sup> may dismiss the application.

Power of State Government to direct acquisition of land for grant-in-aid irrigation works.

80. The [Collector]<sup>2</sup> shall report the result of his inquiry to the State Government which may, on receipt of such report, either refuse the application or direct that the land demarcated be acquired by the [Collector].<sup>2</sup>

Acquisition of land for grant-in-aid irrigation works.

81. If the State Government directs acquisition of the land, the [Collector]<sup>2</sup> shall proceed to acquire the land under the Land Acquisition Act, 1894 (1 of 1894) as if the State Government had directed the Collector to take order for the acquisition of the land under section<sup>7</sup> of that Act.

Applications for acquisition of land for private irrigation works.

82. Any permanent holder who desires to construct a private irrigation work for which no grant or loan has been sanctioned by [the State Government]<sup>1</sup> and to acquire for such purpose the land of another person may apply in writing to the State Government through the [Collector]<sup>2</sup>, stating—

(a) that he has endeavoured unsuccessfully to acquire land;

(b) that he desires the [Collector]<sup>2</sup>, on his behalf and at his cost, to acquire the land for him under this Act;

1. Subs. by A. O. 1937, for "Government"

2. Subs. by M.P. A. O. 1656, for "Deputy Commissioner".

- (c) that he is willing and in a position to deposit, when required, all costs involved in the acquisition of the land; and
- d) that he is in the position to meet the cost of construction of the work he desires to undertake.

83. (1) The [Collector]<sup>1</sup> shall, thereupon, fix a date (of which the person to whom the land belongs shall receive not less than a month's notice) for holding an inquiry and shall publish a notice of the application and the date fixed for the inquiry in the village or villages concerned.

Inquiry to be made by [Collector]<sup>1</sup>

(2) At such inquiry the [Collector]<sup>1</sup> shall determine—

- (a) whether the proposed improvement is of sufficient importance to justify action under this Act;
- (b) whether the most suitable situation or alignment for the proposed work necessitates the acquisition of the land;
- (c) whether the execution of the work is likely to cause damage to land belonging to other permanent holders, and whether any such land should be acquired;
- (d) whether the statements in the application mentioned in section 82 are true; and
- (e) generally, whether the application should be granted.

84 (1) If the [Collector]<sup>1</sup> considers that the application should be granted he shall require the applicant to deposit, within such time as the [Collector]<sup>1</sup> may specify, the estimated cost of demarcation of the land which in his opinion it will be necessary to occupy for the construction of the work, and, when such deposit has been made, the [Collector]<sup>1</sup> shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

Demarcation of land required for private irrigation works and estimate of cost.

(2) If such deposit is not made within the specified time the [Collector]<sup>1</sup> may dismiss the application.

85. The [Collector]<sup>1</sup> shall report the result of his inquiry to the State Government which may, on receipt of such report, either refuse the application or direct that the land demarcated be acquired by the [Collector].<sup>1</sup>

Power of State Government to direct acquisition of land for private irrigation works.

86. (1) If the State Government directs acquisition of the land, [Collector]<sup>1</sup> shall require the applicant to deposit, within such time as the [Collector]<sup>1</sup> may specify, the cost of acquisition as estimated under section 82, and when such deposit has been made, shall proceed to acquire the land under the Land Acquisition Act 1894 (1 of 1894) as if the State Government had

Acquisition of land for the private irrigation works.

1. Subs. by M. P. A. O. 1956, for "Deputy Commissioner".

directed the Collector to take order for the acquisition of the land under section 7 of that Act.

(2) If such deposit is not made within the specified time the [Collector]<sup>1</sup> may, if he thinks fit, take no further proceedings.

Conditions of delivery of occupation to applicant

87. (1) If the final cost of acquisition is less than the amount deposited by the applicant under section 86, the balance shall be returned to him, but if it is greater, he shall be required to deposit the deficit within a time to be specified by the [Collector]<sup>1</sup>. If the applicant fails to do so, the [Collector]<sup>1</sup> shall quash all proceedings hitherto taken and return the amount deposited under section 86 after deducting a tenth part thereof or the actual expenditure already incurred, whichever is greater.

(2) When the final cost of acquisition does not exceed the amount deposited by the applicant under section 86, or when the deficit in the said amount has been duly deposited by the applicant under sub-section (1), he shall be placed in occupation of the land acquired.

(3) Thereafter the applicant and his representatives-in-interest shall construct and maintain, to the satisfaction of the [Collector]<sup>1</sup>, all works which, in the opinion of the [Collector], are required for the passage of water or traffic across the aforesaid land of water-courses existing previous to the construction of the work for which such land was acquired, and of drainage intercepted by such work, and for affording proper communications across it for the convenience of the neighbouring lands.

Delegation of powers by State Government.

88. The State Government may delegate any of its powers under this Chapter to the Commissioner, in which case references to the State Government shall be construed as references to the Commissioner.

Result of applicant's failure to construct work or comply with conditions.

89. (1) If an applicant or his representative-in-interest fails-

(a) to construct the work for the purpose for which the land has been acquired under this Act, or

(b) to construct and maintain the necessary works in accordance with the conditions stated in sub-section (3) of section 87 to the satisfaction of the [Collector]<sup>1</sup>,

within a time to be specified by the [Collector]<sup>1</sup> within such or further time as the [Collector]<sup>1</sup> may from time to time allow, the person who owned the land at the date of acquisition or his representatives-in-interest may, within one year of the expiry of the period mentioned above, claim in the court of the [Collector]<sup>1</sup> the return of the land on payment of the compensation paid to him after deduction therefrom of the amount paid under sub-section (2) of section 23 of the Land Acquisition Act, 1894 (<sup>1</sup> of 1894) and any other sum which may be awarded by the [Collector]<sup>1</sup> for depreciation in the value of the land subsequent to acquisition.

1. Subs. by M.P. A.O. 1956, for "Deputy Commissioner".

(2) An order of the [Collector]<sup>1</sup> for the return of the land shall operate to re-vest the land in the person to whom it belonged before the acquisition or in his representative-in-interest, as the case may be, subject to all the rights of other persons existing at the time of acquisition.

[89-A. (1) Any permanent holder of irrigable or wet land desiring to have the right of supply of water through a private water-course of another person passing through or by the side of or within easy reach of such land may apply to the Collector.

Acquisition of the right of supply through an existing private water-course.

(2) If the applicant undertakes to defray all costs involved in acquiring such right and to share the expenses made by the owner in the construction of the water-course, the Collector shall serve a notice on the owner to show cause why the right should not be granted.

(3) If the owner of the water-course raises no objection, the Collector may declare the applicant to be the joint holder of the water-course on such conditions as to the payment of cost, compensation or otherwise as may appear to him equitable.

89-B. (1) Subject to rules made under the Act, a permanent holder of irrigable or wet land in a village or chak may construct on his land a private water-course.

Construction of a private water-course.

(2) Every permanent holder desiring to construct a private water-course shall, before undertaking the construction thereof, make an application in writing to the Executive Engineer clearly disclosing therein the details of the proposed water-course including its alignment, the land which is sought to be irrigated and such other particulars as may be prescribed.

(3) On receipt of the application, the Executive Engineer shall, after making or causing to be made such enquiry, as he deems fit, lay down the specification for the construction of the private water-course and give such other directions in relation thereto as he may consider necessary.

(4) Every private water-course shall be constructed in accordance with the specifications and directions given under sub-section (3).

(5) No private water-course shall be used for the supply of water from a canal for irrigation purposes unless it has been constructed in accordance with the specifications and directions given under sub-section (3).

89-C. (1) Any permanent holder or occupier in a wet or irrigable area may apply to the Executive Engineer for supply of water from a canal.

Occasional supply of water through private water-course.

(2) If it appears expedient that such supply should be given and that it should be conveyed through an existing private water-course, the Executive Engineer shall give notice to owner of

<sup>1</sup> Subs. by M. P. A. O. 1956, for "Deputy Commissioner."

## THE MADHYA PRADESH IRRIGATION ACT, 1931

the water-course to show cause on a day not more than 14 days from the date of such notice why the said supply should not be so conveyed.

(3) On the day fixed, the Executive Engineer shall after hearing the owner if present and making such enquiry, as he thinks fit, determine whether and on what conditions the said supply should be conveyed through the water-course.

(4) Any person aggrieved by the decision of the Executive Engineer under sub-section (3), may, before the expiry of thirty days from such decision, prefer an appeal to the Superintending Engineer and subject to the result of such appeal, if any, the decision of the Executive Engineer shall be final.

(5) Such applicant shall not be entitled to use the water-course until he has paid the cost of any alteration of the water-course required for making the supply available through it and such charges for use of the water-course as the Executive Engineer may determine.

(6) The applicant shall also be liable to maintain the water-course so long as he uses it.

89-D. (1) Every permanent holder owning or using private water-course, shall—

- (a) construct and maintain to the satisfaction of the Executive Engineer all works which, in the opinion of the Executive Engineer, are required for the passage of water or traffic across the aforesaid private water-course or of water-course existing previous to its construction and of drainage intercepted by such private water-course, and for affording proper communication across it for the convenience of the neighbouring lands ;
- (b) maintain the water-course in proper repair so long as it is in an area under an agreement or in a compulsorily assessed area; and
- (c) allow its use in the manner and to the extent provided by section 89-C.

(2) If at any time the Executive Engineer considers in respect of a water course referred to in sub-section (1) that the works mentioned in clause (a) of the sub-section have not been constructed or maintained or that the water-course is not in proper repair as required by clause (b) thereof—

- (a) he may, by a notice served upon the persons liable under sub-section (1), require that the construction or repairs be made to his satisfaction on or before a specified date; and
- (b) if the construction or repairs are not made to his satisfaction by such date, he may stop the supply of water to the water-course; or

Obligation of person owning or using private water-course.

- (c) he may cause the construction and repairs to be made and may collect a sum not exceeding twice the cost thereof from the permanent holders owning or using the water-course in proportion to the areas held by them in the land which is ordinary irrigated through the water-course.

89-E. Provisions of section 89-A, 89-B, 89-C and 89-D shall, in the first instance, apply to the Madhya Bharat and the Vindhya Pradesh regions, and the State Government may, from time to time, by notification extend their application to such other areas as it may deem fit.]<sup>1</sup>

Application of sections 89-A to 89-D.

90. (1) No claim for compensation shall lie against any permanent holder for any damage arising from—

Compensation for damage.

- (a) the stoppage or diminution of the percolation or flow of water; or
- (b) the deterioration of climate or soil; or
- (c) the stoppage of navigation, or of the means of drifting timber or watering cattle:

Provided that compensation shall be payable where, as a result of the construction of a private irrigation work,—

- (i) the rent or revenue of any land has been reduced, or
- (ii) the supply of water to or from a tank or other constructed work has been diminished.

(2) Claims under this section may be enforced by application made to the [Collector]<sup>2</sup> within one year from the reduction of the rent or revenue or from the diminution of the supply.

(3) Any person aggrieved by the decision of the [Collector]<sup>2</sup> under sub-section (2) may, within six months from the date of such decision, institute a suit in a civil court to have such decision set aside or modified.

Power to make rules.

91. In addition to any rules for which provision is made in this Chapter, rules may be made under this Act prescribing—

- (a) the conditions on which grants or loans of money may be made under section 76;
- (b) the manner in which Government may enforce the proper construction and maintenance of grant-in-aid irrigation works;
- (c) the circumstances in which applications under section 78 or 80 may be granted; and
- (d) the procedure in any inquiry or proceeding under this Chapter;

[(e) the circumstances in which and the conditions subject to which applications under section 89-B may be made]<sup>1</sup>

1. Ins. by M. P. Act 23 of 1958, S 3 (3) part A, Sch., item 26.

2. Subs. by M. P. A. O. 1956. for "Deputy Commissioner"

## [CHAPTER IX-A]

## REQUISITIONING OF TANKS, ETC.

Commencement of Chapter.

91-A. This Chapter shall be deemed to have come into force on the 27th February, 1948 and shall remain in operation for a period of [ten years]<sup>2</sup> from that date.

Requisitioning of tanks, etc.

91-B. (1) Whenever it appears to the State Government that it is necessary so to do for the purpose of providing better facilities for irrigation of land in the proximity of any tank not being the property of the [Government]<sup>3</sup>, it may, by order published in the Gazette, requisition such tank and any canal or water-course or other construction connected therewith. Every such order shall contain sufficient particulars of the property to be requisitioned.

(2) From the date of the publication of the said order such property shall be at the disposal of the State Government. The State Government may thereafter use such property as a canal system from such date as may be notified.

(3) The State Government may declare any part of land commanded by the tank comprised in the requisitioned property as a compulsorily assessed area in the manner provided in section 12-A and thereupon all provisions of this Act applicable to compulsorily assessed area shall apply to all such lands :

Provided that no water-rate shall be payable by the owner of the tank in respect of any parcel of land of which he is a permanent holder and which was being irrigated from the tank on the 27th February, 1948.

Payment of compensation.

91-C. (1) Whenever pursuance of sub-section (1) of section 91-B any property is requisitioned, there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the State Government shall appoint as arbitrator the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the requisitioned property is situate;
- (c) no compensation shall be payable to any person, other than a person who, in the opinion of the State Government or the arbitrator, owns or has an interest in the tank requisitioned;
- (d) during the period the tank remains under requisition, the amount of compensation payable annually to the

1. Ins. by C. P. and Berar Act 19 of 1948. S. 2.

2. Subs. by M. P. Act 1 of 1953, S. 2, for "five years"

3. Subs. by A. O, 1950 for "Crown".

person owning or having an interest in such tank shall not exceed the average annual income of such person during the three years immediately preceding the requisition calculated after deducting the expenditure incurred on the maintenance of such tank from—

- (i) irrigation dues;
- (ii) use of the tank for growing Singhara, fishing or any other purpose of like nature whether by the person aforesaid himself or his lessee;
- (iii) sale of grass from the embankment of the tank.

(2) The decision of the arbitrator in an arbitration proceeding under this section shall be final and conclusive and save as provided in this section nothing in any law for the time being in force shall apply to an arbitration under this section.

(3) The payment of compensation under this section to the person, who, in the opinion of the State Government or the arbitrator as the case may be, owns or has an interest in the tank requisitioned shall be a full discharge of the State Government from all liability in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

91-D. (1) There shall be prepared a list of all land commanded by a tank requisitioned under sub-section (1) of Section 91-B as soon after its requisition as possible.

Preparation of list of all land commanded by a tank.

(2) Every such list shall show the name of the occupier of each parcel of land and whether water was being given to him for the irrigation of his land from the requisitioned tank and the water-rate paid by him, if any, to the owner of the tank.

(3) Every such list shall be published in the manner laid down by rules made under this Chapter and thereupon such list shall be conclusive record of the facts stated therein.

91-E. (1) Where any requisitioned property is to be released from the requisition, the State Government may, after making such inquiry, if any, as may be considered necessary, specify by order in writing the person to whom possession of the property shall be given.

Release from requisition.

(2) The delivery of possession of the property as aforesaid to the person specified in an order made under sub-section (1) shall be a full discharge of the State Government from all liability in respect of such delivery but shall not prejudice any rights in respect of the property to which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any requisitioned property is to be given cannot be found and has no agent or

other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the property and publish the notice in the Gazette.

(4) When a notice referred to in sub-section (3) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

Power to acquire requisitioned property.

91-F. (1) Subject to the provisions of sub-section (3) the State Government may at any time when any requisitioned property continues to be subject to requisition under sub-section (1) of section 91-B acquire such property by publishing in the Gazette a notice to the effect that the Government has decided to acquire such property in pursuance of this section.

(2) When a notice as aforesaid is published in the Gazette the requisitioned property shall on and from the beginning of the day on which the notice is so published vest absolutely in the State Government free from all encumbrances and the period of requisition of such property shall end.

(3) No requisitioned property shall be acquired under this section except in the following circumstances, namely:—

(a) where any canals, water-courses or other works connected with such tank have during the period of requisition been constructed wholly or partly at the expenses of the State Government and the State Government decides that the value of, or the right to use, such canals, water-courses or works should be preserved or secured for the purposes of the State Government or the owner declines to reimburse the State Government the expenditure incurred on the construction of such canals, water-courses or works or any improvement made to the tank; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the State Government, be excessive, having regard to the value of the property at that time, and the owner declines to accept the release from requisition of the property without payment of further compensation from the State Government.

(4) Any decision or determination of the State Government under sub-section (3) shall be final, and shall not be called in question in any Court

(5) In respect of any acquisition of requisitioned property, the amount of compensation payable shall be ten times the amount of compensation fixed under section 91-C or a sum equal to the market value of the requisitioned property on the date of notice under sub-section (1) whichever is less; and such amount shall be determined and paid in accordance with the provisions contained in clause (a) or clause (b) of sub-section (1) and sub-section (2) of section 91-C.

(6) The payment of compensation under this section to the person who in the opinion of the State Government or the arbitrator as the case may be, owns or has an interest in the tank acquired shall be a full discharge of the State Government from all liability in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

*Explanation.*—For the purposes of clause (a) of sub-section (3) “works” includes any building, construction, improvements of every description and planting of any mechanical contrivance designed to lift water from a tank.

91-G. A claim for compensation payable under this Act, shall lie against the [Government]<sup>1</sup> if it is not preferred within a period of two years from the date on which a tank is requisitioned or acquired. Limitation for claims against the Government

91-H. (1) If any difficulty arises in giving effect to the provisions of this Chapter the State Government may by an order published in the Gazette amend any provision of this Act other than that contained in this Chapter for the purpose of removing the difficulty. Power to remove difficulty.

(2) Any amendment made by an order published under sub-section (1) shall have effect as if enacted in this Act.

91-I. (1) The State Government may by notification make such rules as appear to it to be necessary or expedient for carrying out the provisions of this Chapter. Rules.

(2) In particular and without prejudice to the generality of the forgoing power such rules may provide for the following matters, namely :—

(i) the procedure to be followed in arbitrations under section 91-C;

(ii) the principles to be followed in apportioning the cost of proceeding before the arbitrator.

91-J. The State Government may by notification delegate all or any of its powers under this Chapter, except the powers specified in sections 91-H and 91-I to any authority which it thinks fit. Delegation of power.

91-K. For the purposes of this Chapter—

(i) the definition of canal in section 3 shall be construed as if for the words “by the State Government” occurring in clause (a) of that section, the words “whether by the State Government or any other person” had been substituted therein; Interpretation.

(ii) the expression “requisitioned property” means “property requisitioned under sub-section (1) of section 91-B”.

1. Sub. by A. O. 1950, for “Crown.”

[CHAPTER IX-B \*\*\*]<sup>1</sup>

## CHAPTER X

*RULES, OFFENCES AND REPEALS*

General provisions  
regarding rules.

92. (1) All rules for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act.

(2) A rule may be general for all canal systems or for all canal systems not expressly exempted from its operation, or may be special for the whole or any part of one or more canal systems, as the State Government may direct.

(3) Except the rules provided for in sections 21 and 22 [and Chapter VIII-A]<sup>2</sup> all rules shall be subject to the condition of previous publication.

[(4) \* \* \* \* ]<sup>3</sup>

[(5) In making any rule the State Government may direct that a breach thereof shall be punishable with fine which may extend to two hundred and fifty rupees, and where the breach is continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.]<sup>4</sup>

[(6) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or to any one of them.

(7) All rules made under this Act shall be laid on the table of the Legislative Assembly.]<sup>5</sup>

Power to make rules.

93. In addition to any power specially conferred by this Act, the State Government may make rules—

(a) prescribing the manner in which irrigation panchayats shall be constituted and dissolved, conferring on them further powers and allotting to them further duties, regulating their procedure, and providing for their remuneration;

[(a-1) regulating the control and distribution of irrigation beyond the outlet, prescribing the authority controlling and distributing such irrigation and providing for all matters connected with such control and distribution including the levy and recovery of charges for the purpose of remunerating such authority;]<sup>6</sup>

(b) prescribing the rates at which dietmoney shall be paid to persons required to attend an inquiry under this Act; and

(c) generally, for the purpose of carrying into effect the provisions of this Act.

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1. Omitted by M. P. A. O. 1956
  2. Ins. by M. P. Act 23 of 1960, S. 6.
  3. Omitted by M. P. Act 56 of 1976, S. 2 (a).
  4. Subs. by M. P. Act 43 of 1973, S. 10.
  5. Ins. by M. P. Act 56 of 1976, S. 2 (b)
  6. Ins. by C. P. and Berar Act 55 of 1948, S. 8.

[94. Whoever, without proper authority, does any of the following acts, that is to say—

Offences and penalties.

- (a) damages, alters, enlarges or obstructs any canal;
- (b) interferes with, increases, or diminishes the supply of water in, or the flow of water from through, over or under, any canal;
- (c) interferes with or alters the flow of water in any river or stream, so as to endanger damage or render less useful any canal;
- (d) being responsible for the maintenance of a water course, or using water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (e) receiving water in his fields for irrigations, neglects to take proper precautions for the prevention of waste of such water;
- (f) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (g) being a permanent holder, occupier, cultivator or agricultural labourer, resident in a village in which a proclamation under section 36 has been made, neglects to attend at the place appointed or refuses or neglects to carry out the duties allotted to him;
- (h) destroys, injures, defaces or removes any land-mark, level-mark, water-gauge or other apparatus fixed by the authority of a canal officer;
- (i) causes animals or vehicles to pass on or across any of the works, banks or channels or any canal after such passage has been prohibited by a canal officer;
- (j) causes or knowingly and wilfully permits animals to graze or be tethered upon the bank or border of any canal after such grazing or tethering has been prohibited by a canal officer;
- (k) removes or injures any tree, bush, grass or other vegetation growing on any canal; or
- (l) cases himself on the banks or in the channel of a canal;

shall on complaint made by a canal officer—

- (i) be punishable in respect of offences mentioned in clauses (a) to (h), with imprisonment which may extend to six months or with fine which may

extend to one thousand rupees or with both, and when the offence is a continuing one, with an additional fine not exceeding twenty rupees for every day after the first during which the offence has been persisted in; and

- (ii) be punishable in respect of offences mentioned in clauses (i) to (l) with fine which may extend to one hundred rupees and if the same person is subsequently convicted for a like offence he shall be liable for imprisonment which may extend to one month for each such subsequent conviction.]<sup>1</sup>

Compensation to private persons

95. Whenever any magistrate imposes a fine upon any person for an offence under this Act, he may direct that the whole or any part of such fine shall be paid by way of compensation to any person injured by such offence.

Power to order repairs to be done.

96. When any person is convicted of an offence under section 94, or of the offence of mischief under the Indian Penal Code in relation to any canal, the court may order him to remove the obstruction or repair the damage or replace or repair the landmark, level-mark water-gauge or apparatus, in respect of which the offence was committed, within a period to be fixed in such order; and, if such person neglects or refuses to obey such order within the period so fixed, the Executive Engineer may carry out the work in accordance with such order, and the cost thereof shall be recoverable from such person by the [Collector]<sup>2</sup> as arrears of land-revenue.

Power to remove person causing mischief.

97. Any canal officer or canal subordinate may remove or cause to be removed from any Canal any person who in his view, commits or is about to commit any of the offences mentioned in clause (a), (b), (c), (h) or (l) of section 94.

Power to arrest person causing mischief.

98. (1) Any canal officer or canal subordinate may take into custody without warrant any person who in his view commits any of the offences mentioned in clause (a), (b), or (c) of section 94, and shall forthwith release him on bail, or, if he fails to furnish bail, take him, or cause him to be taken, to the nearest magistrate having jurisdiction to try the offence:

Provided that if there be no such magistrate within a distance of five miles, the canal officer or canal subordinate making the arrest shall take the offender, or cause him to be taken, to the nearest police station, and the officer-in-charge of such police station may cause him to be taken before the nearest magistrate having jurisdiction to try the offence, or may take sufficient security for his appearance before such magistrate.

(2) The custody of any person to whom an offender may be made over under sub-section (1) shall be deemed to be lawful custody.

1. Subs. by M. P. Act 42 of 1973, S. 11

2. Subs. by M. P. A. O. 1956, for "Deputy Commissioner"

99. [(1) Any canal officer may accept from any person, against whom a reasonable suspicion exists that he has committed an offence punishable under this act or the rules made thereunder a sum of money not exceeding two hundred and fifty rupees, for composition of such offence.]<sup>1</sup>

Composition of offences

(2) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence so compounded.

(3) Rules may be made under this Act regulating the procedure of canal officers in compounding offences.

100. (1) The Northern India Canal and Drainage Act, 1873 (8 of 1873) is hereby repealed in its application to the [Madhya Pradesh].<sup>2</sup>

Repeals and savings.

(2) The Central Provinces Canal Management Act, 1919 (1 of 1919) and the Central Provinces Canal Management (Amendment) Act, 1923 (4 of 1923) are hereby repealed.

(3) But charges created, powers vested, rules, orders, appointments, agreements and contracts made, and suits instituted and proceedings taken under any of the said Acts shall, as far as may be, be deemed to have been respectively duly created, vested, made, instituted and taken under this Act.

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1. Subs. by M. P. Act 42 of 1973, S. 12

2. Subs. by A- O. 1950, for "Central Provinces and Berar".