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EXTRAORDINARY

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DRAFT ORDINANCES.

MINUTE.

The following Draft of a proposed Ordinance is published for general information:—

An Ordinance to amend and consolidate the law relating to Irrigation.

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L. D.—O. 109/38.

An Ordinance to amend and consolidate the law relating to Irrigation.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows:—

1. This Ordinance may be cited as the Irrigation Ordinance, No. of 1944, and shall come into operation on such date as the Governor may appoint by Proclamation published in the *Gazette*.

Short title
and date of
operation.

PART I.

Irrigation Rates.

2. (1) An irrigation rate under this Ordinance, with reference to any land to which it relates, is a charge in favour of the Crown imposed upon the land in respect of water supplied, or to be supplied to such land or in respect of the cost of or incidental to, the construction or maintenance of any major irrigation work benefiting or intending to benefit, such land, or of all or any of such matters in combination.

Irrigation
rates.

(2) Any charge referred to in sub-section (1) may be imposed—

- (a) by the instrument under which the land is granted, leased, held, or occupied at the time of such grant or lease, or the commencement of such tenancy or occupation; or
- (b) by express agreement between the Crown and the owner, lessee, tenant, or occupier of the land; or
- (c) by resolution of the majority of the proprietors of the irrigable area or tract in which the land is comprised, in pursuance of and subject to, the provisions of this Ordinance; or
- (d) by any other method by which under any special provision of this Ordinance an irrigation rate may be imposed.

(3) Any charge referred to in sub-section (1) may be either in perpetuity or for a limited period, or in the case of a lease, tenancy, or occupancy, for the term of such lease, tenancy, or occupancy, and may be either conditional or unconditional, and may be either for a fixed amount, or may be subject to estimate, measurement, or variation in accordance with the provisions of this Ordinance and the terms of the instrument, agreement, resolution, or order by which it is imposed.

(4) Every charge referred to in sub-section (1) shall be binding on the land and every part thereof; and such land and every part thereof, and the proprietors of such land and every part thereof, shall be liable for the payment of the said charge into whosoever hands the ownership, possession, tenancy, or occupancy of such land or any part thereof under any circumstances may at any time pass, until such charge is extinguished, and notwithstanding anything to the contrary in any written law other than this Ordinance, such charge shall have priority over all mortgages, hypothecations, incumbrances, and charges whatsoever, whether antecedent in date or otherwise, affecting the land.

PART II.

District Agricultural Committees.

Constitution of District Agricultural Committees.

3. There shall be constituted in each revenue district a District Agricultural Committee which shall consist of a Chairman, who shall be the Government Agent, and the holders of such other offices and the representatives of such interests as may be prescribed.

Duties of District Agricultural Committees.

4. It shall be the duty of a District Agricultural Committee to advise the Government Agent on all matters affecting or incidental to irrigation and paddy cultivation within the district, and on all other matters relating to agriculture, which the Government Agent may refer to the Committee for advice.

Régulations.

5. (1) Regulations may be made for or in respect of all or any of the following matters:—

- (a) the period during which members of a District Agricultural Committee are to hold office;
- (b) the conduct of business by the Committee;
- (c) the procedure to be followed at meetings of the Committee; and
- (d) any other matter connected with or incidental to the matters specifically mentioned in this sub-section.

(2) Subject to any regulations made under sub-section (1), a District Agricultural Committee may regulate its own procedure.

Advisory Committees.

Election of Advisory Committees.

6. (1) The Government Agent may, in his discretion, summon a meeting of the proprietors within any irrigable area or tract, or of the proprietors of manawari lands situated in any village area, to elect an Advisory Committee for the purpose of advising him upon matters connected with irrigation or paddy cultivation in such irrigable area, tract, or village area.

(2) In any case where owing to the extent of any irrigable area, or tract or village area, the Government Agent considers it inconvenient to summon all the proprietors within such irrigable area, tract or village area to one meeting under sub-section (1), he may divide such irrigable area, tract, or village area, as the case may be, into divisions of convenient size and summon a meeting of the proprietors within each such division.

(3) Where more meetings than one are summoned under sub-section (2) for any irrigable area, tract or village area, the Government Agent shall take steps to ensure that each division elects its proportion of the Committee to make up the number for the entire irrigable area, tract or village area.

Persons entitled to vote at meetings under section 6.

7. At every meeting summoned under section 6, every proprietor within the irrigable area, tract, village area, or division for which the meeting has been summoned shall be entitled to vote.

Members of Advisory Committees.

8. (1) Every Advisory Committee shall consist of such number of persons, not being more than twelve nor less than three, as the Government Agent may in his discretion determine.

(2) Every member of an Advisory Committee shall be elected by a majority of the votes of the proprietors present at the meeting summoned under section 6 for the purpose, and shall hold office for a period of five years.

Filling of vacancies.

9. Where any member of an Advisory Committee dies or resigns his office or neglects or refuses to act, or is convicted of any offence which, in the opinion of the Government Agent, disqualifies such member for holding office, it shall be lawful for the Government Agent to appoint a new member in his stead, and such new member shall hold office for the unexpired portion of the term of office of the member in whose stead he was appointed.

Government Agent to consult Advisory Committee.

10. It shall be the duty of the Government Agent—

- (a) to summon a meeting of the Advisory Committee of each irrigable area, tract or village area and consult such Committee on matters connected with irrigation or cultivation in such irrigable area, tract or village area, three times at least in each year or at such intervals as may be fixed by rules made under Part III, and
- (b) to cause full minutes to be made of the proceedings of all such meetings and to cause such minutes to be kept on record at the Kachcheri.

PART III.

Meetings of Proprietors.

11. (1) At a meeting of the proprietors within any irrigable area or tract, a majority of the proprietors present at such meeting shall have power—

Powers of proprietors within irrigable area or tract.

- (a) to make rules for all or any of the following purposes :—
- (i.) the encouragement, extension, regulation, or management of paddy cultivation or any other form of cultivation which is capable of being assisted by irrigation ;
 - (ii.) the enforcement of established customs affecting such cultivation ;
 - (iii.) the regulation of the powers, duties, remuneration and duration of office of irrigation headmen ;
 - (iv.) the regulation and assessment of the contributions of labour to be made by the proprietors for the purposes of works for the construction or maintenance of which the proprietors are, in whole or in part, responsible, and for the payment of money by way of commutation of the liability to make such contributions ; and
 - (v.) the maintenance, conservation, protection or management of the works referred to in paragraph (iv) ;
- (b) by resolution to approve of any scheme under Part V, or to impose or vary any irrigation rate in pursuance of any such scheme ;
- (c) by resolution to amend or rescind any resolution passed or deemed to be passed under this Ordinance, or to correct any irregularity, informality or defect in any proceeding at any earlier meeting of the proprietors of that area or tract ; and
- (d) to decide upon or otherwise deal with any question arising in connection with or in the operation of any scheme under this Ordinance, or any resolution passed at any meeting of proprietors under this Ordinance or under any previous Irrigation Ordinance, which may be referred to the proprietors by the Minister for Agriculture and Lands.

(2) Rules made under this section may, if the majority of the proprietors so require, include rules making provision for the form of cultivation known as *betma* cultivation.

(3) No rules shall be made under this section for any purpose for which regulations are authorised to be made under section 63.

12. At a meeting of the proprietors of manawari lands situated in any village area, a majority of the proprietors present at such meeting shall have power to make rules for all or any of the following purposes :—

Powers of proprietors of manawari lands.

- (a) the regulation or management of such lands, and the conservation of rain water,
- (b) the enforcement of established customs affecting the cultivation of such lands,
- (c) the regulation of the powers, duties, remuneration and duration of office of irrigation headmen,
- (d) the regulation and assessment of the contributions of labour to be made by the proprietors for the purposes of the cultivation of such lands, and for the payment of money by way of commutation of the liability to make such contributions of labour.

13. Where, owing to the sparseness of the population or the inadequate attendance of the proprietors, no public meeting which in the opinion of the Government Agent is adequately representative of the proprietors within any irrigable area or tract, or of the proprietors of manawari lands within any village area, as the case may be, can be convened or held, the power to make rules accorded to a meeting of the proprietors by section 11 or section 12 may be exercised by the Government Agent in consultation with the District Agricultural Committee for all the purposes specified in those sections except the purposes specified in paragraph (a) (iv) of sub-section (1) of section 11 and paragraph (d) of section 12.

Power of Government Agent to make rules in certain cases.

14. (1) No rule made in pursuance of the provisions of this Part shall have effect until it is approved by the Executive Committee and ratified by the Governor and notification of such approval and ratification is published in the *Gazette*. Every rule shall, upon notification of such approval and ratification in the *Gazette*, be as valid and effectual as if it were herein enacted.

Approval, ratification and publication of rules.

- (2) Where notification of the approval and ratification of any rule is published in the *Gazette* under sub-section (1), the Government Agent shall forthwith cause such rule to be published in the language or languages prevailing in the district in such manner as the Government Agent may in his discretion consider best adapted for bringing the terms and purport of such rule to the notice of the persons affected thereby.
- Approval and ratification of resolutions.**
15. (1) No resolution passed in pursuance of the provisions of this Part shall have effect until—
- (a) in the case of a resolution relating to a minor irrigation work, it is approved by the Executive Committee, and
- (b) in the case of a resolution relating to a major irrigation work, it is approved by the Executive Committee and ratified by the Governor.
- (2) Notice of the fact that any resolution has been approved under paragraph (a) or approved and ratified under paragraph (b) of sub-section (1) shall be given in such manner as may be prescribed.
- Power to appoint a committee to make rules.**
16. (1) A majority of the proprietors present at any meeting summoned for the purpose of making rules under this Part may appoint a committee, of such number as they may determine, to make rules on their behalf.
- (2) All rules made by any committee appointed under sub-section (1) shall be deemed for the purposes of this Ordinance to be rules made by a majority of the proprietors.
- (3) Regulations may be made prescribing the manner in which meetings of a committee appointed under sub-section (1) shall be summoned, and the procedure to be followed at such meetings.
- Register of absent proprietors.**
17. (1) A register shall be kept, at the Kachcheri of every revenue district in which irrigation works are situated, of all proprietors of lands under such irrigation works who are resident outside such district and who may desire to have their names entered in such register.
- (2) Every proprietor referred to in sub-section (1) shall be entitled to have his name and address entered in the register kept under that sub-section, on payment of an annual fee of one rupee.
- Proxies.**
18. (1) Any proprietor may, by proxy in writing, authorise any other person to represent him and to vote on his behalf at any meeting of proprietors held under the provisions of this Ordinance or any rule or regulation made thereunder; and a proprietor who is so represented at any such meeting shall be deemed to be present thereat for the purpose of determining whether the meeting is validly constituted or whether any rule or resolution has been duly passed by a majority of proprietors.
- (2) Every proxy given for the purposes of sub-section (1) shall be signed by the proprietor giving it and shall be attested by two witnesses.
- (3) The Government Agent or other officer presiding at the meeting shall have full power to determine the validity of any proxy presented at any such meeting, and his decision shall be final and conclusive.
- Summoning of meetings.**
19. (1) The Government Agent may of his own motion summon a meeting of the proprietors within any irrigable area or tract or of the proprietors of manawari lands situated in any village area.
- (2) The Government Agent shall, on receipt of a written requisition of the proprietors representing one-fifth or more of the acreage of any irrigable area or tract, or of the manawari lands situated in any village area, summon a meeting of the proprietors of such irrigation area, tract, or lands, as the case may be.
- Notice of meetings.**
20. (1) When any meeting is to be held under the provisions of this Ordinance or any rule or regulation made thereunder, the Government Agent shall cause notice (being the longest notice which, in his opinion, is reasonable in the circumstances) to be given of the time and place of the meeting and its objects.
- (2) The notice referred to in sub-section (1) shall be given by beat of tom-tom or by exhibiting written notices in the language or languages of the district in suitable places within the area or tract or in such other manner as may appear to the Government Agent to be best adapted for giving publicity thereto.
- (3) Where written notices of a meeting are exhibited under sub-section (2), a copy of such notice shall be sent to the Chairman of every village committee constituted within the revenue district in which such meeting is to be held.

(4) Where a person whose name is entered in the register kept under section 17 is entitled to attend any meeting of proprietors held under the provisions of this Ordinance or any rule or regulation made thereunder, the Government Agent shall give notice of such meeting to such person by means of a registered letter directed to the address specified in the register.

21. (1) A meeting which is held under the provisions of this Ordinance or any rule or regulation made thereunder shall not be deemed to be validly constituted unless there are present at least fifty proprietors or proprietors representing one-fifth of the acreage affected by any matter to be discussed at the meeting.

Constitution
of meetings

(2) Where at any meeting held under the provisions of this Ordinance or any rule or regulation made thereunder, the owner or any person representing the owner of any land is present together with any lessee, cultivator or occupier of such land under such owner, or where any lessee of such land is present together with any cultivator or occupier under such lessee, the number of the persons claiming under owners or lessees, as the case may be, or the votes of such persons shall not be reckoned in computing the number of persons present or the number of votes.

22. (1) The Government Agent or a person authorised by him shall preside at every meeting held under the provisions of this Ordinance or any rule or regulation made thereunder. The Government Agent or the person so authorised is hereinafter referred to as the "presiding officer". Full minutes shall be made of the proceedings at every such meeting and shall be signed by the presiding officer and shall be kept on record at the Kachcheri.

Presiding
officer.

(2) If at any meeting held under the provisions of this Ordinance or any rule or regulation made thereunder any question arises as to the right of any person to vote, the presiding officer may then and there decide the question, and his decision shall be entered in the minutes and shall be final and conclusive.

PART IV.

Irrigation Headmen.

23. (1) For the purposes of the election of irrigation headmen, the Government Agent may divide—

Irrigation
headmen's
divisions.

- (a) each irrigable area in his province or any combination of such irrigable areas into divisions, and declare such divisions to be "irrigation divisions";
- (b) any manawari land or any combination of manawari lands in each village area into divisions, and declare such divisions to be "manawari divisions".

(2) Each irrigation division and each manawari division shall be of such size as the Government Agent may deem convenient for the purposes of administration.

24. For each irrigation division and for each manawari division there shall be one or more irrigation headmen whose duty it shall be, subject to the direction and control of the Government Agent—

Irrigation
headmen.

- (a) to attend to all matters connected with the irrigation and cultivation of the lands within that division, and the preservation of rights and the maintenance of irrigation works connected therewith; and
- (b) to prevent, as far as practicable, any act or omission which is contrary to any rules or regulations in force under this Ordinance or to established customs relating to irrigation or cultivation, or whereby damage may be caused to any of the proprietors:

Provided that, notwithstanding anything contained in the preceding provisions of this section, the Government Agent may, if in his opinion it is not advisable to proceed to the election of an irrigation headman for any division, refrain from doing so for such time as the Government Agent may think proper.

25. (1) Every irrigation headman for any irrigation division or for any manawari division shall be elected by a majority of the proprietors within the division at a meeting of such proprietors summoned by the Government Agent for the purpose.

Election or
appointment
of headmen

(2) In any case where no person is elected at any meeting referred to in sub-section (1) for the office of headman, the Government Agent shall himself appoint a person to such office.

(3) No person who has been convicted of any offence which, in the opinion of the Government Agent, disqualifies such person for holding office, shall be eligible to be elected or

appointed a headman, and no person who has been dismissed under section 26 for misconduct or neglect of duty shall be so eligible except with the previous consent of the Government Agent.

Dismissal
of headmen.

26. The Government Agent may at any time dismiss any headman, elected or appointed, or deemed to be elected or appointed, under this Ordinance, who is guilty of any misconduct or neglect of duty, or who is convicted of any offence which, in the opinion of the Government Agent, disqualifies such headman for holding office.

Filling of
vacancies.

27. In the event of any vacancy occurring in the office of irrigation headman in consequence of the death, resignation or dismissal of the holder thereof, or otherwise, the Government Agent shall cause such vacancy to be filled by the election or the appointment of a headman in the manner provided in section 25, and it shall be lawful for the Government Agent to appoint a person to act as headman until the vacancy is so filled.

Discontinuance,
of headmen.

28. If in the opinion of the Government Agent, there has, in any division for which an irrigation headman has been elected or appointed, ceased to be any need for the services of such headman, the Government Agent may summon a meeting of the proprietors within the division for the purpose of deciding the matter, and if the majority of the proprietors within the division decide that such services are not required such headman shall thereupon cease to hold office and to exercise and perform any of the powers and duties conferred or imposed upon irrigation headmen by or under this Ordinance or any rule or regulation made thereunder.

Duties of
headmen.

29. (1) Where in any irrigation division or manawari division any act is committed or any omission made which is contrary to any established custom or any rule or regulation relating to irrigation or cultivation, or whereby damage may be caused to any of the proprietors within any division, the headmen of that division shall, if the act or omission be of such a nature as to call for prompt action to prevent damage, take such steps as may be necessary in the circumstances, and shall forthwith report the matter to the Government Agent.

(2) No action taken by a headman under sub-section (1) shall be deemed to preclude an investigation, under the provisions of Part VIII, into the act or omission in consequence of which such action has been taken.

Mode of
recovering
expenditure
incurred by
headmen

30. (1) Where a headman, acting under section 29, or any officer acting in pursuance of any regulation made under Part VI, incurs any expenditure in the execution of his duty, and the person in consequence of whose act or omission such expenditure was incurred denies his liability to pay the amount incurred, or fails to pay such amount, the Government Agent may, on his being satisfied that such expenditure was properly incurred, and that it is reasonable, sign a certificate setting out the name of the person in consequence of whose act or omission such expenditure was incurred, the amount thereof, the nature of the act or omission, and the name of the headman or officer by whom the expenditure was incurred, and cause such certificate to be delivered to such person.

(2) Where any person to whom a certificate referred to in sub-section (1) has been delivered fails to pay the amount due from him within ten days from the delivery to him of the certificate, the Government Agent may proceed to recover such amount in the manner provided in Part VII.

Payment to
irrigation
headmen.

31. Subject to any rules made under Part III the Government Agent may, in his discretion, award remuneration to irrigation headmen for their services as such, either in kind from the produce of the division for which each such headman is elected or appointed, or in money, and the proprietors within such division shall be liable to make such remuneration, and in case of default in making such remuneration, or in making the remuneration provided by rules under this Ordinance, such remuneration shall be recovered in the manner provided in Part VII.

PART V.

Construction and Maintenance of Irrigation Works.

General Provisions.

Irrigation
schemes.

32. In any case where it is proposed that any irrigation work be constructed, or that any variation be made in the conditions relating to the construction or maintenance of any irrigation work or the supply of water thereunder, or where any other question relating to any irrigation work has to be determined, a scheme for that purpose may be prepared in accordance with the provisions of this Part.

33. A scheme under this Part may provide for all or any of the following matters :—

Scope of irrigation schemes.

(1) In the case of any irrigation work—

- (a) for the construction or maintenance of the irrigation work ;
- (b) for the division of the responsibility for the construction or maintenance of the whole or any part of the irrigation work between the Government and the proprietors ;
- (c) for the variation of the conditions relating to the construction or maintenance of the irrigation work, or the supply of water thereunder, or the variation of any scheme for any of the said purposes ;
- (d) for the division of the irrigable area into tracts, and for the conditions and methods of the distribution of water to such tracts ;
- (e) for the adjustment of the expenses of the maintenance of the irrigation work, in any case in which a scheme involves any extension of the work, between the land comprised in the original irrigable area and the lands comprised in the area rendered irrigable by the effect of the extension ;
- (f) for the abandonment of any irrigation scheme or work ;
- (g) for any other matter which, in the opinion of the Minister for Agriculture and Lands, may be appropriately included in any scheme.

(2) In the case of any major irrigation work—

- (a) for the imposition of any irrigation rate upon the lands irrigable or to be irrigable under any scheme, and for specifying the limit above which any rate so imposed shall not be increased at any subsequent revision ;
- (b) for the levying of contributions in labour upon the proprietors for the purpose of the construction or maintenance of the irrigation work or any part thereof, and for the payment of an irrigation rate by way of commutation of the liability to make such contributions in labour ;
- (c) for the estimation and levying of special irrigation rates in respect of water derived by seepage, mechanical appliances or other special means.

(3) In the case of any minor irrigation work—

- (a) for the assessment of contributions, whether in labour or money, from the several proprietors ;
- (b) for the payment of money by way of commutation of the liability to make such contributions in labour ;
- (c) for the recovery of such contributions.

34. No irrigation rate, nor any contribution whether in money or in labour, shall be imposed or varied by any irrigation scheme unless such scheme has been approved by a resolution of the majority of the proprietors of the irrigable area or tract at a meeting of the proprietors summoned for the purpose by the Government Agent.

No rate to be imposed or varied without approval of proprietors.

35. The expenses incurred in carrying out any operation which is necessary for the maintenance of any irrigation work shall not, except in the case of any operation which is carried out in an emergency and as to which it is not practicable to consult the proprietors, be charged to maintenance expenses without the approval of the majority of the proprietors signified at a meeting of the proprietors summoned for the purpose by the Government Agent.

Expenses of maintenance of irrigation work.

36. No adjustment of the expenses of maintenance of any irrigation work shall be made for the purpose of any irrigation scheme under paragraph (1) (e) of section 33, unless the proprietors of the original irrigable area, at a meeting summoned by the Government Agent for the purpose, have, by a resolution passed by a majority of the proprietors, approved a scheme embodying such adjustment.

Extension of irrigation work.

37. In any case in which any scheme, or any proposal for the imposition or variation of any rate or contribution under any scheme, or any proposal with respect to any other question arising under, or in the course of, the operation of a scheme is to be submitted to a meeting of proprietors, the scheme or proposal to be so submitted shall be published in the language or languages of the district in such manner as may seem to the Government Agent best adapted for bringing the terms and purport of the scheme or proposal to the notice of the persons affected thereby.

Publication of scheme or proposal.

Reference of certain questions to arbitration.

38. Where any question arises with reference to any irrigation work between the Government and the proprietors or any section of the proprietors, or between different sections of the proprietors, and it does not appear to be practicable to settle such question by agreement, the Government Agent may, with the sanction of the Executive Committee, order that such question shall be referred to a court of arbitration :

Provided that no such order shall be made unless the reference and the terms thereof have been assented to by a resolution of a majority of the proprietors in question at a meeting summoned by the Government Agent for the purpose, or if the question is between two or more sections of the proprietors, or if two or more sections of the proprietors are otherwise parties to the question, by a resolution passed at such a meeting by a majority of the proprietors constituting each such section.

Court of arbitration.

39. (1) The court of arbitration referred to in section 38 shall consist of one arbitrator nominated by the proprietors in the manner hereinafter provided, one arbitrator nominated by the Director of Irrigation, together with a president chosen by agreement between the arbitrators so nominated :

Provided that where the question is a question between different sections of proprietors, or where different sections of proprietors are otherwise parties to the question, an arbitrator shall be separately nominated by each such section.

(2) In the event of the arbitrators not being able to agree upon a president, the president shall be a person experienced in the law and custom of the country who may be nominated for the purpose by the Legal Secretary.

(3) For the purposes of the nomination of an arbitrator by the proprietors or any section of the proprietors, the Government Agent shall summon a meeting of the proprietors concerned.

(4) At every meeting summoned under sub-section (3) the arbitrators shall be elected by a majority of the proprietors.

Procedure to be free from formalities.

40. Every arbitration under this Part shall be free from the formalities of legal procedure, and shall be conducted in such manner as may be determined by the president for the purpose of securing an effective settlement of all substantial questions at issue between the parties in the matter under reference ; and the arbitrators shall have full power for the purpose aforesaid to make any award which they may deem to be reasonable and equitable in all the circumstances of the case.

Terms of reference.

41. The terms of reference in any arbitration under this Part may at any time in the course of the arbitration be amended by agreement between the parties, such agreement in the case of the proprietors or any section of the proprietors being signified by a resolution of the majority of the proprietors or of that section of the proprietors, as the case may be, at a meeting summoned for the purpose by the Government Agent.

Decision of court of arbitration.

42. (1) The opinion of the arbitrators when unanimous or of a majority of them in case of any difference of opinion, either as regards the award or any question arising in the course of the proceedings, shall in all cases be deemed to be the decision of the court of arbitration.

(2) Where the court of arbitration consists of an even number of arbitrators and such arbitrators are equally divided in their opinions either as regards the award or any question arising in the course of the proceedings, the decision of the president shall be deemed to be the decision of the court of arbitration.

(3) The award in any arbitration under this Part shall be published in the *Gazette*, and upon such publication shall be binding on the parties, and shall have the like effect as a scheme duly confirmed and ratified under section 45, or confirmed under section 60, as the case may be.

(4) No award which is published in the *Gazette* under sub-section (3) shall be challenged or impeached on the ground of any alleged technical defect therein or in any proceeding antecedent thereto.

Saving of mutual rights and obligations of Crown and proprietors.

43. Save as otherwise expressly provided in this Ordinance and subject in particular to the powers accorded to meetings of proprietors, nothing in this Ordinance shall affect the mutual rights and obligations of the Crown and the proprietors with reference to any irrigation work constructed or in course of construction at the appointed date.

Saving of rights of the Crown.

44. Save as otherwise expressly provided in section 57, nothing in this Ordinance, or in any scheme or resolution sanctioned or passed in pursuance of this or any previous Irrigation Ordinance, shall preclude the Crown on the occasion

of the sale or lease of any Crown land then or subsequently to become irrigable under any irrigation work, either actually constructed or under process of construction, or thereafter to be constructed, from imposing in the grant or lease or reserving the right to impose an irrigation rate of such amount and variable in such manner as to the Governor may seem fit.

Special provisions applicable to Major Irrigation Works.

45. (1) No scheme relating to a major irrigation work shall have effect until such scheme has been confirmed by the Executive Committee and ratified by the Governor.

Confirmation and ratification of scheme.

(2) Notice of such confirmation and ratification shall be given in such manner as may be prescribed.

(3) After the notice referred to in sub-section (2) has been given, every person interested in the scheme shall be entitled to inspect the scheme, free of charge, at the Kachcheri.

46. All irrigation rates provided for by any scheme under this Part shall be subject to periodical revision in accordance with the scheme :

Rates to be variable in accordance with scheme.

Provided that nothing in the preceding provisions of this section shall be deemed—

(a) to authorise the increase of the rate, at any such revision, above the limit specified in the scheme ; or

(b) to prejudice the right of the proprietors of any irrigable area to the continuance of any perpetuity rate under any scheme in force at the appointed date.

47. Where by the extension of any major irrigation work any new area is rendered irrigable and any question is subsequently submitted or to be submitted for the determination of a meeting of proprietors of lands irrigable under the work, the decision of which may affect the amount or the conditions of the rates payable by the proprietors of the area originally irrigable, the majority of the proprietors of the said original irrigable area may require, either at the said meeting or by notice in writing addressed to the Government Agent before the meeting, that such question be submitted separately to a meeting of the proprietors of the said original irrigable area, and thereupon such question shall be so submitted accordingly ; and in any such case no proposal affecting the amount or the conditions of the rates payable by the proprietors of the said original irrigable area shall be adopted, unless it has been separately assented to by a majority of the proprietors at a meeting of the proprietors of the said original irrigable area, as well as by a majority of the proprietors at a meeting of the proprietors of the new area rendered irrigable by the extension.

Saving of rights of proprietors of original irrigable area.

48. (1) Where in connexion with an extension of a major irrigation work, a scheme embodying any adjustment of the expenses of maintenance of such work is not approved by the majority of the proprietors at a meeting summoned under section 36, an annual maintenance rate shall be payable thereafter by the proprietors of the original irrigable area to meet the annual cost of maintenance. Such annual cost of maintenance shall be deemed to be an amount equal to the average annual cost of maintenance of the original work during the ten years previous to the commencement of the extension.

Adjustment of expenses of maintenance.

(2) The maintenance rate referred to in sub-section (1) in respect of any irrigation work shall be subject every five years to an increase or reduction in the proportion in which the average maintenance rate payable under section 55 in respect of other irrigation works in the same revenue district exceeds or falls short of the maintenance rate paid in respect of that work.

49. (1) For the purpose of any irrigation rate leviable under this Ordinance, or any rate leviable in respect of irrigation under any previous Irrigation Ordinance, the Government Agent, with the assistance of the Director of Irrigation and the Surveyor-General, shall from time to time, in such manner as to him may appear expedient, prepare a specification showing the several lands irrigated or to be irrigated, with the names of the proprietors and the contribution, in money or labour, payable by each in respect of his land ; and such specification shall be conclusive proof that the lands included in the specification and the proprietors thereof are severally bound and liable for the payment or rendering of such contribution.

Specifications.

(2) The Government Agent may from time to time amend any specification, and may exclude from liability to contribution any lands included in any specification which may from time to time be found not to be irrigable, or may, on notice to the proprietors concerned, add thereto such additional lands as may from time to time be found irrigable.

(3) Every specification which is in force at the appointed date shall be revised by the Government Agent within three years after that date and thereafter at intervals of not more than ten years; and every specification prepared after the appointed date shall be revised by the Government Agent at intervals of not more than ten years.

Procedure in case of default in making specification.

50. Whenever it appears to the Governor, with respect to any major irrigation work undertaken or completed under the provisions of this or any previous Irrigation Ordinance—

- (a) that the specification, which according to such Ordinance ought to have been made, has not in fact been made; or
- (b) that any specification which has been made is invalid or of doubtful validity by reason of non-compliance with the requirements of such Ordinance,

it shall be lawful for the Governor to direct a specification to be prepared showing the lands irrigated or to be irrigated by the work, and every specification so made shall for all purposes have the like force and validity as if it had been duly made under the provisions of the Ordinance under which the work was undertaken.

Procedure on correction of irregularity, informality, or defect.

51. Where any difficulty arises in the preparation of any specification, or with reference to any existing specification, on the ground of any irregularity, informality, or defect in some proceeding antecedent to the preparation of such specification, or in the specification, as the case may be, and the necessary steps have been taken to deal with such irregularity, informality, or defect under section 11 (1) (c), a specification prepared in accordance with a resolution passed for the purpose under the said section shall for all purposes have the effect of a specification prepared in pursuance of a scheme sanctioned under this Ordinance.

Seepage rates.

52. (1) Every land which, notwithstanding that it is not irrigable under any major irrigation work, derives substantial benefit from such work by seepage, shall be liable to the imposition in respect of such seepage of an irrigation rate (hereinafter referred to as a "seepage rate") not exceeding half the rate ordinarily payable by the proprietors of lands irrigable under the said irrigation work.

(2) In any case in which the Director of Irrigation is satisfied that any land is liable to the imposition of a seepage rate under this section, the Government Agent shall, by notice in writing, inform the proprietor of such land that it is proposed to impose upon such land a seepage rate of the amount specified in the notice, and call upon such proprietor, if he object to the imposition of a seepage rate, to make application in the manner and within the time provided for by this section.

(3) Any proprietor who objects to the imposition of a seepage rate on the ground that the land in question is not deriving substantial benefit by seepage from the irrigation work, may within one month of the receipt of the notice referred to in sub-section (2) apply to the Government Agent for an order that the land in question is not liable to the imposition of a seepage rate, and the Government Agent shall have jurisdiction to inquire into and determine the question, and his decision shall be final so far as it relates to the question of the liability of the land to the imposition of the seepage rate, and no further.

(4) In any case in which no application under sub-section (3) is made within the time specified in that sub-section, or in which, on such application, the question at issue is determined in favour of the Director of Irrigation, it shall be lawful for the Government Agent, by order published in the *Gazette*, to impose a seepage rate upon the land in question in accordance with this section, and to direct the inclusion of the said land in respect of such seepage rate in the specification in force for the purposes of the irrigation work.

Irrigation by mechanical appliances, and rates therefor.

53. (1) In any case in which any land, not otherwise irrigable under any major irrigation work, is capable of deriving benefit from such work by the use of any mechanical appliance, it shall not be lawful—

- (a) to use such appliance for such purpose, unless a certificate that such use has been authorised is issued to the proprietor by or under the authority of the Director of Irrigation, or
- (b) to erect or use such appliance otherwise than in accordance with the terms or conditions subject to which such authorization has been given.

(2) On the issue of a certificate under sub-section (1), the Government Agent may, by order published in the *Gazette*, impose an irrigation rate upon the land in question of such

an amount as may be approved by the Governor, and such land shall be included in the specification in force in respect of the irrigation work from which such land derives benefit.

54. In any case in which the proprietors of any area not ordinarily entitled to a supply of water from any major irrigation work desire a special supply of water from such work, such special supply may be sanctioned upon a majority of those proprietors passing a resolution, at a meeting summoned for the purpose by the Government Agent, approving of the payment of a special irrigation rate, or upon the proprietors representing two-thirds of the irrigable lands of that area signing an undertaking to pay a special irrigation rate, and thereupon the Government Agent may, by order published in the *Gazette*, impose such a special irrigation rate, and the particulars of the amount due from the several proprietors in respect of such special rate shall be entered in the specification, or in a special specification, in respect of the irrigation work from which such special supply is given.

Special
irrigation
rates.

55. (1) Except in the following cases, that is to say—

(a) in the case of any major irrigation work in respect of which a fixed or variable rate per annum in perpetuity is leviable,

(b) in the case of any major irrigation work in respect of which other special arrangements for the maintenance thereof are sanctioned under this Ordinance,

the lands included in the specification of any major irrigation work constructed, or in course of construction at the appointed date, and the proprietors thereof, shall severally be bound and liable to an annual irrigation rate (hereinafter called the "maintenance rate") for the maintenance of such irrigation work.

(2) The maintenance rate shall be assessed by the Government Agent and divided *pro rata* among the lands set out in the specification. In making his assessment the Government Agent shall be guided, in the case of any work which has been maintained for a period exceeding five years, by the actual cost of maintenance of such work for the five years preceding the date of assessment, and in the case of any work which has been maintained for a period not exceeding five years, by the estimate of the probable cost of annual maintenance which shall be prepared by the Director of Irrigation.

(3) All maintenance rates shall be re-assessed by the Government Agent at the end of every period of five years or at such later date as may in any case be sanctioned by the Governor.

(4) A maintenance rate under this section may be assessed either separately (hereinafter called a "separate rate") in respect of a single irrigation work, or generally (hereinafter called a "general rate") in respect of any group of irrigation works.

(5) An irrigation work which is subject to a separate rate may, on the occasion of any re-assessment, be included in a group of irrigation works, and be made subject to a general rate in respect of such group of works, and *vice versa* :

Provided that before any order is made converting a separate rate into a general rate or *vice versa*, the Government Agent shall consult the proprietors of the various works affected at a meeting or meetings summoned by him for the purpose.

(6) For the purposes of every maintenance rate under this section the Government Agent shall from time to time prepare a specification in the manner provided by section 49, and all the provisions of that section shall, with the necessary modifications, apply to such specification.

56. (1) In any case in which a majority of the proprietors of the lands under any major irrigation work in respect of which a maintenance rate is payable under section 55, by resolution passed at a meeting of the proprietors summoned for the purpose by the Government Agent, request that such work be exempt from the provisions of that section, and themselves undertake to maintain the work, the Governor may, by order published in the *Gazette*, direct, that with effect from such date and subject to such terms and conditions as may be specified in the order, such work shall be exempt from the provisions of that section and shall be maintained by the proprietors in accordance with rules made under Part III, such rules not being inconsistent with any terms and conditions so specified.

Maintenance
rates.

Power to
exempt work
from
maintenance
rate.

(2) The Government Agent shall place before the meeting of the proprietors summoned under sub-section (1), a scheme of maintenance which shall be prepared by the Director of Irrigation in consultation with the Government Agent, and in which all the operations which the proprietors are expected to undertake for the purposes of the maintenance of the irrigation work shall be clearly and completely specified.

(3) Every irrigation work in respect of which an order is published under sub-section (1) shall, with effect from the date specified in the order, be exempt from the provisions of section 55, and shall be maintainable by the proprietors in accordance with rules made under Part III and the terms and conditions, if any, specified in the said order :

Provided that in any case in which the proprietors fail to maintain such work to the satisfaction of the Government Agent, the Governor may, by order published in the *Gazette*, cancel the order made under sub-section (1) in respect of that work, and on the publication of such order, such work shall cease to be exempt from the provisions of section 55.

Consolidated
irrigation
rates.

57. (1) Where after the appointed date any major irrigation work is constructed wholly for the purpose of irrigating lands held on grant, permit, lease, or otherwise from the Crown, such lands and the proprietors or owners thereof shall severally be bound and liable to a consolidated irrigation rate for the construction and maintenance of such work and for the water supplied or to be supplied to such lands from such work, in lieu of the rates leviable under the preceding provisions of this Ordinance.

(2) Subject as hereinafter provided, the following matters shall be taken into consideration in determining the amount of any consolidated irrigation rate to be levied under sub-section (1) :—

- (a) the value of the lands irrigated or to be irrigated by the irrigation work, without taking into consideration the value of any improvement to such lands by the construction of such work ;
- (b) the capital cost of the facilities provided by the irrigation work ;
- (c) the estimated cost of maintenance of such facilities ;
- (d) the cost of any other service to be rendered to the proprietors for the development of such lands ; and
- (e) any other matter which may be prescribed :

Provided that the Executive Committee may, in the circumstances of any particular case, direct that any of the matters specified in paragraphs (a) to (d), or prescribed under (e) shall not be taken into consideration for the purpose of determining the amount of any consolidated irrigation rate.

(3) No consolidated irrigation rate shall be increased unless such increase has been approved by a resolution of the majority of the proprietors of lands subject to such rate at a meeting of those proprietors summoned for the purpose by the Government Agent.

Power to
remit rate.

58. The Governor may at any time in respect of any year or years remit or refund any rate or any part of a rate payable under this Ordinance.

Payment of
contributions
in kind.

59. It shall be lawful for the Government Agent to receive in kind instead of in money any contributions under this Ordinance. Such payment in kind shall be made at such rate of commutation, and shall be collected at such time and place and in such manner, as the Government Agent may from time to time direct. If default is made in such payment in kind at the time and place directed by the Government Agent, the amount of the contribution for which such payment in kind was substituted shall be recovered in the manner provided in Part VII.

Special provisions applicable to Minor Irrigation Works.

Confirmation
of scheme.

60. (1) No scheme relating to a minor irrigation work shall have effect until such scheme has been confirmed by the Executive Committee and until notice of such confirmation has been given in such manner as may be prescribed.

(2) After the notice referred to in sub-section (1) has been given, every person interested in the scheme shall be entitled to inspect the scheme, free of charge, at the Kachcheri.

Defective
maintenance
of minor
irrigation work
connected with
major
irrigation
work.

61. (1) Where any minor irrigation work is so defectively maintained by the proprietors as, in the opinion of the Director of Irrigation, to endanger or impair the effectiveness of any major irrigation work with which such minor work is connected, the Governor may give notice that unless within a time fixed by the notice the arrangements for the maintenance of such minor work are made effective, and unless such work is thereafter effectively maintained, such work will be made subject to a maintenance rate under section 55.

(2) If the requirements of any notice given under sub-section (1) are not complied with to the satisfaction of the Governor, it shall be lawful for the Governor, by order published in the *Gazette*, to direct that the necessary arrangements for the maintenance of the minor irrigation work in respect of which such notice was given shall be carried out, and that the

expenses of carrying out such arrangements and of the subsequent maintenance of such work shall be recovered by a maintenance rate under section 55, and thereupon the said work shall become maintainable by Government and shall be subject to a maintenance rate as though it were a new major irrigation work.

(3) No action shall be taken under this section unless the matter has been brought before a meeting of the proprietors summoned for the purpose by the Government Agent, and the requirements of the situation have been explained to them and such meeting has failed to make arrangements, by the framing of rules or otherwise, which, in the opinion of the Director of Irrigation, are effective for the purpose in view.

62. (1) Where the Government Agent is satisfied that the condition of any minor irrigation work is so defective, or that such work is so defectively maintained as to endanger or impair the effectiveness of any other such work, or as to prejudice or be likely to prejudice the interests of the proprietors of the lands irrigated by that other work, the Government Agent shall summon a meeting of the proprietors of lands irrigated by the first-mentioned work and shall explain to them the requirements of the situation, and shall call upon them to make arrangements, either by the framing of rules or otherwise, to remedy the defect to his satisfaction.

(2) In the event of the meeting summoned under sub-section (1) failing by a resolution of the majority of the proprietors to make arrangements to the satisfaction of the Government Agent to remedy the defect, it shall be lawful for the Governor, by order published in the *Gazette*, to direct that the necessary arrangements shall be carried out, and that the expenses of carrying out such arrangements and, if necessary, of the subsequent maintenance of the minor irrigation work shall be recoverable by a maintenance rate under section 55, and the said work shall thereupon become subject to a maintenance rate under that section as though it were a new major irrigation work.

Defective maintenance of other minor irrigation works.

PART VI.

Protection of Irrigation Works and Conservation of Water.

63. Regulations may be made in respect of any irrigation work for all or any of the following matters :—

- (a) the prevention of the obstruction, diversion, or cutting of any *ela*, channel, or other water-course comprised in the irrigation work, or of any other damage thereto ;
- (b) the prevention of any encroachment upon any such *ela*, channel, or water-course ;
- (c) the prevention of any interference with any sluice, dam, or regulating machinery or device in or upon any such *ela*, channel, or water-course ;
- (d) the prevention of the obstruction of or interference with any road or path comprised in the irrigation work ;
- (e) the construction of field-channels and dams in approved places and in accordance with approved alignments ;
- (f) the prevention of the waste of any water supplied from the irrigation work ;
- (g) the prevention of the obtaining of water from any such *ela*, channel, or other water-course in any manner not authorised ;
- (h) the prevention of the diversion by any act or omission, of such water from any of the purposes for which it is intended ;
- (i) the limitation of the extent of land to be cultivated under the irrigation work and the fixing of dates for the commencement and completion of cultivation in each season ;
- (j) the conditions on which water will be supplied from the irrigation work after the date fixed for the completion of cultivation, and the charges to be paid for such water ;
- (k) any other matters necessary for the protection of the irrigation work, or for the conservation of water supplied therefrom.

Regulations for the protection of works and conservation of water.

64. (1) Where any person obstructs or encroaches upon any *ela*, channel, water-course, or tank, it shall be lawful for the Government Agent, by notice in writing served on such person, to require him within such time as may be specified in the notice to remove or abate such obstruction or encroachment.

(2) If any person served with a notice under sub-section (1) refuses or neglects to comply with the requirements of such notice within the specified time, or if there is any doubt as to who is the proper person to be served with such notice, it shall be lawful for the Government Agent to cause such obstruction or encroachment to be forthwith removed or abated ; and for

Removal of obstruction or encroachment.

that purpose it shall be lawful for the Government Agent, to enter any land or premises, with such workmen, instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement.

Recovery of expenses.

65. The expenses incurred in effecting the removal or abatement of any obstruction or encroachment under section 64 shall be paid—

- (a) by the person on account of whose non-compliance with any notice served under sub-section (1) of that section such expenses were incurred, or
- (b) in case no such notice was served owing to any doubt as to who was the proper person to be served with such notice, by such person as the Government Agent may determine, after such inquiry as he may deem necessary, to be the person who should have been served with such notice,

and in case of default shall be recoverable in the manner provided in Part VII.

Reference to arbitration.

66. (1) Whenever the owner or occupier of any land or premises, by the clearance or drainage of such land or premises or by any other act or omission, whether of the same nature or not, in any way affecting any ela, channel, or water-course, used for irrigation purposes, or any other irrigation work—

- (a) causes any such ela, channel, water-course, or other irrigation work to be blocked up, obstructed or damaged, so that any land which previously derived benefit therefrom is deprived of that benefit, or
- (b) causes damage of any other nature to any land in the neighbourhood of any such ela, channel, water-course, or other irrigation work,

any person aggrieved by the act or omission of such owner or occupier may make a complaint to the Government Agent.

(2) In any case where—

- (a) the Government Agent is not able, by agreement between the parties concerned, and with or without such assistance as the Director of Irrigation (not being a party concerned) may be willing to contribute, to settle what steps should be taken and what obligations should be assumed by any owner or occupier against whose act or omission a complaint has been made under sub-section (1) and by the cultivators of the lands affected by such act or omission, for the purpose of removing any blocking up or obstruction, or the repairing of any damage caused by such act or omission, or the prevention of the recurrence of such blocking up, obstruction, or damage; or
- (b) any of the parties to any such agreement fails to take or to assume, within a reasonable time, any of the steps or obligations which he has thereby agreed to take or assume,

the Government Agent may, by written notice addressed to the parties, direct that the matter in dispute be referred to the arbitration of such arbitrator or arbitrators as may be agreed upon by the parties.

Representation of cultivators.

67. The Government Agent may appoint any person for the purpose of representing the interests of the cultivators referred to in section 66 in any matter or dispute or in any arbitration that may take place for its settlement.

Arbitrators.

68. (1) In every notice under section 66, the Government Agent shall inform the parties that, unless by a date specified in the notice or on such further date as he may on application fix, the parties have notified to him the name or names of an agreed arbitrator or arbitrators, he will apply to the District Judge to act as arbitrator with or without assessors as to the District Judge may seem proper.

(2) If the parties do not on or before the date specified in the notice under section 66 or such further date as may be fixed by the Government Agent notify to the Government Agent the name or names of an agreed arbitrator or arbitrators, the Government Agent may apply to the District Judge to act as arbitrator; and it shall be the duty of the Judge to act in accordance with such application.

(3) The District Judge may, in his discretion, appoint such assessors as he may think fit to assist him in any arbitration under this section.

Duty of arbitrators.

69. It shall be the duty of the arbitrator or arbitrators and the assessors, if any, to visit the place with respect to which the matter in dispute arises, and to determine such matter without any formalities of legal procedure, and to make such award

with reference to the steps to be taken by and the obligations to be imposed upon all or any of the parties as may be reasonable in all the circumstances of the case.

70. (1) In any case in which the Government Agent, or the Director of Irrigation (not being a party concerned), with a view to facilitating a settlement of the dispute, undertakes to execute the operation of carrying silt, earth, water, or any other substance or any other operation for the purpose of preventing damage to any land, an order for the execution of such operation may be embodied in the award.

Award of arbitrators

(2) In any case in which the parties consent to the arbitrator or arbitrators determining any claim for damages that may have been made by a party, an order for the payment of damages may be embodied in the award, and where such an order has been so embodied no action shall lie in respect of such claim.

(3) In the event of the arbitrators not being agreed as to the award or as to any point arising in the course of the proceedings, the opinion of the majority shall prevail.

(4) In the event of there being no opinion supported by a majority of the arbitrators, it shall be lawful for the Government Agent to appoint, by writing under his hand, an umpire to decide all matters in question in the arbitration and in any such case the award shall be made by the umpire, and shall be as binding in all respects as if it had been made by the arbitrators or a majority of them.

71. (1) The Government Agent shall fix the fee to be paid to an umpire appointed under the last preceding section, and an order directing the payment of such fee shall be included in and form part of any award made by the umpire.

Fees.

(2) In the event of assessors being appointed to assist a District Judge in the conduct of an arbitration, the District Judge shall fix the fee of the assessors, and an order directing the payment of such fee shall be included in and form part of any award made by such Judge.

72. Every award made by any arbitrator or arbitrators or by an umpire under this Part, on being registered in the District Court, shall be binding on all parties concerned, and may be enforced in the same manner as a decree of the Court: Provided that in so far as such award relates to any obligation to be assumed by the cultivators referred to in section 66, such award shall have the force of a rule made under Part III, and all the provisions of this Ordinance relating to the enforcement of rules under Part III shall apply to such award.

Enforcement of award.

73. (1) In any case in which by any award made under this Part any order is made upon the owner or occupier of any land or premises, the Government Agent shall cause a copy of such order to be served upon such owner or occupier; and if such owner or occupier makes default in complying with such order the Government Agent may from time to time, after reasonable notice to such owner or occupier, himself take the necessary steps to carry out the order, and for that purpose it shall be lawful for the Government Agent or any person thereto authorised in writing by the Government Agent to enter any land or premises with such workmen, instruments and things as may be necessary.

Power of Government Agent to carry out order of arbitrators.

(2) The expenses incurred by the Government Agent under sub-section (1) shall be certified under his hand, and shall be a first charge on the land or premises in respect of which notice was served under sub-section (1), and on any crop or produce thereof, and on any movables thereon, and where default is made in the payment of such expenses, the Government Agent shall proceed to recover such expenses in the manner provided in Part VII.

74. Where water from any la, channel, water-course or other irrigation work is obtained in any manner not authorised or is allowed to run to waste, and the person who obtained such water or allowed such water to run to waste cannot be identified, then, if any land has derived any benefit from such water, the proprietor of such land shall be liable to pay for such water at such rate as the Government Agent may determine; and if default is made in the payment of any sum due under this section, such sum shall be recoverable in the manner provided in Part VII.

Liability where water is used without authority or is wasted by a person who cannot be identified.

PART VII.

Recovery of Money due.

75. (1) A register shall be kept, at the Kachcheri of every revenue district in which irrigation works are situated, of all the proprietors or mortgagees of lands under such irrigation works who may desire to have their names inserted therein.

Register of proprietors.

(2) Every registration under this section shall, subject to any correction or alteration made therein, remain in force for four years, but may be renewed from time to time for a further period of four years. If such registration is not renewed before the end of any period of four years, the registration shall be cancelled.

(3) A fee of one rupee shall be charged for every registration under this section, whether original or by way of renewal, and for every correction or alteration made in such registration.

Payment of contributions.

76. (1) All contributions due or deemed to be due under this Ordinance shall be payable in respect of each calendar year, and shall be paid on or before the thirtieth day of June in that year, or on such other date as the Governor may, by order published in the *Gazette*, appoint.

(2) All contributions due or deemed to be due under this Ordinance shall be recovered in accordance with the provisions of this Part.

Recovery of contributions, &c.

77. (1) Where default is made in the payment of any contribution of money or other sum due or deemed to be due under this Ordinance, the land in respect of which such contribution or other sum is due shall be and is hereby declared to be specially bound and liable for such payment, and it shall be lawful for the Government Agent or any person authorised by writing under his hand, to seize such land and any crop or produce thereof and any movables thereon, to whomsoever such land, crop, produce or movables may belong; and if such contribution, or other sum, together with any costs payable under section 85, are not sooner paid or tendered, to sell the land, crop, produce or movables, so seized, by public auction at any time not less than twenty-one days from the date of such seizure.

(2) Where default is made in any contribution of labour due or deemed to be due under this Ordinance, it shall be lawful for the Government Agent or any person authorised by writing under his hand to cause such labour to be performed by some person other than the defaulter, and the expenses incurred thereby shall be recoverable in the same manner as contributions of money are recoverable under sub-section (1).

(3) Where the authority imposing any fine or penalty for any offence under this Ordinance, orders that in the event of default in the payment of such fine or penalty, the amount thereof be recovered in the manner provided in this Part, it shall be lawful for the Government Agent or any person authorised by writing under his hand to seize any property whatsoever belonging to the defaulter, wheresoever such property may be found, and, if the amount due, together with any costs payable under section 85, are not sooner paid or tendered, to sell the property so seized by public auction at any time not less than twenty-one days from the date of such seizure.

Notice of seizure and sale.

78. (1) Where land is seized under section 77, the Government Agent shall forthwith, after such seizure, cause a notice setting out the facts of the seizure, the reasons therefor, and the date fixed for the sale of the land to be affixed in a conspicuous position on the land.

(2) Where a proprietor or mortgagee of land seized under section 77 has registered his address in the register kept under section 75, the Government Agent shall cause a notice setting out the facts of the seizure, the reasons therefor, a specification of the property seized and the date fixed for the sale to be sent by registered post to such proprietor or mortgagee at the address specified in the register at least fourteen days before the date fixed for the sale.

When seizure of land not to be made.

79. No seizure of any land shall be made under section 77 if the defaulter surrenders sufficient free and unclaimed movable property to satisfy the total amount due from him.

Property exempt from seizure and sale. Cap. 86.

80. Any property which is exempt from seizure and sale under the provisions of the Civil Procedure Code shall be exempt from seizure and sale under section 77.

Movables to be sold first.

81. No land seized under section 77 shall be sold until the crop or produce thereof, and the movables thereon, if any, have been sold, and unless they have failed to realise an amount sufficient to cover the total amount due.

Sale of immovable property.

82. In all cases the sale of immovable property under section 77 shall be conducted on the spot, unless the Government Agent otherwise directs.

Upset price.

83. For the purposes of a sale under section 77, the Government Agent may fix an upset price; and where an upset price is so fixed the property, which is the subject of the sale, shall not be sold to any person other than the Crown at any price below the upset price.

84. The person making a seizure under section 77 may, if authorised thereto by general or special instructions issued by the Government Agent, appoint a suitable person to have the custody or possession of the property so seized pending the sale.

Keeping a person in charge of property seized.

85. It shall be lawful for the Government Agent, or any person authorised by writing under his hand, to demand, take, and receive from any defaulter referred to in section 77, or from the owner or any joint owner of any property lawfully seized under that section, or to retain out of the proceeds of the sale of the property, sums of money calculated at the following rates for the following purposes :—

Costs of seizure and sale.

- (a) for the cost of proceeding to seize the property, a charge not exceeding fifty cents for every ten rupees or part thereof due ;
- (b) for the expenses of any person having the custody or possession of the property, a charge not exceeding one rupee for each continuous period not exceeding twenty-four hours ;
- (c) for the expenses of sale, a charge not exceeding twenty-five cents for every ten rupees or part thereof of the net proceeds of the sale.

86. (1) Where any property seized under section 77 is sold, the Government Agent at whose instance such seizure was made shall, after deducting the amount due from the defaulter and also the costs payable under section 85 pay the surplus, if any, arising from such sale to the owner or joint owners of the property sold, or in case the Government Agent is in doubt as to whom the money is to be paid, into the District Court having jurisdiction over the area in which the property was situated at the time of the sale.

Steps to be taken after sale.

(2) Where any land is sold under section 77, the Government Agent shall sign a certificate of sale in such form as may be prescribed, and such certificate shall be sufficient to vest the land sold in the purchaser, and in any case where the land so sold is land under any irrigation work, such land shall vest in the purchaser free from all incumbrances whatsoever, any custom or written law to the contrary notwithstanding.

(3) Every certificate of sale under sub-section (2) shall be liable to the stamp duty fixed for conveyance of immovable property, and to any registration or other charges authorised by law, and such duty and charges shall be paid by the purchaser.

87. (1) The Government Agent or any person authorised by him in writing, may bid for and purchase, on behalf of the Crown, any land sold under section 77.

Power to purchase on behalf of the Crown.

(2) Notwithstanding any custom or written law to the contrary, where any land is purchased under sub-section (1) on behalf of the Crown, such land shall vest in the Crown free from all incumbrances whatsoever, and notwithstanding anything in sub-section (3) of section 86, the certificate of sale issued in respect of that land shall not be liable to any stamp duty or any registration or other charges.

88. (1) Where at any time before any land which has been purchased on behalf of the Crown under section 87 is re-sold, the defaulter or any person on behalf of the defaulter, pays to the Government Agent the amount due from the defaulter in respect of such land, the Government Agent shall, by endorsement on a certified copy of the certificate referred to in sub-section (2) of that section, cancel the sale of such land to the Crown, and upon the registration of such endorsement under the Registration of Documents Ordinance, such land shall re-vest in the defaulter as though such sale had never been made.

Cancellation of sale.

(2) Where any portion of any land purchased on behalf of the Crown under section 87 has been re-sold, the provisions of sub-section (1) of this section shall apply, with the necessary modifications, to the portion of such land remaining unsold, and in any such case, the amount due from the defaulter shall be reduced by such amount as the Government Agent may determine in the circumstances of each case.

Cap. 101.

(3) In this section "amount due from the defaulter" means the amount in default of payment of which the land was sold under section 77, and includes the costs payable under section 85, together with interest on such amount and costs at such rate not exceeding six per centum per annum as the Government Agent may determine.

89. (1) Where any land has been purchased on behalf of the Crown under section 87, and the sale has not been cancelled under section 88, it shall be lawful for the Government Agent, at any time to re-sell such land, and on such re-sale to transfer to the purchaser, by endorsement on a certified copy of the certificate referred to in sub-section (2) of section 87

Re-sale by Crown.

Cap. 101.

all the right, title, and interest which would have been acquired by the purchaser if he had purchased the land at the original sale, and upon the registration of such endorsement under the Registration of Documents Ordinance, such right, title and interest shall vest in the purchaser accordingly.

(2) Every endorsement under sub-section (1) shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale, and such duty and charges shall be paid by the purchaser in whose favour the endorsement is made.

Summary
ejection of
persons in
unlawful
possession of
land sold
under this
Part.

90. (1) Where, after the sale of any land under the provisions of this Part, any person other than the purchaser or the servant or agent of the purchaser of that land at such sale remains in occupation or possession of that land or any part thereof, a Magistrate having local jurisdiction over the area in which that land is situated shall, on the application of the Government Agent, by order direct the Fiscal or a Police Officer to eject such person from that land and to deliver possession thereof to the Government Agent or to his representative, or to the purchaser or his servant or agent, as the case may be.

(2) The Fiscal or a Police Officer charged with the execution of an order of ejection made by a Magistrate under this section shall comply with the directions of the Magistrate and shall make due return in the prescribed form furnishing the prescribed particulars relating to the execution of the order.

(3) In the execution of an order of ejection, the Fiscal or a Police Officer or any other officer authorised by or accompanying the Fiscal or Police Officer may use such force as may be necessary to eject any person or persons in possession or occupation of the land or any part thereof and to deliver possession of the land to the Government Agent or his representative, or to the purchaser or his servant or agent, as the case may be.

Rights of
mortgagees.

91. Where any immovable property of any defaulter which is to be sold under the provisions of this Part is subject to a mortgage, it shall be lawful for the mortgagee, after making payment of the amount due from the defaulter together with the costs, if any, payable under section 85, to add the amount so paid by him to the mortgage debt; and the amount so added shall be deemed to be secured in the same manner, and to bear the same interest and to be recoverable on the same conditions, as the mortgage debt, anything in any written law other than this Ordinance to the contrary notwithstanding.

PART VIII.

Offences.

Causing
obstruction or
damage to
irrigation
works or waste
of water.

92. Every person who—

- (a) wilfully and mischievously blocks up or obstructs, or causes to be in any way blocked up or obstructed, any channel or water-course comprised in any irrigation work; or
- (b) wilfully and mischievously cuts the bund, bank, or side of any irrigation work; or
- (c) wilfully and mischievously causes waste of water conserved by any irrigation work; or
- (d) wilfully and wrongfully draws off or converts to his own use any such water,

shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Default,
negligence or
malicious
acts of
irrigation
headmen.

93. Every irrigation headman who—

- (a) fails or neglects to perform the duties devolving upon him, or
- (b) in excess of the authority conferred upon him by this Ordinance or by any rule or regulation made or deemed to have been made thereunder, acts in bad faith or without probable cause or wantonly and maliciously,

shall be guilty of an offence, and the institution of any proceedings therefor shall not be deemed to affect in any way his civil liability to the person injured by his act or omission.

Resisting
irrigation
headmen in
the execution
of their duty.

94. Every person who without lawful cause resists, molests, or obstructs any irrigation headman in the lawful discharge of any duty imposed upon such headman by this Ordinance or by any rule or regulation made or deemed to have been made thereunder shall be guilty of an offence.

95. Every person who commits a breach of any rule or regulation made or deemed to have been made under this Ordinance or a breach of any established custom relating to irrigation or cultivation shall be guilty of an offence.

Breaches of rules or regulations or of established custom.

Trial of Offences.

96. (1) Every offence under section 93, section 94 or section 95 shall be triable by the Rural Court having jurisdiction over the place where the offence was committed :

Trial of offences.

Provided that every such offence committed in any area, declared to be a special irrigation area by Order made by the Minister for Agriculture and Lands under this section and published in the *Gazette*, shall be triable exclusively by an Irrigation Tribunal constituted as hereinafter provided, or where the Minister so directs in such Order, by the Government Agent or a person authorised in that behalf by writing under the hand of the Government Agent.

(2) No Order directing any offence referred to in sub-section (1) to be tried by a Government Agent or a person authorised by the Government Agent shall be made in respect of any area unless the Minister is of opinion that it is impracticable to obtain the assistance of Councillors to constitute an Irrigation Tribunal within that area.

97. In addition to the powers vested in a Rural Court by the Rural Courts Ordinance, a Rural Court in the exercise of any jurisdiction conferred on such Court by this Ordinance shall have the following powers :—

Additional powers of Rural Courts.

(1) Where—

- (a) the complainant in any trial under this Ordinance has sustained damage by reason of the act or omission complained of, or
- (b) such act or omission is of such a nature as to call for prompt action to prevent damage, and any expenditure incurred for that purpose by the headman under section 29, or by any officer acting in pursuance of a regulation made under Part VI has not been recovered under section 30,

it shall be competent to the Rural Court either to direct that the damage suffered or the expenditure incurred shall be made good out of any fine it may impose on the offender, or to adjudge him to pay, in addition to any such fine, the amount of such damage or the amount of such expenditure, and such amount shall be recoverable in the manner provided in Part VII :

Provided that except with the consent of both parties no such Order shall be made in any case in which the amount of the damage claimed or the expenditure incurred exceeds two hundred rupees.

- (2) Where a person is convicted of a breach of any regulation made under section 63 for the protection of any irrigation work or the conservation of water supplied therefrom it shall be competent to the Rural Court, in addition to any punishment it may impose, to order such person to pay a penalty not exceeding double the value of the damage caused as a result of such breach.
- (3) Where any proprietor is adjudged to pay any fine or penalty for an offence under this Ordinance and default is made in the payment of the fine or penalty, it shall be competent to the Rural Court, instead of sentencing the defaulter to detention or imprisonment, to order the amount of the fine or penalty to be recovered in the manner provided in Part VII of this Ordinance.

98. Any Irrigation Tribunal, Government Agent or person authorised by a Government Agent may, at the trial of any offence referred to in section 96, exercise the powers conferred on a Rural Court by section 27 of the Rural Courts Ordinance and by section 97 of this Ordinance.

Powers of Irrigation Tribunal, Government Agent or other authorised person. Issue of summonses and warrants.

99. (1) Where any complaint has been made against any person to an Irrigation Tribunal, the President of such Tribunal may serve or cause to be served on such person a summons requiring the attendance of such person before such Tribunal on a date to be specified in the summons.

(2) Where any person on whom a summons has been served under sub-section (1) fails to appear as required by the summons, the President of the Irrigation Tribunal may issue a warrant to secure the attendance of such person.

100. The Government Agent or a person authorised by him in that behalf shall be the President of the Irrigation Tribunal.

President of Irrigation Tribunal.

- Councillors.** 101. An Irrigation Tribunal for any area shall consist of not less than three and not more than seven Councillors selected by the President of such Tribunal from among the proprietors of irrigable lands and manawari lands within that area, subject to such right of challenge as may be prescribed by rules made under section 110.
- Proceedings before Irrigation Tribunal to be summary and free from formalities.** 102. The proceedings before an Irrigation Tribunal shall be conducted in a summary manner and it shall be the duty of such Tribunal to do substantial justice, without regard to matters of form, on all questions coming before such Tribunal.
- Representation of parties.** 103. No advocate, proctor, agent or other person shall be entitled to appear on behalf of any party in any case before an Irrigation Tribunal :
 Provided that the preceding provisions of this section shall not apply to the appearance—
 (a) of a husband, on behalf of his wife ; or
 (b) of a guardian or curator, on behalf of the person or persons for whom he acts as such ; or
 (c) of an agent resident within the jurisdiction of the Tribunal, on behalf of a principal who is not so resident ; or
 (d) of a proprietor, on behalf of his servant or cultivator ; or
 (e) of a servant or cultivator, on behalf of a proprietor ; or
 (f) of any person (not being an advocate or proctor) expressly authorised thereto by the President of the Tribunal, on behalf of a minor who is not represented by any person legally entitled to represent him, or on behalf of any other party in the special circumstances of any case.
- Proceedings to be filed of record.** 104. It shall be the duty of the President of an Irrigation Tribunal to record in writing the proceedings at every trial before the Tribunal and to transmit such record to the Kachcheri to be there filed of record.
- Procedure on conclusion of trial.** 105. (1) On the conclusion of any trial before an Irrigation Tribunal the opinion of the Councillors shall be first expressed and recorded, and afterwards that of the President.
 (2) In case of any difference of opinion between the President and the majority of the Councillors, the opinion of the President shall prevail and shall be taken to be the decision in the case but in every such case a record shall be made of such difference of opinion.
- Miscellaneous.*
- Appeals.** 106. Any person who is aggrieved by any order or sentence made or imposed under this Part by an Irrigation Tribunal or a Government Agent or person authorised by him may appeal against such order or sentence in the same manner and on the same terms and conditions as though it were the order or sentence of a Rural Court ; and the provisions of any written law for the time being in force relating to appeals from orders or sentences made or imposed by a Rural Court shall apply *mutatis mutandis* or subject to such modifications as may be made under section 110, in the case of appeals under this section.
- Duties of Fiscal.** 107. The Fiscal or Deputy Fiscal shall, within the province or district for which he is respectively empowered to act, execute every sentence imposed under this Ordinance by an Irrigation Tribunal, a Government Agent or person authorised by him, and the provisions of sections 2, 6 and 87 of the Prisons Ordinance shall extend and apply to warrants of commitment issued by the President of an Irrigation Tribunal, the Government Agent or authorised person in pursuance of such sentence.
- Cap. 44.**
- Application of Rural Courts Ordinance.** 108. The provisions of sections 33, 34 and 35 of the Rural Courts Ordinance shall apply *mutatis mutandis* to summonses and warrants issued under this Ordinance by the President of an Irrigation Tribunal, Government Agent, or person authorised by him.
- Appropriation of fines and penalties.** 109. All fines and penalties imposed under this Part by any Rural Court, Irrigation Tribunal, Government Agent or person authorised by him, for the breach of any rule or regulation made or deemed to have been made under this Ordinance or of any established custom relating to irrigation or cultivation shall, when deposited with or received or recovered by the Government Agent, be set apart by him as a fund to be used in aid of irrigation works or for the remuneration of irrigation headmen or officers, as the Government Agent may determine, anything in section 41 of the Rural Courts Ordinance to the contrary notwithstanding.

110. The Governor may from time to time make rules for or in respect of all or any of the following matters :—

- (a) the selection of Councillors to serve on an Irrigation Tribunal ;
- (b) the procedure to be observed in proceedings before an Irrigation Tribunal ;
- (c) the adaptation or modification or alteration of any provision of written law for the time being in force relating to appeals from orders or sentences made or imposed by Rural Courts in such manner as may be necessary for the purpose of its application in the case of appeals from orders or sentences made or imposed by Irrigation Tribunals ;
- (d) any other matter connected with or incidental to proceedings before an Irrigation Tribunal.

Rules.

111. In any case where by virtue of an Order under section 96 any offence referred to therein is triable by a Government Agent or other authorised person, the provisions of this Part and any rules made thereunder, relating to proceedings before an Irrigation Tribunal, shall apply *mutatis mutandis* to proceedings before the Government Agent or such authorised person.

Proceedings before Government Agent or authorised person.

PART IX.

General.

112. Land required for the purposes of this Ordinance shall be deemed to be land required for a public purpose within the meaning of the Land Acquisition Ordinance.

Acquisition of land.
Cap. 203.

113. The Government Agent may, by writing under his hand, appoint officers whose duty it shall be, subject to the general or specific directions of the Government Agent, to assist the Government Agent in exercising and carrying out the powers and duties conferred or imposed upon him by this Ordinance or by any rule or regulation made or deemed to have been made thereunder.

Appointment of officers by Government Agent.

114. If from any plan or survey purporting to have been made under the authority of the Surveyor-General or of the Director of Irrigation it appears that any channel, water-course, or tank has been encroached upon, such plan or survey shall, in the absence of satisfactory proof to the contrary, be deemed to be conclusive proof of the facts exhibited therein.

Plan or survey of channels, water-courses, and tanks to be conclusive.

115. In the case of any Crown land sold or leased subject to a condition that it should be subject to an irrigation rate variable in any manner specified in the condition, such land shall be, and shall be deemed to have been, subject to an irrigation rate in accordance with that condition, notwithstanding that at the time of the sale or lease of such land no provision existed for the imposition of variable irrigation rates under any previous Irrigation Ordinance then in force, and all contributions included in any specification and collected in accordance with such condition shall be deemed to have been validly included and collected.

Validation of variable irrigation rates in respect of certain lands.

116. (1) The Executive Committee may make regulations for all matters for which regulations are required or authorised to be made under this Ordinance, all matters required or authorised by this Ordinance to be prescribed, and all other matters incidental to or connected with such matters.

Regulations.

(2) No regulation made by the Executive Committee under this Ordinance shall have effect until it has been approved by the State Council and ratified by the Governor and notification of such approval and ratification is published in the *Gazette*. Every regulation shall, upon notification of such approval and ratification in the *Gazette*, be as valid and effectual as if it were herein enacted.

117. (1) In this Ordinance, unless the context otherwise requires—

Interpretation.

“appointed date” means the date appointed by the Governor by Proclamation under section 1 ;

“construction” with reference to any irrigation work includes any improvement or extension of any irrigation work, or the repair or restoration of any abandoned irrigation work, or (subject to the definition of “maintenance” hereinafter contained) any operation for the protection of any irrigation work, or the irrigable area thereunder, or of any part of such work or area ;

“contribution” includes all rates, subscriptions, charges and assessments made under this Ordinance or under any previous Irrigation Ordinance ;

- “cost of maintenance”, with reference to any irrigation work in any year, includes such reasonable contribution in respect of establishment charges, cost of plant and of the transport thereof, as may be approved by the Governor;
- “Executive Committee” means the Executive Committee of Agriculture and Lands;
- “expenses of construction” includes the expenses of survey and inquiries, and such reasonable contribution in respect of establishment charges, the cost of plant and of the transport thereof, as may be approved by the Governor;
- “Government Agent” includes an Assistant Government Agent;
- “Irrigable area” means the area irrigable under or by means of any irrigation work but does not include any manawari lands situated within that area;
- “Irrigation division” means a division declared to be an irrigation division under section 23;
- “irrigation work” includes—
- (a) any tank, bund, anicut, ela, channel, distributary, field channel or water-course comprised in or incidental or ancillary to the irrigation work;
 - (b) any structure, road, bridge, sluice, gate or other engineering work comprised in, or incidental or ancillary to the construction or maintenance of the irrigation work;
 - (c) any structure, bund, sluice or other engineering work erected for the purpose of draining any cultivated area or of preventing or regulating the flow of salt water into or out of any such area;
- “land” in the case of land held on lease or permit from the Crown means the interest of the lessee or permit-holder in the land, and the expression “owner” with reference to such land means the lessee or permit-holder;
- “maintenance” with reference to any irrigation work (whether constructed under this Ordinance or under any previous Irrigation Ordinance) includes any operation, for the protection of any existing irrigation work or the irrigable area thereunder or of any part of such work or area, which the authority responsible for the maintenance of the work may declare to be a minor operation;
- “major irrigation work” means any irrigation work other than a minor irrigation work;
- “majority of proprietors” means—
- (a) a majority consisting of two-thirds at least of the proprietors present at a meeting, such majority representing at least one-third of the acreage the proprietors of which are present and constitute the meeting; or
 - (b) if such majority is not obtained, the proprietors present at the meeting who represent two-thirds of the acreage the proprietors of which are present and constitute the meeting;
- “manawari division” means a division declared to be a manawari division under section 23;
- “manawari land” means any land which is cultivated or to be cultivated with paddy, and which is not supplied with water by any irrigation work, but is dependent for its water supply either upon rain water or on water baled from any well, or from any river, canal, lagoon, lake or other inland water;
- “minor irrigation work” means an irrigation work which is—
- (a) constructed by the proprietors without Government aid or with the aid of masonry works and sluices supplied free of charge by the Government, and
 - (b) maintained by the proprietors;
- “occupier” means a person in actual occupation of any land or premises and includes a person having the charge, management or control of the land or premises;
- “prescribed” means prescribed by this Ordinance or by any regulation made thereunder;
- “previous Irrigation Ordinance” includes the Irrigation Ordinance repealed by this Ordinance, Ordinance No. 23 of 1889 and any Ordinance thereby repealed and Ordinances No. 6 of 1892, No. 10 of 1901, No. 16 of 1906, No. 20 of 1908 and No. 11 of 1915;

“ proprietor ”—

- (a) in the case of lands within an irrigable area or tract means the owner of any land irrigated or to be irrigated by any irrigation work, and
- (b) in the case of manawari lands means the owner of any manawari land,
- and includes the occupier and the cultivator of such land ;

“ proprietors within the division ”—

- (a) when used with reference to an irrigation division, means the proprietors within the irrigable area in that division, and
- (b) when used with reference to a manawari division, means the proprietors of manawari lands within that division ;

“ proprietor within any irrigable area or tract ” means the proprietor of any land within that area or tract ;

“ regulation ” means a regulation made by the Executive Committee under this Ordinance ;

“ tract ” means any portion of any irrigable area defined as a tract by or in pursuance of any scheme under this Ordinance ;

“ village area ” means a village area constituted or deemed to be constituted under the Village Communities Ordinance ;

Cap. 198.

“ water-course ”, “ channel ”, “ ela ”, or “ tank ” includes the banks and bunds of the water-course, channel, ela or tank, as the case may be, and any reservation of Crown land defined as belonging thereto by or under the authority of the Director of Irrigation, either by demarcation on the ground or in any map or plan.

(2) Every expression defined in sub-section (1) shall, when used in any scheme or resolution under this Ordinance, have the meaning assigned to it by that sub-section unless the context otherwise requires.

(3) The powers conferred on a Government Agent by or under this Ordinance may be exercised, within any revenue district, by an Assistant Government Agent.

118. On and after the appointed date—

Savings.

(1) every rule, made under any previous Irrigation Ordinance by the proprietors within any irrigation district, or in place of such proprietors by the Government Agent in the exercise of the powers vested in him by any previous Irrigation Ordinance, and in force or deemed to be in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance continue in force in each of the irrigable areas or tracts within that district and shall be deemed for all purposes to be a rule made by the proprietors within each such irrigable area or tract under this Ordinance ;

(2) every rule, made under any previous Irrigation Ordinance by the proprietors within any irrigable area or tract, and in force or deemed to be in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance continue in force in such irrigable area or tract and shall be deemed for all purposes to be a rule made under this Ordinance ;

(3) Every rule relating to the protection of irrigation works or the conservation of water, made by the Governor under section 56 of the Irrigation Ordinance repealed by this Ordinance or under any other previous Irrigation Ordinance, and in force at the appointed date shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be a regulation made under section 63 of this Ordinance ;

Cap. 312.

(4) every rule relating to the form and manner of procedure to be observed in proceedings before a Village Council, a Government Agent or a person authorised by a Government Agent, the process to be issued therein or the mode of enforcing such process, made by the Governor under section 29 of the Irrigation Ordinance repealed by this Ordinance, or deemed to have been made under that Ordinance and in force at the appointed date shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be a rule made under section 110 of this Ordinance ;

Cap. 312.

Cap. 198.

- (5) every by-law, made or deemed to have been made under section 49 (2) (xxii) of the Village Communities Ordinance by the Village Committee of any village area, and in force at the appointed date, shall, so far as it is not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be a rule made by the proprietors of each irrigable area or tract or by the proprietors of manawari lands situated in that village area under section 11 or section 12, as the case may be, of this Ordinance ;
- (6) (a) where any rule or resolution not inconsistent with the provisions of this Ordinance has been made or passed under Chapter III of the Irrigation Ordinance repealed by this Ordinance, before the appointed date but has not been brought into force before that date, such rule or resolution shall be deemed to be made or passed under this Ordinance and may be brought into force in accordance with the provisions of this Ordinance ;
- (b) for the purposes of paragraph (a), any rule or resolution made by a majority of the proprietors within any irrigation district shall be deemed to be a rule or resolution, as the case may be, made or passed by a majority of the proprietors within each irrigable area or tract within that district ;
- (7) every resolution passed by a majority of proprietors under any previous Irrigation Ordinance, and in effect at the appointed date, shall continue in force and be deemed to be a resolution passed under this Ordinance ;
- (8) every headman or other officer elected or appointed or deemed to have been elected or appointed under any previous Irrigation Ordinance, and continuing in office at the appointed date shall be deemed to be a headman or officer elected or appointed, as the case may be, under this Ordinance ;
- (9) all rates, subscriptions, contributions, charges and assessments established, levied, or made under any previous Irrigation Ordinance or any rules thereunder, and in force at the appointed date, shall be deemed to be established, levied or made, as the case may be, under this Ordinance ;
- (10) every Committee (other than a District Advisory Committee) constituted or established under any previous Irrigation Ordinance and in existence at the appointed date shall be deemed for all purposes to be a Committee constituted or established under this Ordinance ;
- (11) any specification, plan, estimate or report prepared or made under or in pursuance of any of the provisions of any previous Irrigation Ordinance or deemed to have been prepared or made under or for the purposes of any such Ordinance shall be deemed to have been duly prepared or made under and for the purposes of this Ordinance ;
- (12) every scheme prepared and sanctioned or deemed to have been sanctioned under any previous Irrigation Ordinance and in effect at the appointed date shall continue in force and shall be deemed for all purposes to be a scheme duly confirmed, ratified and in effect under this Ordinance.

Repeals.
Cap. 198.

119. (1) The Irrigation Ordinance (Chapter 312) and section 49 (2) (xxii) of the Village Communities Ordinance are hereby repealed.

(2) The Rural Courts Ordinance is hereby amended in the Second Schedule by the omission therefrom of the item relating to the Irrigation Ordinance (Chapter 312).

Objects and Reasons.

The object of this Bill is to introduce, in the law relating to irrigation, certain changes which have been suggested by the Committee appointed to investigate the question of the revision of the Irrigation Ordinance (Chapter 312).

The following are the principal changes that will be made in the existing law :—

1. In most districts no Irrigation Advisory Committees have been constituted while in some cases such Committees though elected have ceased to function. The District Agricultural Committees which were constituted in pursuance of the report dated the 13th June, 1933, made by the Executive Committee of Agriculture and Lands

and approved by the State Council under Article 45 (1) of the Ceylon (State Council) Order in Council, 1931, have for all practical purposes taken their place. These District Agricultural Committees will therefore be given legal status to advise the Revenue Officer of the District upon matters connected with Irrigation and paddy cultivation, and the Revenue Officer will be empowered to summon meetings of proprietors to elect Advisory Committees for the same purpose. (Clauses 3 to 10.)

2. The scope of the present Irrigation Ordinance is confined to irrigation of lands under irrigation works. Rules under the Ordinance have been framed in the past for the regulation of paddy cultivation carried on with the aid of rain water and by bailing water from rivers, lagoons, lakes, ponds or wells, commonly known as "manawari cultivation". These rules are of doubtful validity. In the Bill therefore express provision has been made for the regulation and management of manawari cultivation. (Clauses 12, 23, 118 (5).)

3. Where owing to the sparseness of the population or the inadequate attendance of the proprietors no meeting adequately representative of the proprietors can be convened, power will be given to the Government Agent to make rules in consultation with District Agricultural Committees. (Clause 13.)

4. Rules made and resolutions passed at meetings of proprietors are at present transmitted by the Government Agent to the Governor for approval and on approval by the Governor are published in the *Gazette*. Under Clauses 14 and 15 of the Bill these rules will be approved by the Executive Committee and ratified by the Governor and notification of such approval and ratification will be published in the *Gazette*. Resolutions relating to minor irrigation works will be approved by the Executive Committee and those relating to major irrigation works will be approved by the Executive Committee and ratified by the Governor.

5. By Clause 16 the proprietors will be empowered to delegate to a Committee the power to make rules on their behalf. The provision in the present section 13 with regard to confirmation of rules made by such a Committee at a subsequent meeting of proprietors is not reproduced in the Bill as this procedure contributes to unnecessary delay and serves no useful purpose.

6. In order to enable a proprietor to authorise a person to appear on his behalf by proxy at any meeting under the new law the word "Chapter" in section 10 of the present Ordinance will be altered to "Ordinance". (Clause 18.)

7. Section 70 (1) of the present Ordinance requires one month's notice of certain meetings to be given by the Revenue Officer. By Clause 20 it is proposed to empower the Revenue Officer to give the longest notice which in his opinion is reasonable in the circumstances.

8. Proprietors of manawari lands will be given power to elect irrigation headmen for manawari lands. (Clause 23.)

9. The provisions in Chapter VI of the existing Ordinance have been rearranged and the provisions applicable to major irrigation works, those applicable to minor irrigation works, and those applicable to both major irrigation works and minor irrigation works are shown in Part V under separate sub-headings.

10. All major and minor irrigation schemes have at present to be sanctioned by the Governor and have to be published together with the notice of such sanction in the *Gazette*. Publication of irrigation schemes in the *Gazette* does not justify the expenditure involved nor is it considered necessary that minor irrigation schemes should receive the approval of the Governor. Under Clauses 45 and 60 of the Bill major irrigation schemes will not come into effect until they are confirmed by the Executive Committee and ratified by the Governor, notice of such confirmation and ratification being given in such manner as may be prescribed. Minor irrigation schemes will take effect when they are confirmed by the Executive Committee and notice of such confirmation is published in the prescribed manner.

11. The provisions of section 36 of the existing Ordinance whereby all irrigation rates payable in respect of any scheme are subject to periodical revision imposes an unlimited liability on the proprietors. It is proposed by Clause 46 of the Bill to provide that the maximum liability of the proprietors should be specified.

12. Provision will be made by Clause 49 for the general revision of all specifications within 3 years from the date on which the new law comes into operation and thereafter

at intervals of not more than 10 years. Specifications prepared after that date will be revised at intervals of not more than 10 years.

13. The present policy of Government whenever it leases Crown land or alienates such land under any other form of tenure is to reserve to itself in the instrument of alienation the right to impose upon the grantee an irrigation rate of such amount and variable in such manner as to the Governor may seem fit. This rate is in addition to the rent or annual payment due on account of the land. It is considered that irrigation and other similar facilities should be regarded as improvements by the Crown to its own estate and that in alienating Crown land provided with such facilities it is not necessary to charge a separate fee for each item of improvement. Provision will therefore be made by Clause 57 to enable in the case of future irrigation works intended entirely for the development of Crown land, a consolidated rate to be recovered for all such services and the Executive Committee will be empowered to waive the cost of one or more services. The method of computing such rate will be specified in the clause itself. The consent of the allottees will be required before a consolidated rate can be increased.

14. Two new categories will be added under which regulations may be framed for the protection of irrigation works and conservation of water. (Clause 63 (i) and (j).)

15. Clause 74, which is new, will provide for the case where water from any irrigation work is used without authority or is wasted by a person who cannot be identified.

16. In areas in which it is impracticable to constitute an Irrigation Tribunal for the trial of offences under the new law, Irrigation Tribunals presided over by the Government Agent or an officer deputed by him will be given the powers of a Rural Court under the Rural Courts Ordinance and will take the place of the Village Councils which are now functioning. (Clause 98.)

The remaining clauses of the Bill in the main reproduce the existing law with formal alterations in language and arrangement that have been found to be necessary.

D. S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, 11th December, 1945.