

## ACT No. II OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st January,  
1881.)

An Act to regulate the Navigation of the Pegu and Sittang Canal, and to provide for the protection of the said Canal and the execution of works necessary for its maintenance.

WHEREAS the Government has constructed a canal connecting the waters of the Pegu and Sittang rivers, partly by digging artificial channels and partly by using the water-bed of the Ka-ya-zoo creek; and whereas it is necessary to provide for the navigation, protection and maintenance of the said canal; It is hereby enacted as follows :—

### *Preliminary.*

1. This Act may be called "The Pegu and Sittang Canal Act, 1881";

and it shall come into force at once.

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

(1) "The canal" means the Pegu and Sittang canal, and includes—

(a) all channels and reservoirs now or hereafter constructed, maintained or controlled by the Government for the supply or storage of water in connection with the said canal, or supplemental thereto, between the Sittang lock, situated at Myit-kyo, on the Sittang river, and the Pegu lock, situated near the village of Sin-o-bo, on the Pegu river;

(b) all

Preamble.

Short title.

Commencement.

Interpretation-clause.

"The canal."

(b) all works, embankments, structures and supply and escape-channels connected with the canal or with the said channels and reservoirs ;

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

“ Vessel.”

(2) “ Vessel ” includes boats, rafts, timber and other floating bodies :

“ Canal Officer.”

(3) “ Canal Officer ” means an officer appointed under this Act by the Chief Commissioner to exercise control over the canal or any part thereof :

“ Superintending Canal Officer.”

(4) “ Superintending Canal Officer ” means an officer exercising general control over the canal.

Power to appoint officers.

3. The Chief Commissioner may from time to time declare, by notification in the *British Burma Gazette*, the officers by whom and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

#### *Navigation of the Canal.*

Tolls to be levied from vessels using the canal.

4. Such tolls as the Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, direct, shall be levied from all vessels entering or navigating the canal.

Power to detain vessels violating rules.

5. Any vessel entering or navigating the canal contrary to the rules made in that behalf under this Act by the Chief Commissioner, or so as to cause danger to the canal or to the other vessels therein, may be removed or detained, or both removed and detained, by a Canal Officer, or by any other person duly authorized under section three in that behalf.

The owner of any vessel causing damage to the canal, or removed or detained under this section, shall be liable to pay to the Government such charge as the Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the

the cost of repairing such damage, or of such removal or detention, as the case may be.

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

Power to detain vessel on failure to pay tolls or charges.

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

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

8. Within a reasonable time after any seizure under section six or section seven, the Canal Officer shall give notice to the owner or person in charge of the property seized, that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than twenty-one days from the date of the notice, be sold in satisfaction of the claim on account of which such property is detained, unless the claim is discharged before the day so named;

Power to sell property seized under section 6 or 7.

and if such claim is not so discharged, the Canal Officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale.

The residue (if any) of such property, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

9. If any vessel is found abandoned in the canal, or any cargo or goods carried in a Government vessel on the canal, or stored on or in lands or warehouses occupied

Procedure in respect of vessels abandoned and goods unclaimed.

occupied for the purposes of the canal, is or are left unclaimed for a period of two months, the Canal Officer may take possession of the same.

Power to sell.

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

Disposal of proceeds of sale.

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

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

#### *Maintenance of the Canal.*

Power of Canal Officer to enter on land and remove obstructions, &c.

10. A Canal Officer, empowered by the Commissioner of the Division generally or specially in this behalf, or any other person acting under the general or special order of such officer, may enter on any land in the neighbourhood of the canal and remove any obstructions, and may close any channels and do any other thing necessary or convenient for the maintenance of the canal.

Power to enter and survey, &c.

11. Any such officer or other person may, for the purposes of any enquiry relating to any part of the canal

canal under the charge of such officer, enter upon any such lands, and undertake surveys or levels thereon, and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks and water-gauges ;

and do all other acts necessary for such purposes ;

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

Power to clear land.

12. In case of any accident happening or being reasonably apprehended to the canal, any such officer or other person may enter upon any such lands, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter, to repair and to prevent accidents.

13. In every case of entry under section ten, eleven or twelve, the Canal Officer shall tender, as soon as may be reasonably practicable, to the owner or occupiers of the land, compensation for any damage which may be occasioned by such entry and by any proceeding under such section.

Compensation for damage caused by entry.

In case of dispute as to the sufficiency of the amount so tendered, the Canal Officer shall forthwith refer the same for decision by the Deputy Commissioner, whose decision thereon shall be final.

*Obtaining Labour and Materials for Work on the Canal.*

14. Whenever it appears to a Canal Officer that, unless some work is immediately executed, such serious damage will happen to the canal as will cause sudden and extensive public injury,

Procedure for obtaining labour and materials for works urgently required.

and that the labourers or materials necessary for the proper execution of such work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such damage,

such officer may, by order under his hand, direct that the provisions of this section shall be put into operation

operation for the execution of such work, and thereupon—

(a) every able-bodied person whose name appears in the list hereinafter mentioned shall, if required so to do by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or other person directs, and

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

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

Deputy Commissioner to prepare list of persons liable to serve.

15. Subject to such rules as the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, prescribe in this behalf, the Deputy Commissioners of Rangoon and Shwaygin shall prepare lists of persons residing in the neighbourhood of the canal in the said districts respectively, and liable to be required under section fourteen to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Payment for labour impressed and materials taken.

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

Any

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

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

Compensation for damage done in taking materials.

#### *Offences and Penalties.*

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

Offences under Act.

(a) damages, alters or obstructs the canal;

(b) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under the canal;

(c) interferes with or alters the flow of water in any river or stream, so as to endanger or damage the canal or render it less useful;

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

(e) causes any vessel to enter or navigate, or to remain at any place in, the canal contrary to the rules for the time being prescribed by the Chief Commissioner for entering, navigating or remaining in the canal;

(f) while navigating the canal, neglects to take proper precautions to prevent injury to the canal and to vessels therein;

(g) being

(g) being a person liable to labour under section fourteen, refuses or neglects without reasonable cause so to labour;

(h) destroys or moves any land-mark, level-mark or water-gauge fixed by the authority of a Canal Officer;

(i) passes or causes animals or vehicles to pass, on or across any of the works, banks, or channels of the canal contrary to rules made under this Act, after he has been desired by a Canal Officer to desist therefrom; or

(j) pastures any animals on the banks of the canal, or knowingly suffers any animals belonging to him or under his charge to graze on such banks;

Penalty.

shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Saving of prosecution under other laws.

Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: provided that no person shall be punished twice for the same offence.

Recovery of fines for offences in navigating canal.

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

Power to arrest without warrant.

20. Any person duly authorized in this behalf under section three may remove from the lands or buildings belonging to the canal, or may arrest without a warrant, and take forthwith before a Magistrate or to the nearest Police-station, to be dealt with according to law, any person who, within his view, commits any of the offences mentioned in clauses (a), (b) and (c) of section eighteen.

Power



*Power to make Rules.*

21. The Chief Commissioner may, subject to the control of the Governor General in Council, from time to time, make rules consistent with this Act to regulate the following matters:—

Power to make rules.

(a) the navigation of the canal;

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

(c) the amount of any tolls leviable under this Act; and

(d) generally, to carry out the provisions of this Act.

The Chief Commissioner may, in making any such rule, attach to the breach of it the penalty specified in section eighteen.

Such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Publication of rules.

*Validation of past Proceedings.*

22. Anything heretofore done which might legally have been done if this Act had been in force shall be deemed to have been done in accordance with law.

Validation of past proceedings.