

A BILL TO AMEND THE WATER RESOURCES ACT

NOTE.

This Bill amends section 10 of the above Act by striking out subsection (7) and substituting two subsections (7) and (8). Under the provisions of subsection (3) of section 10, applications, subject to the date of the applications, for the right to use water have precedence in the following order: (1) domestic purposes; (2) municipal purposes; (3) industrial purposes; (4) irrigation purposes; (5) water power purposes; (6) other purposes. Subsection (3) provides that a person requiring water for a purpose which has precedence over the purpose for which water is being used, may apply to the Minister to have such right cancelled in whole or in part, and if the Minister approves, such right may be cancelled in whole or in part upon payment of compensation to the owner.

By subsection (7) now in force the Lieutenant Governor in Council was given power to reserve any unappropriated water and may authorize its allocation as he may deem best in the public interest. It was the intention of this subsection that the water reserved by the Lieutenant Governor in Council should be removed from the application of subsection (3), which subsection authorizes the cancellation of an existing right in favour of persons having a prior right as above set out. Some doubt has been raised as to whether this purpose has been effected, and the effect of the new subsection (7) is to authorize the Lieutenant Governor in Council to,—

- (1) authorize the allocation of the whole or part of the water reserved among the applicants as he may deem best in the public interest;
- (2) fix a period of time within which advantage may be taken of the application;
- (3) prescribe the relative order of precedence of the allotment, and in particular empowers the Lieutenant Governor in Council to authorize the granting of a license or permit without the same being subject to cancellation or diminution as provided in subsection (3) unless it is so provided in the permit, and in such case subsections (3), (4) and (5) shall not apply to the license or permit.

It is also provided, however, that the license or permit may alternatively provide, if so desired, that the rights granted shall be subject to cancellation or diminution upon payment

of compensation. The general purpose of the amendment is to give the Lieutenant Governor in Council authority to direct the issue of licenses and permits in either form.

The proposed subsection (8) authorizes the Lieutenant Governor in Council to make an agreement with a licensee to amend the terms of an existing license with respect to control by the Minister of stream flow or the surface level of any reservoir authorized thereby or the termination of the license by reason of the water being subsequently required for any other purpose. For example, it is desired to provide that the Minister, with the approval of the Lieutenant Governor in Council, may, for instance, allocate by agreement with a licensee having the right to use water for power purposes, some or all of that water for irrigation purposes or may terminate the license by reason of the water being permanently required for irrigation. This is made subject to compensation.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

Bill 94 of 1948.

An Act to amend The Water Resources Act.

(Assented to 1948.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Water Resources Act*, being chapter 65 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 10 by striking out subsection (7) thereof and by substituting therefor the following:

“(7) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council may reserve any unappropriated water, the property in which is vested in the Crown in the right of the Province in order that he may determine how the water may be used to the best advantage, and may thereafter authorize the allocation of the whole or any part of the water so reserved among the applicants therefor or otherwise, as he may deem best in the public interest, and may fix a period of time within which advantage may be taken of the allocation and may prescribe the relative order of precedence of the allotments made in the allocation and in particular, but without in any way limiting the generality of the foregoing, the Lieutenant Governor in Council may authorize the granting of a permit or license for the diversion and use for any purpose mentioned in subsection (1) of the whole or any part of the water so reserved, which permit or license and the rights granted thereby shall not be subject to cancellation or diminution by reason of the water being subsequently required for any other purpose unless so provided in such permit or license, and subsections (3), (4) and (5) shall not apply to any such permit or license or to any renewal or extension thereof, but such permit or license may provide for the cancellation or diminution thereof and the rights granted thereby upon payment of compensation to be fixed in such manner as the Lieutenant Governor in Council may authorize, and as shall be set out in such permit or license:

“Provided that no applicant shall acquire the right to divert or use any such water until he has complied with the provisions of this Act and the regulations respecting the procedure to be followed in obtaining permits or licenses.

“(8) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council may authorize the Minister by agreement with the licensee to amend the terms

of any existing license whether granted pursuant to the *Dominion Water Power Act* or this Act for the diversion of any water, the property in which is vested in the Crown in the right of the Province, or of any regulations incorporated therein, with respect to control by the Minister of stream flow or of the surface level of any reservoir authorized thereby or the termination of such license by reason of the water being subsequently required for any other purpose upon such terms as to compensation and otherwise as he may deem best in the public interest and as shall be set out in such agreement, and from and after the making of such agreement subsections (3), (4) and (5) shall not apply to such license or to any renewal or extension thereof."

2. This Act shall come into force on the day upon which it is assented to.

FIFTH SESSION
TENTH LEGISLATURE
12 GEORGE VI
1948

BILL

An Act to amend The Water
Resources Act.

Received and read the

First time

Second time

Third time

HON. MR. MACMILLAN.
