

No. 139

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 139

A Bill respecting Improvement Districts

HON. MR. HOOKE

Explanatory Note

General. This Bill repeals and replaces The Improvement Districts Act which is chapter 150 of the Revised Statutes.

2. Replaces and amends section 2 of present Act.

BILL

No. 139 of 1964

An Act respecting Improvement Districts

(Assented to _____, 1964)

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

1. This Act may be cited as "*The Improvement Districts Act, 1964*".

2. In this Act,

- (a) "assessor" means a person appointed to perform any of the duties of an assessor prescribed by *The Assessment Act, 1960*;
- (b) "conditional owner" means a person who is a purchaser, lessee, licensee or permittee from the Government of Canada, or from the Province, of land or other property that is not exempt from assessment or taxation by reason of the provisions of *The Assessment Act*;
- (c) "Department" means the Department of Municipal Affairs;
- (d) "Deputy Minister" means the Deputy Minister of Municipal Affairs;
- (e) "hamlet" means
 - (i) any area of land subdivided into lots and blocks as a townsite, a plan of which is registered in a land titles office,
 - (ii) any area of land as defined by subclauses (i) and (ii) of clause (1) and on which are erected improvements used for purposes other than farming purposes, and
 - (iii) any area declared by an order of the Minister to be a hamlet;
- (f) "indigent person" means a person who is actually destitute of means from his own resources of obtaining food, clothing, shelter, medical advice or attention and hospital care necessary for the immediate wants of himself and his dependants;
- (g) "land"
 - (i) means lands, tenements and hereditaments and any estate or interest therein, and

- (ii) without restricting the generality of subclause (i) includes growing timber, but
 - (iii) does not include minerals;
- (h) "mineral" includes coal, but does not include natural gas, petroleum, gasoline or any oil of a mineral nature;
- (i) "Minister" means the Minister of Municipal Affairs;
- (j) "mobile home" means
 - (i) any vacation trailer or house trailer, or
 - (ii) any structure, whether ordinarily equipped with wheels or not, that is constructed or manufactured to be moved from one point to another by being towed or carried and to provide living accommodation for one or more persons;
- (k) "owner" means
 - (i) in the case of land the person who is registered under *The Land Titles Act* as the owner of the land, or
 - (ii) in the case of property other than land the person who is in legal possession thereof;
- (l) "parcel" means
 - (i) an unsubdivided block or any lot or any part of such block or lot in an area of land a plan of subdivision of which is registered in a land titles office,
 - (ii) in a case where a building has been erected on two or more lots or parts thereof, all such lots,
 - (iii) where there is no such plan of subdivision, a quarter section of land according to the system of surveys under *The Alberta Surveys Act* or any other area the description of which has been approved by the proper land titles office, or
 - (iv) all the land
 - (A) included in one grazing or timber lease, licence or permit from the Government of Canada or the Province, or
 - (B) forming part of a railway, irrigation or drainage right of way;
- (m) "personal property" means all goods and chattels;
- (n) "purchaser" means a person who has purchased or otherwise acquired but has not yet become the owner of land within a district, whether he has purchased or otherwise acquired the land direct from the owner thereof or from another purchaser.

3. Subsection (1) replaces and amends section 3 of present Act.

Subsection (2) is a new section required to validate the constitution of present improvement districts and to validate the orders and regulations presently in effect.

4. Same as section 4 of the present Act.

5. Same as section 5 of present Act.

6. Same as section 6 of the present Act.

Organization

3. (1) The Lieutenant Governor in Council may by order, notice of which shall be published in the *Gazette*,

- (a) constitute as an improvement district any portion of the Province not already contained in a city, town, village, county, municipal district, special area, or improvement district, and
- (b) constitute as an improvement district any portion of a city, town, village, municipal district, county or special area that has been withdrawn therefrom by an order of the Minister or the Local Authorities Board,

and may designate an improvement district by a distinctive name or number.

(2) Any improvement district constituted as such prior to the passing of this Act continues to be an improvement district.

(3) Any order or regulation presently in effect and passed under any previous Act dealing with improvement districts shall remain in effect as though it was passed under this Act.

4. The Minister may at any time by order, notice of which shall be published in the *Gazette*,

- (a) direct that an improvement district cease to be such, or
- (b) alter the boundaries of an improvement district by way of addition thereto or subtraction therefrom, or
- (c) amalgamate any two or more improvement districts, or
- (d) alter the name or number of an improvement district.

Implied Provisions

5. Where in this Act a date is fixed on or by which a certain thing is to be done or proceedings had or taken, and it appears that such date was fixed having regard to an earlier date on or by which a certain thing is to be done or proceedings had or taken, then, notwithstanding anything in this Act, if delay is occasioned or an extension of time allowed in respect of the earlier date, a like delay or extension of time shall be allowed in respect of the later date.

6. (1) If a thing that is to be done within a number of days or at a time fixed by or under this Act cannot be or is not so done, the Minister may, by order, appoint from time to time a further or other time for doing that thing, whether the time at or within which it ought to have been done has or has not arrived or expired, as the case may be.

7. Same as section 7 of present Act.

8. Replaces and amends section 8 of present Act.

(2) A thing that is done at or within the time specified in the order is as valid as if it had been done at or within the time fixed by or under this Act.

7. Where in this Act a certain day is fixed on which or by which certain things are to be done or proceedings had or taken and the day so fixed is a Sunday or other holiday, those things or proceedings shall be done, had or taken on or by the next day that follows the fixed day and is not a Sunday or other holiday.

Imposition of Taxes

8. (1) Before the first day of May in each year every Department charged with the duty of expending any part of the taxes collected in an improvement district shall send to the Minister a statement, with reference to each improvement district, of the estimated amount required to be expended by it in each improvement district during the current year.

(2) The Minister shall, as soon as practicable in each year, prepare a detailed estimate of the probable expenditures of each improvement district for the year, and the estimate shall include the following:

- (a) the sums necessary to meet interest payments falling due during the year;
- (b) such sums as may be required to meet such expenditure for ordinary municipal purposes as may be set by the Minister;
- (c) such sums as may be required to meet the requisitions of any hospital district, school district, or school division, pursuant to *The Alberta Hospitals Act*, or *The School Act*, as the case may be;
- (d) such sums as may be required to meet the requisition of the Province pursuant to *The Alberta Hospitals Act*;
- (e) such sums as may be required to meet the requisition of the Province pursuant to *The School Act*;
- (f) such sums as the improvement district may become liable to pay by virtue of any statute of the Province.

(3) The Minister shall make an estimate of the probable revenue of each improvement district for the year to be derived from business taxes, grants in lieu of taxes and sources of revenue other than taxation.

(4) The Minister shall, by order, authorize a tax to be levied upon the assessed value of all assessed property shown on the assessment roll, at such uniform rate on the dollar as the Minister considers sufficient to produce the amount of the expenditures that are estimated for each

improvement district by the Minister or as are annually requisitioned upon the Minister, to produce the sums necessary to meet

- (a) interest payments falling due during the year,
- (b) ordinary municipal expenses,
- (c) the requisition by the board of any school division or school district,
- (d) the requisition by the board of any hospital district,
- (e) the requisition of the Province pursuant to *The Alberta Hospitals Act*,
- (f) the requisition of the Province pursuant to *The School Act*, and
- (g) any other sums for which the improvement district may become liable to pay by virtue of any statute of the Province.

(5) Notwithstanding subsections (4) and (6) property assessed under *The Electric Power and Pipe Line Assessment Act* is not liable to any tax levied to meet a requisition pursuant to clauses (c) and (d) of subsection (4).

(6) Notwithstanding subsection (4), where a requisition applies to only part of an improvement district, the tax to be levied to meet the requisition, shall only be levied upon assessed property in that part of the improvement district to which the requisition applies.

(7) In acting under clause (b) of subsection (4), due allowance shall be made for the estimated probable revenue for municipal purposes of business tax, grants in lieu of taxes and sources other than taxation, for discounts and taxes that may reasonably be expected to remain unpaid.

(8) In acting under clauses (c), (d), (e) and (f) of subsection (4),

- (a) due allowance shall be made for the estimated probable revenue from business taxes and grants in lieu of taxes, and
- (b) an allowance made for non-collection of taxes or discount on taxes shall not exceed ten per cent of the amount of the requisition.

(9) When an order has been issued providing for a business tax in accordance with *The Assessment Act, 1960*, the Minister shall by order authorize a levy at such uniform rates on the dollar as the Minister considers sufficient, a business tax for any of the purposes mentioned in this section or any one or more of them as specified in the order but in no case shall the rates levied for any purpose set out in the order be greater than the rates levied for the same purpose on the assessed value of the land forming the site of the business.

(10) The Minister may by order provide for the combination into one rate of the different rates levied pursuant

9. Same as section 8a of present Act.

10. Same as section 9 of present Act.

11. Same as section 9a of the present Act.

to any order issued pursuant to this section and payable by a ratepayer who is a public school supporter, and may likewise provide for the combination into one rate of the different rates levied and payable by a ratepayer who is a separate school supporter.

(11) The rates so combined shall be levied and are payable as if each rate included therein were levied separately.

(12) The total amount of all rates levied pursuant to this section and collected in any year shall be credited to the general revenue of each improvement district and shall be available for the payment of the general expenditures of each improvement district and also for the payment of any amount payable by each improvement district in that year to any hospital district, school district or school division or the Province.

(13) An order issued pursuant to subsection (4) shall show the separate mill rates levied for each purpose.

9. Notwithstanding anything in this or any other Act the Minister by order, may exempt from taxation, all or such percentage of the assessment of improvements as described in subclause (iii) of clause (i) of section 2 of *The Assessment Act, 1960*, as he considers advisable.

10. The Minister may borrow on the security of the taxes levied by him any sum required for the purpose of paying any requisition due to the board of a school district, a school division, a hospital district or the Province.

11. (1) The Minister may, by order, provide for the imposition of a tax on persons who are in legal possession of equipment when the equipment is engaged in the drilling of any well for which a licence is required under *The Oil and Gas Conservation Act* or in legal possession of equipment capable of or designed for drilling a gas or oil well when the equipment is engaged in servicing a gas or oil well.

(2) The tax shall be computed in accordance with a schedule which may be established by the Lieutenant Governor in Council.

(3) The Deputy Minister, or a person designated by him, may in writing, require any owner, conditional owner or lessee of drilling equipment to supply such information as may be necessary to compute the tax imposed pursuant to this section.

(4) The tax may be imposed at any time during a calendar year and becomes due and payable upon cessation of the drilling or servicing operation and may be recovered with costs and with interest as a debt to the Crown from the owners, conditional owners or lessees of the equipment.

12. Same as section 10 of the present Act.

13. Same as section 11 of the present Act. Sections 12 and 13 of present Act no longer required and are omitted.

14. Same as section 13a of present Act. Sections 14 to 18 of present Act were previously repealed.

(5) When a tax imposed by an order of the Minister pursuant to this section remains unpaid for a period of thirty days after the cessation of the drilling or servicing operation, the Deputy Minister or any person appointed by him may levy the tax with costs by distress under section 28.

(6) This section does not apply in respect of any equipment licensed under *The Mobile Equipment Licensing Act*.

12. (1) On or before the first day of November in each year, the Deputy Minister shall cause to be entered in the assessment and tax roll of each improvement district for the year a statement of all taxes against each parcel of land or other property and against the businesses assessed upon the roll.

(2) The statement shall show

- (a) the several rates of taxation for the current year,
- (b) the total taxes due for the current year on each parcel of land, business or other property, and
- (c) the total arrears of taxes due on each parcel of land, business or other property.

13. A person who is the owner, purchaser or conditional owner of any assessed land, improvements, or property assessed under *The Electric Power and Pipe Line Assessment Act*, or any person carrying on business shall pay taxes upon the assessed value thereof at the rates lawfully imposed thereon irrespective of the nature or amount of his interest in such land, improvements, business or property assessed under *The Electric Power and Pipe Line Assessment Act*.

14. (1) The Minister may by order provide for the licensing of mobile homes situated in an improvement district.

(2) The licence fee to be imposed in respect of a mobile home pursuant to an order under this section shall not exceed ninety dollars per year or seven dollars and fifty cents per month, for each calendar month during which the mobile home is within the boundaries of the improvement district.

(3) Where the Minister has made an order for the licensing of mobile homes in an improvement district, then as soon as a mobile home is used as a residence in the improvement district the full amount of the licence fee for that portion of the licensing year then unexpired thereupon becomes due and payable unless the improvement district and the owner of the mobile home have entered into an agreement whereby the licence fee is made payable on a monthly basis.

(4) Where the owner of a mobile home has paid the full annual licence fee imposed pursuant to this section

15. Same as section 19 of present Act.

and the mobile home is moved from the improvement district or ceases to be occupied as a residence, the owner, upon application therefor, shall be refunded one-twelfth of the annual licence fee for each full calendar month remaining in the year and during which the mobile home is not within the improvement district or the mobile home is not used as a residence.

(5) A licence is not required in respect of a vacation trailer occupied by a *bona fide* tourist.

(6) A mobile home licensed under this section is not liable to assessment pursuant to *The Assessment Act, 1960*.

(7) A licence fee payable pursuant to this section is collectible in the same manner as taxes levied by the improvement district.

Tax Notices

15. (1) The Deputy Minister shall cause to be mailed to each person whose name appears on the assessment roll, and to the address shown therein, notice of the amount of taxes due by such person in respect of the property or business for which he is assessed.

(2) The entry of the date of mailing each notice along with the initials or symbol representing the initials of the clerk making the same on the roll is *prima facie* proof of the mailing of the notice on the date entered without proof of the appointment or signature of the clerk, and the absence of any entry of the date and initials or symbol representing the initials is *prima facie* proof that the person's address is unknown and that the notice has not been mailed.

(3) Every notice mailed in accordance with subsection (1) shall be in the prescribed form and shall show

- (a) the location of the property or business assessed,
- (b) the assessed value of the property or business,
- (c) the several rates of taxation for the current year,
- (d) the total taxes levied for the current year,
- (e) the arrears of taxes due in respect of the assessed property or business, and
- (f) the total taxes due in respect of the assessed property or business.

(4) Notwithstanding the foregoing subsections, no tax notice need be sent to

- (a) a purchaser, unless the notice provided for by subsection (3) of section 28 of *The Assessment Act, 1960*, requesting that notices of assessment and taxation be sent to him has been received by the Deputy Minister, or
- (b) any person whose name appears on the assessment roll, but against which assessment no tax rates have been levied and no taxes are due.

16. Same as section 20 of present Act.

17. Replaces and amends section 21 of present Act. Section 22 of present Act no longer required.

18. Same as section 23 of present Act.

(5) No tax notice shall be considered irregular, incomplete or otherwise invalid, nor shall any exemption from taxation be conferred,

(a) by reason of an error, omission or misdescription in a tax notice, or

(b) by reason of the non-receipt of such notice by the person to whom it was addressed.

16. Except as otherwise provided, all taxes levied under this Act,

(a) shall be deemed to be due on the first day of January in the year in which they are imposed, and

(b) are payable at the office of the Department.

Discounts and Penalties

17. (1) Subject to subsection (6), the Minister may, by order, authorize a discount of not more than six per cent on all payments of taxes made before a date to be fixed in the order and that become due and payable in the year in which the payment is made.

(2) If, after the last day of February in any year, any taxes that became due and payable in the preceding year remain unpaid, a penalty of six per cent or such lesser rate as the Minister prescribes shall be added thereto on the first day of March in that year and in each succeeding year so long as the taxes remain unpaid.

(3) An amount so added forms a part of the taxes that are, by this Act, made a special lien upon the land.

(4) Nothing in this section shall be construed to extend the time for payment of taxes nor in any way to impair the right of distress or other remedy provided by this Act for the collection of taxes.

(5) For the purposes of this section "taxes" includes any costs lawfully incurred in any proceedings taken for the purpose of enforcing payment of taxes pursuant to this Act or any other Act that has for its object the recovery of taxes.

(6) No discount shall be allowed under this section upon a payment in respect of taxes due upon a parcel unless the amount payable on account of such taxes for the current year has been paid in full.

18. The Minister in his discretion may by order provide for the remission of a portion of the taxes paid or to be paid by a person

(a) where in outlying districts few public services are provided, or

(b) where for any other reason the Minister considers it inequitable that the full amount of the taxes be levied or paid.

19. Same as section 24 of present Act.

20. Same as section 25 of present Act.

21. Replaces and amends section 26 of present Act.

22. Same as section 27 of present Act.

Receipts

19. The Deputy Minister upon receiving any taxes

- (a) shall cause to be issued an official receipt therefor upon a form supplied or approved of by the Minister, and
- (b) shall cause the number of the receipt to be entered upon the assessment and tax roll opposite the property or business in respect of which the taxes are paid.

Application of Payments

20. (1) Upon receiving payment of any taxes, the Deputy Minister upon the written request of a person who pays only a portion of the taxes due by him shall cause that person to be credited on the assessment and tax roll as having paid the taxes on such parcel or parcels as the person may select.

(2) If arrears of taxes are due on the parcel or parcels selected and in respect of which payment is made, the payment received shall first be applied in payment of the arrears against the parcel or parcels selected.

(3) If a person pays a portion only of the taxes due by him and he does not signify the manner in which the payment is to be applied as provided in subsection (1), the payment so made shall be applied,

- (a) first in payment of any arrears due by him, and
- (b) as to the remainder, if any, in payment of taxes levied for the current year, as the Deputy Minister may direct.

Tax Certificates and Fees

21. (1) The Deputy Minister upon receipt of a fee of fifty cents shall, if requested, make a search in the assessment and tax roll in respect of any assessable parcel of land and give a certificate under his hand, showing whether or not all taxes in respect of the parcel have been paid, and if not, the amount of the current taxes and arrears payable against the parcel.

(2) The Deputy Minister may, upon request, give to any person a statement of taxes owing on a parcel of land and may charge a fee of twenty-five cents for each statement so requested.

(3) The fee for a tax certificate or a tax statement forms part of the general revenue of the improvement district.

Collection of Taxes

22. (1) The taxes due in respect of any property or business, together with costs, may be recovered with interest as a debt due to the Crown from a person

23. Same as section 28 of present Act.

- (a) who was the owner, conditional owner or purchaser thereof at the time of its assessment, or
- (b) who subsequently became the owner, conditional owner or purchaser of the whole or any part thereof,

but saving his recourse against any other person.

(2) All taxes due in respect of any property or business are a special lien on the property or stock in trade of the business, if not exempt from taxation by the Province, in priority to every claim, lien or encumbrance, except a lien, claim or encumbrance of the Crown.

(3) The lien under subsection (2) and its priority are not lost or impaired by any neglect, omission or error.

(4) A copy of so much of the assessment and tax roll as relates to the taxes payable by a person, if it purports to be certified as a true copy by the Deputy Minister, is *prima facie* proof of the debt.

(5) For the purpose of this section all taxes shall be deemed to be due on the day on which the tax notice respecting them was mailed as shown by the assessment and tax roll.

(6) Where the address of an owner, conditional owner or purchaser is unknown, a tax notice shall be deemed to have been mailed upon the date upon which the tax notice was first mailed to the owner, conditional owner or purchaser at his last recorded address.

23. (1) Notwithstanding anything contained in a statute or in the common law,

- (a) taxes levied in any year upon or in respect of land in an improvement district are a charge or special lien upon
 - (i) all crops grown on the land in the year in which the taxes are levied, and
 - (ii) all crops grown on the land in each year thereafter until the said taxes are paid,
 and
- (b) the lien or charge has priority over all other claims, liens, privileges or encumbrances on such crops except as set out in *The Crop Liens Priorities Act*.

(2) No person other than

- (a) the operator of a country elevator as defined in the *Canada Grain Act*, or
- (b) the holder of a lien that is, pursuant to *The Crop Liens Priorities Act*, prior to the lien created by this section,

shall receive or accept any crop or any part or share of any crop grown on land in an improvement district or any part of the proceeds of the sale of any such crop until all taxes owing in respect of that land have been paid.

24. Same as section 29 of present Act.

(3) If a person other than the operator of a country elevator, takes, receives or accepts, except as permitted by this section,

(a) any such crop or any part or share thereof, or

(b) any part of the proceeds of any such crop,

the person is to the extent of the part, share or proceeds of the crop taken, received or accepted, liable to the improvement district for the payment of the taxes owing in respect of the land on which the crop was grown.

(4) The taxes due in respect of any land from a person by reason of his taking, receiving or accepting, otherwise than in accordance with the priorities established by *The Crop Liens Priorities Act*,

(a) a crop or a part or share of a crop, or

(b) a part of the proceeds of any such crop,

may be recovered from such person with interest as a debt due to the Crown.

(5) Subsections (2) and (3), in so far as they refer to the proceeds of the sale of a crop, do not apply

(a) to a person who receives or accepts from a farmer proceeds of sale of his crop in payment of or on account of

(i) the price of goods purchased, or

(ii) advances first made,

in the same calendar year as that in which the proceeds are received, or

(b) to deposits made

(i) in a treasury branch,

(ii) to a treasury branch agent authorized to receive deposits, or

(iii) in a chartered bank,

to the extent that such deposits are not applied on advances first made or indebtedness first incurred prior to the first day of January of the year in which the deposits are made.

24. (1) In this section "judge" means either a judge of the Supreme Court or a judge of a district court.

(2) Where a farmer has sold or otherwise disposed of his crop or a part or share of the crop that was grown on land on which taxes are owing to the improvement district, and the Deputy Minister has not received a satisfactory report from the farmer with respect to the disposition of his crop or a part or share of the crop, the Deputy Minister or his authorized representative may apply to a judge or magistrate for an order or direction that the farmer appear before a judge, magistrate, justice of the peace, notary public or commissioner for oaths, for examination under oath touching the disposition of the crop or any part or share of the crop or any part of the proceeds thereof.

(3) The judge or magistrate may order the examination of a farmer pursuant to the application, and the Deputy Minister or his authorized representative may

(a) procure an appointment for the examination from the judge, magistrate, justice of the peace, notary public or commissioner for oaths before whom the examination is ordered to take place, and

(b) examine the farmer.

(4) The farmer to be examined, upon being served with a copy of the appointment at least four clear days before the date fixed for the examination, shall attend thereon at his own expense.

(5) If, after the farmer has been served with notice of the appointment,

(a) he refuses, neglects or fails to attend at the time and place appointed for his examination, and

(b) no sufficient excuse is offered for his non-appearance,

then, after proof upon oath that the notice of appointment has been served as aforesaid or that the farmer to whom the appointment is directed has avoided service, the person before whom the farmer ought to have appeared for examination may issue a warrant under his hand directed to a peace officer to bring the farmer, at a time and place to be therein mentioned, before him in order to be examined.

(6) A peace officer to whom the warrant is directed may thereupon take the farmer into custody and bring him for examination before the person issuing the warrant.

(7) A farmer examined orally pursuant to this section may give further evidence or be further examined in explanation of any matter in respect of which he has already been examined.

(8) Unless the judge or the magistrate otherwise directs, the farmer to be examined shall, if so required by notice, produce at the examination all books, papers and documents relating to the harvesting and disposition of the crop or of the proceeds thereof.

(9) A farmer who admits upon his examination that he has in his custody or power any book, paper or document relating to the harvesting or disposition of the crop or of the proceeds thereof, shall produce it for inspection by the Deputy Minister or his duly authorized representative

(a) upon the order of the judge or magistrate, or

(b) upon the direction of the examiner, within a reasonable time to be fixed by the order or direction.

(10) A farmer who refuses to be sworn or to answer any question properly put to him or to produce any document relating to the harvesting or disposition of the crop or of the proceeds thereof

25. Replaces and amends section 30 of present Act.

26. Same as section 31 of present Act.

27. Same as section 32 of present Act.

(a) is liable to attachment upon application by notice of motion to a judge of the Supreme Court, and

(b) may be punished as for contempt of court.

(11) Unless taken in shorthand, the depositions on an examination of a farmer as aforesaid may be taken down in writing by the examiner in the form of a narrative expressed in the first person, and when completed shall be read over to the person examined, signed by him, if approved, and certified by the examiner.

25. (1) Where taxes are due in respect of any land occupied by a tenant, the Deputy Minister may give the tenant notice in writing requiring him to pay to the Deputy Minister the rent of the premises as it becomes due from time to time up to the amount of the taxes due and unpaid and costs.

(2) Notwithstanding subsection (1), the Deputy Minister shall notify the owner or purchaser of the land by registered mail of the intention of the municipal district to proceed under authority of this section not less than fourteen days prior to the date on which such action is proposed to be taken.

(3) The Deputy Minister in such case has the same authority as the landlord of the premises would have to collect the rent by distress or otherwise to the amount of the unpaid taxes and costs.

(4) Nothing in this section prevents or impairs any other remedy for the recovery of the taxes or any portion thereof from any person liable therefor.

26. A tenant or purchaser may deduct from his rent or moneys payable under his contract of purchase any taxes paid by him that as between him and his landlord or vendor, the latter ought to pay.

27. (1) Except where a contract of fire insurance has been effected and is maintained by a mortgagee of the land for his own protection, all taxes due in respect of a parcel of land in an improvement district, whether or not any proceedings are pending for the recovery thereof under any Act relating to the recovery of taxes, are a first charge upon any money payable under a contract of fire insurance in respect of a building or erection on the land.

(2) All taxes due in respect of any personal property or business in an improvement district are a first charge upon any money payable under a contract of fire insurance in respect of such personal property or business.

(3) The insurer shall as promptly as possible after receiving notice of loss, but in any event within forty-eight hours after receiving formal proof of loss, under a contract of fire insurance, notify the Deputy Minister by registered

28. Same as section 33 of present Act.

mail of the loss of any insured property situated within an improvement district.

(4) The Deputy Minister shall within ten days after the receipt of the notice from the insurer notify the insurer by registered mail of the full amount of the taxes due in respect of the parcel of land, the personal property or the business, as the case may be.

(5) When an insurer becomes liable for the payment of any money under a contract of fire insurance in respect of a building or erection or personal property in an improvement district, the insurer shall, subject to the rights of any mortgagee as provided in subsection (1),

- (a) pay to the Deputy Minister the full amount of the taxes stated to be due to the improvement district in the notification received by the insurer from the Deputy Minister, or
- (b) if the amount that the insurer is liable to pay under the contract of fire insurance is insufficient to pay the full amount of the taxes stated to be due, pay to the Deputy Minister the full amount for which the insurer is liable,

and upon such payment being made the amount for which the insurer paying the same is liable under the contract shall be reduced by the amount of the payment.

28. (1) When taxes that are a lien upon the land remain unpaid for one month after the mailing of the tax notice hereinbefore provided for, the Deputy Minister or his agent may levy the amount of the taxes with costs by distress in the same manner as a landlord may recover rent in arrears

- (a) upon the goods and chattels wherever found within the Province belonging to an owner, purchaser or conditional owner of the land, each of whom is in this section referred to as "a taxable person", or belonging to an occupier of the land,
 - (b) upon the interest of a taxable person or any such occupier in goods and chattels found on the land, including his interest in goods and chattels to the possession of which he is entitled under
 - (i) a contract for purchase, or
 - (ii) a contract by which he may or is to become the owner thereof upon the performance of any conditions,
- or
- (c) upon goods and chattels on the land where title to the goods and chattels is claimed
 - (i) by virtue of an execution against a taxable person or an occupier,
 - (ii) by purchase, gift, transfer or assignment from a taxable person or occupier, whether absolute or in trust, or by way of mortgage or otherwise,

- (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of a taxable person or occupier, or by any other relative of his when the relative lives on the land as a member of the family, or
 - (iv) by virtue of an assignment or transfer made for the purpose of defeating distress.
- (2) Notwithstanding anything heretofore contained in this Act, no distress shall be made upon the goods and chattels of an occupier for any taxes that give rise to a lien upon land if the taxes were not first placed upon the tax roll during the period of his tenancy or occupancy of the land assessed.
- (3) The onus of proof that any goods or chattels found upon land are not the property of a taxable person or occupier, lies upon the person making the assertion.
- (4) When taxes that are not a lien on land remain unpaid after the mailing of the tax notice,
- (a) in the case of a resident of the improvement district, for fourteen days, or
 - (b) in the case of a non-resident, for one month,
- the Deputy Minister or his agent may levy the taxes with costs by distress.
- (5) The distress with costs may be levied
- (a) upon the goods and chattels of the person taxed wherever found within the Province,
 - (b) upon the interest of the person taxed in any goods and chattels to the possession of which he is entitled under
 - (i) a contract for purchase, or
 - (ii) a contract by which he may or is to become the owner thereof upon the performance of any condition,
 - or
 - (c) upon goods and chattels in the possession of the person taxed where title to the same is claimed
 - (i) by virtue of an execution against the person taxed,
 - (ii) by purchase, gift, transfer or assignment from the person taxed, whether absolute or in trust or by way of mortgage or otherwise, or
 - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed or by any other relation of his when such relation lives with the taxed person, or assists him in his business, or
 - (iv) by virtue of an assignment or transfer made for the purpose of defeating distress.

29. Same as section 34 of present Act.

30. Same as section 35 of present Act.

31. Same as section 36 of present Act.

29. (1) Where a distress warrant has been issued pursuant to section 28, a seizure shall be deemed to have been validly made thereunder when, whether or not a seizure has in fact then been made,

(a) the person who is the owner, or who is in possession of any of the goods and chattels liable to seizure under the distress warrant, or

(b) any other person as his agent, signs an undertaking or other agreement in writing undertaking or agreeing to hold and keep, as bailee for or on behalf of the Deputy Minister or his agent, the goods and chattels described in the agreement.

(2) Thereupon and thereafter the goods and chattels described in the agreement shall be deemed to be continuously under seizure until such time as the Deputy Minister or his agent making the levy abandons the seizure by notice in writing or until the goods and chattels have been sold under distress.

(3) On and after the signing of the agreement by the owner or possessor of the goods and chattels, neither the Deputy Minister nor his agent is liable for damage in an action for wrongful or illegal seizure or for loss or damage to the goods and chattels while in the possession of the owner or possessor thereof as bailee aforesaid.

30. Goods and chattels in the hands

(a) of a receiver for the general benefit of creditors,

(b) of an authorized trustee in bankruptcy, or

(c) of a liquidator under a winding-up order,

are liable only for the taxes of the assignor or of the company that is being wound up and for the taxes charged upon the premises in which the goods and chattels were at the time of the assignment or winding-up order, or thereafter charged upon the premises while the receiver, trustee or liquidator occupies the premises or while the goods and chattels remain thereon.

31. If at any time after the mailing of the tax notice and before the expiration of the time allowed before levy by distress can be made, the Minister or his agent

(a) has reason to believe that a person, in whose hands are goods and chattels subject to distress, is about to move the goods and chattels out of the improvement district, and

(b) makes an affidavit to that effect before a justice of the peace,

the justice of the peace may issue a warrant authorizing the person named therein to levy for the taxes, costs and expenses in the manner provided by this Act, although the time for payment thereof has not expired.

32. Same as section 37 of present Act.

33. Same as section 38 of present Act.

34. Same as section 39 of present Act.

35. Same as section 40 of present Act.

32. The costs chargeable in respect of any distress and levy are those payable to bailiffs under *The Seizures Act*.

33. (1) The Deputy Minister or his agent shall by advertisement posted up in at least three public places in the improvement district near to the distrained property, give at least ten days' public notice of the time and place of sale, and of the name of the person whose property is to be sold.

(2) At the time named in the notice the agent shall sell at public auction the goods and chattels distrained or so much thereof as is necessary.

(3) Notwithstanding subsections (1) and (2), the Deputy Minister may have any grain that is seized under this Act hauled to the nearest elevator or to any other convenient and suitable place of storage and may dispose of the grain at the current market price.

34. (1) When the distrained property has been sold for more than the amount of the taxes and costs, if no claim to the surplus moneys is made by any other person, the surplus moneys shall be paid to the person in whose possession the property was when the distress was made.

(2) If a claim to the surplus moneys is made by the person for payment of whose taxes the property was distrained and the claim is admitted, the surplus moneys shall be paid to the claimant.

(3) If the claim to the surplus moneys is contested, the surplus moneys shall be retained by the Department until the respective rights of the parties have been determined by action or otherwise.

35. Where personal property liable to seizure for taxes as hereinbefore provided

(a) is already under seizure or attachment, or

(b) has been seized by the sheriff or by a bailiff of any court, or

(c) is claimed by or is in possession of an assignee for the benefit of creditors or liquidators or of any trustee or authorized trustee in bankruptcy, or

(d) has been converted into cash and is undistributed, if the Deputy Minister gives to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy notice of the amount due for taxes, the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy shall, after deducting any costs properly incurred in seizing, holding and selling the property, pay to the Deputy Minister the amount of taxes in preference and priority to any other and all other fees, charges, liens or claims whatsoever, except those of the Crown in right of the Province.

36. Same as section 41 of present Act.

37. Same as section 42 of present Act.

38. Same as section 42a of present Act.

39. Replaces and amends section 43 of present Act.

40. Replaces and amends section 43a of present Act.

36. The Minister may by order remit taxes due from an insane person.

37. The Minister may by order provide for the compromise of arrears of taxes upon such terms as he thinks proper.

38. Where arrears of taxes

- (a) appear on the assessment and tax roll,
 - (b) are no longer secured by a charge against land or other property, and
 - (c) are no longer collectible from the person taxed,
- the Minister may by order provide for their cancellation.

39. (1) The Minister may by order provide for the doing, in a hamlet situated within an improvement district, of anything that a village council may by by-law enact to be done under *The Town and Village Act*.

(2) The Minister may, with the approval of the Public Utilities Board, enter into contracts with a person undertaking to provide street lighting in a hamlet situated in an improvement district, and

- (a) rates may be levied in the same manner as taxes against all property situated within the hamlet to meet the cost of such service, and
- (b) the amounts so levied shall be in addition to the amounts levied pursuant to section 8.

(3) The Minister may provide by order for the proper scavenging of a hamlet within an improvement district either

- (a) by entering into a contract for the doing of such work in the manner and at the times provided by the contract, or
- (b) by the employment of a scavenger to do the work on such terms as may be agreed upon.

(4) The Minister may, in respect of a hamlet situated within an improvement district, provide for

- (a) the supplying of water within the hamlet either by drilling a well or by the construction of a reservoir, and
- (b) the supplying of fire fighting equipment for the use of the hamlet.

(5) The amounts estimated to be spent in providing the services mentioned in subsections (3) and (4) may be raised by a levy on each parcel of land within the hamlet, and the amounts so levied shall be in addition to and shall form part of the amounts levied pursuant to section 8.

40. (1) The Minister may, by order,

41. Replaces and amends section 43b of present Act.

- (a) establish and determine the boundaries of a rural fire protection area,
- (b) authorize the purchase of apparatus and equipment for extinguishing fires and preserving life and property from injury or destruction by fire in the rural fire protection area,
- (c) provide for recovering the cost of such apparatus and equipment so purchased and the cost of operating the equipment, if any, and
- (d) authorize agreements with other municipalities for the joint purchase, use, control and management of the apparatus and equipment.

(2) An expenditure made pursuant to subsection (1) may be recovered by a levy of a special tax on all assessed property in the rural fire protection area and appearing on the assessment roll of the district.

41. (1) If, in the opinion of the Minister, an unoccupied building, structure or erection is, by reason of its ruinous or dilapidated condition, dangerous to the public safety or health, the Minister may issue an order respecting such building, structure or erection.

(2) Any such order may require the owner, within a period of time which shall not be less than one month from the date of the making of the order,

- (a) to remedy the condition in the manner and to the extent directed in the order, or
- (b) to demolish and remove the unoccupied building, structure or erection and clear the site thereof.

(3) If the owner does not remedy the condition within the period specified in the order or the unoccupied building, structure or erection has not been demolished and removed at the expiration of the period specified in the order, the Minister shall remedy the condition to the extent directed in the order or cause the unoccupied building, structure or erection to be demolished or removed and the site thereof cleared.

(4) The removal may be done by way of selling the unoccupied building, structure or erection, in which case the net proceeds realized by the Minister from such sale shall be paid to the owner, mortgagee or other person entitled thereto unless there are any taxes owing in respect of the unoccupied building, structure or erection or the land on which it is situated in which case the amount of such taxes shall be set off against the net proceeds of the sale of the unoccupied building, structure or erection and any amount in excess thereof shall be paid to the owner, mortgagee or other person entitled thereto.

(5) If the proceeds from the sale of the building, structure or erection, after the deduction of any taxes owing

42. Replaces and amends section 44 of present Act.

thereon, are insufficient to meet the cost of demolition or clearance of the site, or if no proceeds are realized from the demolition and removal of the building, structure or erection, the Deputy Minister may charge the cost of the work done against the owner of the land on which the building, structure or erection was located and recover it as a debt due to the Crown or charge it against the land concerned as taxes due and owing in respect of that land and recover it as such.

(6) The Minister shall cause not less than two weeks' notice to be sent by registered mail to the registered and assessed owner of the land upon which the unoccupied building, structure or erection stands, specifying the date, time and place at which the making of such order will be considered and that the owner will be given an opportunity of appearing and being heard by the Minister at such meeting before the making of the order.

42. (1) The Minister with the approval of the Public Utilities Board may enter into and execute any contract with a person, hereinafter called a "contractor", to supply, for any period not exceeding ten years, light, power, gas, natural gas, water or a sewerage system to persons resident in the improvement district or in any specified part or parts thereof.

(2) A contract under this section, whether or not it contains an express provision as to renewal, is subject to the conditions

- (a) that at the expiration of the term thereof, the contract may be renewed for a period not exceeding ten years, and so on from time to time, with such alterations, if any, as may be agreed upon by the parties and approved by the Public Utilities Board, and
- (b) that if either party refuses to renew the contract or the parties fail to agree as to the conditions of the renewal, then the Minister, subject to the approval of the Public Utilities Board, may purchase all the rights of the contractor in all matters and things under the contract and in all apparatus and property used for the purposes thereof for such price and on such terms as are agreed upon with the contractor or, failing such agreement, then for such price and on such terms as may be fixed and settled by the Public Utilities Board on the application of either of the parties.

(3) Where

- (a) a contract referred to in subsection (2) is not renewed either on or before the expiration of the original term or of any renewal thereof by express agreement of the parties as aforesaid, or
- (b) the Minister does not complete the purchase of

43. Replaces and amends section 44a of present Act.

44. Same as section 44b of present Act.

45. Replaces and amends section 45 of present Act.

the subject matter thereof as provided in clause (b) of subsection (2),
the contract remains in effect until such time as either party terminates it on six months' written notice given to the other with the approval of the Public Utilities Board.

43. (1) Notwithstanding *The Public Service Act, 1962*, the Minister if he considers it expedient, may appoint by order assessors, technical or professional persons, or such other persons as may be required for the administration of an improvement district.

(2) Where the Minister has directed a new general assessment in an improvement district and the assessment is made by an assessor or assessors appointed pursuant to subsection (1), the cost of the assessment shall be computed in a manner approved by the Minister and an amount not exceeding seventy-five per cent of the computed cost shall be borne by the improvement district and the remaining percentage of the cost may be borne by the Provincial Treasurer from such funds as may be appropriated therefor by the Legislature.

44. The Minister may, by order, enter into agreements with farmers' organizations providing for the collection of dues, on a voluntary basis by the Department from members of the organizations on such terms as the Minister considers necessary and providing for the remittance of the net amount so collected to the organization.

45. (1) The taxes collected in each improvement district

- (a) shall be deposited in a treasury branch or chartered bank or other similar institution to the credit of the Minister, and
- (b) shall be expended under the direction of the Minister
 - (i) in meeting the requirements of the district,
 - (ii) in paying requisitions made under *The School Act* and *The Alberta Hospitals Act*, and
 - (iii) in paying over to the Departments the amounts stated in the estimates submitted to him under section 8, or an equally proportionate part of such amounts if a sum sufficient to discharge all the expenditures of the district is not collected.

(2) The expenses incidental to the assessment and collection of taxes and any other necessary expenses in connection with the administration of affairs in each improvement district are a first charge on the funds derived from the improvement district taxes of that improvement district.

46. Same as section 45a of present Act.

47. Replaces and amends section 46 of present Act.
Section 47 of present Act no longer required and is omitted.

48. Same as section 48 of present Act.

49. Same as section 49 of present Act.

50. Replaces and amends section 51 of present Act.

(3) The details of the expenditure in an improvement district shall be published in the public accounts annually submitted to the Legislative Assembly.

(4) With the consent of the Provincial Treasurer, the Minister may invest in bonds, debentures or other securities of the Province or of Canada, or in guaranteed term certificates of a chartered bank or treasury branch any moneys standing to the credit of the Minister in the treasury branch or bank, as the case may be, and not required for immediate disbursement.

46 The Minister, by order, may purchase, expropriate or otherwise acquire any land, right of way, easement or interest in land for the purpose of entering into any agreement under the authority of section 93 of *The Water Resources Act*.

47. (1) The Minister of Public Welfare subject to subsection (2) shall make provision for

- (a) the maintenance of the indigent residents of each improvement district, and
- (b) the maintenance of indigent persons who are temporarily within an improvement district but are not resident therein.

(2) The provisions of section 294 of *The Municipal District Act* relating to indigent persons apply to indigent persons in improvement districts.

48. When under this Act the Minister of Public Welfare supplies aid to sick persons or indigents or pays an account to the authorities of a hospital or otherwise, the Minister of Public Welfare shall defray the cost thereof and shall recover from the Minister of Municipal Affairs out of the district fund of the improvement district concerned the value of the assistance applied or the sums paid that in either case constitute the improvement district's share of the indigent assistance granted.

49. The Minister of Highways

- (a) shall make in each improvement district or on roads leading directly to or from the improvement district such road improvements as are required from time to time in the interests of the improvement district, and
- (b) shall yearly submit estimates of the probable expenditure on such improvements in accordance with section 8.

50. When the boundaries of an improvement district have been altered, the Minister may make such orders as he considers necessary for the distribution of assets and liabilities of the improvement districts or parts thereof.

51. Same as section 53 of present Act.

52. Same as section 54 of present Act.

53. Same as section 54a of present Act.

54. Replaces and amends section 55 of present Act.

51. (1) The Minister may on behalf of an improvement district acquire by gift

- (a) from the Government of Canada,
- (b) from the Soldier Settlement Board, or
- (c) from any other person,

any lands that are situated within the boundaries of that improvement district and that, at the time of the transfer, are free from encumbrances other than taxes.

(2) Land so acquired shall, upon its acquisition, be assessed and taxes shall be levied under this Act in respect thereof in the manner provided by section 24 of *The Tax Recovery Act*, as if it were a parcel in respect of which a certificate of title is issued to a municipality pursuant to that Act.

(3) All the provisions of *The Tax Recovery Act* are applicable to the parcel from and after the date of such acquisition.

52. (1) Where a municipality that owned or operated a cemetery has been disestablished, or where land within an improvement district has been purchased, leased or otherwise acquired for a cemetery, the Minister may on behalf of the improvement district acquire and operate the cemetery.

(2) For the purpose of operating the cemetery, the Minister may make regulations

- (a) for the laying out and management of the cemetery,
- (b) for regulating the construction and repair of fences, buildings and drains,
- (c) for the erection of tombs, monuments and grave stones,
- (d) for the execution of conveyances of plots, and
- (e) for all other things necessary or incidental to the operation, care and maintenance of the cemetery.

53. (1) The Minister may in any district appoint an advisory committee of one or more persons.

(2) The members of the advisory committee may be paid such remuneration and expenses as may be determined by the Minister.

54. On behalf of an improvement district, the Minister may

- (a) acquire, under an order of the Local Authorities Board cancelling a plan of subdivision, any lands situated within the boundaries of that improvement district, and
- (b) in his discretion sell, lease or otherwise dispose of the lands under such terms and conditions as he deems advisable.

55. Same as section 55a of present Act.

56. Same as section 57 of present Act.

57. Same as section 50 of present Act.

58. Same as section 56 of present Act.

59. Repeal of present Act.

60. Commencement of Act.

55. (1) In this section "highway" has the same meaning given to it by *The Public Highways Act*.

(2) The Minister may, by order, prohibit the discharging of a ball cartridge or single bullet from a shotgun or other firearm, from, across or along any highway or designated part of a highway.

(3) A person who contravenes an order made under this section is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than sixty days.

56. A person who contravenes section 11 or section 14 or a ministerial order made thereunder is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days.

57. All accounts and contracts for work in improvement districts shall be in duplicate, and shall be audited by the Provincial Auditor and properly certified by him before being paid.

58. The Lieutenant Governor in Council may make such regulations as he considers necessary for the proper carrying out of the purposes of this Act.

59. *The Improvement Districts Act*, being chapter 150 of the Revised Statutes, is hereby repealed.

60. This Act comes into force on the day upon which it is assented to.

No. 139

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act respecting Improvement
Districts

Received and read the

First time

Second time

Third time

HON. MR. HOOKE
