

No. 148

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

BILL 148

A Bill to amend The St. Mary and Milk Rivers
Development Act, 1950

HON. MR. STROM

Explanatory Note

1. The St. Mary and Milk Rivers Development Act, 1950, Statutes of Alberta, 1950, chapter 68, amended.

2. 14a. Authority for the manager to enter into agreements for land development projects for irrigation purposes.

14b. The manager will be able to designate adjacent lands as an "irrigable unit" and thus control dispositions of part of the land resulting in that land having no delivery point for water. At present, the result is that the "isolated" part is reclassified in the water rates ledger as not liable for water rates or water right payments and any extension of the irrigation works to that part is paid for by the manager, i.e., by all water users in the district. A similar provision is being included in the Bill amending The Irrigation Districts Act.

BILL

No. 148 of 1964

An Act to amend The St. Mary and Milk Rivers Development Act, 1950

(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. *The St. Mary and Milk Rivers Development Act, 1950* is hereby amended.

2. The following sections are added after section 14:

14a. (1) The manager may enter into an agreement with a water user providing for

- (a) the sloping, levelling and preparation of the water user's land for irrigation purposes and the construction of such drainage systems and water control structures as are necessary for the purpose of irrigating or draining the land,
- (b) the financing and carrying out of the work, and
- (c) the terms of repayment by the water user to the manager.

(2) Where a water user defaults in the making of any payment to the manager under an agreement made pursuant to subsection (1), the amount in default may be recovered in any manner that water rates may be recovered and may be dealt with under this Part as if it were arrears of water rates.

(3) The indebtedness of a water user under an agreement made pursuant to subsection (1) is a charge against the land that is the subject of the agreement and the manager may register a caveat pertaining to the agreement pursuant to *The Land Titles Act* against that land.

14b. (1) The manager may by order designate as an "irrigable unit" any lands in the district consisting of two or more adjacent quarter sections or parts of quarter sections where

- (a) the lands are registered in the name of the same owner, and
- (b) the whole or any part of the lands are shown in the water rates ledger of the district as irrigated or

3. Subsection (2) is revised to conform with the wording in section 14 (2) of The Irrigation Districts Act. Subsection (3) is revised to bring up to date references to section numbers as they appeared in the 1942 Revision of the Statutes.

to be irrigated and are actually irrigated or can be irrigated as a unit from the existing irrigation works of the manager.

(2) The manager may file with the Registrar of Titles for the land registration district in which the land is situated a copy of the order designating the irrigable unit and shall notify the registered owner concerned of the order and the provisions of this section.

(3) The Registrar of Titles shall endorse upon every certificate of title to the land affected by the order a notice that the land is designated as or as part of an irrigable unit and that this section applies in respect of that land.

(4) After the filing of a copy of the order no instrument given by the registered owner or any other person owning any estate or interest in the land and purporting to transfer, sell, agree to sell, lease, sublease, mortgage, encumber or otherwise deal with a part only of the irrigable unit is valid or effective until the instrument is consented to by the manager and a memorandum of the manager's consent is endorsed on or annexed to the instrument.

(5) The consent of the manager under subsection (4) may be made subject to such terms and conditions as the manager may prescribe but in any case the consent shall be deemed to be subject to the following conditions, namely,

- (a) that the cost of extending the irrigation works of the manager to any part of the irrigable unit or the cost of providing for the continued and uninterrupted irrigation or drainage of any part of the irrigable unit from the existing irrigation works of the manager is to be borne by the person giving the instrument unless the manager waives the condition or unless the parties to the instrument otherwise agree, and
- (b) that no change is to be made in the classification in the water rates ledger of any land in the irrigable unit unless the manager otherwise agrees.

3. Section 15 is amended

- (a) as to subsection (2) by striking out the words "on account of" and by substituting the words "owing to",
- (b) by striking out subsection (3) and by substituting the following:

(3) Subsections (3) to (15) of section 14 of *The Irrigation Districts Act* apply as far as practicable to a claim made under this section and for that purpose a reference therein to a board of trustees of an irrigation district is deemed to be a reference to the manager.

4. The new section 17a will permit the manager to acquire canal rights of way by agreements granting an interest less than the fee simple title.

5. Section 45 gives the Minister of Agriculture the same powers of expropriation that the Minister of Public Works has under The Surveys and Expropriation Act. The reference to the "manner" of expropriation is deleted as this is now dealt with in The Expropriation Procedure Act.

6. Section 46 (1) gives the manager powers of expropriation under Part VI of The Irrigation Districts Act. Subsection (2) gives the manager certain other powers of expropriation that are the same as those of an irrigation district under section 17 of The Irrigation Districts Act. See clauses 4 and 6 of the Bill to amend the latter Act. The result is that because section 17 will be put in Part VI, subsection (2) of section 46 of the Act amended by this Bill is no longer necessary.

7. Section 62 (2) presently reads:

"(2) If default is made in the due payment of any sum payable under any agreement for sale of any land, the colonization manager may, with the approval of the Lieutenant Governor in Council, declare the agreement for sale cancelled and thereupon such lands shall forthwith vest in the colonization manager as if the agreement for sale had not been made, and all rights of any persons depending upon the agreement for sale shall cease and determine, and any moneys paid in respect of the agreement for sale shall be forfeited to His Majesty."

The amendment will permit cancellation of an agreement for sale for default of any provision of the agreement and not just for default of payment of purchase moneys.

8. Commencement of Act.

4. The following section is added after section 17:

17a. (1) Where by this Act the manager is permitted or authorized to acquire land, the manager may acquire any estate required by him in the land and may acquire any lesser interest by way of a profit, easement, right, privilege or benefit in, over or derived from the land.

(2) An instrument granting any interest referred to in subsection (1) may be registered under *The Land Titles Act*.

5. Section 45 is amended by striking out the words "and proceed in the same manner".

6. Section 46 is amended by striking out subsection (2).

7. Section 62, subsection (2) is amended by striking out the words "If default is made in the due payment of any sum payable under any agreement for sale of any land," and by substituting the words "If the purchaser fails to comply with any of the covenants, terms and conditions of an agreement for the sale of land entered into pursuant to this Part,".

8. This Act comes into force on the first day of June, 1964.

No. 148

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act to amend The St. Mary and
Milk Rivers Development Act, 1950

Received and read the

First time

Second time

Third time

HON. MR. STROM
