

1968 Bill 41

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 41

An Act respecting Irrigation

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

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Explanatory Notes

General. This Bill will repeal and replace The Irrigation Districts Act, R.S.A. 1955, chapter 162, and most of the special enactments pertaining to irrigation. The Bill is largely based on the recommendations of the Irrigation Policy Committee of the Department of Agriculture.

Apart from consolidating existing legislation, the purposes of the Bill are to bring a uniformity of administration and procedures where there presently exists differences, to eliminate obsolete procedures and rules which have become redundant or undesirable, to adopt new procedures and to utilize agencies such as the Local Authorities Board and the Alberta Assessment Appeal Board for the specific uses of irrigation districts and to bring in new or revised measures to facilitate the administration of districts or to meet chronic problems or anomalies which have been revealed over the years in some irrigated areas and which are peculiar to them.

The following are some of the more important features of the Bill:

1. Matters dealing with the formation or content of districts will be dealt with as a result of petitions submitted to the Local Authorities Board through the Irrigation Council. A petition will require support both on the basis of acreage and by owners affected. See Part 1 of the Bill.

2. Each district will be governed by a board of directors. These boards will replace boards of trustees, individuals appointed as official trustees and the managers of the St. Mary and Milk Rivers Development and the Bow River Development. Boards may be elected or appointed by the Irrigation Council. An appointed manager will be the chief administrative officer.

3. The powers of the board will be expanded to give more flexibility to the use of water. Boards of directors may act as suppliers or carriers of water to be used for municipal or other purposes. They may also enter into contracts with persons who are able to beneficially use water using techniques other than the traditional "gravity" method. These powers widen the services which boards will be able to provide in the community.

4. In anticipation of cost-sharing arrangements recommended by the Irrigation Policy Committee, authority has been provided enabling boards to contract with all levels of government for such purposes.

5. Boards will be enabled to supply access to parts of land made inaccessible because of the construction of their works. The responsibility of replacing such means of access will reside in the board, but the owner of the land will have the responsibility of repairing and maintaining the same.

6. Elections of boards will normally be held every three years, rather than annually.

7. Provision has been made for securing an expression of opinion of the water users by a mail vote. While the results will not ordinarily be binding on a board, the results will be definitive both on proposed amalgamations of boards and on the question of whether the water users favour an elected or appointed board.

8. The provisions regarding the assessment roll have been modified to include lands which are securing benefits other than for ordinary gravity irrigation. The method of classifying land as "to be irrigated" which is vital to assessment and levying of rates has been detailed and appeal provisions extended and broadened with the Alberta Assessment Appeal Board having the final decision.

9. The sections dealing with irrigation rates have been modified to recognize possible new uses of water; and to take into account possible revenues from sources such as through cost-sharing agreements. Penalties on arrears of rates are as recommended by the Irrigation Policy Committee.

10. The sections regarding commutation of rates as they appear in The Irrigation Districts Act are now irrelevant and provision has been made so that where there has been an involuntary declassification of land through expropriation or acquisition for uses not requiring irrigation, boards will be compensated for the resulting loss of rates.

11. The key dates in the rate enforcement provisions have been altered to meet the convenience of persons administering districts and who are affected by these actions.

12. Some basic changes have been made as regards the water damage. Where seepage occurs compensation for all types of damage may be obtained upon suitable proof that the damage resulted from seepage which occurred in the year in which the damage is claimed. The Public Utilities Board continues to have the responsibility of assessing these claims and may be required to make permanent and final settlements with the land owner based on the value of the land damaged. These proposals broaden the existing provisions. In addition where water damage occurs from causes other than seepage, claims for such damage, which to a large extent were excluded by The Irrigation Districts Act, may now be successfully pursued in the courts where negligence of the board is shown. See Part 6 of the Bill.

13. The responsibility of ensuring that water delivered or made available to a water user does not damage another person is placed on the person in actual occupation of the land. A person failing to meet that responsibility may be prosecuted and fined. See section 185 of the Bill.

14. The involved sections of The Irrigation Districts Act which enabled an execution creditor to cause a special "execution rate" to be levied on the lands in the district have been replaced by simpler provisions giving the district one year to levy a sufficient rate to pay the execution before the sheriff may make a seizure of the board's property.

15. In earlier years some irrigation authorities classified lands as "to be irrigated" on the basis of there being available to them rights of delivery of water from their works across intervening lands. These rights were then available and have since been exercised by those responsible for delivery of water. The lands have continued to have been dealt with as lands "to be irrigated". In some instances, dealings with intervening lands has raised questions as to the rights of boards to continue to deliver water across these intervening lands. In order to remove doubts and to ensure the uninterrupted supply of water to irrigated lands the boards' rights to continue to deliver water as it was in the past is made

clear by declaratory provisions of the new Act. See section 188 of this Bill.

16. Similarly, in earlier years some boards attempted to eliminate claims for damage caused by seepage or overflow by securing easements, or documents purporting to be easements, from the persons for the time being the registered owners of the lands. Although for several decades the documents were respected and treated as having the effect they purported to have, recent examinations and litigation has revealed deficiencies in the manner in which some of these documents were drawn, or in the manner in which the alleged rights were registered in the land titles office, or both. The result may be that the successors to the registered owners who made these instruments may now be absolved from the effects thereof. In order to give the effect which the makers intended them to have and to avoid districts being seriously threatened by persons seeking to take advantage of errors made many years ago, the documents are declared to be validly made and effective. See section 189 of this Bill.

Section references in the explanatory notes are to the provisions of The Irrigation Districts Act that pertain to the same subject matter.

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BILL 41

1968

An Act respecting Irrigation

(Assented to _____, 1968)

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 Irrigation Act, 1968*.
2. (1) In this Act,
 1. "assessment roll" means the assessment roll of a district;
 2. "board" means a board of directors of an irrigation district under this Act;
 3. "capital works payment" means the portion of the irrigation rates charged against any parcel that is attributable to the cost to the board of constructing, rebuilding, replacing and rehabilitating its existing irrigation works and of constructing additional irrigation works;
 4. "cost-sharing agreement" means an agreement, arrangement or accord entered into pursuant to clause (f) of subsection (1) of section 44;
 5. "Council" means the Irrigation Council appointed under this Act;
 6. "district" or "irrigation district" means an existing district or an irrigation district formed under this Act;
 7. "domestic purposes" means, with reference to the use of water, household requirements, sanitation, fire prevention, the watering of domestic animals and poultry, and the irrigation of a garden not exceeding one acre;
 8. "domestic water privilege" means the privilege of using water for domestic purposes granted pursuant to a by-law under subsection (1) of section 51 or an agreement under subsection (2) of section 51;
 9. "elected" means elected as a director at a general or special election of directors under Part 3;

2. Definitions. The dates in clauses (b) to (e) of subsection (2) refer to the commencement dates of the statutes under which the irrigation districts or developments were originally set up.

10. "existing district" means
 - (i) an irrigation district formed under *The Irrigation Districts Act* or its predecessors and in existence immediately before the commencement of this Act, and
 - (ii) the Eastern Irrigation District, the Western Irrigation District, the St. Mary River Irrigation District and the Bow River Irrigation District;
11. "first mortgage" means any mortgage or any encumbrance in Form 20 in the Schedule to *The Land Titles Act* upon land forming part of a district and which has been registered in the proper land titles office prior to the formation of the district or the addition of the land thereto and which has priority over all other similar mortgages and encumbrances against the same land;
12. "irrigation works" means any structure, device, contrivance or thing, or any artificial body of water, used or to be used by a board in exercise or performance of its powers or duties with respect to supplying, carrying or delivering water or obtaining a supply of water or any other purpose in connection therewith or incidental thereto, and without derogating from the generality of the foregoing, includes any dike, dam, weir, breakwater, drainage works, ditch, basin, reservoir, artificial lake or other artificial watercourse or body of water, canal, tunnel, bridge, culvert, crib, embankment, headwork, flume, aqueduct, pipe, pump, measuring weir, floodgate, meter, and any contrivance for carrying or conducting water, or used to deliver water, or for measuring water, or any building, telephone line or other work in any way used in or in relation to the carrying out by a board of its obligations or responsibilities to supply water;
13. "local authority" means
 - (i) a city, town, village, municipal district or county, or
 - (ii) in the case of an improvement district or special area, the Minister of Municipal Affairs, or
 - (iii) the board of administrators of a new town, or
 - (iv) any school corporation empowered to impose and collect taxes for its own purposes;
14. "manager" means the manager of a district;
15. "Minister" means the Minister of Agriculture;
16. "municipality" means the land within a city, town, new town, village, municipal district, county or improvement district or special area;

17. "occupier" means the person in actual occupation of land other than the owner or purchaser thereof;
 18. "owner", with reference to land, means the person registered under *The Land Titles Act* as the owner of an estate in fee simple in the land;
 19. "parcel" or "parcel of land" means land included in a district and having the same owner and consisting of
 - (i) a quarter-section, a part of a quarter-section described in a certificate of title or a surveyed lot, or
 - (ii) lands designated as an irrigable unit by a board pursuant to subsection (2) of section 57;
 20. "predecessor of a board" means,
 - (i) with reference to the board of the St. Mary River Irrigation District, the manager of the St. Mary and Milk Rivers Development, or
 - (ii) with reference to the board of the Bow River Irrigation District, the manager of the Bow River Development;
 21. "prescribed" means prescribed by the regulations made by the Lieutenant Governor in Council;
 22. "purchaser" means the last person, other than a lessee, who has, whether direct from the owner thereof or from any other purchaser, purchased or otherwise acquired land and has not become the owner thereof;
 23. "surveyed lot" means an unsubdivided unit of land the boundaries of which are shown on a settlement plan, parcel plan or any plan of subdivision registered under *The Land Titles Act*;
 24. "terminable water agreement" means an agreement entered into pursuant to section 50;
 25. "water user" means
 - (i) the purchaser, or
 - (ii) if there is no purchaser then the owner, of a parcel of land shown on the assessment roll of a district as containing a number of acres classified as "to be irrigated".
- (2) For the purposes of clause 11 of subsection (1) and any other provision of this Act referring to the time of the formation of a district, the time of the formation of the district shall be construed, with reference to existing districts, as
- (a) the effective date of the order under *The Irrigation Districts Act* or its predecessors for the formation of the district, in the case of a district formed under that Act or its predecessors,

- (b) April 23, 1935, in the case of the Eastern Irrigation District,
- (c) March 24, 1944, in the case of the Western Irrigation District,
- (d) April 5, 1950, in the case of the St. Mary River Irrigation District, and
- (e) April 6, 1955, in the case of the Bow River Irrigation District.

Existing Districts

3. Except as otherwise provided in this Act, this Act applies to every existing district and its board in every respect to the same extent as if the district were formed under this Act.

Irrigation Council

- 4.** (1) There shall be an Irrigation Council consisting of
- (a) the Director of Water Resources, and
 - (b) four other members appointed by the Lieutenant Governor in Council, who shall hold office during pleasure.
- (2) The Lieutenant Governor in Council may
- (a) designate one of the members of the Council as chairman and another as vice-chairman, and
 - (b) fix the remuneration to be paid to the members who are not employees of the Government.
- (3) Two members of the Council constitute a quorum of the Council for the purpose of exercising its powers and performing its duties.
- (4) If the chairman is absent from any meeting, the vice-chairman shall act as chairman of the meeting.
- (5) If the chairman and vice-chairman are both absent from any meeting, the members of the Council present at the meeting may designate any member present to be chairman for that meeting.
- (6) An order, direction, approval or other instrument that the Council is to make may be made on its behalf by the chairman, vice-chairman or any other member of the Council.
- (7) An order, direction, approval or other instrument purporting to be signed by the chairman, vice-chairman or a member of the Council on behalf of the Council shall be admitted in evidence as *prima facie* proof
- (a) that the order, direction, approval or instrument is the act of the Council or a quorum thereof, and
 - (b) that the person signing it was duly authorized to do so,

3. Application of Act to existing districts. Section 3.

4. Irrigation Council. Section 43 in part.

without proof of the appointment of the person signing as a member of the Council, or his designation as chairman or vice-chairman, as the case may be, or of his signature.

5. (1) The Council may

- (a) advise each board on the conduct of the affairs of its district,
- (b) prohibit a course of conduct proposed to be done or entered into by the board, and
- (c) order a board to repeal or amend any by-law or to reverse or modify any action previously taken, where the Council considers it is in the best interests of the water users to do so.

(2) The Council has, in addition to the powers and duties conferred or imposed upon it by this or any other Act, the powers and duties conferred or imposed upon it by the Lieutenant Governor in Council.

(3) The Council is entitled to access to all records, books, documents and accounts of each board, and may require a board to supply it with any information relevant to its business and affairs or any information with respect to anything done or proposed to be done by the board.

(4) Notwithstanding anything in *The Public Service Act, 1962* the Council may employ any person to perform any specialized service or to investigate any matter pertaining to irrigation development or to do any work in connection with this Act and may, out of the General Revenue Fund, pay him for his services at the rate determined by the Lieutenant Governor in Council.

6. (1) There shall be an Irrigation Secretariat consisting of one or more employees of the Department of Agriculture designated by the Minister.

(2) The Irrigation Secretariat is responsible to the Council and shall carry out its functions and duties under the direction and supervision of the Council.

(3) The chief officer of the Irrigation Secretariat shall

- (a) act as secretary to the Council,
- (b) keep and maintain minutes of Council meetings, and
- (c) act as secretary to any special committee, board or other body established by the Government to deal with matters relating to irrigation.

(4) The functions of the Irrigation Secretariat are to

- (a) establish liaison and communication among the Council, the boards of districts, special committees and boards, and other persons and organizations dealing with matters relating to irrigation,

5. Powers and duties of the Irrigation Council. Section 43
in part.

6. Irrigation Secretariat. New.

- (b) evaluate and prepare recommendations on irrigation policy for the Council,
- (c) maintain and compile records, statistics and data for the Council and prepare and recommend regulations and legislation relating to irrigation,
- (d) prepare, publish and circulate information and material pertaining to irrigation,
- (e) assist and advise the boards on administrative procedures, and
- (f) perform any other work assigned to it by the Council.

PART 1

IRRIGATION DISTRICTS

7. Every application

- (a) for the formation of any part of Alberta not included in a district into an irrigation district, or
 - (b) to change the area of a district, or
 - (c) for the dissolution of a district, or
 - (d) for the amalgamation of two or more districts,
- shall be made by petition to the Council.

8. (1) A petition made pursuant to clause (a), (b) or (c) of section 7 shall be signed by or on behalf of persons who are the owners of not less than three-quarters of the lands and who make up in excess of 50 per cent of the total number of owners of the lands

- (a) to be included in the district to be formed, or
 - (b) to be included in or excluded from the district by the application for the change of area, or
 - (c) of the district to be dissolved,
- as the case may be.

(2) A petition under clause (d) of section 7 shall be signed by a majority of directors of the boards of each of the districts to be amalgamated.

(3) No petition for the amalgamation of two or more districts is valid unless the question as to whether the proposed amalgamation should be made has been submitted to the water users of each district to be amalgamated in the manner set out in Part 3 and the majority of the water users voting on the question in each district have voted in favour of the proposed amalgamation.

9. A petition under this Part shall

- (a) state briefly the purpose for which the petition is made, and the reason or reasons for making it,
- (b) in the case of petitions for the formation or change in area of a district, describe the parcels to be included or excluded, as the case may be, and their respective owners,
- (c) in the case of petitions for amalgamation or dissolution, name the district or districts to which the petition relates,
- (d) be in the prescribed form,
- (e) be accompanied by a statutory declaration in the prescribed form or, where more convenient, by two or more statutory declarations in the prescribed form,
- (f) be accompanied by evidence of the feasibility of the purpose for which the petition is made, and

GENERAL. This Part, which deals with formation, change, amalgamation and dissolution of irrigation districts, is a more detailed version of the present sections 6 to 12. Petitions will be dealt with initially by the Council and then by the Local Authorities Board which is given jurisdiction in these matters for the first time.

7. Petition to form, change, merge or dissolve district. Petitions will be made to the Council rather than to the Minister as under the present Act.

8. Requirements as to signatures on petitions. New.

9. Contents of petitions.

- (g) set out in the body thereof the name of an agent and the address to which all communications may be sent on behalf of all the petitioners.

10. On receipt of a petition the Council may

- (a) forthwith refer it to the Local Authorities Board, or
- (b) refer it back to the petitioners for further evidence or particulars or with a request that it be amended in such manner as the Council may suggest and be resubmitted to the Council with the further evidence or particulars requested, or as amended, or
- (c) reject the petition.

11. (1) On receipt of a petition which has been referred back to them by the Council pursuant to clause (b) of section 10, the petitioners may

- (a) resubmit the petition after complying in whole or in part with the request of the Council, or
- (b) resubmit the petition without complying with the request,

and in either case the Council shall forthwith refer the petition to the Local Authorities Board.

(2) Where the petitioners fail to resubmit the petition under subsection (1) within one year of the date on which it was referred back to them by the Council, the petition shall be deemed to be withdrawn.

12. (1) After hearing the petition, the Local Authorities Board shall grant or reject the petition and shall, subject to this Part, make such order as in the circumstances it considers just and proper.

(2) An order granting a petition may provide for

- (a) the payment or giving of security by the petitioners or any of them, or by any other person affected, of such amounts as the order prescribes, to the board of a district or to such other person or persons named in the order, for the purpose of equalizing the benefits received by and the burden imposed on all parcels included in or to be included in or excluded from a district, or affected by the order,
- (b) the division or apportionment of any rights, property, obligations or liabilities affected as it may consider proper, and
- (c) any other matters incidental or pertinent to the granting of the petition.

13. Where the Local Authorities Board grants a petition, its order

10. Council deals with petition.

11. Where the petition resubmitted by petitioners to the Council, it is referred to the Local Authorities Board.

12. Order of Local Authorities Board.

13. Particular provisions of Local Authorities Board orders.

- (a) in the case of the formation of a new district, shall set out
 - (i) the name of the district,
 - (ii) the address of the head office of the board of the district,
 - (iii) a description of the parcels included in the district,
 - (iv) the name and address of the owner and purchaser, if any, of each parcel, and
 - (v) the date on which, or the event or condition upon the performance of which, the order becomes effective,
- (b) in the case of a change of area of a district, may provide for the equitable refund or adjustment of payments made or to be made with respect to any parcel in respect of capital works payments,
- (c) in the case of the dissolution of a district, may provide for
 - (i) the imposition of rates necessary for the purpose of financing the winding-up of the district,
 - (ii) the disposal of the assets of the district and the distribution of the proceeds therefrom,
 - (iii) the settlement of liabilities,
 - (iv) the collection of rates, and
 - (v) the interim administration of the affairs of the board,
 and
- (d) in the case of an amalgamation of two or more districts, may provide for
 - (i) directions as to the manner in which the proceedings for the formation of the new district are to be taken, or in which the amalgamation is to be carried out,
 - (ii) the manner in which the outstanding indebtedness of the amalgamating districts is to be borne,
 - (iii) the appointment by the Council or the election of a board of directors for the amalgamated district,
 - (iv) the name of the district,
 - (v) the address of the head office of the board of the district,
 - (vi) a description of the parcels included in the district,
 - (vii) the name and address of the owner and purchaser, if any, of each such parcel, and
 - (viii) the date on which, or the event or condition upon the performance of which, the order becomes effective.

14. (1) Notwithstanding any other provisions of this Act

- (a) where the board of a district is the owner or purchaser of lands not included in the district, the lands may at any time be included in the district by order of the Local Authorities Board on the application of the Council, if the board requests it to do so and the consent of the purchaser from the board, if any, has been first obtained, and
 - (b) where the Crown in right of Alberta is the owner of lands not included in the district, the lands may at any time be included in the district by order of the Local Authorities Board on the application of the Council, if the consent of the Crown and the purchaser, if any, has first been obtained.
- (2) Except as otherwise provided in this Act no district shall include or continue to include any mines or minerals.

15. (1) Except where an order of the Local Authorities Board expressly provides otherwise, a change in area of a district does not

- (a) impair or affect its formation, the right of its board in or to property, or any other rights or privileges of its board, and
 - (b) affect, impair or discharge any contract, obligation, lien or charge for or upon which the board was or might become liable or chargeable had the change of area not been made.
- (2) Except where an order of the Local Authorities Board for the dissolution of a district expressly provides otherwise,
- (a) the board continues to exist for the purpose of the dissolution and winding-up of its affairs,
 - (b) the board becomes trustee for its creditors,
 - (c) the board shall impose, collect and enforce payment of rates sufficient to pay all the debts of the board in the same manner and upon the same persons and property as in the case of irrigation rates, and
 - (d) where there is a balance remaining after the discharge of all liabilities incurred under lawful authority and all of the costs of and incidental to the dissolution, the board shall pay over the balance to the persons declared to be entitled thereto by an order of the Council or by an order of a district court judge made on the petition of the board.
- (3) Where a district is dissolved, the Local Authorities Board, when satisfied that the provisions of this Act and its order relating to the dissolution have been complied with, shall grant an order of release to the board of the dissolved district.

14. Inclusion of other lands in district.

15. Effect of change of area or of dissolution.

16. The decision of the Local Authorities Board under this Part as to the division or apportionment of any rights, property, obligations or liabilities is final and that Board may make such orders and directions as are necessary to give effect to its decision.

17. (1) No misnomer, misdescription, omission or error in any order of the Local Authorities Board under this Part shall be construed as invalidating the order and the order may be corrected at any time by that Board.

(2) A correction made under this section may be made effective as of the date of the original order or any subsequent date specified in the order.

18. Upon the making by the Local Authorities Board of an order under section 19 or 20 or an order for formation of a district, the alteration of the area of a district, the dissolution of a district or the amalgamation of districts the Council shall

- (a) cause a certified copy of the order to be registered in the proper land titles office for the purpose of having noted upon each certificate of title to a parcel shown in the order that the parcel forms part of the district for the purpose of having the note removed, as the case may be, pursuant to section 23 of *The Land Titles Act*, and
- (b) cause the order to be published in the *Gazette*.

19. (1) Where the Local Authorities Board makes an order for the formation of a new district or makes an order constituting a district under section 20, and later makes one or more orders changing the area of the district, the Local Authorities Board may, at the request of the Council, make a new order for the purpose only of consolidating the original and the subsequent orders.

(2) A consolidation order made under subsection (1) shall not be construed as being an order for the formation of a new district.

20. (1) The board of each existing district shall before or as soon as possible after the commencement of this Act furnish the Council with lists of the descriptions of the parcels constituting the district according to its records.

(2) The Local Authorities Board shall, on the application of the Council and on the basis of the lists furnished under subsection (1), make an order with respect to an existing district originally formed by an order of the Minister,

- (a) declaring that the parcels described in the order constitute the area of the district for all purposes, and
- (b) replacing and revoking the original order of the

16. Local Authorities Board decides questions of apportionment of property, etc.

17. Order to correct errors in original order.

18. Registration and publication of Local Authorities Board order.

19. Consolidation order.

20. The Local Authorities Board may make declaratory consolidation orders with respect to existing districts on the basis of lists supplied by their boards. At present, most irrigation districts were originally formed by Ministerial Order, some dating back to the early 1900's. Two others, the Eastern Irrigation District and the Western Irrigation District were set up by special Acts but will become, on the repeal of those Acts, districts under this Bill. The St. Mary and Milk Rivers Development and the Bow River Development will become irrigation districts as well: see Part 8 of this Bill. The object is to have all districts set up by orders of the Local Authorities Board so that they can all be dealt with on the same basis. The new orders will also declare the parcels themselves to be the district. In some of the cases at present, the district is described by reference to an outer boundary, but the parcels within the boundary may or may not be on the assessment roll of the district.

Minister and all subsequent orders of the Minister changing the content of the district.

(3) The Local Authorities Board shall, on the application of the Council and on the basis of the lists furnished under subsection (1), make an order with respect to the St. Mary River Irrigation District, the Bow River Irrigation District, the Eastern Irrigation District or the Western Irrigation District, declaring that the parcels described in the order constitute the district for all purposes.

(4) An order under this section shall set out the same matters referred to in clause (a) of section 13, as in the case of the formation of a new district.

(5) An order under this section shall not be construed as being an order for the formation of a new district.

(6) Where an order is made under this section, the area declared by the order to constitute the district is the area of the district notwithstanding anything in *The St. Mary and Milk Rivers Development Act, 1950*, *The Bow River Development Act*, *The Eastern Irrigation District Act* or *The Western Irrigation District Act*, as the case may be.

PART 2

THE BOARD OF DIRECTORS

Constitution of the Board

21. Every irrigation district shall have a board of directors.

22. (1) The members of the board of directors of a district are a corporation under the name of the "Board of Directors of the (*naming the district*) Irrigation District".

(2) The board is a continuing body notwithstanding any election or appointment or any vacancy or vacancies occurring from time to time.

23. (1) The number of members of a board of directors may be fixed by a resolution passed at a meeting of water users of the district and approved by the Council.

(2) Unless otherwise fixed by a resolution approved under subsection (1), the board shall consist of

- (a) three directors, where the assessment roll of the district shows 90,000 acres or less classified as "to be irrigated", or
- (b) five directors, where the assessment roll of the district shows more than 90,000 acres but less than 200,000 acres classified as "to be irrigated", or
- (c) seven directors, where the assessment roll of the district shows 200,000 acres or more classified as "to be irrigated".

(3) A resolution approved under subsection (1) or a change in the number of acres shown on the assessment roll of a district to be classified as "to be irrigated" does not

- (a) affect the right of any elected directors to continue as directors for the terms for which they were elected, or
- (b) entitle the Council to appoint additional members to a board consisting wholly of elected members where the change in the assessment would otherwise require an increase in the number of directors by virtue of subsection (2).

(4) Where no resolution has been approved under subsection (1) and the board consists wholly or partly of elected members, the number of directors to be elected at the next general election shall be determined under subsection (2) on the basis of the number of acres classified as "to be irrigated" in the assessment roll as of the first day of January preceding the general election.

(5) Where a board consists wholly or partly of elected members, a resolution approved under subsection (1) ap-

21. Board of directors. At present, districts have “boards of trustees”. New.

22. The board is a corporation. Section 13 (1) (a).

23. Number of directors. New.

plies only for the purpose of determining the number of directors to be elected at subsequent general elections of directors.

24. Except as otherwise provided in this Act, a board shall consist of elected members.

Appointment of Directors

25. (1) The Council shall appoint the first board of directors of a district formed under Part 1 and designate one of them as chairman and another as vice-chairman.

(2) Except as otherwise provided in this Act, the Council may prescribe the term of office of any director appointed by it.

26. (1) Where the Council is satisfied, on the basis of an examination and inspection of a board's affairs or on the basis of any other source of information available to it, that

- (a) the board has defaulted on the payment of any of its liabilities, or
- (b) the board is not complying with this Act and that the failure or the continuance of the failure to so comply is or may be prejudicial to the interests of the water users or the board's creditors, or
- (c) there exists with respect to the boards or the district any state of affairs of a serious nature that is or may be prejudicial to the interests of the water users or the board's creditors,

the Council may dismiss the board.

(2) Where a board is dismissed under subsection (1), the Council shall

- (a) appoint a new board, or
- (b) appoint some of the members of the board and direct that the remaining number of members are to be elected,

and shall designate one of the members as chairman and another as vice-chairman.

(3) Where the Council directs that one or more members of the board are to be elected,

- (a) it shall give directions as to the holding of the first election, the term of office of the directors elected at that election and as to the holding of subsequent elections, and
- (b) subject to the directions of the Council, the provisions of this Act relating to general elections of directors apply to the first and subsequent elections of the director or directors to be elected pursuant to this section.

24. Election or appointment of directors. New.

25. Appointment of board of a newly formed district. New.

26. Dismissal and replacement of a board of directors in special circumstances. The Bill does not provide for the appointment of an official trustee as the present Act does in section 70. Where a district is presently administered by an official trustee, he will be replaced by an appointed board.

27. (1) Subject to subsection (2), the Council shall appoint a person as a director of a board where a vacancy occurs on the board by reason of

- (a) the death, incapacity or resignation of a director, or
- (b) a declaration by the court that a member of the board never was or ceased to be qualified as a director, or
- (c) the failure to nominate a number of candidates for election as directors equal to or in excess of the number of directors to be elected, or
- (d) the failure to nominate any candidate for director for an electoral division, where the nomination and election for directors is by electoral divisions.

(2) Where a vacancy occurs on a board

- (a) by reason of any circumstances mentioned in clause (a) or (b) of subsection (1) before the first day of June in the year prior to the year in which a general election is required to be held, or
- (b) by reason of any circumstances referred to in clause (c) or (d) of subsection (1),

the Council may, in lieu of appointing a director, give directions to the manager for the holding of a special election to elect a director to fill the vacancy and may appoint a director to hold office until the special election is held.

(3) A director elected at a special election holds office until the commencement of the first regular meeting of the board of directors after the next general election of directors.

28. (1) Where the Council appoints a director who is an employee of the Government, the Lieutenant Governor in Council may by order direct a board to pay the amount fixed by the order to the Government.

(2) The Lieutenant Governor in Council, in fixing the amount payable by the board, shall have regard to the cost to the Government in furnishing the services of the employee and his travelling and other expenses incurred in carrying out his duties as a director.

(3) An order under this section shall be made only with respect to a full calendar year during which the employee has been an appointed director.

(4) An amount fixed by an order under this section is a debt owing by the board to the Government.

Eligibility of Directors

29. A person is not qualified to be elected as or remain as an elected member of the board of a district unless he is

- (a) a water user of the district,
- (b) at least 21 years of age,

27. Election or appointment to fill a vacancy. Section 39.

28. Amount charged to a board by the Government to cover the costs of providing a Government employee as an appointed director. New. An appointed director who is also a Government employee is not entitled to be paid director's fees or expenses by the board: see section 46 of this Bill.

29. Qualifications of elected directors. Section 24.

- (c) able to read and write in the English language,
- (d) a resident of Alberta,
- (e) not indebted to the district for any amount shown on the collector's roll for more than one calendar year immediately preceding the year in which he is elected,
- (f) in a district in which there are electoral districts, a water user in respect of land in the electoral district for which he is elected, where the election of directors is to be or was by electoral districts, and
- (g) not otherwise disqualified under section 30 or 31.

30. (1) A person is not qualified to be elected or appointed or to remain a member of the board of a district at the same time as he

- (a) is a party to a subsisting contract with the board of the district under which money of the district is payable or may become payable for any work, service, matter or thing, or
- (b) has a pecuniary interest, whether direct or indirect, in any subsisting contract with the board under which money of the district is payable or may become payable for any work, service, matter or thing.

(2) Subsection (1) does not apply to a person by reason only

- (a) of his being a shareholder in a corporation having a contract or dealings with the board,
 - (i) unless he holds or there is held by himself and his spouse, parents, children, brothers and sisters, more than 25 per cent of the issued capital stock of the corporation, or
 - (ii) unless the contract or dealings are for the building, construction or repair of the irrigation works of the district,
- or
- (b) of his purchasing or leasing land from the board, or
- (c) of his selling or leasing to the board, land or any interest in land that the board is empowered to expropriate, or
- (d) of his entering into an agreement referred to in section 50, 51, 53 or 54 with the board, or
- (e) of the sale of goods, merchandise or services to the board or to persons contracting with the board and made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business, or
- (f) of the receipt by him of fees or allowances paid by

30. Disqualification of member on board. Section 25 in part.

the board under a by-law made pursuant to section 46, or

(g) of his being a member of a co-operative association.

31. A person is not qualified to be elected or appointed or to remain a member of the board if he

- (a) is convicted under this Act of making a false statement in his acceptance of nomination, or
- (b) is convicted of an indictable offence, until a period of three years has elapsed after his conviction, or
- (c) makes use of specific information gained through his position as a member of a board and not available to the public generally to make a personal profit either directly or indirectly, or
- (d) absents himself, without being authorized by resolution of the board to do so, from the meetings of the board for three consecutive meetings of the board.

32. A member of the board

- (a) who holds, enjoys, undertakes or executes a contract or agreement, the holding, enjoying, undertaking or executing of which disqualifies him by section 30 from becoming or remaining a member of the board, or
- (b) who acts as surety for an officer or employee of the board,

is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$500.

33. (1) A member of a board ceases to be qualified to remain a member of the board if he fails to comply with subsection (2) or (3).

(2) A member of the board shall not vote in the board

- (a) on any question
 - (i) affecting a private company of which he is a shareholder, or
 - (ii) affecting a public company in which he holds more than 1 per cent of the number of shares issued, or
 - (iii) affecting a partnership or firm of which he is a member, or
 - (iv) affecting a company of which he is a director, or
- (b) on a contract for the sale of goods, merchandise or services to which he is a party, or
- (c) on a question affecting his selling or leasing of land or interest in land to the board, or
- (d) on any question in which he has a direct or indirect personal interest.

31. Disqualification of directors. Section 25 in part.

32. Penalty for holding contract, etc. Section 26.

33. Disqualification of director by reason of voting on a matter involving his personal interest. New.

(3) When a member of a board is not entitled to vote by virtue of subsection (2), he shall so declare before discussion of the question and shall not participate in the debate and the abstention shall be recorded.

34. (1) Where a majority of the board has reasonable grounds to believe that a director is not qualified to remain as a director by reason of anything in sections 29 to 33, it may pass a resolution stating the grounds for the disqualification and demanding the resignation of the director concerned.

(2) If the director concerned does not resign or refuses to resign, the board shall make an application to the Supreme Court pursuant to section 35 by way of originating notice returnable within 30 days of the date on which the resolution was passed.

35. (1) A water user or, subject to section 34 a board, may apply to the Supreme Court by way of originating notice of motion for a declaration that a director never was or has ceased to be qualified as a director.

(2) Upon hearing the application and the evidence adduced before him the judge

(a) may, by order, declare the director to be disqualified, or

(b) refuse the order,

with or without costs.

(3) Where a judge declares a director to be disqualified, his seat on the board becomes vacant.

(4) Where a judge declares a director disqualified for a breach of clause (c) of section 31, he may order the disqualified director to pay the total amount of any profit so made to the board.

(5) Where a person is declared disqualified pursuant to this section and appeals therefrom, he remains disqualified until the final determination of the appeal.

(6) If on the final determination of the appeal the disqualification is set aside

(a) the Court shall reinstate the director for any unexpired portion of the term of office for which he was elected and require any person who was elected to fill the unexpired portion of that term to vacate his seat on the board, and

(b) if the term of office for which the member was elected has expired, he shall not be reinstated, but he is eligible to be elected at the next election of directors, if otherwise qualified.

(7) A person having been a director

34. Resolution to demand resignation of disqualified director.
New.

35. Court proceedings to disqualify a director. New.

- (a) who resigned as a director by reason of being disqualified, or
 - (b) was declared by the judge to be disqualified,
- is not eligible to be elected or appointed or to remain as a member of the same board until the expiry of five years after the date on which he resigned or was declared disqualified.
- (8) A person having been a director at a time when he was disqualified as a director because of any matter or thing mentioned in sections 29 to 33 but
- (a) who did not resign as a director, or
 - (b) who was not declared disqualified by a judge,
- because of that matter or thing is not eligible to be elected or appointed or to remain as a director until the expiry of five years after the date on which he ceased to be qualified because of that matter or thing.

Meetings and Conduct of Affairs

- 36.** (1) Except as provided in this or any other Act, a board may exercise and perform the powers and duties imposed or conferred on it by resolution.
- (2) Where by this or any other Act a by-law of the board is required
- (a) the by-law shall be given three readings before its final passing, and
 - (b) not more than two readings shall be given thereto at any one meeting.
- (3) No by-law of a board is valid unless it is approved by the Council.
- (4) A copy of a by-law and purporting to be under the seal of the board and to be certified as a true copy by the manager and a director, shall be admitted in evidence as *prima facie* proof of its final passing and of the contents thereof, without proof of appointment or election of the persons signing it or of their signatures.
- (5) A by-law finally passed by the board and approved by the Council is valid and binding notwithstanding any want of substance or form in the by-law, in the proceedings prior to passing it or in the time and manner of passing it.

- 37.** (1) A majority of the directors constitutes a quorum at a meeting of the board.
- (2) The chairman of a meeting of the board may vote as a member of the board on all matters.
- (3) Any question on which an equal number of votes is cast for and against shall be deemed to be decided in the negative.

36. Resolutions and by-laws. New.

37. Voting at board meeting. Section 32.

38. (1) The board shall hold a regular monthly meeting on a fixed date at its head office, or at such other place of which the directors shall be notified by the manager.

(2) The Council may from time to time give directions with respect to the times of meetings of a board other than regular monthly meetings and the notice required therefor.

(3) A special meeting of a board may be called at any time and place by the chairman or by at least two of the directors and notice thereof shall be given by the manager to each director.

(4) The notice of the special meeting shall specify the business to be transacted, and no business other than that specified in the notice shall be transacted at the special meeting unless all the directors are present and consent thereto.

(5) The meetings of a board shall be open to the public.

(6) The assessment roll, the collector's roll, enforcement returns, the minutes of board meetings, all agreements made by the board and all accounts and books of account of the board shall be open to public inspection during business hours.

(7) The board may appoint committees consisting of two or more of its own members for the purpose of studying or investigating, or advising the board on, any matter.

Chairman and Officers of the Board

39. (1) Where the board consists wholly or partly of elected members, the board shall

(a) at the first meeting of the board held after a general election of directors, and

(b) in any year in which there is no general election, after the first meeting thereof held after the annual meeting of water users,

elect one of its number as chairman of the board and another as vice-chairman.

(2) In the absence of the chairman from any meeting of the board, the vice-chairman shall be chairman of the meeting.

(3) In the absence of the chairman and the vice-chairman from any meeting of the board the remaining directors present may elect one of their members to be the chairman of the meeting.

(4) At the same meeting at which a chairman is appointed under subsection (1), or as soon thereafter as may be practicable, the board, with the prior approval of the Council, shall appoint a manager for the district and an acting manager.

38. Board meetings. Section 31.

39. Selection of chairman, district manager and district engineer. Section 29 in part.

(5) The manager may appoint a district engineer who is acceptable to the board and registered as a professional engineer under *The Engineering and Related Professions Act*.

(6) The board shall prescribe the terms of employment of the officers and employees of the board and fix their salary rates in accordance with a schedule.

(7) The board shall acquire and at all times maintain a bond with a bonding company or insurance company for the indemnification of the board in the event of loss to it by reason of the fraudulent or criminal act of the manager and any other officers or employees of the board that the board may require to be covered under the bond.

40. The chairman of the board shall

- (a) preside over all meetings of the board when he is present, and
- (b) communicate from time to time to the board all information and recommend such measures as he considers will better the finances, operations and interests of the board and the water users.

41. (1) The manager of the district

- (a) has the powers and duties conferred or imposed upon him by the board in addition to those conferred or imposed upon him by this Act,
- (b) has the supervision of, and is responsible to the board for, the conduct and management of the affairs and business of the board,
- (c) shall report to the board as to the affairs and business of the board at each regular meeting thereof, confer with and advise the board with respect thereto and furnish the board or any member thereof with any information which may be required as to the affairs and business of the board,
- (d) shall supervise and direct the conduct of all officers and employees of the board,
- (e) shall, on behalf of the board and subject to its directions, hire and dismiss all officers and employees of the board, and
- (f) subject to the other provisions of this Act, shall give effect to the recommendations and directions of the board as to the conduct of the affairs and business of the board.

(2) The manager shall

- (a) collect, receive and safely keep all moneys belonging to the board,
- (b) daily or as often as the board may direct, deposit all moneys received by him to the credit of the proper fund of the board in a chartered bank,

40. Powers and duties of chairman. New.

41. Powers and duties of the district manager. New.

treasury branch or other institution designated by the board,

- (c) submit for the consideration of the board all accounts and charges against the board,
- (d) pay all accounts and jointly with the chairman or any other director or officer appointed by the board, sign all cheques,
- (e) give or cause to be given receipts for all moneys received by him on behalf of the board,
- (f) keep in a cash book or such books of record as the auditor prescribes, a complete and detailed record of all the financial transactions of the board,
- (g) keep on file vouchers of expenditures,
- (h) prepare before the 15th day of each month a statement of moneys received during the previous month and the disposition thereof and submit the statements to the board at its next meeting,
- (i) when called for by the board or its auditor or comptroller, produce all books, vouchers, papers and money belonging to the board and deliver them to his successor or such other person as the board may direct upon his ceasing to hold office, and
- (j) complete and make ready for the auditor within three months after the close of the board's fiscal year the books and accounts of the immediately preceding fiscal year and prepare or cause to be prepared the annual financial statement.

(3) The manager may, with the consent of the board, delegate any of his duties under this Act to some other officer or employee of the board.

42. Unless otherwise provided by a by-law, the fiscal year of a board is the calendar year.

43. (1) The books and records of the board are at all times subject to examination and audit by the Provincial Auditor or his nominee and by such other persons as the Lieutenant Governor in Council may authorize in that behalf.

(2) The Provincial Auditor shall be the auditor of a board, unless the Lieutenant Governor in Council appoints some other person to be auditor of the board.

(4) Where the Provincial Auditor or his nominee is the auditor of a board, the board shall pay to the Government fees for his services at the rates fixed by an order of the Lieutenant Governor in Council.

(5) The auditor of the board may

- (a) prescribe the manner in which the books of account and other financial records are to be kept,
- (b) give directions as to the system of accounts used, and

42. Fiscal year of board.

43. Appointment and powers of auditor. Section 30 in part.

- (c) prescribe the form of the annual financial statement, the monthly statements to be submitted by the manager to the board and any other records pertaining to the finances or accounts of the board.

Powers and Duties of the Board

- 44.** (1) The board
- (a) is responsible for the operation, maintenance and administration of the irrigation works of the district, and has all powers as are necessary or incidental to the carrying out of that responsibility,
 - (b) may construct and replace irrigation works and repair, extend, alter, modify, dismantle or abandon any irrigation works,
 - (c) may manage, improve, cultivate and carry on farm and agricultural operations on any or all of the lands held by it,
 - (d) may enter into agistment agreements,
 - (e) may act as a carrier of water to be used within or outside the district for any purpose and use its irrigation works for that purpose,
 - (f) may enter in arrangements, agreements and accords with the Government of Canada, the Government of Alberta or one or more local authorities, or with any combination thereof, for the sharing of costs of constructing, replacing, extending, altering, modifying, dismantling or abandoning any irrigation works or for sharing costs for any other purposes,
 - (g) may establish guarantee and pension funds for the officers and employees and former officers and employees of the board, and the dependants of those persons, and providing for the making of contributions thereto out of moneys belonging to the board,
 - (h) may enter into group insurance contracts to provide any type of insurance coverage for its officers and employees and former officers and employees and may provide for the making of contributions to the premiums payable thereunder out of moneys belonging to the board,
 - (i) may purchase and sell to a water user any equipment necessary for his farming operations or make loans to a water user to enable him to purchase equipment or hire labourers necessary for his farming operations,
 - (j) may enter into an agreement with a water user providing for the use of the board's machinery or equipment by the water user for the purpose of improving his land or for improving the irrigation facilities on his land, and providing the services of employees of the board for those purposes, and

44. Powers and duties of board. Section 13 in part.

(k) may enter into any agreement or do any act in connection with or incidental to the performance or carrying out of its rights, responsibilities and obligations.

(2) No money received by a board under an arrangement, agreement or accord made pursuant to clause (f) of subsection (1) shall be expended at any time without the prior approval of the Council.

45. (1) The board may generally carry on the functions of a supplier of water for irrigation purposes and is responsible for the supply and distribution of water to the water users of the district in accordance with the by-laws.

(2) The board may make by-laws

(a) regulating the supply and distribution of water to water users, and

(b) providing for the conditions under which the supply of water to any parcel may be stopped.

46. (1) A board may, subject to this Act, make by-laws

(a) governing the conduct of its proceedings, the calling of meetings and appointment of committees,

(b) providing for the remuneration to be paid to directors as fees or for travelling expenses, and

(c) generally, as the interests of the board or the water users may require.

(2) No remuneration shall be paid pursuant to a by-law under clause (b) of subsection (1) to a director appointed by the Council who is an employee of the Government.

(3) A by-law under clause (b) of subsection (1) shall not provide for remuneration to directors

(a) for fees in excess of the scale of fees fixed by the Council for attendance at board meetings or meetings of committees of the board and for being engaged in the necessary business of the board at the direction of the board, or

(b) for travelling expenses in excess of the scale of travelling expenses fixed by the Council.

47. (1) The board may by by-law authorize the manager to borrow money on behalf of the board and on the credit of the board for the purpose of meeting the board's obligations as they become due, but the amount of moneys borrowed under this subsection from time to time shall not exceed in the aggregate the estimated amounts of the accounts receivable of the board.

(2) A board may by by-law authorize the manager to borrow money on behalf of the board upon such terms as the Council may approve

45. Functions of board as a supplier of water to water users.
New.

46. By-laws governing meetings and remuneration of directors.
New.

47. Borrowing powers.

- (a) to pay any expenses incurred in connection with the formation of the district, the organization thereof, the preparation of the assessment roll, the classification of lands in the district, and any expenses incidental thereto,
 - (b) to pay for the construction, replacement, repair, extension, alteration, modification, dismantling or abandonment of irrigation works,
 - (c) for financing and carrying out work required under any agreement entered into by the board with the approval of the Council,
 - (d) to provide money for loans made under clause (i) of subsection (1) of section 44, and
 - (e) for any other purpose approved by the Council.
- (3) Any moneys borrowed pursuant to any by-law under this section shall be a charge on future revenues of the district.
- (4) The Government may guarantee the repayment of all or any portion of the moneys borrowed from time to time under this section by a board.

48. (1) The board has the power and capacity

- (a) to acquire, hold, sell and otherwise deal in securities and other personal property of every nature and kind or any interest therein, and
 - (b) subject to subsection (2), to acquire, hold, sell and otherwise deal in any estate or interest
 - (i) in any land within the district,
 - (ii) in any land inside or outside the district required or held for the purpose of irrigation works, and
 - (iii) with the consent of the Council, in any other land outside the district.
- (2) Notwithstanding any return, order, certificate of title or other document conveying or inducing title, no mines and minerals are acquired or have been acquired at any time on and after December 1, 1925 by a board
- (a) by any expropriation or rate enforcement proceedings under this Act, *The Irrigation Districts Act* or *The Lethbridge Northern Rates Enforcement Act*, or
 - (b) by any other acquisition of lands unless the document conveying the lands describes the mines and minerals thereby conveyed to the board.

49. (1) The board may pass a by-law for the expropriation of any estate or interest in

- (a) any land wherever situated that is required for or in connection with the construction, replacement, extension, alteration, modification, dismantling,

48. Powers and capacities as to property. Sections 5, 13 (1) (a) and 17.

49. Expropriation of land. Section 186.

abandonment, operation or maintenance of irrigation works of the board, or

- (b) any land wherever situated that is required
 - (i) for the purpose of avoiding future claims for damage, or
 - (ii) as a site for any buildings to be used for the purposes of the board, or
 - (iii) for the purpose of a road to provide access to any irrigation works of the board, or
 - (iv) for the purpose of a road to provide access to land that has become inaccessible from a highway or usable road allowance by reason of the construction of any irrigation works by the board,

or

- (c) any land with respect to which a claim for damages has been made against the board arising out of the construction, replacement, extension, alteration, modification, dismantling, abandonment, operation or maintenance of irrigation works of the board.

(2) Parts III and IV of *The Expropriation Procedure Act* apply to expropriations under this section.

50. (1) The board may enter into an agreement with a water user for the supply of water for irrigation purposes to that part of the water user's parcel classified in the assessment roll as "other acres" either in addition to or in lieu of supplying water to that part of the parcel classified as "to be irrigated".

(2) The board may enter into an agreement with an owner, purchaser or lessee of land outside the district to supply water to that land for irrigation purposes.

(3) An agreement shall not be entered into under subsection (2) with a lessee of land except with the consent of his lessor.

(4) Where an agreement is entered into under subsection (2) the land that is the subject of the agreement shall be added to the assessment roll and classified as "other acres".

(5) An agreement under this section shall provide that it is terminable at the option of either party on the giving of not more than one month's notice.

(6) Where the board terminates an agreement under subsection (2) on or before the 15th day of October in any year, no special rates are payable to the board for that year under the agreement.

(7) Where the holder of an agreement under subsection (2) terminates the agreement on or after May 1st in any year, special rates are payable under the agreement for that year unless the agreement otherwise provides.

50. Terminable water agreements to supply water to land classified as "other acres".

51. (1) Subject to the payment of charges therefor under this Act,

(a) all water users of the district, and

(b) all persons who are the holders of terminable water agreements,

have the privilege of using for domestic purposes any water supplied to them for irrigation purposes.

(2) The board may, on the application of an owner, purchaser or lessee of land inside or outside the district, enter into an agreement granting to the applicant the privilege of using for domestic purposes on his land any water from the irrigation works of the board that can be used on that land by him.

(3) An agreement under this section may be upon such terms and conditions as a board prescribes and is terminable by either party upon giving notice of termination.

(4) An agreement shall not be entered into under subsection (2) with a lessee of land except with the consent of his lessor.

(5) Where an agreement is made under subsection (2) in respect of land outside the district, the land shall be added to the assessment roll of the district for the duration of the privilege, if it is not already on the roll by virtue of subsection (4) of section 50.

(6) No person shall use for domestic purposes any water in or supplied from the irrigation works of a board unless he has the privilege of doing so under subsection (1) or under an agreement made pursuant to subsection (2).

(7) A person who contravenes subsection (6) is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

52. (1) A board may, with the consent of the Council, enter into an agreement

(a) with any person to supply water for commercial or industrial purposes, or

(b) with a local authority to supply water for any purpose.

(2) An agreement under this section is invalid unless it is a condition of the agreement that the other party become the holder of an interim licence or licence under *The Water Resources Act* before water is supplied by the board under the agreement.

53. (1) A board of a district 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

51. Domestic water privileges. Section 60 in part.

52. Agreement to supply water for municipal, industrial or commercial purposes. New.

53. Land development agreements with water users. Section 13a.

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 to the board.

(2) An agreement shall not be made under this section unless the board first passes a by-law authorizing it to do so.

(3) Where default is made in the making of any payment to the board under an agreement made pursuant to this section, the amount in arrears may be recovered in any manner that irrigation rates may be recovered.

54. (1) A board of a district may enter into an agreement with a water user or any other person providing for

- (a) the construction by the board of special irrigation works for the particular benefit of a parcel or land although not of benefit to the district as a whole,
- (b) the financing and carrying out of the work, and
- (c) the terms of repayment to the board for the cost of construction and, if the board so requires, the costs of repairing and maintaining the special irrigation works.

(2) An agreement shall not be made under this section unless the board first passes a by-law authorizing it to do so.

(3) Where default is made in the making of any payment to the board under an agreement made pursuant to this section, the amount in arrears may be recovered in any manner that irrigation rates may be recovered.

55. (1) Where a parcel of land or a part thereof becomes inaccessible from a usable road allowance because of the construction of any irrigation works by the board, the board may pass a by-law authorizing the expenditure of any moneys necessary to provide a bridge, culvert or other similar means of access to the parcel of land or part thereof which has been so made inaccessible.

(2) A by-law under subsection (1) shall provide that the board shall make any subsequent expenditures that may be required from time to time to rebuild the bridge, culvert or other similar means of access when rebuilding is necessary.

(3) The owner of the parcel of land or part thereof served by a bridge, culvert or similar means of access constructed pursuant to a by-law under subsection (1), or, in the event that the parcel or part thereof is the subject of an agreement for sale, then the purchaser thereof, shall be responsible for the repair and maintenance of the bridge, culvert or similar means of access.

54. Agreement for special irrigation works. Section 61.

55. Construction of means of access to land cut off by irrigation work.

56. Whenever in the opinion of the board

- (a) a ditch that is part of the irrigation works of the board is likely to be obstructed or otherwise injured by soil drifting or blowing into it, and
- (b) the occupier, or if there is no occupier, the owner, of the land has failed to take reasonable precautions to prevent the drifting or blowing,

the board, without permission from any person and without any liability, may enter upon the land and upon so entering shall take all reasonable steps upon the land to prevent or lessen the drifting or blowing.

57. (1) In this section, "irrigable unit" means land in a district having the same owner and consisting of

- (a) a quarter-section, a part of a quarter-section described in a certificate of title or a surveyed lot, or
- (b) lands designated as an irrigable unit by the board pursuant to subsection (2).

(2) The board may by resolution designate as an "irrigable unit" any lands in the district consisting of two or more quarter-sections, parts of quarter-sections or surveyed lots or any combination thereof which have a common boundary or have a common boundary separated only by a road allowance where

- (a) the lands have a common owner, and
- (b) the whole or any part of the lands are classified on the assessment roll of the district as "to be irrigated" and are or can be irrigated as a unit from the existing irrigation works of the board.

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

(4) Upon the filing of a resolution under subsection (3), the Registrar of Titles shall endorse upon every certificate of title to the land affected by a resolution under subsection (2) 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.

(5) No instrument given by the registered owner or any other person owning any estate or interest in an irrigable unit 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 board and a memorandum of the board's consent is endorsed on or annexed to the instrument.

(6) Subsection (5) operates in respect of an irrigable unit created by a resolution of the board only upon the filing of the resolution pursuant to subsection (3).

56. Entry of land to prevent damage by drifting or blowing soil. Section 196.

57. Designation as irrigable unit. This combines section 31 of The Land Titles Act and section 13b of the present Act.

(7) The consent of the board under subsection (5) may be made subject to such terms and conditions as the board 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 works of the board to any part of the irrigable unit or the cost of providing for the continued irrigation or drainage of any part of the irrigable unit from the existing works of the board is to be borne by the person giving the instrument unless the board waives the condition or unless the parties to the instrument otherwise agree, and

(b) that no change is to be made in the classification on the assessment roll of any land in the irrigable unit unless the board otherwise agrees.

(8) Subsection (5) does not apply where the instrument under which the person giving the instrument transfers, sells, agrees to sell, leases, subleases or otherwise deals with any estate or interest in part only of the irrigable unit that the person in whose favour the instrument is given is empowered to expropriate.

Exemption from Taxation

58. Notwithstanding anything in any other Act and except as otherwise provided in this Act, the property of a board is exempt from assessment and taxation under or pursuant to any Act of the Province.

Annual Water Users' Meeting

59. (1) The board of each district shall hold an annual meeting of water users.

(2) The district manager shall send a notice of the meeting by mail to each water user of the district and shall cause a notice of the meeting to be published once in a newspaper of general circulation in the district.

(3) The notice sent or published under subsection (2) shall be in the prescribed form or in any other form approved by the Council.

(4) The meeting shall be held not later than the 30th day of April and the notice of the meeting shall be mailed and published at least 10 clear days before the date fixed for the meeting.

60. There shall be presented at each annual meeting of water users

(a) the report of the chairman on behalf of the board,

(b) the report of the manager, and

(c) the report of the auditor of the board.

58. Exemption of board's property from taxation. Section 27 (1).

59. Annual meeting of water users. Section 33.

60. Reports at annual meeting. Section 34.

PART 3

ELECTIONS AND VOTING ON QUESTIONS

DIVISION 1

Elections

61. (1) Except as otherwise provided in sections 62 and 63, a general election of directors shall be held in each district in the year following the commencement of this Act and in every third year thereafter.

(2) In each year in which a general election of directors is required to be held under this section, the election shall take place on a date fixed by a by-law of the board that is prior to the first day of June in that year.

(3) Where, at the commencement of this Act, the board consists wholly or partly of elected members, the terms of office of the elected members expires at the commencement of the first regular monthly meeting of the board of directors elected at the first general election of directors held after the commencement of this Act, notwithstanding that they were elected for a longer term.

62. (1) Where the board of a district consists wholly or partly of elected members then, subject to section 63, no subsequent general elections of directors shall be held where, on or before the first day of March in the year in which an election would otherwise be required to be held, a vote is taken under Division 2 of this Part on the question of whether or not the water users wish to have an appointed board and the majority of the water users voting on the question vote in favour of having an appointed board.

(2) Where the majority of the water users voting on the question vote in favour of having an appointed board

(a) the Council shall appoint a new board to assume office on the retirement of the existing board under clause (b), and

(b) the existing board shall retire from office on the day fixed by the Council for that purpose.

63. (1) Where the board of a district at any time consists entirely of members appointed by the Council, no general elections of directors shall be held unless

(a) a poll is taken on a question submitted to the water users as to whether they wish to have an elected board or an appointed board,

(b) the Council approves or requests the taking of the vote,

(c) the majority of water users voting on the question vote in favour of having an elected board, and

61. General election of directors every three years. New. The present Act calls for annual elections.

62. Vote of water users to have an appointed board instead of an elected board. New.

63. Voting of water users to have an elected board instead of an appointed board. New.

(d) the Council approves of having an elected board.

(2) Where the majority of the water users voting on the question vote in favour of having an elected board and the Council approves of having an elected board,

(a) a general election of directors shall be held on the day fixed by the Council for that purpose,

(b) the existing board ceases to hold office at the commencement of the first regular monthly meeting of the new board held after the election, and

(c) subsequent general elections of directors shall be held in the years prescribed in subsection (1) of section 61, unless the Council otherwise directs.

64. (1) The manager of the district shall be the returning officer for an election of directors.

(2) In the event that there is no manager, the Council shall appoint a returning officer.

Proceedings Prior to Election Day

65. (1) The board may pass a by-law prescribing the period during which the polling places shall be open on the day of an election of directors which shall be a period of at least six consecutive hours commencing not earlier than 7 o'clock in the forenoon and expiring not later than 8 o'clock in the afternoon.

(2) In the absence of a by-law under subsection (1) the polling places shall be open on the day of the election from 10 o'clock in the forenoon until 8 o'clock in the afternoon.

66. (1) A board may pass a by-law in accordance with this section dividing the district into electoral divisions, describing the boundaries of each electoral division and giving each electoral division an identifying name or number.

(2) The number of electoral divisions shall be the same as the number of directors to be elected.

(3) The electoral divisions shall, in so far as is practical having regard to the location of the works and the circumstances in the district, contain substantially the same number of water users.

(4) The by-law may provide for

(a) the nomination of directors by electoral divisions, and

(b) the election of directors

(i) by electoral divisions, by vote of the water users who are qualified to vote in the respective electoral divisions, or

(ii) by vote of the water users of the entire district.

64. Manager to be returning officer.

65. Hours of polling. New. .

66. By-law providing electoral divisions. New.

(5) Where a by-law under this section provides for the election of directors by electoral divisions as provided in subclause (i) of clause (b) of subsection (4)

(a) a water user shall vote in the electoral division in which he has land classified on the assessment roll as "to be irrigated", but

(b) if he has land classified in the assessment roll as "to be irrigated" in more than one electoral division, the water user shall vote in the electoral division in which he has the largest number of acres classified on the assessment roll as "to be irrigated".

(6) Notwithstanding that the by-law provides for the nomination or election of directors by electoral divisions, each director elected is a director of the whole district and his powers and duties are not in any way confined or restricted to the electoral division in respect of which he is nominated or elected.

67. (1) The returning officer shall at least 21 days prior to the date fixed for the general election publish in a newspaper of general circulation in the district a notice setting out

(a) the date of the election,

(b) the period during which the polling places will be open,

(c) the time and date upon which the right to file nominations will expire, and

(d) the place where and the person with whom the nominations are to be filed.

(2) The right to file nominations expires at 5 o'clock in the afternoon on the 14th day prior to the date of the election.

(3) If nominations are to be by electoral divisions the notice shall so state and shall set out the boundaries of the electoral divisions.

68. (1) Nominations of candidates for election shall be signed by at least two water users of the district and shall contain a signed statement by the candidate consenting to his nomination.

(2) If nominations for directors are by electoral divisions, each nomination shall specify the electoral division for which the candidate is nominated.

69. (1) Immediately after the time for receiving nominations has expired, if the nomination of directors is not required to be by electoral divisions and the number of persons nominated for the board does not exceed the number of directors required to be elected, the returning officer shall declare the persons nominated to be elected as directors.

67. Publication of notice of election.

68. Nominations.

69. Election by acclamation. New.

(2) Immediately after the time for receiving nominations has expired, if the election of directors is required to be by electoral divisions and only one person is nominated for any electoral division,

(a) the returning officer shall declare that person elected as a director, and

(b) the election shall be proceeded with only in electoral divisions for which two or more candidates are nominated.

(3) Where the returning officer declares any person elected as a director under this section, he shall make a written report of the fact to the board and to the Council.

70. Unless an election is not required to be held, the returning officer, subject to the directions, if any, of the Council, shall as soon as possible after the time for receiving nominations has expired

(a) divide the district into polling divisions and name a polling place for each division, which place may be outside the division or district if the returning officer considers it convenient,

(b) designate, if the circumstances require, at which polling places voters for the respective electoral divisions shall vote,

(c) appoint a deputy returning officer for each polling place,

(d) where he considers it advisable, appoint a poll clerk to assist the deputy returning officer, and

(e) prepare poll books in the prescribed form for each polling division based on the assessment roll as it stood at the time when the right to file for nominations expired.

71. Notice of the poll in the prescribed form shall be published by the returning officer in a newspaper of general circulation in the district not later than the seventh day prior to the date of the election.

72. The returning officer shall procure for each polling place a suitable ballot box

(a) made of some dry durable material,

(b) provided with a lock and key, and

(c) so constructed that the ballot papers can be deposited therein and cannot be withdrawn therefrom unless the box is unlocked.

73. (1) The returning officer shall cause to be printed a supply of ballot papers sufficient for the purposes of the election.

(2) Where the election of directors is by electoral divisions,

70. Duties of returning officer.

71. Publication of notice of poll.

72. Ballot boxes.

73. Ballot papers. Section 80.

- (a) no set of ballot papers printed for the purposes of the election in any electoral division shall be of the same colour as any set of ballot papers to be used in any other electoral division at that election, and
 - (b) separate sets of ballot papers shall be prepared and used for the election in each electoral division.
- (3) The ballot papers for the election of directors shall contain the names of the persons nominated, arranged alphabetically in the order of their surnames.

74. At least 24 hours before the opening of the poll the returning officer shall deliver or cause to be delivered to each deputy returning officer

- (a) the ballot papers prepared for use in the polling place for which the deputy returning officer has been appointed to act,
- (b) such other materials as are necessary to enable the voters to mark their ballot papers, and
- (c) the poll book for the polling division.

75. The returning officer shall before the opening of the poll cause to be prepared such number of printed directions for the guidance of voters in voting as he considers sufficient, and the directions shall be printed in conspicuous characters and may be in the prescribed form.

Prohibited Election Practices

76. (1) The returning officer shall provide himself with at least two copies of section 77.

(2) The deputy returning officer for each polling division shall post copies of section 77 in a conspicuous place at his polling place and ensure that they are kept so posted during the hours of polling.

77. (1) No person shall

- (a) without due authority supply a ballot paper to any person, or
- (b) fraudulently put into a ballot box any paper other than the ballot paper that he is authorized by law to put in, or
- (c) without due authority take a ballot paper out of a polling place, or
- (d) without due authority, destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purpose of an election, or
- (e) apply for a ballot paper in the name of some other person, whether such name is that of a person living or dead, or of a fictitious person, or advise or abet, counsel or procure any other person to do so,

74. Delivery of ballot papers to deputies. Section 84.

75. Directions for guidance of voters. Section 85.

76. Procuring list of prohibitions.

77. Prohibitions re elections.

but this prohibition shall not be construed as extending to a person who applies for a ballot paper believing that he is the person intended by the name entered on the list of water users in respect of which he so applies, or

- (f) having voted once and not being entitled to vote again at an election, apply at the same election for a ballot paper in his own name, or vote again at that election, or
 - (g) advise or abet, counsel or procure any other person who has already voted at an election to apply at the same election for a ballot paper or to vote again at that election.
- (2) No person shall
- (a) vote, knowing that he has no right to do so, or
 - (b) take a false oath, or
 - (c) induce or procure or aid or abet any other person to vote or attempt to vote knowing that such person has no right to vote.

- (3) No person shall
- (a) print or distribute or cause to be printed or distributed in any newspaper or in any circular, card, poster, bill or other paper, a form of ballot paper printed by the returning officer indicating or showing the same to be marked for any candidate or candidates, or
 - (b) without due authority from the other candidates, print or distribute or cause to be printed or distributed, for the purpose of influencing or soliciting votes for any candidate, any circular, card, poster, bill or other election material in connection with the names of any other candidates.

Conduct of Polling

78. (1) Subject to subsection (2), the only persons entitled to vote at an election of directors are

- (a) an individual who is a water user of the district, and
- (b) an individual, whether a water user or not, appointed as an agent for a corporation that is a water user under a written authorization from the corporation to vote on its behalf.

(2) For the purposes of an election of directors, the only water users entitled to vote are those of record in the assessment roll of the district at the time when the time for filing nominations expired.

(3) A water user is not entitled to vote more than once at an election unless he is also authorized to vote as the agent of a corporation that is a water user.

78. Voting qualifications. Section 86.

79. On the day fixed for the taking of a poll the deputy returning officer shall be present at his polling place during the 15-minute period prior to the time fixed for opening the poll.

80. The deputy returning officer shall ensure that each polling place is furnished with one or more compartments in which voters can mark their ballot papers without being seen.

81. Each deputy returning officer shall before the opening of the polling place for voting cause to be posted on the outside of the entrance of each polling place as well as in each compartment in the polling place a copy of the directions for the guidance of voters.

82. (1) The returning officer shall furnish to each deputy returning officer a poll book in which shall be entered the record of the poll.

(2) The poll book shall be in the prescribed form.

83. The persons entitled to be present at any one time in a polling place during the hours of polling are the returning officer, the deputy returning officer, the poll clerk, any candidates for election, any candidate's agent and the persons who are waiting to vote or are in the process of voting or leaving after having voted.

84. (1) At the time fixed for the opening of the polling place for voting the deputy returning officer shall declare the polling place open, and immediately afterwards shall show the ballot box to such persons as are present in the polling place so that they may see that it is empty.

(2) The deputy returning officer shall then lock the box and place his seal upon it in such a manner as to prevent the box being opened without the seal being broken.

(3) The deputy returning officer shall then place the box in a conspicuous place in the polling place for the receipt of the ballot papers and keep it in a conspicuous place and so locked and sealed during the hours of polling.

85. (1) Each person who presents himself for the purpose of voting shall, before he is handed a ballot paper, be required by the deputy returning officer or the poll clerk

(a) to identify himself as a person named in the poll book, or

(b) in the case of a person voting as an agent of a corporation, to file the written authorization from the corporation appointing him as its agent to vote on its behalf and to identify himself as the agent so appointed.

79. Presence of deputy returning officer before opening.
Section 87.

80. Voting compartment. Section 88.

81. Posting directions for guidance of voters. Section 89.

82. Poll book. Section 90.

83. Persons entitled to be present at poll. Section 91.

84. Procedure at opening of poll. Section 92.

85. Identification of voter before voting.

(2) Notwithstanding subsection (1), the deputy returning officer or poll clerk may refuse to hand a ballot paper to a person presenting himself to vote until that person has made an oath or affirmation in writing in the prescribed form and has handed it to the deputy returning officer or poll clerk.

(3) An oath or affirmation under this section may be taken before the deputy returning officer.

(4) When a person presents himself for the purpose of voting and it is found that another person has voted in his name, he is entitled to vote if he otherwise established his identity to the satisfaction of the deputy returning officer and makes an oath or affirmation under this section.

(5) When the requirements of this section have been met and any entries required by this Division respecting a person who presents himself to vote have been made in the poll book, the deputy returning officer shall place his initials on the back of the ballot papers to which the person is entitled and hand them to him.

86. (1) If a person claiming to be entitled to vote

(a) is incapacitated by blindness or other physical cause from marking his ballot papers, or

(b) makes a declaration that he is unable to read,

the deputy returning officer shall, in plain view of any candidates or agents of candidates present, place his initials on the back of the ballot paper and cause the votes of such person to be marked on the ballot paper for such candidate or candidates as that person requires.

(2) The deputy returning officer shall then enter opposite the voter's name in the proper column of the poll book the words "Marked by D.R.O." and shall deposit the ballot paper of that person in the ballot box.

(3) The declaration shall be, after being read to the voter, attested by the deputy returning officer and may be in the prescribed form.

87. (1) Where a water user resides in a polling division but is not shown on the poll book for that polling division, he may nevertheless vote at the polling place for that division if he makes an oath or affirmation under section 85.

(2) A deputy returning officer or poll clerk, if otherwise qualified, may vote at the polling place for which he is appointed.

(3) A returning officer, if otherwise qualified, may vote at an election at a polling place other than the one at which he would otherwise be required to vote.

(4) Where any person votes in accordance with this section, the deputy returning officer shall make an entry in his poll book accordingly.

86. Marking of ballot paper by officer in certain cases.
Section 99.

87. Voter qualified in more than one polling division. Voting
by returning officer and deputy returning officer. Sections 101
and 111.

88. If the person applying to vote takes an oath or affirmation pursuant to section 85 the deputy returning officer or the poll clerk shall enter opposite such person's name in the proper column of the poll book the word "Sworn" or "Affirmed" according to the fact.

89. When a person applying to vote is required to take the oath or affirmation and he refuses to do so the deputy returning officer or the poll clerk

- (a) shall enter opposite the name of the person in the proper column of the poll book the words "Refused to swear or affirm",
- (b) shall not allow that person to vote,
- (c) shall require that person to leave the polling place immediately, and
- (d) shall not allow that person to enter it again on the day of the election for any purpose.

90. The deputy returning officer may, and upon request shall, either personally or through his poll clerk, explain to a voter as concisely as possible the proper method of voting.

91. A deputy returning officer who refuses or wilfully omits to sign his initials upon the back of a ballot paper as provided by this Division is liable to pay a penalty of \$100 recoverable at the suit of the voter aggrieved by his refusal or omission.

92. (1) Upon being handed the ballot papers, the voter shall forthwith

- (a) proceed into the compartment provided for the purpose of voting,
- (b) then and there mark his ballot papers in the manner mentioned in the directions for the guidance of voters,
- (c) fold each ballot paper so as to conceal its face and so as to expose the initials of the deputy returning officer, and
- (d) leave the compartment and, without showing the front of any ballot paper to anyone or so displaying it as to make known to any person how he has voted, immediately deliver the ballot papers so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot papers or in any way disclosing the face of any ballot paper, shall verify his own initials and at once deposit the ballot papers in the ballot box in the presence of the persons present in the polling place.

(3) The voter shall forthwith leave the polling place.

(4) Immediately after the ballot papers of a voter have been deposited in the ballot box the deputy returning officer

88. Entry of act of swearing. Section 95.

89. Refusal to take oath. Section 97.

90. Explanation to voter. Section 98.

91. Penalty for default by deputy returning officer. Section 100.

92. Procedure upon receipt of ballot paper. Sections 100 and 103.

or poll clerk shall enter in the poll book in the proper column after the voter's name the word "Voted".

(5) The entry in the poll book of the word "Voted" after a voter's name is *prima facie* proof that he has voted.

93. While a voter is in a voting compartment for the purpose of marking his ballot paper no person shall be allowed to enter the compartment or to be in a position from which he can observe the mode in which the voter marks his ballot papers.

94. (1) A person who has received a ballot paper from the deputy returning officer shall not take it out of the polling place.

(2) A person who having received a ballot paper leaves the polling place without first delivering the ballot paper in the manner prescribed by this Division forfeits his right to vote during that election.

(3) The deputy returning officer shall in such a case make an entry in the poll book in the column for remarks to the effect that such person received a ballot paper but took it out of the polling place, or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Refused" upon the ballot paper returned to him and shall preserve it.

95. A person claiming to be entitled to vote who has inadvertently dealt with a ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the deputy returning officer, receive another ballot paper in the place of the ballot paper delivered up, and the deputy returning officer shall immediately write the word "Cancelled" upon the ballot paper delivered to him and shall preserve it.

Proceedings at Close of Poll

96. (1) Promptly at the hour fixed by or pursuant to section 62 for the closing of the polling place the deputy returning officer shall declare the polling place closed.

(2) If when the polling place is closed there is a voter in the polling place who desires to vote he shall be permitted to do so, but no other voter shall be allowed to enter the polling place for that purpose.

97. (1) Immediately after the close of the poll the deputy returning officer shall in the presence of the poll clerk, if any, and of such of the candidates or their agents as are then present, open the ballot box.

93. Secrecy of voting. Section 104.

94. Forfeiture of right to vote. Section 105.

95. Receipt of another ballot paper. Section 106.

96. Closing poll. Section 107.

97. Opening of ballot box after close of poll. Section 108.

(2) The deputy returning officer shall examine the ballot papers individually and shall not count but shall set aside as rejected any ballot paper

(a) that is not initialled as provided in this Division, or

(b) on which anything is written or marked by which the voter can be identified, or

(c) that has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified.

(3) The deputy returning officer shall take notice of any objection made by a candidate or his agent or a person authorized to be present, to any ballot paper found in the ballot box, and decide any question arising out of the objection.

(4) The deputy returning officer shall then count the votes given upon the ballot papers that have not been rejected for and against each candidate, and shall enter in the poll book a statement in words as well as in figures of

(a) the number of votes given for each candidate, and

(b) the number of ballot papers rejected and not counted by him.

(5) The statement referred to in subsection (4) shall be made under the following heads:

(a) the number of the polling division and the name of the district and the date of the election;

(b) the number of persons who voted at the polling place;

(c) the number of votes for each candidate for director;

(d) the number of ballot papers supplied to the deputy returning officer;

(e) the number of rejected ballot papers;

(f) the number of cancelled ballot papers and the number of ballot papers marked "Refused";

(g) the number of unused ballot papers.

(6) Upon completion of the statement the deputy returning officer shall make a duplicate thereof, separate from the poll book, and the statement and duplicate shall be signed by the deputy returning officer, the poll clerk, if any, and such of the candidates or their agents as are present and desire to sign.

(7) The deputy returning officer upon being requested to do so shall deliver to each of the persons authorized to attend at his polling place under subsection (1) a certificate

(a) of the number of votes given at that polling place for each candidate, and

(b) of the number of rejected ballot papers.

(8) The deputy returning officer shall then in the presence of the candidates or their agents or such of them as are present make up into separate packets, which shall be

sealed and marked upon the outside with a short statement of their contents,

- (a) the ballot papers counted,
- (b) the ballot papers rejected, and
- (c) the unused, cancelled and refused ballot papers.

(9) Before leaving the polling place the deputy returning officer shall enter in the poll book a statement in the prescribed form which shall be signed by him in the presence of the poll clerk or some other witness.

(10) The deputy returning officer shall then place in the ballot box the packets, the poll book, the lists used and the declarations, oaths, affirmations and authorizations by corporations to an agent to vote on its behalf, and the ballot box shall then be locked and sealed with his seal and with the seals of any candidates or agents of candidates who desire to affix their seals.

98. The deputy returning officer of each polling division shall forthwith deliver to the returning officer the sealed ballot box and the duplicate of the statement entered in the poll book, and upon receiving them the returning officer shall give to the deputy returning officer a receipt therefor.

99. (1) At 12 o'clock noon on the day and at the place previously appointed by him for the purpose, the returning officer shall, in the presence of such of the candidates or their agents as are present, sum up the result of the poll as shown by the duplicate statements furnished to him by the deputy returning officers.

(2) If it appears upon the summing up of the result of the poll that two or more candidates have received an equal number of votes and as a result thereof one of the candidates must be eliminated the returning officer shall write the names of those candidates separately on blank sheets of paper of equal size and of the same colour and texture, and after folding them in a uniform manner and so that the names are concealed, deposit them in a receptacle and direct some person to withdraw one of the sheets and the returning officer shall declare to be elected the candidate whose name appears on the sheet thus drawn.

100. (1) The returning officer shall forthwith make and sign a statement of the result of the poll, together with a declaration in the prescribed form or to a like effect.

(2) The returning officer shall post in some conspicuous place the statement showing the number of votes polled for each candidate, and shall forward a copy of his statement to the Council, together with a statement of the candidates declared elected.

98. Delivery of ballot box, etc. Section 109.

99. Computing result. Section 110.

100. Statement of result of poll.

101. Unless in the meantime the Council orders a recount or appoints one or more persons to make an inquiry under section 103 or otherwise orders, the returning officer shall retain the ballot boxes for two months after the election with their seals unbroken, and at the end of the two months shall cause the ballot boxes to be opened and the packets therein to be burned in the presence of two witnesses.

Recount

102. If at any time within five days after the date of the transmission of the statement of the result of the poll to the Council

- (a) it is, on the affidavit of any person, made to appear to the returning officer that
 - (i) a deputy returning officer or other officer in counting the votes given at the election has improperly counted or rejected any ballot papers, and
 - (ii) his action has materially affected the result of the election,
- and
- (b) the sum of \$50 is deposited with the returning officer as security for the payment of costs and expenses,

the returning officer shall forthwith forward the affidavit and deposit to the Council, which may order a recount and give directions for the conduct of the recount.

103. (1) If within two weeks after the election any two persons who were entitled to vote at the election make it appear to the satisfaction of the Council by statutory declaration

- (a) that the election was irregularly or improperly conducted, or that corrupt practices prevailed at the election, and in consequence the result of the election was affected, or
- (b) where the election of directors was by electoral division, that the election in an electoral division was irregularly or improperly conducted, or that corrupt practices prevailed at that election, and in consequence the result of the election was affected,

the Council may make or appoint one or more persons to make an inquiry into the matter and report his or their findings and recommendations to the Council.

(2) The person or persons appointed under subsection (1) have the powers of a commissioner appointed under *The Public Inquiries Act*.

(3) Where the inquiry pertained to the election of all directors, the Council, on the basis of the report of the inquiry, shall either

101. Retention of ballot boxes, etc. Section 113.

102. Order for recount. Section 114.

103. Investigating alleged irregularities. Section 115 in part.

- (a) confirm the election of all directors previously declared elected, or
 - (b) dismiss the directors previously declared elected, give directions as to the holding of another election and appoint a board of directors to hold office until the first regular meeting of directors following the election.
- (4) Where the inquiry pertained to the election of a director for an electoral division, the Council, on the basis of the report of the inquiry, shall either
- (a) confirm the election of the director previously declared elected, or
 - (b) dismiss the director previously declared elected and either
 - (i) give directions as to the holding of another election in that electoral division and appoint a director to hold office until the election is held, or
 - (ii) appoint a director to hold office until the first regular meeting of the directors following the next general election of directors.
- (5) Any person who, after being notified of his dismissal by the Council as a director under this section, purports to act as a director of the district, is guilty of an offence and liable on summary conviction to a fine of not more than \$200.

DIVISION 2

Submission of Question to Voters

- 104.** (1) For the purpose of obtaining an expression of the opinion of the water users of the district upon a matter relating to the business or welfare of the district, the board may by by-law provide for
- (a) the formulation and submission to the water users of the district of a question with regard to any such matter,
 - (b) the appointment of a person other than the manager as returning officer, and
 - (c) the date by which the ballots for or against the question are to be received by the returning officer.
- (2) The manager is the returning officer unless the by-law otherwise provides.
- 105.** (1) The vote on a question submitted to the water users shall be by way of the taking of a poll by mail in the manner set out in this section.
- (2) The returning officer shall mail to each water user at his regular postal address as shown in the records of the district

104. By-law for submission of question to water users. Section 22 (1). At present, votes on questions are conducted in conjunction with annual elections. All votes on questions will now be conducted by a mail ballot.

105. Procedure for mail vote. New.

- (a) a ballot setting out the questions to be submitted,
 - (b) an envelope marked "Ballot" and a return envelope addressed to the district manager upon which has been placed the water user's name and address, and
 - (c) a set of instructions as to the manner in which and the time by which the ballot must be completed and returned.
- (3) The water user shall
- (a) mark and enclose his ballot in the envelope marked "Ballot",
 - (b) seal and enclose it in the return envelope, and
 - (c) mail or deliver the return envelope to the returning officer at the board's office so that it will be in the board's office before the regular closing hour of the board's office on the day shown in the set of instructions.
- (4) The returning officer shall in the presence of the chairman of the board and any other directors present cause the envelopes marked "Ballot" to be removed from the return envelopes and place them together unopened in such manner that they cannot be identified.
- (5) The returning officer in the presence of the chairman and any other directors who are present shall then cause the envelopes marked "Ballot" to be opened and with the chairman's assistance cause the ballots to be scrutinized and the votes cast for and against the question determined.
- (6) The returning officer shall notify the board as to the result of the poll and shall publish the result of the poll in a newspaper of general circulation in the district.

106. The board is not bound by the results of a vote on a question under this Division to do or to abstain from doing any act or thing.

106. Board not bound by result of vote. New.

PART 4

ASSESSMENT

107. In this Part

- (a) "assessment notice" means
 - (i) a notice given pursuant to clause (a), (b) or (c) of subsection (1) of section 117, or
 - (ii) a combined assessment notice and billing notice;
- (b) "billing notice" means a billing notice as defined in Part 5;
- (c) "court of revision" means a board acting as a court of revision under this Part.

Assessment Roll

108. (1) The assessment roll of an existing district shall continue to be the assessment roll of that district until it is replaced by a new assessment roll under this Part.

(2) Where the board of an existing district has records that substantially contain the information required for the assessment roll as provided in section 110, or as provided by the Council, the records constitute the assessment roll of the district.

(3) Where the records of a board of an existing district constitute the assessment roll of the district by virtue of subsection (2), the Council may require the board to amend those records, within such period as the Council may prescribe or any extension thereof, in order to have them contain any additional information necessary to meet the requirements of section 110.

109. (1) The manager of each newly formed district shall as soon as possible after the formation of the district cause to be prepared an assessment roll of the district.

(2) The board of a district may by-law authorize the preparation of a new assessment roll for the district.

(3) The Council may require the board of an existing district to prepare a new assessment roll for the district in accordance with this Part within such period as the Council may prescribe or any extension thereof.

(4) If the assessment roll has been lost or destroyed the Council may authorize the board to use any material or information available to the manager as the assessment roll or collector's roll or both until a new assessment roll is prepared.

110. (1) The Council may give directions as to the contents of the assessment roll which, subject to those direc-

107. Definitions.

108. Assessment roll of an existing district.

109. Preparation of new assessment roll. Section 123.

110. Contents of assessment roll. Section 123.

tions, shall contain, with respect to each parcel in the district,

- (a) the description of the parcel,
- (b) the name and address of the owner and the purchaser, if any, of the parcel of whom the manager has notice,
- (c) the number of acres classified as "to be irrigated" in the parcel,
- (d) the number of acres classified as "other acres" in the parcel, which shall be the number of acres not classified as "to be irrigated", and
- (e) where the parcel is wholly or partly the subject of any or all of the following agreements, a notation so indicating
 - (i) a terminable water agreement, or
 - (ii) an agreement made pursuant to section 53, or
 - (iii) an agreement made pursuant to section 54.

(2) The classification in the assessment roll as to the number of acres in a parcel classified as "to be irrigated" and as "other acres" applies to the parcel notwithstanding any agreement to the contrary made by a board with any person before or after the commencement of this Act.

(3) Subject to the directions of the Council, there shall be added to the assessment roll pursuant to subsection (4) of section 50 and subsection (5) of section 51 respectively the lands outside the district that are the subject of

- (a) a terminable water agreement, and
- (b) a domestic water privilege granted pursuant to subsection (2) of section 51.

111. Where a parcel owned by the Crown in right of Alberta is included in a district with its consent, the parcel is subject to assessment and rate enforcement proceedings to the same extent as if the parcel were owned by some other person.

112. (1) The Council shall cause to be prepared a set of standards for each district setting out the minimum requirements, taking into account all factors that it considers are relevant, with which any land must comply in order to be suitable to receive water for irrigation.

(2) The manager shall cause maps and plans to be prepared based on the supply of water available to the district and the irrigation works available for use by the district showing the parcels in the district

- (a) that contain land suitable for irrigation, and
- (b) that can be served with a sufficient supply of water by the irrigation works available for use by the district.

111. Crown lands subject to assessment and rates. New.

112. Classification of lands as "to be irrigated" or "other acres".

(3) The manager shall, with the assistance of such qualified persons as he may require, determine the lands in each parcel in the district that are suitable for irrigation and classify it as land "to be irrigated".

(4) In determining whether any land is suitable for irrigation and to be classified as "to be irrigated", the manager shall have regard to

- (a) the set of standards prepared by the Council under subsection (1),
- (b) the maps and plans prepared under subsection (2) and any other technical data available to him,
- (c) the area of land and the availability of drainage therefrom, and
- (d) any other factors that may make it impractical, uneconomical or undesirable to irrigate the land.

(5) Lands that are not classified as "to be irrigated" shall be classified as "other acres" for the purposes of the assessment roll of the district.

(6) The manager may from time to time recommend to the board a change in the classification of any land in any parcel if the change is in accordance with this section.

(7) A map or plan prepared under subsection (2) shall not be used by the manager for the purposes of this section unless it is filed with and approved by the Council.

113. (1) The board may at any time, with the consent of the Council, direct the manager to alter or cancel the assessment of any parcel of land or any part thereof in the district

- (a) when it appears to the board that the assessment is erroneous, because some relevant factor was omitted from consideration at the time of its assessment, or
- (b) when the assessment made has resulted in an injustice, or
- (c) where there has been a change in the factors referred to in subsection (4) of section 112.

(2) Where any alteration in or cancellation of an assessment is made under this section, a new assessment notice shall be given in the manner provided in section 117.

(3) After altering or cancelling an assessment, the board may with the consent of the Council refund all or part of any irrigation rates paid before the change in the assessment in such an amount as the board and the Council consider to be equitable.

114. (1) When a person becomes an owner or purchaser of land included in the assessment roll of the district, he shall immediately notify the manager of that fact and

113. Alteration or cancellation of assessment. Section 140.

114. Change in assessment roll due to a change of owner or purchaser. Section 123 (4).

produce such proof of his ownership or interest as the manager requires, and the manager shall thereupon make the necessary changes in the assessment roll.

(2) Where the manager is aware, on the basis of a search of the records of the proper land titles office, that any person has become an owner or purchaser of land included in the assessment roll of the district, the manager shall make the necessary changes on the assessment roll.

(3) Where the manager makes any change in the assessment roll under this section a new assessment notice shall be given in the manner provided in section 117.

115. The assessment roll shall remain in the office of the board except when it is required before the court of revision, the Alberta Assessment Appeal Board, a judge or by the board's auditor.

116. (1) A copy of the assessment roll or of the portion thereof, certified to be a true copy by the manager, shall be admitted in evidence as *prima facie* proof of an assessment without the production of the original assessment roll or of the manager's appointment or signature.

(2) Notwithstanding any other Act, the assessment roll constitutes notice to all persons of the inclusion therein of any parcel or other land and, the number of acres of any parcel or land classified as "to be irrigated" or as "other acres", and that the parcel or land is the subject of any agreement noted in the assessment roll with respect to the parcel or land.

Assessment Notices

117. (1) An assessment notice shall be given in accordance with this section

- (a) after a new assessment roll has been prepared,
- (b) after an alteration or cancellation of an assessment has been made pursuant to section 113,
- (c) after a change has been made in the assessment roll pursuant to section 114, and
- (d) in combination with a billing notice.

(2) Subject to subsections (3) and (4) an assessment notice shall be sent by or on behalf of the manager by registered mail to each person shown on the assessment roll as the owner or purchaser at his address shown on the assessment roll.

- (3) Where the manager has received written notice of
 - (a) the appointment by an owner or purchaser of a person as his agent for the purpose of receiving notices, or
 - (b) the appointment of an executor or administrator of a deceased owner or purchaser, or

115. Place of keeping roll. Section 127.

116. Certified copy of roll as evidence. Section 154.

117. Notice of assessment. Section 126.

(c) the appointment of a guardian, custodian or committee of the estate of an owner or purchaser, or
(d) the appointment of a receiver, liquidator or trustee in bankruptcy of an owner or purchaser,
the assessment notice shall be given to the person so appointed.

(4) A combined assessment notice and billing notice may be given by ordinary mail.

(5) An assessment notice with respect to any parcel or land included in the assessment roll shall set out

- (a) a description of the parcel or land,
- (b) in the case of a parcel in the district, the number of acres in the parcel shown on the assessment roll as being classified as acres "to be irrigated", and
- (c) in the case of land added in the assessment roll pursuant to subsection (3) of section 110, the number of acres contained in that land and sufficient information and data to indicate the reason for adding the land to the assessment roll.

(6) An assessment notice shall contain or be accompanied by a statement of the last day upon which complaints against the assessment may be filed with the manager, which shall be at least 30 days from the mailing of the assessment notice.

(7) The manager shall enter upon the roll opposite the name of each person therein the date of each mailing and the entry is *prima facie* proof of the mailing of the notice to that person.

118. No assessment is invalid by reason of an error, omission or misdescription in an assessment notice, or by the fact that an assessment notice was not received by the person to whom it was mailed.

Court of Revision

119. (1) The board constitutes a court of revision for the hearing and determination of complaints by persons with respect to anything contained in the assessment roll.

(2) No director shall act on a court of revision with respect to any parcel of land in which he is directly or indirectly interested.

(3) The manager shall be the clerk of the court of revision and shall record its proceedings.

120. (1) A person whose name appears on the assessment roll, or who claims to have any interest in a parcel or land included therein, may complain to the court of

118. Effect of error in notice. Section 128.

119. Board is a court of revision. Section 129.

120. Complaints respecting assessment roll. Section 130.

revision in respect of anything appearing on the assessment roll.

(2) A complainant shall notify the manager in writing of the particulars and grounds of complaint.

(3) The notice of complaint may be made to the court of revision by mailing it to the manager or leaving it at the office of the board

(a) prior to the date set out in the assessment notice for filing complaints, or

(b) if no assessment notice is received by any person prior to the first day of July in any year, then before the 15th day in August of that year.

(4) Every notice of complaint shall contain the post office address to which all notices are required to be sent to the complainant.

121. (1) The board shall fix the time and place at which it will sit as a court of revision to hear complaints relating to assessment.

(2) The manager on receipt of a complaint shall notify the board, the complainant, the owner and purchaser of the land assessed and any person who appears on the notice of complaint to be affected by the complaint, of the time and place of the sitting of the court of revision at which the complaint will be heard.

(3) The notice shall be sent by registered mail or delivered to the complainant at the address shown on the notice of complaint, and to every other person to whom the notice is required to be given at the address last known to the manager, at least 10 days before the date fixed for the hearing of the complaint.

122. (1) Before the sitting of the court of revision the manager shall prepare a list of the complaints in the prescribed form.

(2) The list shall be posted at the office of the manager and shall remain so posted during the sitting of the court of revision.

(3) The complaints shall be heard as far as possible in the order in which they stand upon the list, but the court of revision may adjourn or expedite the hearing of a complaint.

123. If the complainant or any other person notified of the hearing pursuant to section 121 fails to appear in person or by an agent, the court of revision may proceed in his absence.

124. (1) Any member of the court of revision hearing a complaint may administer oaths to witnesses giving evidence before the court.

121. Notice of sittings of court of revision. Section 131.

122. List of complaints to be heard. Sections 132 and 134.

123. Court proceeds in absence of complainant. Section 135.

124. Evidence under oath. Section 136.

(2) A witness before the court of revision need not give his evidence under oath except where

- (a) the witness is giving evidence on his own behalf, or
- (b) an oath is requested by a person with an opposing interest, or
- (c) the court considers it necessary or proper that he do so.

125. Every court of revision shall complete its duties

- (a) in case of a notice of complaint made by a person to whom an assessment notice was sent within 60 days after the date fixed for the hearing of the complaint, or
- (b) in case of a notice of complaint made by a person in accordance with clause (b) of subsection (3) of section 120, by the end of the year in which the notice of complaint is given.

126. When the court of revision gives a decision on a complaint, the manager shall notify each person to whom notice of the hearing was given in the manner provided in subsection (3) of section 121.

127. (1) Forthwith after the court of revision gives a decision on a complaint, the manager, if necessary, shall amend the assessment roll in accordance with the decision.

(2) The manager shall date and initial each amendment made under this section.

(3) Upon the close of the sittings and the amendment of the assessment roll by the manager, the assessment roll is the assessment roll of that district for that year subject to

- (a) any decision of the court of revision on notices of complaints made in accordance with clause (b) of section 125,
- (b) corrections made in accordance with section 128, and
- (c) changes made as a result of an appeal to the Alberta Assessment Appeal Board.

128. (1) The board may at any time authorize the manager to correct an error or omission in the assessment roll

- (a) where the name of a person whose name should appear on the assessment roll does not appear thereon, or
- (b) where the correction would not involve a change in the amount payable to the board by any person.

(2) The manager shall date and initial a correction of the assessment roll made by him pursuant to this section.

125. When court of revision completes duties. New.

126. Manager gives notice of court's decision. New.

127. Amendment of roll. Section 137.

128. Corrections of errors and omissions.

Appeals to Alberta Assessment Appeal Board

129. (1) Any person to whom a notice of the decision of the court of revision was given under section 126 may appeal to the Alberta Assessment Appeal Board from the decision of the court of revision by filing a notice of appeal with the Alberta Assessment Appeal Board within 30 days after the giving of the notice of the decision of the court of revision to that person.

(2) The provisions of *The Alberta Assessment Appeal Board Act* apply *mutatis mutandis* to appeals under this section.

130. As soon as the Alberta Assessment Appeal Board gives its decision on an appeal the manager shall, if necessary, amend the assessment roll in accordance with the decision and shall date and initial the amendment.

129. Appeal to Alberta Assessment Appeal Board. New.

130. Amendment of assessment roll after appeal. New.

PART 5

IRRIGATION RATES

- 131.** (1) In this Part,
- (a) "adjudication" means an enforcement return confirmed by a district court judge under this Part;
 - (b) "annual rate" means the amount prescribed by a by-law under section 133;
 - (c) "billing notice" means a notice given pursuant to section 142;
 - (d) "domestic water charges" means charges imposed under a by-law made pursuant to section 135;
 - (e) "irrigation rates" or "rates" means
 - (i) the amount determined by multiplying the number of acres classified in the assessment roll of a district as "to be irrigated" by the annual rate, or
 - (ii) with reference to a particular parcel, the amount determined by multiplying the number of acres in the parcel classified in the assessment roll as "to be irrigated" by the annual rate;
 - (f) "special rates" means an amount imposed against a parcel or other land pursuant to a by-law made under section 134.

(2) This Part applies to each parcel or other lands included in an assessment roll of a district notwithstanding any agreement made by a board or the predecessors of a board before or after the commencement of this Act for the payment of irrigation rates, special rates or charges for water supplied pursuant to a domestic water privilege on a basis that is different from or inconsistent with this Part.

Imposition of Irrigation Rates and Other Charges

- 132.** (1) A board shall, not later than the first day of May in each year, make an estimate of the amount required in its current fiscal year to pay
- (a) the costs of administering the business and affairs of the board, including the costs of maintaining and operating the irrigation works of the board and obtaining supplies of water,
 - (b) the board's share of the unpaid cost of constructing, rebuilding, replacing or rehabilitating its existing irrigation works and the costs of constructing additional irrigation works, not provided for under a cost-sharing agreement,
 - (c) any principal and interest which is or will be payable by the board under a cost-sharing agreement,

131. Definitions and application of Part.

132. Estimated expenditures for the year.

- (d) an amount determined by the board into a reserve fund to meet future payments of the board's share of the costs of constructing, rebuilding, replacing or rehabilitating its existing irrigation works and the costs of constructing additional irrigation works not provided for under a cost-sharing agreement,
- (e) an amount determined by the board into a reserve fund for any purposes that the board prescribes,
- (f) any amounts payable by the board to the Government under any order of the Lieutenant Governor in Council made pursuant to section 28,
- (g) any outstanding execution against the board,
- (h) any amounts that are payable under orders of the Public Utilities Board under Part 6, and
- (i) any other expenditures that are or will likely be payable by the board to meet its obligations and liabilities.

133. (1) If in any year the expenditures estimated under section 132 are not otherwise provided for, the board shall pass a by-law prescribing an amount, called the "annual rate", which shall be an amount that, when multiplied by the number of acres of land classified in the assessment roll as "to be irrigated", will provide sufficient funds to pay the expenditures estimated under section 132 not otherwise provided for, after making reasonable allowance for the cost of collection and for amounts likely to remain unpaid at the end of the fiscal year.

(2) Notwithstanding subsection (1), the by-law under subsection (1) may provide for the division of the district into two or more parts and may prescribe a different annual rate for the parcels in each part.

(3) A by-law under subsection (1) may prescribe an amount as the minimum amount payable as irrigation rates for any parcel where the irrigation rates calculated on the basis of the annual rate would otherwise be less than the minimum amount.

(4) A by-law under this section applies only for the purpose of determining the irrigation rates for the year in which the by-law is passed.

134. (1) The board shall in each year pass a by-law prescribing the charges, called "special rates", payable to the board for that year for water supplied by the board under terminable water agreements.

(2) A by-law under subsection (1) shall provide for the manner in which the special rates are to be determined for the parcels or lands that are the subject of the terminable water agreements.

133. By-law setting annual rates.

134. By-law prescribing special rates for water supplied under terminable water agreements.

135. (1) The board shall in each year pass a by-law establishing a tariff of charges payable to the board for water supplied by the board during that year for domestic purposes pursuant to domestic water privileges granted under subsection (1) of section 51 or agreements made under subsection (2) of section 51.

(2) A by-law under subsection (1) shall provide for the manner in which the charges are to be determined but may provide

- (a) that no charges are payable for water supplied for domestic purposes under domestic water privileges granted pursuant to subsection (1) of section 51, or
- (b) that the charges payable for water supplied under domestic water privileges granted under subsection (1) of section 51 are to be determined on a different basis or at a lower rate than the charges payable for water supplied pursuant to domestic water privileges granted under subsection (2) of section 51, or
- (c) for the exemption of any persons who are entitled to use water for domestic purposes by virtue of subsection (1) of section 51 but do not in fact use that water for domestic purposes, or
- (d) that the charges payable for water used for the purposes of watering domestic animals at a commercial feed lot shall be payable at a higher rate or in accordance with a scale of charges graduated according to the number of domestic animals watered.

136. (1) Subject to section 138, upon the passing of a by-law under section 133, the whole of each parcel of land in the district is charged with the payment to the board of an amount equal to

- (a) the number of acres in the parcel classified in the assessment roll as "to be irrigated" multiplied by the annual rate for the parcel, or
- (b) the minimum amount of irrigation rates for the parcel,

as the case may be.

(2) Upon the passing of a by-law under section 134 the whole of each parcel or other land shown on the assessment roll as being the subject of a terminable water agreement is charged with the payment to the board of an amount equal to the special rates determined for that parcel or land in accordance with the by-law.

(3) Upon the passing of a by-law under section 135, the whole of each parcel or other land shown on the assessment roll as being the subject of a terminable water agreement or a domestic water privilege granted under subsection (2)

135. Special rates and tariffs imposed against parcels.

136. Irrigation rates, etc. are a charge on the land concerned.
Section 62.

of section 51 is charged with the payment to the board of an amount equal to the charges determined for that parcel or other land in accordance with the tariff of charges prescribed by the by-law.

(4) Unpaid irrigation rates, special rates and domestic water charges have priority over all claims, liens, mortgages, charges or encumbrances on the parcel or land concerned except those enforceable by the Crown and first mortgages as defined in section 2.

137. Unpaid special rates and unpaid domestic water charges may be recovered in the same manner as irrigation rates and the provisions of this Part providing for the recovery of irrigation rates apply *mutatis mutandis* to the recovery of those special rates and domestic water charges.

138. (1) When for any reason it is desired to apportion the irrigation rates imposed upon a parcel among two or more parts thereof, the board may make such apportionment of the rates as it considers proper.

(2) When any apportionment is made under this section at the request of the water user of the parcel of land, the board may require that person to submit

- (a) plans and specifications of all additional ditches necessary to bring irrigation water to the boundary of each of the parts into which the parcel is to be divided, and
- (b) an estimate of the cost of constructing the ditches.

(3) The board may refuse to make an apportionment of the rates until

- (a) it has received payment of a sum sufficient to defray the cost of the construction referred to in subsection (2), or
- (b) it has had the payment of such cost fully secured, or
- (c) the ditches have been constructed to the satisfaction of the board.

139. Where an owner of land has sold the land to a purchaser and subsequently pays all or part of the unpaid irrigation rates, special rates or domestic water charges that are a charge on the land, the owner may recover the amounts so paid

- (a) from the purchaser, or
- (b) if there are one or more intermediate purchasers between the owner and the purchaser entitled to possession of the land sold, then from the purchaser entitled to possession,

as if the purchaser or the purchaser entitled to possession, as the case may be, had expressly covenanted with the owner to that effect.

137. Special rates and domestic water charges are recoverable in the same manner as irrigation rates.

138. Apportionment of rate upon division of parcel. Section 124.

139. Vendor may recover rates from purchaser.

Collection of Rates

140. (1) The manager shall be the collector for the board under this Part unless the board appoints another person to be the collector.

(2) The manager shall prepare and maintain a roll called the "collector's roll" in accordance with this section.

(3) Subject to any directions from the Council or the board's auditor, the collector's roll may be combined with the assessment roll.

(4) Each year immediately after the passing and approval of the Council of any by-laws made under sections 133, 134 and 135, the collector shall prepare a new collector's roll or revise the existing collector's roll in order to show, with respect to each parcel or other land included in the assessment roll,

- (a) the name of each person whose name appears on the assessment roll as the owner or purchaser or lessee of the parcel or land, and
- (b) the amounts payable to the board as
 - (i) irrigation rates,
 - (ii) special rates,
 - (iii) domestic water charges,
 - (iv) arrears of payments under an agreement made pursuant to section 53,
 - (v) arrears of payments under an agreement made pursuant to section 54,
 - (vi) penalties charged pursuant to a by-law of the board,
 - (vii) penalties charged by a predecessor of a board before the commencement of this Act, and
 - (viii) any other amounts remaining unpaid from previous years.

141. (1) Notwithstanding any other Act, the entry in the collector's roll pursuant to section 140 of amounts owing to the board in respect of any parcel or land constitutes notice to all persons that the parcel or land is charged with the payment of those amounts.

(2) All amounts shown on the collector's roll as owing to the board in respect of any parcel or land shall be deemed to be unpaid irrigation rates within the meaning of clause (b) of subsection (1) of section 64 of *The Land Titles Act*.

142. (1) Upon the completion or revision of the collector's roll, the collector shall deliver personally or transmit by mail a notice to each owner or purchaser or lessee showing the amounts owing by him to the board according to the collector's roll.

140. Collector of rates and collector's roll. Section 64.

141. Collector's roll and assessment roll constitute notice to all persons of facts stated therein. New.

142. Mailing statement of rates, etc. Section 65.

(2) Each billing notice shall be accompanied by a statement in a form approved by the Council

- (a) demanding payment of the amounts shown as payable to the board in the billing notice,
- (b) stating that the amounts payable are required to be paid within 30 days after the date of the notice,
- (c) setting out the discounts allowable on payments and the dates on which the rights to the discounts expire,
- (d) setting out the penalties chargeable for non-payment of the amounts owing and the dates on which the penalties are to be charged, and
- (e) stating the amounts of the estimated expenditures and sources of revenue for the current fiscal year.

(3) The collector shall enter the date of delivering or mailing the billing notice and the statement in the collector's roll opposite the name of the person rated.

(4) The entry in the collector's roll is *prima facie* proof of the due delivery or mailing of the billing notice and the statement.

(5) All amounts charged in the collector's roll are due on the 30th day following the date of delivering or mailing the billing notice and the statement, as entered in the collector's roll.

143. The collector shall as soon as possible deposit all moneys collected by him to the credit of the board in a branch of a chartered bank or a treasury branch specified by the board.

144. (1) The board may make a by-law providing for the allowance of discounts in accordance with this section on payments for irrigation rates, special rates and domestic water charges where the payment is made in the year in which those rates or charges are imposed.

(2) The discounts allowable under a by-law under this section shall not exceed

- (a) 5 per cent of the amount paid, where the payment is made on or before a date fixed by the by-law that is not later than the 20th day of November, and
- (b) 2½ per cent of the amount paid where the payment is made after the date fixed under clause (a) but on or before a date fixed by the by-law that is not later than the 20th day of December.

(3) Where any amounts are paid to the board in partial payment of the total amount shown as owing in the collector's roll, the amount paid shall be applied toward the payment of the amounts shown as owing in the collector's roll in the following order:

143. Forwarding of moneys collected. Section 60.

144. By-law for allowance of discounts. Section 65 (5).

- (a) firstly, on the amounts shown unpaid on the collector's roll as of the previous 31st day of December;
- (b) secondly, toward the payment of any penalties charged since the previous 31st day of December;
- (c) thirdly, toward the payment of any arrears under an agreement made under section 54;
- (d) fourthly, toward the payment of any arrears under an agreement made under section 53;
- (e) fifthly, toward the payment of any current domestic water charges;
- (f) sixthly, toward the payment of any current special rates;
- (g) lastly, toward the payment of current irrigation rates.

(4) No discount shall be allowed under the by-law in respect of the amount of any payment applied toward the payment of the amounts referred to in clauses (a) to (d) of subsection (3).

145. (1) The board by by-law may provide that if at the close of business of any calendar year any amount shown in the collector's roll or any part thereof has not been paid, an amount not exceeding 4 per cent of the amount unpaid shall be added thereto by way of penalty on the next succeeding first day of January and on the first day of January in each succeeding year for so long as any part of the amount remains unpaid.

(2) A by-law under subsection (1) may also provide that if any amount shown in the collector's roll as of the first day of January of the year or any part thereof has not been paid by the next succeeding 30th day of June, a further amount not exceeding 4 per cent of the amount unpaid shall be added thereto by way of a penalty on the next succeeding year for so long as any part of the amount remains unpaid.

(3) Any penalty imposed pursuant to a by-law under this section shall be added to the unpaid amounts shown on the collector's roll.

(4) Nothing in this section shall be construed to extend the time for payment of the amounts shown on the collector's roll nor in any way to impair the right of distress or any other remedy provided by this Act for the collection of such amounts.

(5) Notwithstanding the repeal of *The Irrigation Districts Act*, a by-law of a board of an existing district made under section 159 of that Act remains in force until June 30, 1968 unless it is sooner rescinded by the board.

146. The collector shall enter in the appropriate place on the collector's roll all amounts paid with the date of the

145. Penalties for arrears of rates. The present section 157 specifies the penalties but the new section permits penalties only by by-law. The present section 159 permits by-laws for the charging of interest on arrears.

146. Entry of and receipts for payments. Section 160.

receipt thereof, and he shall issue an official receipt for each payment.

147. (1) Where the whole or any part of a parcel in a district is not or cannot be supplied further with water for irrigation purposes for any reason, the board may commute the future irrigation rates for the parcel or part thereof in accordance with subsection (2).

(2) The amount required to be paid in commutation of the irrigation rates shall be determined by calculating the amount which, at a rate of interest to be fixed by the regulations, would produce annually the amount of the estimated future irrigation rates that would otherwise be charged in respect of the parcel or part thereof.

(3) Where the board and the water user cannot agree on the amount to be commuted under subsection (2) the board or the water user may refer the matter to the Local Authorities Board for decision and the decision of that Board on the amount to be commuted is final.

(4) Upon receipt of the amount commuted pursuant to subsection (2) or (3) and any amounts shown on the collector's roll as unpaid in respect of the water user's parcel, the manager shall

- (a) amend the assessment roll in order to remove therefrom the parcel or part thereof in respect of which the commuted amount was paid, and
- (b) make a notation on the assessment roll of the payment of the commuted amount.

(5) Notwithstanding anything in this section the manager may, without the payment of any amount commuted under this section, amend the assessment roll to remove therefrom any parcel or part thereof that is acquired by a local authority for drainage purposes and the drainage is of general benefit to the board and one or more water users.

Recovery of Rates

148. (1) If a person, within 30 days from the delivering or mailing of a billing notice to him, fails to pay the amounts shown in the collector's roll to be owing by him, the amounts may be recovered by action by the board as a debt due to the board.

(2) In any action under this section the collector's roll is *prima facie* proof of the debt.

149. (1) If a person, within 30 days from the delivering or mailing of a billing notice to him, fails to pay the amounts shown by the collector's roll to be owing by him, the amounts in arrears may be recovered by the board by distress upon any goods and chattels, or any interest therein owned by that person and found upon any lands in the

147. Commutation of future irrigation rates. Section 69.

148. Rates recoverable as a debt. Section 156.

149. Power of distress. This replaces sections 161 to 166 which empower the treasurer to distrain and sets out a detailed procedure. Under the new section, the distress would be made by the sheriff under The Seizures Act and the ordinary rules of distress for rent would apply.

district of which that person is the owner, purchaser or occupier.

(2) The provisions of *The Seizures Act* and *The Exemptions Act* pertaining to a distress by a landlord for rent apply to a distress under this section.

150. (1) All amounts shown on the collector's roll to be owing in respect of any parcel or land are a first lien and charge upon all crops and other farm produce grown and produced on that parcel or land and upon the amount remaining unpaid on the sale price thereof until the amounts have been paid in full.

(2) Where the manager delivers to a buyer of the crops or farm produce referred to in subsection (1) a demand in writing for the amounts referred to in that subsection, the buyer shall, out of the amount of the sale price remaining unpaid and then in his hands, pay to the board the amounts owing to it to the extent of the amount of the sale price remaining unpaid.

(3) A payment to the board by a buyer pursuant to a demand under subsection (2) operates to discharge the liability of the buyer to the seller to the extent of the payment.

Recovery of Rates by way of Enforcement Return

151. (1) The manager of each district shall cause to be prepared before the first day of March in each year a separate record or records known as the "enforcement return".

(2) The enforcement return shall refer only to parcels or lands with respect to which billing notices have been delivered or mailed in accordance with section 142 and as to which amounts shown as owing therein have not been paid in full by December 31st of the year following the year in which the billing notice was delivered or mailed.

(3) The Council may give directions as to the contents of an enforcement return.

(4) In the absence of contrary directions from the Council, the enforcement return shall contain, with respect to each of the parcels or lands referred to in subsection (2),

- (a) a description of the parcel or land,
- (b) the name and post office address of each person whose name appears on the assessment roll as the owner or purchaser or lessee of the parcel or land, and
- (c) a statement showing the amount shown as owing in the billing notice referred to in subsection (2), the amount paid with respect thereto, the balance of that amount remaining unpaid and any penalties subsequently incurred with respect to the non-payment of the amount unpaid.

150. Demand for amounts owing to board from a buyer of crops produced on assessed land. Section 162.

151. Enforcement return. Section 167.

152. The enforcement return is for all purposes *prima facie* proof of the indebtedness to the board of the amounts shown in the enforcement return as unpaid.

153. (1) The board shall, not later than the 31st day of May next following preparation of the enforcement return, apply to a district court judge for confirmation of the enforcement return, and a notice of the time and place fixed for hearing the application shall be published in any two issues of the *Gazette* before the day fixed for the hearing.

(2) The application shall be made in any judicial district in which the irrigation district is wholly or partly situated.

154. (1) A notice of the time and place fixed for hearing the application for confirmation of the enforcement return shall be sent by registered mail by the manager of the district at least 20 clear days before the time fixed to each person who appears, by the records of the board and the land registration district within which the parcels or lands lie, to have an interest in the parcels or lands shown in the enforcement return, and whose post office address is shown by those records or the enforcement return.

(2) The manager shall enter against each of the parcels or lands shown in the enforcement return the date of the mailing of the notice and shall sign or initial each entry.

(3) The entry against the parcels or lands shown in the enforcement return of the date of the mailing of the notice together with the signature or initials of the manager is, without proof of the appointment or signature or initials of the manager, *prima facie* proof that the required notice was sent by registered mail by the manager on the date so entered.

(4) The notice mentioned in subsection (1) may be in the prescribed form or in any other form approved by the Council.

155. At any time prior to the confirmation of the enforcement return by the court any person may with respect to any parcel or land pay

(a) the amount owing to the board as shown on the enforcement return,

(b) any interest or penalties incurred with respect to the amounts so owing, and

(c) any disbursements incurred by the board in connection with its proceedings for rate enforcement,

and thereupon the manager shall remove the parcel or land from the enforcement return.

156. (1) At the time and place fixed for hearing the application the judge shall

152. Effect of return as evidence. Section 168.

153. Confirmation of return. Section 170.

154. Notice of date and place of confirmation. Sections 171
and 172.

155. Payment of arrears before adjudication. Section 173.

156. Hearing of application for confirmation. Section 174.

- (a) hear the application and also any objecting parties and the evidence adduced before him,
- (b) determine whether or not the amounts shown as owing in the enforcement return in respect of each parcel or land included in the enforcement return are either wholly or partly in arrears,
- (c) endorse his confirmation of the enforcement return on the return in so far as it relates to those parcels or lands in respect of which any amounts are determined to be wholly or partly in arrears, and
- (d) determine the amount of the arrears, and add thereto with respect to each of the parcels or lands a reasonable amount for the expenses of mailing and other work in connection with the enforcement return and such amount as he may fix for the costs of the application.

(2) If a person successfully opposes confirmation of the enforcement return with regard to any parcel or land in which he is interested, the judge may order an allowance for costs to be paid to him by the board.

157. (1) Not later than the 31st day of December of the year in which the adjudication is made a copy thereof certified by the manager shall be forwarded by registered mail to the Registrar of Titles of each land registration district in which any of the parcels or lands named in the adjudication are situated, and the Registrar shall register the adjudication against the lands affected by it.

(2) Subject to subsections (4) and (5), the registration of the adjudication operates

- (a) to vest in the board the title to an estate in fee simple in the parcels or lands affected by the adjudication, or
- (b) if the parcels or lands are held by a purchaser from the board, to cancel the agreement for sale.

(3) Upon registration of an adjudication, the Registrar shall, in the case of parcels or lands not owned by the board, issue a certificate of title therefor under *The Land Titles Act* in the name of the board in accordance with clause (a) of subsection (2) and subsection (4).

(4) A certificate of title issued under subsection (3) shall be issued free from all other estates and interests and from all liens, mortgages, charges and encumbrances of every nature and kind, other than

- (a) those arising from claims of the Crown in the right of Canada,
- (b) any first mortgages as defined in section 2,
- (c) taxes charged upon the lands,
- (d) any condition or covenant registered under section 52 of *The Land Titles Act*,

157. Effect of registration of adjudication.

- (e) any easement or incorporeal right, a memorandum of which has been made under section 70 of *The Land Titles Act*,
 - (f) any instrument registered under section 71 of *The Land Titles Act*,
 - (g) registered orders of the Board of Arbitration under *The Right of Entry Arbitration Act*, and
 - (h) any resolution of a board or an order of a predecessor of a board designating the parcel or land or part thereof as an irrigable unit.
- (5) In the case of parcels or lands held by a purchaser from the board, the Registrar shall, upon registration of the adjudication, cancel the registration of
- (a) any caveat pertaining to the interest of the original purchaser from the board or of any person claiming an interest in the parcels or lands through or under that purchaser, and
 - (b) any other memorandum on the board's certificate of title that was registered as a result of any act done or instrument executed by the original purchaser or any person claiming through or under him,

but the Registrar shall not cancel the registration of any document referred to in clauses (a) to (h) of subsection (4) or any caveat in respect thereof.

158. (1) On the application of any person, the Council may from time to time give a direction in writing excluding any parcel or land from an adjudication until the Council otherwise directs.

(2) The exclusion of the parcel or land shall be on such terms and conditions as the Council may from time to time prescribe with regard to

- (a) a modification of the terms of
 - (i) an agreement for sale of the parcel or land, or
 - (ii) a mortgage or encumbrance on the parcel or land, or
 - (iii) a lease of the parcel or land,
- (b) payment of any amounts owing to the board according to the collector's roll, whether current or in arrears, or of any part of those amounts, and
- (c) the nature and extent of the farming or other operations to be carried on on the parcel or land.

(3) The Council shall not give a direction under this section unless it is satisfied that there is a likelihood that all amounts shown as owing on the collector's roll in respect of the parcel or land will eventually be paid within a reasonable time.

(4) The Council at any time may cancel a direction previously made under this section.

158. Direction for exclusion of parcel from adjudication.
Section 175.

(5) The Council shall cause a copy of each direction given under this section to be sent to the Registrar of Titles of the land registration district in which the parcel is situated and upon receipt of the direction the Registrar, if he has not by that time registered the adjudication previously,

(a) shall register it together with the adjudication, but

(b) notwithstanding section 157, shall not register the adjudication against the parcel or land to which the direction applies until he is directed to do so by the Council.

(6) The Council may at any time give a further direction that as and from a date named in the direction any parcel or land previously excluded from an adjudication be included in that adjudication, and a duplicate original of the further direction shall be sent to the Registrar and to such persons as, according to the records in the land titles office, appear to have an interest in the parcel or land.

(7) Upon the receipt of a further direction given under subsection (6) the Registrar shall

(a) register it with the adjudication to which it relates, and

(b) register the adjudication against the parcel or land to which the further direction refers.

159. (1) When, under this Part, any parcel or land vests in the board or a purchaser's agreement for sale is cancelled, as the case may be, the board is entitled to the immediate vacant possession of the parcel or land and may at any time before the parcel or land is offered for sale lease the parcel or land for a period of not more than one year at a rent and upon terms and conditions approved by the Council.

(2) All rents received and profits accruing from a parcel or land leased under this section shall be distributed as if they were proceeds of a sale thereof.

160. Where, under this Part, any parcel or land vests in the board or a purchaser's agreement for sale is cancelled, as the case may be, the parcel or land continues to be liable to assessment under this Act and to the imposition of irrigation rates and other rates, charges and penalties under this Act, as though the board were not the owner.

161. (1) Notwithstanding any provision of any other Act, where under this Part any parcel or land vests in the board or a purchaser's agreement for sale is cancelled, as the case may be,

(a) the parcel or land shall continue to be assessed by the local authority empowered to assess it, and

(b) subject to subsection (2), any taxes accruing to a local authority shall continue to be charged against

159. Leasing of land vested in board. Section 174.

160. Land continues to be assessed under the Act after title is taken by the board. Cf. section 176 (12).

161. Assessments and taxation for municipal and school purposes. Section 174 (10) and (11).

the parcel or land and carried over from year to year without collection until the board has sold the parcel or land.

(2) Where the board disposes of the parcel or land either by agreement for sale or by lease then unless the agreement or lease otherwise provides, the purchaser or lessee thereof and all persons claiming by or through the purchaser or lessee are liable for the payment of the taxes levied by the local authority in respect of the parcel or land during the period that the agreement for sale or lease subsists.

162. (1) Where, under this Part, any parcel or land becomes vested in the board or the purchaser's agreement for sale is cancelled, as the case may be, the parcel or land shall not be offered for sale until the expiration of 12 months after the date of the vesting or cancellation unless all the persons who, according to the records of the board and of the land titles office, had any interest in the parcel or land immediately before the vesting or cancellation request in writing that the parcel or land be offered for sale at an earlier date.

(2) Unless it is offered for sale sooner in compliance with subsection (1), the parcel or land shall be offered for sale by public auction within six months after the expiration of the 12-month period referred to in subsection (1) or the expiration of any extended period specified in a direction of the Council under section 163.

163. The Council may from time to time give a direction in writing to the board to withhold, for a specified period of time of not more than 12 months, any parcel or land from being offered for sale by auction if the Council is satisfied that having regard to the circumstances of the case there is a likelihood that within the specified period the parcel or land will be redeemed pursuant to this Part, and upon the giving of any such direction the board shall not deal with the parcel or land otherwise than in accordance with the direction.

164. (1) A sale by public auction proposed to be held by a board under this Part shall be advertised in

(a) a newspaper having general circulation in the district, once in each of the two weeks immediately preceding the proposed date of sale, and

(b) one issue of the *Gazette*, not less than 10 days before the proposed date of sale.

(2) The conditions of a sale of a parcel or lands under this Part may require the highest bidder

(a) to pay the amount of his bid in cash, or

(b) to enter into an agreement for sale with the board in the form referred to in the advertisement and on

162. Sale of lands after acquisition by board. Section 176 (1) and (2).

163. Withholding parcel from sale. Section 176 (7).

164. Public auction of land. Section 176 (3) and (8).

the terms prescribed in the advertisement and under which the full purchase price shall be the amount of his bid.

- (3) The advertisement shall
- (a) specify the place, day and hour at which the sale will commence,
 - (b) give a reasonable description of the parcel or land to be sold or state the number of the registered instrument or instruments from which a description can be obtained, and
 - (c) state the conditions of the sale referred to in subsection (2) and, where the conditions require the highest bidder to enter into an agreement for sale, indicate
 - (i) the proportion of the purchase price to be paid in cash as the down payment,
 - (ii) the maximum number of instalments, the term over which the instalments are to be paid, and the rate of interest payable in respect of the unpaid balance, and
 - (iii) the form of the agreement or that the form of the agreement is available for inspection at the board's offices.

(4) The board shall fix the upset price for any parcel or land to be sold by public auction.

(5) No manager or other person offering parcels or lands for sale under this Act is required to obtain an auctioneer's licence for the purpose of the sale.

(6) At the public auction the land shall be knocked down to the highest bidder.

165. (1) The board may in the case of any parcel or land sell any part thereof as the board considers proper if the upset price therefor is sufficient to discharge all amounts owing to the board in respect of the whole of the parcel or land and the amount of all first mortgages as defined in section 2 that are registered against it.

(2) After a sale is made under this section the board shall re-transfer the part of the parcel or land that was not included in the sale to the person who was registered as owner of the parcel or land before the registration of the adjudication.

(3) In issuing a certificate of title in respect of the portion of the parcel or land re-transferred, the Registrar shall endorse on the certificate of title all uncanceled memoranda endorsed on the title to the parcel or land at the time of the registration of the adjudication.

165. Sale of portion of land. Sections 177 and 178.

166. (1) At any time prior to the date specified in the advertisement for the sale by public auction of any parcel or land under this Part any person may pay

- (a) all amounts owing to the board in respect of the parcel or land as shown on the adjudication, including any amounts added by the judge pursuant to clause (d) of subsection (1) of section 156,
- (b) all other amounts that have accrued due to the board with respect to the parcel or land since the date of the adjudication,
- (c) all costs in connection with the sale proceedings, and
- (d) all expenses of revival of the previous owner's title to the parcel or land or revival of the purchaser's agreement for sale, as the case may be.

(2) Upon payment of the amounts referred to in subsection (1), the manager shall give written notice to the Registrar of that fact and the Registrar shall thereupon

- (a) cancel the certificate of title issued in the name of the board, and
- (b) endorse the certificate of title that was cancelled upon registration of the adjudication with a memorandum indicating that it is revived pursuant to this section and cancel the memorandum pertaining to the registration of the adjudication.

(3) Where an agreement for sale was cancelled upon registration of an adjudication

- (a) the payment of the amounts referred to in subsection (1) operates to revive the agreement for sale,
- (b) the manager shall forthwith give written notice to the Registrar of the fact of the payment, and
- (c) the Registrar upon receiving the written notice from the manager pursuant to clause (b) shall endorse the certificate of title for the parcel or land with a memorandum indicating that the registration of all caveats and memoranda previously cancelled pursuant to subsection (5) of section 157 is revised.

167. (1) If at any time prior to the date specified in the advertisement for the sale by public auction of any parcel or land under this Part any person pays to the board

- (a) all amounts owing to the board in respect of the parcel or land as shown on the adjudication including any amounts added by the judge pursuant to clause (d) of subsection (1) of section 156,
- (b) all amounts shown on the collector's roll as owing in respect of the parcel or land, except amounts owing for the year in which the payment is made and the year immediately preceding that year,

166. Redemption of title or agreement for sale. Section 176 (5).

167. Redemption. Section 176 (4) and (6).

- (c) all taxes owing to a local authority in respect of that parcel or land, except taxes owing for the year in which the payment is made and the year immediately preceding that year, and
 - (d) all costs in connection with the sale proceedings, the parcel or land shall not be offered for sale until the expiration of 12 months from the date of the payment.
- (2) Where payment has been made in any year under subsection (1), and there is paid to the board in each subsequent year before the date fixed for the sale by public auction in that year,
- (a) all amounts shown on the collector's roll as owing in respect of the parcel or land, except amounts owing for the year in which the payment is made and the year immediately preceding that year, and
 - (b) all taxes owing to a local authority in respect of that parcel or land, except taxes for the year in which the payment is made and the year immediately preceding that year,
- the parcel or land shall not be offered for sale until the expiration of 12 months from the date of those payments.

168. (1) Any parcel or land that is not sold at a public auction under this Part

- (a) may, subject to the approval of the Council, or
 - (b) shall, if the Council so directs,
- be sold, leased or otherwise disposed of by the board on such terms and conditions as the Council prescribes.

(2) The parcel or land shall not be sold under this section at a price less than the upset price fixed by the board under section 164.

169. (1) Where any parcel or land has been sold under the provisions of this Part and there is from the proceeds a balance remaining after payment of all amounts shown on the collector's roll as owing in respect of the parcel or land up to and including the date of sale, the board

- (a) shall first pay thereout all taxes owing to the Province, or any local authority or pay such taxes on a *pro rata* basis if the balance is insufficient to pay all those taxes,
- (b) may retain from any remaining moneys any amounts spent by it for improving the parcel or land, and
- (c) shall then pay over any remaining moneys to the person or persons declared to be entitled thereto by an order of a district court judge of the judicial district in which the parcel or land is wholly or partly situated.

168. Approval of Council for sale, etc. Section 179.

169. Distribution of proceeds of land sold. Section 180.

(2) A district court judge who makes an order under subsection (1) shall have regard to the priorities to which the persons therein referred to are or were respectively entitled either at law or in equity with regard to the parcel or land or the balance.

(3) If any taxes owing to the Province or to a local authority in respect of any parcel or land so sold remain unpaid after the balance of the proceeds of the sale has been paid out in the manner prescribed by clause (a) of subsection (1), all such taxes to the extent that they remain unpaid shall be cancelled.

PART 6

WATER DAMAGE CLAIMS

170. In this Part,

- (a) "seepage" means the escape of water from any irrigation works of a board due to the fact that the works were built with material which, or were constructed in, upon or through ground which, because of its porous or pervious nature, allows water to percolate out of the said works;
- (b) "seepage damage" means loss of, injury or damage to property caused by seepage;
- (c) "seepage damage area" means an area or areas of land designated by the board of a district as a seepage damage area.

171. Except as provided in this Part no person shall

- (a) bring any action or take any proceedings against a board, or
- (b) obtain any compensation from a board, or
- (c) have any rights against a board,

in respect of the death of or injury to any person or loss of or damage to any property arising out of the escape, release or discharge of water from any irrigation works of the board or arising out of the ponding of any water by reason of the existence of any irrigation works of the board.

172. (1) A person claiming

- (a) that water has escaped from any irrigation works of the board during any year by seepage, and
- (b) that as a result of the seepage he has sustained seepage damage which he would not have sustained had the seepage in that year not occurred,

shall notify the board of his claim by filing a written notice of claim at the office of the board not later than the first day of November in the same year.

(2) A notice of a claim filed under subsection (1) shall

- (a) identify the land where the seepage damage is claimed to have occurred,
- (b) set out particulars as to the nature of the seepage damage, and
- (c) set out the amount of money claimed as compensation by the claimant for the seepage damage.

(3) The board may by giving notice to the claimant require the claimant to give further particulars of his claim within the time specified in the notice for that purpose.

(4) Upon the delivery of a notice of claim under this section, the board shall investigate the claim.

GENERAL. This Part replaces the present section 14, which limits claims against an irrigation district board to those pertaining to seepage or overflow on farm land resulting in "loss owing to the surface of his farming land for agricultural purposes". The new Part distinguishes between "seepage damage" for which the board has absolute liability and other damage for which the board will be liable only where it is at fault, i.e., where negligence is proven. Claims may be made for any type of damage or loss, e.g., damage to buildings and personal property or for death or personal injury, and not just damage to the surface of land for agricultural purposes.

Another feature is the provision for a final settlement of seepage claims on a specific area. The board will be able to pay the fair market value of the damaged area in final settlement of past, present and future seepage claims without the necessity of having to purchase or expropriate the damaged area to protect itself from future claims.

170. Definitions.

171. Claims against the board for water damage. Section 14 (1).

172. Settlement of seepage claims by the board. Section 14 (2) to (7). Claims will no longer be referred to the Irrigation Council.

(5) If the claim is not settled before the next succeeding first day of January or before the expiration of 90 days from the day the notice of the claim was delivered, whichever is later, the board shall refer the claim to the Public Utilities Board.

173. (1) Where a claim is referred to it pursuant to section 172, the Public Utilities Board shall hear the claim upon such notice to all the parties interested as it considers proper, and shall determine what seepage damage, if any, was sustained by the claimant by reason of any seepage which occurred during the year in which the claim was made.

(2) The onus is on the claimant to prove

(a) that seepage occurred in the year in which he gave notice of the claim,

(b) that he sustained seepage damage in that year, and

(c) that the seepage damage resulted from the seepage which occurred in that year.

(3) If the Public Utilities Board finds that the claimant has satisfied the onus of proving the matters referred to in subsection (2), the Public Utilities Board may order that the board pay to the claimant compensation for the seepage damage sustained by the claimant in the year in respect of which the claim is made as a result of the seepage which occurred in that year.

174. (1) The board of a district may designate any specified area or areas of land as a "seepage damage area" where the board is satisfied of the likelihood of continued and frequent claims against it in future for seepage damage in respect of the whole or part of that land.

(2) A resolution for the designation of a seepage damage area shall describe the seepage damage area by reference to a plan of survey of the area, where it cannot be described otherwise.

175. (1) The board of a district may apply to the Public Utilities Board at any time to have the Public Utilities Board determine the fair market value of a seepage damage area in accordance with subsections (4) and (5).

(2) Where an application is made to it under subsection (1), the Public Utilities Board shall not proceed with or take any further action with respect to any claims in respect of the same area or areas that were or are subsequently referred to it pursuant to section 172, unless the application under subsection (1) is later withdrawn by the board.

(3) Where an application is made under this section, the Public Utilities Board shall determine, on the basis of the evidence adduced before it, the fair market value of the seepage damage area in accordance with subsections (4) and (5).

173. Determination of seepage claims by the Public Utilities Board. Section 14 (8).

174. Designation of a seepage damage area by a district board.
New.

175. Determination of fair market value of seepage damage area. Section 14 (9) (d) of the present Act contains a method for final settlement of claims but on a different basis. The provision has never been used.

(4) The Public Utilities Board shall determine the fair market value of a seepage damage area

(a) as of the date of filing of the board's application with the Public Utilities Board, and as if the land had not been damaged by seepage, and

(b) with reference only to the value of the land itself and without reference to the value of any improvements on that land.

(5) Where the seepage damage area is a part of a larger unit of land owned by the same person, the value per acre of the seepage damage area shall be based on the value per acre of the larger unit of land.

(6) An order of the Public Utilities Board determining the amount of the fair market value of the seepage damage area shall direct the board to pay that amount

(a) to the person or persons named in the order as entitled thereto, where only one person claims the amount or where two or more persons claiming the amount have notified the Public Utilities Board of their agreement as to the disposition of the amount among themselves, or

(b) into the court named in the order, where two or more persons claim the amount and have failed to notify the Public Utilities Board of any agreement as to the disposition of the amount among themselves,

and shall also set out the provisions of section 177.

(7) Where the board pays the amount into court pursuant to a direction made under clause (b) of subsection (6), the court shall, on the application of any of the claimants, determine the persons entitled to the amount and where two or more persons are so entitled, the portion of the amount to be paid to each.

(8) Notwithstanding subsections (3) to (7), the Public Utilities Board may make an order under this section without the necessity of a hearing where it is satisfied that the board of the district and all other persons who would have been entitled to be heard at the hearing, are agreed on the amount to be determined as the fair market value of the seepage damage area.

176. (1) An appeal lies to the Appellate Division of the Supreme Court of Alberta in respect of the amount determined by the Public Utilities Board as the fair market value of a seepage damage area under section 175

(a) where the amount is determined as \$1,000 or more, or

(b) in any other case, with leave of a judge of the Appellate Division.

(2) No person may, in proceedings before the Public Utilities Board or the Appellate Division or in any other

176. (1) Appeal to the Appellate Division. New.
(2) Dispute as to board's rights to proceed under section 174
or 175 is barred.

proceedings, dispute the right of the board of a district to designate a seepage damage area or to make an application to the Public Utilities Board under section 175 with respect to that seepage damage area.

177. (1) Notwithstanding that an appeal may be taken under section 176, the board of a district may at any time after an order is made under section 175 register a copy of the order in the proper land titles office against the title to the seepage damage area or the land of which it is a part.

(2) Registration pursuant to subsection (1) of an order of the Public Utilities Board under section 175 operates to

- (a) forever bar any existing or future claims against the board of the district for compensation for seepage damage occurring in, on or under the seepage damage area affected,
- (b) bar any other action or proceedings against the board in respect of seepage occurring in, on or under the seepage damage area affected, and
- (c) confer on the board an easement within the meaning of clause (g) of subsection (1) of section 64 of *The Land Titles Act* entitling it to permit water to escape by seepage in, on and under the seepage damage area affected.

Other Claims

178. (1) Except as expressly otherwise provided in this Part, no board or any officer, employee or agent of a board is liable to compensate any person by reason of the death of or any injury to any person or the loss or damage to the property of any person arising out of the escape, release or discharge of water from or the ponding of any water caused by the existence of any irrigation works of the board, unless the death, injury, loss or damage occurred as a result of the negligence of the board or its officers, employees or agents.

(2) Except as provided in section 172 or 173, no action or proceeding shall be brought against a board for compensation for death, injury, loss or damage under subsection (1) unless a notice in writing of the claim for compensation and the cause thereof has been served upon the manager within six months of the date that death, injury, loss or damage first occurred.

(3) Failure to give or insufficiency of the notice required by subsection (2) is not a bar to the action if the court or judge before whom the action is tried is of the opinion that there is a reasonable excuse for the want or insufficiency of notice and the board has not thereby prejudiced its defence.

(4) Where the claims arises out of the death of a person, failure to give the notice is not a bar to the action.

177. Registration of order and its effect. New.

178. Actions against the board for water damages based on negligence. New.

PART 7

GENERAL

Regulations

179. (1) The Lieutenant Governor in Council may make regulations

- (a) prescribing the form of any document to be used for the purposes of this Act or in connection with the administration of this Act,
- (b) fixing a rate of interest for the purposes of subsection (2) of section 147, and
- (c) generally, for the carrying out of the provisions of this Act or to meet cases that arise and for which no provision is made by this Act.

(2) The Lieutenant Governor in Council may, by regulation or by an order in a particular case, provide for a procedure for the purpose of this Act where, in his opinion,

- (a) a procedure prescribed by this Act is not adequate or suitable in the circumstances, or
- (b) no procedure suitable to the circumstances of the case is provided in this Act.

Offences and Penalties

180. A person who interferes with, molests or hinders in his work a person lawfully engaged in carrying out any of the provisions of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding two months or to both fine and imprisonment.

181. A person who carelessly or wilfully or without authority

- (a) tampers with any irrigation works of a board, or
- (b) takes or diverts water from any of the irrigation works of a board, or
- (c) does anything that interferes or may interfere in any way with the flow of water in, into, through or from the irrigation works of a board,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

182. (1) A person who carelessly or wilfully

- (a) obstructs or deposits any material in an irrigation work, or
- (b) breaks, cuts or otherwise injures any irrigation work,

179. Regulations and orders of the Lieutenant Governor in Council. See present section 198 which gives similar powers to the Minister. The regulations will prescribe the forms now found in the Schedule of the present Act.

180. Interfering with person carrying out provisions of Act. Section 192.

181. Offences re tampering, diverting or interfering with works. Section 193.

182. Damaging irrigation work. Section 194.

is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 and in default of payment to imprisonment for a term not exceeding 60 days.

(2) Where a person is convicted of an offence under this section the court may also order that person to repair forthwith any damage or remove any obstruction in or material deposited in the irrigation works.

183. A person who

- (a) deposits or causes or allows to be deposited along the bank of any irrigation work of a board, or
- (b) throws into any irrigation work of a board,

any filthy, impure or deleterious matter or substance of any kind is guilty of an offence and liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding two months or to both fine and imprisonment.

184. Any person who

- (a) makes a fraudulent assessment under Part 4, or
- (b) wilfully or fraudulently inserts in the assessment roll, a collector's roll or an enforcement return the name of any person which should not be entered therein, or
- (c) wilfully or fraudulently omits the name of any person in the assessment roll, a collector's roll or an enforcement return which should be inserted therein, or
- (d) wilfully neglects any duty required of him by this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

185. (1) Every person in actual occupation of lands to which water is delivered or made available by a board is under a duty to use the water with reasonable care and to prevent the water from causing injury or damage to any person or property.

(2) Every person who, being under a duty by virtue of subsection (1), fails without lawful excuse to perform that duty is guilty of an offence and liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding two months or to both fine and imprisonment.

(3) This section does not affect any civil right or remedy that any person has in respect of the failure of any person to perform a duty imposed on him by subsection (1).

183. Pollution of irrigation work. Section 195.

184. Offences respecting assessments and duties imposed by the Act. New.

185. Duty of occupier of land to use water with reasonable care and to prevent water damage. New.

Miscellaneous

186. (1) Where a board is a judgment creditor and a writ of execution is filed with a sheriff,

(a) no seizure or garnishment proceedings shall be made or taken to satisfy the judgment debt or costs thereunder except in the circumstances permitted by this section, and

(b) a copy of the writ shall not be filed under *The Land Titles Act*.

(2) Upon the entry of a judgment against the board, the board shall, if it is unable to pay the judgment debt in whole or in part, include in its next estimate of expenditures under section 131 an amount sufficient to pay the outstanding indebtedness under the judgment and interest on that amount to the end of the year in which the estimate is prepared.

(3) If, by the end of the year in which the outstanding amount of the judgment and interest are included in the estimate of expenditures pursuant to subsection (2), the whole of the amount outstanding has not been paid in full, seizure or garnishment proceedings may be taken to recover that amount but seizure shall only be made of property that may be seized under section 6 of *The Seizures Act*.

187. When an act that under this Act is directed to be done within a limited time is not done, or is improperly or ineffectually done,

(a) anything actually done prior to the omission or improper or ineffectual act is not thereby vitiated but remains in full effect,

(b) the Council in such circumstances may either before or after the omission or improper or ineffectual act extend the time for completing or perfecting it, and

(c) the act when so completed or perfected has the same effect as if done strictly in accordance with the provisions of this Act.

188. (1) In this section,

(a) "board" includes the predecessors of a board of an existing district;

(b) "intervening parcel" means any land in an existing district

(i) which lies between the point of diversion of water on any irrigation works of the board of that district and an irrigable parcel, and

(ii) in respect of which the board does not have, and did not at any time prior to the commencement of this Act acquire, any legal estate or interest permitting it to use that land for the

186. Satisfaction of judgments against district boards. This replaces the present sections 190 and 191, which provide a complex procedure under which a special rate is levied to satisfy the judgment debt. Under the new procedure, the board will include the debt in its next estimates and as a result collect sufficient rates to satisfy the debt. The irrigation works, offices, equipment, etc. of the board cannot be taken in execution. The creditor can only look to property in the form of bank accounts, cash, securities and similar assets.

187. Curing of acts improperly or ineffectually done.
Section 199.

188. New. In the early days of irrigation development, some private companies in the irrigation business and some boards delivered water from their canals and laterals to a group of farmers from a single outlet, involving the construction of ditches across one farmer's land to deliver water to a farm further away. This was done by arrangement with the farmers concerned but without the company or board acquiring any title or easement for the irrigation works used to deliver the water. The irrigation projects of the companies were eventually taken over by irrigation district boards or by the Government and the arrangements were continued. The new section has the effect of perpetuating the rights of the board to use an "intervening parcel" (as defined) to deliver water to the other farms without the necessity of a legal instrument conveying the land used for the irrigation works. The effect is to legalize the "arrangements" of the past and provide protection to the boards and the water users separated from the source of the water by an "intervening parcel".

purpose of delivering water from the point of diversion of water on the irrigation works of board to the irrigable parcel;

(c) "irrigable parcel" means a parcel in an existing district which, during the whole of the 10-year period immediately prior to the commencement of this Act, has been in the existing district and has been classified in whole or in part in the assessment roll of the board of the existing district as "to be irrigated".

(2) The board has in respect of any intervening parcel or intervening parcels the right in perpetuity

(a) to enter upon the intervening parcel or intervening parcels for the purpose of constructing, repairing, replacing, relocating, dismantling or abandoning any irrigation works thereon, if the irrigation works are used or are to be used to deliver water to the irrigable parcel or any part thereof,

(b) to use the irrigation works on the intervening parcel or intervening parcels for the purpose of delivering water to that irrigable parcel or part thereof, and

(c) to use so much of the land on either side of the irrigation works on the intervening parcel or intervening parcels as may be required by the board for the deposit of soil thereon, and for the construction, repair, replacement, dismantling or abandoning of the irrigation works.

(3) The rights conferred on a board by subsection (2) shall be deemed to be an easement within the meaning of clause (g) of subsection (1) of section 64 of *The Land Titles Act* in favour of the board.

(4) No board is liable for the payment of compensation or damages by reason of the exercise of rights conferred on it by this section.

189. (1) Where prior to the commencement of this Act an instrument was executed by the person who was, at the time of execution, the registered owner of land or entitled to become the registered owner of land and the instrument purports with respect to the said land or any part or parts thereof,

(a) to release and forever discharge a board, its successors and assigns, of and from all claims and demands of every description whatsoever arising out of damage which had or which would thereafter be done by seepage or overflow of water from any of the canals, ditches or laterals, or any of the works of the board unto the land or the said part or parts thereof, and to transfer to the board the easement or right of permitting for all time the over-

189. New. Following the addition of section 11a of The Irrigation Districts Act in 1927, a great number of agreements were entered into with district boards conferring on the boards the easement or right to permit seepage or overflow from irrigation works of the boards, coupled in some cases with a release to board of any claims arising out of the seepage or overflow. In a recent court decision, involving some of these agreements, it was held that the caveats filed to protect the agreements were legally insufficient and that the agreements themselves were invalid by reason of technical non-compliance with section 11a. The new section will validate these agreements notwithstanding the original legal defects in the caveats and the agreements.

flow or seepage of water from any of the canals, ditches or laterals, or any of the works of the board into, upon or under the land or the said part or parts thereof, or

- (b) to transfer to the board the easement or right of permitting for all time the overflow or seepage of water from any of the canals, ditches or laterals, or any of the works of the board into, upon or under the land or the said part or parts thereof, or
- (c) to confer upon a board any rights to permit the seepage or overflow of water on land described in the instrument and to release or discharge the board from future claims of damage arising out of the seepage or overflow of water on that land from any of the irrigation works of the board, or
- (d) to confer upon a board any rights to permit the seepage or overflow of water on land described in the instrument, or
- (e) to release or discharge a board from future claims of damage arising out of the seepage or overflow of water on land described in the instrument from any of the irrigation works of the board,

the instrument shall be deemed to have been validly made and to be effective for the purposes expressed therein, notwithstanding any formal or other defect in the instrument or any lack of compliance with any Act or law in effect at the date of the instrument and irrespective of the legal effect of the instrument.

(2) It is hereby declared that

- (a) from the date shown on an instrument referred to in subsection (1) no person has acquired or shall acquire any right, title or interest in the land affected by the instrument except subject to the instrument and the rights and interest transferred, granted or conferred thereby,
- (b) the purposes expressed in the instrument shall prevail against all persons having an interest in the land affected by the instrument regardless of the time of the creation or acquisition of such interest, and
- (c) the land affected by the instrument is from the date shown on it, by implication and without any special mention on the certificate of title thereto, subject to the rights and interest granted to the board by the instrument.

(3) The board may, after the commencement of this Act, at its discretion file and maintain a caveat in the prescribed form in the land registration district founded on an instrument referred to in subsection (1).

(4) No action may be commenced or continued against a board for compensation by reason of filing a caveat

under *The Land Titles Act* before the commencement of this Act in respect of an instrument referred to in subsection (1) or the continuing of that caveat.

(5) In this section, “board” includes the predecessors of a board.

PART 8

TRANSITIONAL AND CONSEQUENTIAL

- 190.** (1) Upon the commencement of this Act,
- (a) the lands contained in the St. Mary and Milk Rivers Development constituted under *The St. Mary and Milk Rivers Development Act, 1950* become an irrigation district under this Act called the "St. Mary River Irrigation District",
 - (b) the rights, property, obligations and liabilities of the manager of the St. Mary and Milk Rivers Development become the rights, property, obligations and liabilities respectively of the board of directors of the St. Mary River Irrigation District,
 - (c) any estate or interest in land held by the Crown in right of Alberta, as represented by the manager of the St. Mary and Milk Rivers Development is vested in the board of directors of the St. Mary River Irrigation District,
 - (d) the person holding the office of manager of the St. Mary and Milk Rivers Development immediately before the commencement of this Act becomes the manager of the St. Mary River Irrigation District,
 - (e) the board of directors of the St. Mary River Irrigation District is the successor of the manager of the St. Mary and Milk Rivers Development for all purposes, and
 - (f) any reference whatever to the manager of the St. Mary and Milk Rivers Development or the Crown in right of Alberta as represented by the manager of the St. Mary and Milk Rivers Development shall be deemed to be a reference to the board of directors of the St. Mary River Irrigation District.
- (2) Notwithstanding section 23, the Council shall, before or as soon as possible after the commencement of this Act, appoint seven persons as the first board of directors of the St. Mary River Irrigation District and shall designate one of them as chairman and another as vice-chairman.
- (3) Expropriation proceedings under *The St. Mary and Milk Rivers Development Act, 1950* that were begun but not concluded before the commencement of this Act may be concluded as though this Act has not been enacted.
- 191.** (1) Upon the commencement of this Act,
- (a) the lands contained in the Bow River Development constituted under *The Bow River Development Act* become an irrigation district under this Act called the "Bow River Irrigation District",
 - (b) the rights, property, obligations and liabilities of the manager of the Bow River Development become

190. The St. Mary and Milk Rivers Development will become an irrigation district and the property, etc. of the development manager will be vested in the board of the new district. The Council will appoint the first board which will hold office until a new board is elected.

191. The Bow River Development will become an irrigation district and the property, etc. of the development manager will be vested in the board of the new district. The Council will appoint the first board which will hold office until a new board is elected.

the rights, property, obligations and liabilities respectively of the board of directors of the Bow River Irrigation District,

- (c) any estate or interest in land held by the Crown in right of Alberta, as represented by the manager of the Bow River Development is vested in the board of directors of the Bow River Irrigation District,
- (d) the person holding the office of manager of the Bow River Development immediately before the commencement of this Act becomes the manager of the Bow River Irrigation District,
- (e) the board of directors of the Bow River Irrigation District is the successor of the manager of the Bow River Development for all purposes, and
- (f) any reference whatever to the manager of the Bow River Development or the Crown in right of Alberta as represented by the manager of the Bow River Development shall be deemed to be a reference to the board of directors of the Bow River Irrigation District.

(2) Notwithstanding section 23, the Council shall, before or as soon as possible after the commencement of this Act, appoint three persons as the first board of directors of the Bow River Irrigation District and shall designate one of them as chairman and another as vice-chairman.

(3) Expropriation proceedings under *The Bow River Development Act* that were begun but not concluded before the commencement of this Act may be concluded as though this Act has not been enacted.

192. Upon the commencement of this Act

- (a) the lands forming the Eastern Irrigation District constituted under *The Eastern Irrigation District Act* (in this section called the "former Act") are continued as an irrigation district with the same name under this Act,
- (b) the persons who were, immediately before the commencement of this Act, the members of the Board of Trustees of the Eastern Irrigation District under the former Act become the members of the board of directors of the Eastern Irrigation District under this Act,
- (c) the person who was, immediately before the commencement of this Act, the General Manager of the Eastern Irrigation District under the former Act becomes the manager of the Eastern Irrigation District under this Act,
- (d) the board of directors of the Eastern Irrigation District under this Act is the successor of the Board of Trustees of the Eastern Irrigation District under the former Act for all purposes, and

192. The Eastern Irrigation District Act will be repealed and will become an irrigation district under this Act.

- (e) any reference whatever to the Board of Trustees of the Eastern Irrigation District under the former Act shall be deemed to be a reference to the board of directors of the Eastern Irrigation District under this Act.

193. (1) Upon the commencement of this Act

- (a) the lands forming the Western Irrigation District constituted under *The Western Irrigation District Act* (in this section called the "former Act") are continued as an irrigation district with the same name under this Act,
- (b) the persons who were, immediately before the commencement of this Act, the members of the Board of Trustees of the Western Irrigation District under the former Act become the members of the board of directors of the Western Irrigation District under this Act,
- (c) the person who was, immediately before the commencement of this Act, the General Manager of the Western Irrigation District under the former Act becomes the manager of the Western Irrigation District under this Act,
- (d) the board of directors of the Western Irrigation District under this Act is the successor of the Board of Trustees of the Western Irrigation District under the former Act for all purposes, and
- (e) any reference whatever to the Board of Trustees of the Western Irrigation District under the former Act shall be deemed to be a reference to the board of directors of the Western Irrigation District under this Act.

194. (1) Every irrigation district formed under *The Irrigation Districts Act*, being chapter 162 of the Revised Statutes (in this section called the "former Act") or the predecessors of that Act, and in existence immediately before the commencement of this Act, continues as an irrigation district under this Act with the same name.

(2) The persons who, immediately before the commencement of this Act, are the members of a board of trustees of an irrigation district continued under subsection (1) become the members of the board of directors of that irrigation district.

(3) Any reference whatever to a board of trustees of an irrigation district under the former Act shall be deemed to be a reference to the board of directors of that irrigation district under this Act.

195. (1) *The Co-operative Marketing Associations Guarantee Act* is amended as to subsection (5) of section 13 by striking out the words "*The Irrigation Districts*

193. The Western Irrigation District Act will be repealed and will become an irrigation district under this Act.

194. Continuation of irrigation districts formed under the present Act or its predecessors. The board of trustees of a district becomes its board of directors.

195. (1). Amends chapter 60 of the Revised Statutes.

Act", wherever they occur and by substituting the words "The Irrigation Act, 1968".

(2) *The Crop Liens Priorities Act* is amended as to clause (e) of section 2 by striking out the words "and for irrigation rates created by section 162 of *The Irrigation Districts Act*" and by substituting the words "or for irrigation rates and any other moneys recoverable by the board of directors of an irrigation district in the same manner as irrigation rates imposed under *The Irrigation Act, 1968*".

(3) *The Crop Payments (Irrigated Land Sales) Act* is amended

- (a) as to clause (b) of section 2 by striking out the words "*The Irrigation Districts Act*" and by substituting the words "*The Irrigation Act, 1968*",
- (b) as to subsection (2) of section 5 by striking out the words "sections 163 and 164 of *The Irrigation Districts Act*" and by substituting the words "section 172 of *The Drainage Districts Act*".

(4) *The Land Titles Act* is amended

- (a) by repealing section 31,
- (b) as to subsection (2) of section 64
 - (i) by striking out the words "*The Irrigation Districts Act, Part IV*" and by substituting the words "Part 4 of *The Irrigation Act, 1968*",
 - (ii) by striking out the words "*The Irrigation Districts Act*" and by substituting the words "*The Irrigation Act, 1968*".

(5) *The Municipal Taxation Act* is amended as to clause 16 of subsection (1) of section 20 by striking out the words "*The Irrigation Districts Act*" and by substituting the words "*The Irrigation Act, 1968*".

(6) *The Mechanics Lien Act, 1960* is amended as to section 5

- (a) by renumbering the section as subsection (1),
- (b) by adding the following after the renumbered subsection (1):

(2) No lien exists with respect to land held by a board of directors of an irrigation district or for any work or improvement caused to be done by a board of directors of an irrigation district.

(7) *The Public Lands Act, 1966* is amended as to subsection (2) of section 27 by striking out the words "water rates under *The Irrigation Districts Act, The St. Mary and Milk Rivers Development Act, 1950* or *The Bow River Development Act*" and by substituting the words "irrigation rates under *The Irrigation Act, 1968*".

(8) *The Rural Electrification Long Term Financing Act* is amended as to subsection (5) of section 16 by striking out the words "*The Irrigation Districts Act*" and by substituting the words "*The Irrigation Act, 1968*".

195. (2). Amends chapter 68 of the Revised Statutes.

195. (3). Amends chapter 70 of the Revised Statutes.

195. (4). Amends chapter 170 of the Revised Statutes. Section 31 is being included in section 57 of this Bill.

195. (5). Amends chapter 54 of the Statutes of Alberta, 1967.

195. (6). Amends chapter 64 of the Statutes of Alberta, 1960. Section 5 reads:

“5. No lien exists with respect to a public highway or for any work or improvement caused to be done thereon by a municipal corporation.”

The new subsection (2) will give recognition to the decision in *Western Canada Hardware v. Farrelly Bros. Ltd.* (1922) 3 WWR 1017, which held that “municipal corporation” in the predecessor of the present section 5 included an irrigation district.

195. (7). Amends chapter 80 of the Statutes of Alberta, 1966.

195. (8) Amends chapter 46 of the Statutes of Alberta, 1956.

(9) *The Rural Electrification Revolving Fund Act* is amended as to subsection (5) of section 17 by striking out the words "*The Irrigation Districts Act*" and by substituting the words "*The Irrigation Act, 1968*".

(10) Section 49 of *The Water Resources Act* is amended

- (a) as to subsection (2) by striking out the words "board of trustees under *The Irrigation Districts Act*, and all the powers and duties of a licensee under this Act and *The Irrigation Districts Act*" and by substituting the words "board of directors of an irrigation district under *The Irrigation Act, 1968* and all the powers and duties of a licensee under this Act",
- (b) as to subsection (3) by striking out the words "board of trustees under *The Irrigation Districts Act*" and by substituting the words "board of directors of an irrigation district under *The Irrigation Act, 1968*".

196. (1) This Act repeals and replaces the following:

- (a) *The Irrigation Districts Act*, being chapter 162 of the Revised Statutes;
 - (b) *The Water Users' Districts Act*, being chapter 363 of the Revised Statutes;
 - (c) Part I of *The St. Mary and Milk Rivers Development Act, 1950*, being chapter 68 of the Statutes of Alberta, 1950;
 - (d) Part I of *The Bow River Development Act*, being chapter 48 of the Statutes of Alberta, 1955;
 - (e) *The Eastern Irrigation District Act*, being chapter 101 of the Revised Statutes of Alberta, 1942;
 - (f) *The Western Irrigation District Act*, being chapter 16 of the Statutes of Alberta, 1944;
 - (g) *The Lethbridge Northern Colonization Act*, being chapter 102 of the Revised Statutes of Alberta, 1942.
- (2) *The United Irrigation District Act*, being chapter 103 of the Revised Statutes of Alberta, 1942, is repealed on a date to be fixed by Proclamation.

(3) The following enactments are repealed:

- (a) An Act to confirm Order in Council No. 911-47 dated the 30th day of August, 1947, authorizing the Borrowing of Ten Thousand Dollars by the Aetna Irrigation District, being chapter 23 of the Statutes of Alberta, 1948;
- (b) An Act with respect to an Agreement for the Provision of a Beet Sugar Factory in the Lethbridge Northern Irrigation District, being chapter 46 of the Statutes of Alberta, 1935;
- (c) *The Irrigation Projects Act*, being chapter 163 of the Revised Statutes of Alberta, 1955;

195. (9). Amends chapter 291 of the Revised Statutes.

195. (10). Amends chapter 362 of the Revised Statutes.

196. (1). Repeal.

196. (2). This Act was passed in 1934 to deal with the sale of lands taken by the United Irrigation District for non-payment of rates and the distribution of the proceeds between the district and a municipality claiming tax arrears. The Act is now virtually defunct and will be repealed on Proclamation when it is determined that there are no outstanding matters to be dealt with.

196. (3). Repeal.

- (d) *The Little Bow Irrigation Act, 1923*, being chapter 21 of the Statutes of Alberta, 1923;
 - (e) *The Macleod Irrigation District Special Borrowing Act*, being chapter 69 of the Statutes of Alberta, 1953;
 - (f) *The New West Irrigation District Act, 1923*, being chapter 27 of the Statutes of Alberta, 1923;
 - (g) *The New West I.D. Colonization Act*, being chapter 72 of the Statutes of Alberta, 1931;
 - (h) *The New West Irrigation District Transfer of Assets Act*, being chapter 62 of the Statutes of Alberta, 1952;
 - (i) *The Raymond Irrigation District Act*, being chapter 38 of the Statutes of Alberta 1933;
 - (j) *An Act respecting the Taber Irrigation District*, being chapter 44 of the Statutes of Alberta, 1934.
- (4) Notwithstanding the repeal of *The Water Users' District Act*, a water users' association in existence under that Act at the time of the repeal continues to exist for the purpose only of winding up its affairs and the Minister may
- (a) give directions as to any matter in connection with any winding-up proceedings, including the appointment of a liquidator,
 - (b) empower the liquidator to do any act for the purpose of the winding up of the association, and
 - (c) by order vest any of the works of an association in a board of an irrigation district.

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

196. (4). Winding-up of water user's associations.