

# BILL

No. 4 of 1916.

An Act respecting Drainage.

(Assented to , 1916.)

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

## SHORT TITLE.

1. This Act may be cited as "*The Drainage Act.*"

## INTERPRETATION.

2. In this Act, unless the context otherwise requires, the expressions—

1. "Minister" means Minister of Public Works for Alberta;

2. "Municipality" means and includes any incorporated municipality, whether town, village, rural municipality or local improvement district, and also a city incorporated under a special Charter;

3. "Council" means and includes the council of a municipality;

4. "Owner" means and includes any person, who by any right, title or estate whatsoever, is or is entitled to be in possession of any land and the executor or administrator of an owner, the guardian of an infant owner, any person entitled to sell or convey the land, an agent of an owner under general power of attorney or under a power of attorney empowering him to deal with the land and, as regards roads the municipality within which the same or part thereof is situated;

5. "Resident owner" means and includes an owner as herein defined who resides within a distance of ten miles by the nearest road of the land in question or any part thereof;

6. "Secretary" means and includes the treasurer of a city and the secretary or secretary-treasurer of a town, village, rural municipality or of a local improvement district;

7. "Land" means and includes the ground or soil and everything annexed to it by nature or lying in or under the soil, except mines and minerals (precious or base) belonging to the Crown;

8. "Drainage work" or "work" means and includes the construction of a drain or drains, the deepening, straightening, widening, cleaning of obstruction or otherwise improving of any stream, creek or watercourse and the lowering of the waters of any lake or pond and the construction of guards in connection therewith;

9. "Sufficient outlet" means the safe discharge of water at a point where it will do no injury to lands or roads;

10. "Construction" means and includes the original work of opening or making any draining work;

11. "Road" means and includes any road surveyed and set apart as a highway under the provisions of *The North-West Territories Act*, of *The Land Titles Act* or of *The Public Works Act* and any road allowance under *The Dominion Land Surveys Act*;

12. "Engineer" means a member or associate member of the Canadian Society of Civil Engineers or of the Institution of Civil Engineers of Great Britain or of Ireland or of a civil engineering society of equal rank in the British Empire or any foreign country, or a surveyor duly qualified to practice in the Province of Alberta, but the foregoing definition shall not limit the power of the Minister to employ under the provisions of this Act any person who is in his opinion competent to fill the position;

13. "Parcel of land" means and includes a quarter-section of land according to the system of surveys under *The Dominion Land Surveys Act*, or any smaller area, owned by one person and, as regards roads, so much of a road as adjoins any one side of a section, together with any diversions of the same;

14. "Maintenance" means and includes the preservation of any drainage work and keeping it in repair.

#### FORMATION OF DRAINAGE DISTRICTS.

3. Upon the petition of the resident owners of at least one-half the area of the lands of resident owners which would be affected by the construction of a drainage work within the area described in the petition otherwise than merely by having an outlet afforded thereby the Minister may for the purpose of ascertaining whether the drainage work is required and the probable cost thereof procure an engineer to make an examination of the area to be drained, the stream, creek or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved, or the lake or pond the waters of which are to be lowered according to the prayer of the petition.

(2) Such petition may be in form A in the schedule hereto or to the like effect and shall be accompanied by abstracts of title or other evidence satisfactory to the Minister showing who are the owners of the lands within the area described in the petition and a statutory declaration verifying the facts set out in such petition and the signatures thereto.

4. Such engineer shall prepare a report, plans, specifications and estimates of the drainage work and make an estimate of the lands and roads within the said area to be affected stating as nearly as may be in his opinion the proportion of the cost of the work to be borne by every parcel of land.

5. If in the opinion of such engineer lands not within the area described in the petition would be affected by the construction of the proposed work the Minister shall return the petition to be amended so as to include such lands; and the petition so amended shall satisfy the requirements of section 3 hereof before any further action is taken thereon.

6. Upon receipt of the report of the engineer and of the amended petition if any amendment has been rendered

necessary by such report the Minister shall report upon the utility and desirability of the said work and submit the same together with the report of the said engineer (which shall have annexed thereto all maps, plans, profiles, estimates as to the cost of construction of the proposed work and all and every other matter or thing affecting the same) to the Lieutenant Governor in Council for determination as to whether the said work shall be undertaken.

(2) If it is determined not to proceed with the proposed work, then all the persons who signed the said petition shall be chargeable with and liable to the Minister for all disbursements and expenses incurred by him in and about the investigation by the engineer, his report and other services in respect thereof in proportion to the extent of their several lands within the drainage area as described in the petition, and such amounts shall be chargeable upon the said several lands and shall be recoverable in the same manner as hereinafter provided in section 9 for the recovery from persons withdrawing from any such petition of their several proportions of the expenses incurred thereunder.

7. If the construction of the proposed work is approved by the Lieutenant Governor in Council the Minister shall have power and authority to advertise and shall thereupon publish a notice that it is his intention to undertake the proposed work (describing it) at an estimated cost (to be stated) as a local improvement and to assess and levy the cost thereof against the lands to be benefited thereby (giving a general description thereof and an estimate of the amount to be assessed against each parcel) and such notice shall fix a date not less than seven days nor more than twenty days after the last publication of *The Alberta Gazette* within which anyone who signed such petition may withdraw therefrom, and any owner whose lands are to be assessed as aforesaid may appeal from such assessment.

(2) Such notice shall be inserted in two successive issues of *The Alberta Gazette* and also contemporaneously therewith once a week for at least two successive weeks in two newspapers, one published in the City of Edmonton and the other to be determined by the Minister, and a copy of such notice shall before the last of such publications in *The Alberta Gazette* be sent by registered letter to the last known address of each resident owner whose land will be affected.

(3) In estimating the proportion of the cost of the work to be borne by each parcel of land the Minister shall divide the total estimated cost by the total estimated benefit to ascertain the rate of cost to be assessed and levied on each one dollar of benefit (but it shall not be necessary in such division to carry out or use a smaller fraction than one-tenth of one mill) the value of estimated benefit on each parcel of land shall be multiplied by the said rate of cost and the results shall be set down in a column opposite the said respective parcels of land and such results shall be respectively the amounts that the said parcels of land shall be liable to pay for the proposed work exclusive of the debenture interest hereinafter mentioned.

8. Any person who has signed a petition under section 3 hereof shall be at liberty to withdraw therefrom and to abandon such petition at any time before the expiration of the time limited in the notice referred to in section 7 hereof by serving the Minister by registered mail fully prepaid with a notice of withdrawal which may be in form B in the schedule hereto or to the like effect and if by reason of such withdrawals the names of the petitioners have been reduced below the number or proportion required by section 3 of this Act, the further consideration of the petition and prosecution of the work shall be discontinued.

9. If the proposed work is not proceeded with on account of a withdrawal or withdrawals from the petition then the persons who signed such petition including those who have withdrawn therefrom shall be chargeable with and liable to the Minister for all expenses incurred by the Minister by reason of the receipt of such petition, including the engineer's remuneration and expenses and cost of advertising, in proportion to the respective area of their lands within the area described in the petition and the amount with which such persons are chargeable shall upon notification by the Minister to the secretary of the municipality within which the lands are situated be entered upon the assessment roll of such municipality against the lands of the persons so liable and any and all amounts so entered shall be collected in the same manner in all respects as if they were taxes levied by and due to the municipality and when collected shall be transmitted to the Minister.

10. Upon the expiration of ten days from the date fixed for the putting in of appeals from assessment pursuant to the notice mentioned in section 7 the Minister shall (unless by reason of withdrawals, the work is not to be proceeded with) obtain from the judge of the District Court of the judicial district within which the area of the proposed work is situated or if situated in more than one such district then from that one of the judges of the District Courts of the said judicial districts whose place of residence is nearest to the proposed drainage area, an appointment fixing a day and hour when he will proceed with the hearing and determination of appeals against the assessment at the town nearest to such area situate upon a line of railway and at a place therein to be named in said appointment, and upon the application for such appointment the Minister shall file an affidavit briefly setting forth the facts and verifying the notices of appeal and the publication and mailing of the notices as required by section 7, and showing that the petition has not lapsed by reason of withdrawals, and shall exhibit with such affidavit all notices of appeal received by him against such assessment and a plan indicating the limits of the proposed drainage area.

(2) The Minister shall cause notice of the said appointment to be published in one issue of *The Alberta Gazette* and shall also not later than twenty days before the date so fixed for the hearing of such appeals send notice of the said appointment by registered letter addressed respectively to all the persons so appealing who have furnished an address therefor.

(3) Upon the date and at the place so appointed the judge shall proceed to hear all appeals, notice of which have been duly received by the Minister prior to the expiration of the ten days in the first subsection of this section mentioned; and shall hear and receive the evidence adduced on the part of the appellants and of the Minister and of other persons interested in such appeal (which evidence shall be taken *viva voce* upon oath) and may administer such oath and examine witnesses; upon such hearing the Minister shall produce for the information of the court all plans, profiles and specifications for or relating to said proposed drainage work and all estimates for the cost thereof and assessments to be made upon the various lots and parcels of land therefor; and during such hearing the engineer in charge of such laying out of the said work and the preparation of the plans, profiles, specifications, estimates and assessments shall be present and may be required by either party to give evidence.

(4) Any party interested in an appeal may obtain from the judge an order for the attendance of a witness for the purpose of giving evidence and for the production by such witness of documents at and for the purpose of the hearing and any person being served with a copy of such order upon being paid his proper conduct money as upon service of a subpoena issued out of a District Court, who fails to obey the same, shall be guilty of contempt of court and shall be punished in the same manner as if such order had been a subpoena issued out of a District Court in a civil cause;

(a) No fee shall be charged or stamp required upon the issue of an order under this subsection.

(5) The judge may if he deems it advisable adjourn the hearing and determination of any appeal from time to time and he shall make and preserve a minute of all witnesses examined and of their evidence and of the proceedings at such hearing.

(6) After the hearing of such appeal the judge may make such order thereon as he considers just and may make such changes by way of increase or reduction in the assessments of any or all of said lands and such alterations in the respective proportionate liabilities therefor as appear just and proper according to the evidence adduced, based upon the estimated cost of the work as published, and may award costs including disbursements for conduct money paid to witnesses to any party so appealing; and in such event such costs, if awarded to an appellant, shall be payable by the Minister to such party as a portion of the expenses of the drainage work and shall be assessed as such upon the area in proportion to the assessments for construction; and the award and determination of the judge upon each appeal disposed of by him under this section shall be final.

(7) The judge shall be entitled to receive for his services the amount of the expenses actually incurred by him in attending upon the hearing of the appeals and also the sum of \$20.00 per day for each day or part of a day during which he is engaged upon hearing; and the amount thereof shall be paid by the Minister who shall assess the same upon all lands assessable for the drainage work in the proportions for which they are assessable for construction.

(8) The judge shall as soon as possible after his determination of the appeals report to the Minister his decision thereon, the changes to be made in the several assessments, the amount allowed by him to any party for costs and his own fees and expenses, and shall with his report return to the Minister all plans, profiles, specifications, estimates, assessments, notices and other documents and materials in his hands relating to the appeals; and the Minister shall cause the assessments to be corrected in accordance with the report of the judge; and the assessments so corrected shall be final and not subject to further appeal and shall be the assessments upon the lands within the drainage area for the purposes of the proposed drainage work.

11. Unless the prosecution of the proposed work shall have been discontinued by reason of withdrawals the Minister shall as early as possible after he has received the report of the judge upon appeals from assessments or in the event of there having been no appeals then after the expiration of the time fixed for appealing by the said notice lay before the Lieutenant Governor in Council a report and recommendation in regard to the proposed drainage work, setting out—

- (a) The notice published under section 7;
- (b) The estimated cost of the work;
- (c) A description of each lot or parcel of land to be benefited, with the number of acres to be benefited in each parcel as shown by the engineer's report;
- (d) The value of the benefit to each lot or parcel of land;
- (e) The amount which each such lot or parcel of land to be benefited is to bear as its share of the cost of the work as set out in the published notice or, in the event of appeals therefrom, as determined and reported upon by the judge after the hearing thereof.

12. The Lieutenant Governor in Council may thereupon finally approve or disallow the prosecution of the proposed work and in the event of his approving the same he shall constitute and declare the area to be benefited to be a drainage district under this Act, and shall assign to it a number and designation as "Drainage District No. . . ."

(2) In the event of the Lieutenant Governor in Council disallowing the prosecution of the proposed work under this section the cost of the work incurred shall be provided for as directed by the Lieutenant Governor in Council.

#### DEBENTURES.

13. Upon the organization of any drainage district the Lieutenant Governor in Council shall before or at any time during or after the execution of the work required to be done in such district order the issue and negotiation of debentures of such district for the estimated or actual cost of such work and shall fix the time which such debentures shall run which shall not be less than twenty nor more than thirty-five years.

14. All debentures issued under the provisions of this Act shall comply with the following requirements:

1. They shall be in such form and of such denominations as the Lieutenant Governor in Council may determine;
2. They shall bear interest payable annually or semi-annually at a rate not exceeding six per centum per annum;
3. They shall be numbered and shall specify the number of the district on account of which they are issued;
4. They shall have coupons attached providing for the payment of interest which coupons shall be in such form as is approved by the Lieutenant Governor in Council;
5. They shall be made payable either in the currency of the Dominion of Canada or sterling money of Great Britain at any place in Canada or elsewhere; and
6. They shall be signed by the Provincial Treasurer or such other person as may be designated by order of the Lieutenant Governor in Council and sealed with the seal of the province and the coupons for interest shall bear the signature of the Provincial Treasurer lithographed or printed thereon.

15. Every debenture issued under the provisions of this Act and the coupons attached thereto shall be a perpetual lien in favour of the holder thereof upon all lands included in the district upon account of which it has been issued so long as the same or any part thereof remains unpaid:

Provided however that any such debenture and coupon shall not be considered or construed to constitute a lien on any parcel of land within the district to any greater amount than the amount of the benefits assessed against such land pursuant to the provisions of this Act.

16. The Provincial Treasurer shall open a special account in the books of his office to be called "Debenture Account of Drainage District No. (*giving number*)" to which shall be credited the total amount received from the sale of any debenture aforesaid.

17. Subject to the approval of the Lieutenant Governor in Council the Provincial Treasurer may invest from time to time in such drainage debentures any surplus of the general revenues of the province or any funds of the province which by any Act are made available for this purpose or for the purpose of drainage works as provided by this Act.

18. Any debenture issued under the authority of this Act and bearing the seal of the province and signature of the Provincial Treasurer shall not be questioned and shall be deemed valid to all intents and purposes whatsoever.

19. The Minister shall after the term has been fixed during which debentures to be issued for the construction of any work under this Act are to run, complete the assessment of the lands within the proposed drainage area to be benefited by showing in columns upon the statement of such assessment opposite to each lot or parcel of land to be assessed the respective amounts required to be annually levied and collected from each of the several lots or parcels of land in order to provide a sinking fund for the redemption of the debentures at such rate of interest not exceeding six per cent. per annum as the

Minister may fix, together with the interest yearly required for the payment of such debentures, and shall forward one copy of each such completed assessment statement to the treasurer of each municipality in which any such lots or parcels of land so assessed are situated and one copy to the Minister of Municipal Affairs and shall file another copy thereof in the land titles office for the land registration district in which such land or any portion thereof lies.

**20.** The amount necessary to be collected for the purpose of paying the interest for the first year on the debentures issued and to provide the annual sinking fund as set forth in the statement aforesaid shall be entered by the secretary of the municipality in which any of the said lands lie upon the assessment roll for the current year or if such roll has been finally revised then upon the assessment roll for the next following year; and it shall be the duty of such secretary to notify the owner of each parcel of land of the amount which each owner of such parcel is liable to pay.

**21.** Thereafter annually until the debentures issued shall have been fully paid and satisfied the secretary of the municipality in which the said lands lie shall enter in a separate column against the said parcels of land the amount which the said parcels of land are required to pay as shown by the statement aforesaid.

**22.** The secretary of a municipality having the collection of any assessments made under the authority of this Act shall from time to time remit the same to the Provincial Treasurer who shall credit the same to the aforesaid accounts (designating the number of the drainage district on account of which such payments shall be made) distinguishing between interest and sinking fund:

Provided however that all amounts received shall be credited to interest account until there shall be sufficient to the credit of such account to pay the current year's interest on the outstanding debentures; it shall however be discretionary with the Provincial Treasurer to temporarily transfer to the credit of the interest account any sum that shall be to the credit of the sinking fund account in order to pay promptly any interest maturing or past due on said debentures.

**23.** Where it is desired to construct a drainage work through lands not within any municipality the Minister of Municipal Affairs shall with respect to such lands have and exercise all the powers and duties hereby vested in or devolving upon the council and secretary with respect to lands within a municipality.

**24.** All assessments upon lands under this Act shall upon the entry of the amounts of the same upon the assessment roll of the municipality pursuant to the four last preceding sections be deemed to be a tax not subject to appeal payable to the municipality or in respect of work outside a municipality to the Minister of Municipal Affairs, and shall be and constitute a charge upon the lands upon which they are respectively assessed; and all proceedings, remedies and penalties for and in respect of the payment



or nonpayment of the same may be taken, acted upon and imposed in the like manner, within the same time and by the same persons and tribunals as if such assessments were in fact and in law taxes owing to such municipality.

25. In the event of the estimated cost so assessed upon lands hereunder being found to be insufficient for the completion of the proposed work according to the plans and specifications upon which such cost was estimated and assessed, the Minister may from time to time as he finds it necessary for the completion of the work in accordance therewith, or with such alterations therein as may be reported by the engineer as necessary for rendering the work effective and may be approved by the Minister, cause further assessments to be made upon the lands so assessed in proportion to their original assessment to defray the cost of the completion of such work or the carrying out of such alterations; and issue debentures for the amount thereof; and such assessments and debentures shall be in all respects subject to the same provisions as are applicable to the assessment and debentures for the cost as originally estimated, assessed or issued.

#### THE PUBLIC WORKS ACT TO APPLY.

26. The work shall be proceeded with and completed in the same manner as other public works of the province are undertaken and performed and for the purpose aforesaid it is hereby declared that all the provisions of *The Public Works Act* shall be applicable to all intents and purposes as if the said work was being performed thereunder and all payments with respect to any work performed under the provisions of this Act shall be made by the Provincial Treasurer upon the submission of properly certified vouchers.

#### ALTERATION OF PLANS.

27. For the purpose of doing and performing any work under the provisions of this Act the Minister may for the better carrying out thereof vary or alter the preliminary plans, drawings and profiles of the said work either at the inception of the work or at any time during its prosecution; and such variation or alteration in the manner of performance of the said work shall in no wise violate, annul or render abortive the organization and extent of the drainage district or have the effect of absolving and freeing the lands therein from the payment of the special drainage tax theretofore provided to be paid by such lands.

#### ASSESSMENT.

28. The lands and roads lying outside the drainage district and belonging to any municipality, company or individual using any drainage work as an outlet or for which when the work is constructed an improved outlet is thereby provided either directly or through the medium of any other drainage work or any works constructed under *The Private Ditches Act* may be charged for the construction of the drainage work so used as an outlet or for providing an improved outlet to the extent of the benefit accruing to such municipality, company or individual as may be determined by the Minister.

29. If at any time after the completion of any drainage work it is found necessary to use such works as an outlet for any subsequent work done either under this Act or under *The Private Ditches Act* the land benefited by such subsequent drain shall be assessed for an amount in proportion to the benefit to be derived; and if by reason of such additional area being drained the said work requires enlarging or improving the amount so assessed shall be applied to such enlargement or improvement, but if the drain does not require enlargement or improvement the amount may be placed as a credit to the land first assessed in proportion to the rate of such first assessment.

30. Unaccrued assessments and levies under this Act shall not be deemed to be an incumbrance as between vendor and purchaser.

#### OBSTRUCTIONS.

31. When any drainage work becomes obstructed by dams, bridges, fences, washouts or other obstructions caused by the owner or person in possession of the lands where such obstruction occurs so that the free flow of water is impeded thereby the person or persons owning or occupying such land shall upon reasonable notice in writing given by the council or the secretary of the municipality remove such obstructions in any manner caused as aforeaid and if not so removed within the time specified in the notice the council shall forthwith cause the same to be removed.

32. If the cost of removing such obstruction is not paid by such owner or occupant to the municipality forthwith after the completion of the work the council may pay the same and the secretary of the municipality shall place or cause to be placed such amount upon the assessment roll against the said lands with ten per cent. added thereto and the same shall be collected in the same manner as other taxes.

33. Any person or persons who shall wilfully or intentionally obstruct, fill up or injure any ditch, drain, creek or watercourse constructed under the provisions of this Act or wilfully or intentionally cut, destroy or injure any dyke or other drainage or reclamation work connected therewith shall upon complaint of the council or the secretary of the municipality be liable upon summary conviction thereof to a penalty not exceeding \$200 and costs which said penalty less costs shall be paid to the municipality for the doing of the necessary repairs caused by said act or acts.

34. Whenever in the course of any drainage work any dam or artificial obstruction exists in the course of or below the work the Minister may upon the payment of such amount as may be agreed upon or determined in the manner provided by section 46 of this Act remove the same either in whole or in part and any amount so paid shall be deemed to be part of the cost of construction of the original work.

35. When it is necessary to construct any drainage work on or along a road allowance the Minister may cause to be close-chopped or grubbed and cleared not less than twelve feet of the middle of the road allowance (if required) and spread thereon the earth taken from the work and shall charge the cost of so doing as part of the cost of the drainage work.

#### EXTENSION OF WORKS.

36. In the performance of any drainage work under the provisions of this Act the Minister shall have the power if necessity requires it of continuing the work outside of a drainage district for the purpose of carrying off the water by a proper channel or outlet and such work shall be considered to be part of the cost of such drainage work.

37. Whenever it is required to continue any drainage work beyond the limits of any drainage district the Minister may continue the same on or along or across any road allowance and from any such road allowance into or through any municipality until a sufficient outlet is reached.

38. The council of any municipality or municipalities whose duty it is to maintain any drainage work for which only lands within the jurisdiction of such municipality or municipalities are assessed may after the completion of the drainage work upon a *pro rata* assessment on the particular lands within the drainage district benefited as last assessed for the construction of the drainage work deepen, widen or extend the same provided the cost of such deepening, widening or extending does not in any one year exceed the sum of five hundred dollars and in every case where the cost would exceed that sum the proceedings to be taken shall be as hereinafter provided.

39. Whenever for the better maintenance of any drainage work constructed under the provisions of this Act or to prevent damage to any lands or roads it shall be deemed expedient to change the course of such drainage work or to make a new outlet for the whole or any portion of the work or to otherwise improve, extend or alter the work the Minister may upon the petition of the municipality or the joint petition of the municipalities whose duty it is to maintain and keep the said drainage work in repair and without any other preliminary requirements other than a report of an engineer appointed by him to examine and report upon the same undertake and complete the change of course, new outlet, improvement, extension or alteration of such drainage work; and for the purpose aforesaid the Minister shall have all the powers to assess and charge the lands in his opinion benefited in the same manner to the same extent and by the same proceedings as provided for in this Act.

#### INCORPORATION OF OTHER WORKS.

40. The Minister may incorporate in whole or in part into the general drainage work being done or continued in any district under the provisions of this Act any other drainage work done in the district since its organization

as such or that is being done by any person, company or corporation and in any such event he may allow to such person, company or corporation the value of such other work to the extent that in his opinion it shall contribute to the value of the general work; and payment of the value so fixed shall be made as if the same were paid under the provisions thereof.

#### CONSTRUCTION OF BRIDGES, ROADS, ETC.

##### 41. The Minister may—

- (a) Authorize the construction, enlargement or other improvement of any bridges or culverts throughout the course of any such drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and
- (b) Authorize the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public road or highway; and
- (c) Provide for the construction or enlargement of bridges rendered necessary for the drainage work upon the lands of any owner and may fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto.

#### MAINTENANCE OF WORK.

42. Where a drainage work does not extend beyond the limits of one municipality such drainage work shall be maintained and kept in repair by such municipality in the manner provided for in this Act.

(2) Any drainage work constructed under the provisions of this Act which is commenced in one municipality and thence continued into any other municipality or municipalities shall after the completion thereof be maintained by the former municipality from the point of commencement thereof to the point at which the drainage work crosses the boundary line into another municipality and by every other municipality in like manner through or into which the drainage work is continued.

(3) All maintenance shall be done at the expense of the lands in any way assessed for the construction thereof and in the proportion determined by the Minister in his report and assessment for the original construction of the work or in the event of appeals therefrom, as determined and reported upon by the judge after the hearing thereof; and for the purpose of collecting the cost of such maintenance each and every municipality undertaking any work of maintenance shall upon completion thereof forward to the Minister properly certified accounts showing the total cost of the work done; and the Minister shall prior to the next annual assessment apportion the cost of such maintenance against the lands to be assessed therefor and shall notify the secretary of the municipality or municipalities concerned of such apportionment; and such municipality or municipalities shall have all the powers and authority for the levying and collecting thereof as provided for the levying and collection of ordinary municipal rates or taxes:

Provided that if the total cost of maintenance in any one year exceeds five per centum of the original cost of the drainage work debentures may be issued for the cost of such maintenance and all the provisions of this Act respecting debentures for the cost of construction shall apply to such debentures for the cost of maintenance.

#### DAMAGES.

43. The Minister may consider and award the payment of any damages that may be occasioned by the performance of any work under the provisions of this Act and any damage so paid shall be considered as part and parcel of the cost of such work.

44. In settling the amount of damages with the owners of any lands all the provisions of *The Public Works Act* in respect of compensation shall apply.

45. The Minister shall determine in what manner the material taken from any drainage work shall be disposed of and the amount to be paid to the respective persons entitled to damages occasioned thereby.

#### RELIEF DRAINAGE WORK.

46. If from the doing of any drainage work water is caused to flow upon and injure lands or roads outside the drainage district the construction of all drainage work required for relieving the lands or roads injuriously affected may be undertaken by the Minister as part of the general work.

47. Payments made by the Minister under the provisions of sections 42, 43, 46 or 48 of this Act shall be deemed to be expenditures on account of the drainage district within which or on account of which such work is performed.

48. For the purpose of complying with the provisions of sections 23, 24 or 25 of this Act the secretary of the municipality or municipalities, as the case may be, shall be the officer of the Minister and as such shall be bound to comply with the directions and in case of default he may by order of the Lieutenant Governor in Council be dismissed from office and in addition upon the complaint of the Minister or the Provincial Treasurer he shall be liable upon summary conviction before a justice of the peace to a fine of not more than \$100 and costs of prosecution or to imprisonment for any term not exceeding six months or in default of payment of such fine and costs to imprisonment for any term not exceeding six months.

#### LANDS NOT LIABLE FOR DRAINAGE TAXES.

49. All lands within any drainage district established under the provisions of this Act shall be liable for any special tax levied thereunder; if however from any cause any such land cannot legally be subjected to the special tax the amount thereof shall be deducted and rateably distributed between the lands liable and collected in the annual levies from the lands so liable upon the principal of apportionment hereinbefore provided.

**50.** In case it appears that any land in a drainage district is not liable for taxation at the time of the performance of the aforesaid work but afterwards during the currency of the debentures it becomes liable to taxation the municipality may assess such lands for an amount to be approved by the Minister.

**51.** The provisions of this Act so far as applicable may be extended to apply to all drainage works heretofore constructed or now being constructed by the Department of Public Works.

**52.** The Lieutenant Governor in Council may supplement any of the provisions of this Act with such other provisions not inconsistent with this Act as may be deemed necessary to provide for the convenient operation of this Act.

#### PENALTIES.

**53.** Any person who shall wilfully remove, deface, cut down, destroy or in any way interfere with any posts, signs or other indications on or upon any drainage works placed thereupon by the engineer in charge of the works or by any other person by his direction for the purpose of denoting lines of levels or for other purposes in connection with the said works shall be liable upon summary conviction before a justice of the peace to a fine of not less than \$5 nor more than \$100 and costs of prosecution or to imprisonment for any term not exceeding six months or in default of payment of such fine and costs to imprisonment for any term not exceeding six months.

**54.** Any person who shall wilfully obstruct, fill or dam up, cut, injure or destroy or in any other manner impair the usefulness of any provincial, municipal or other public ditch or watercourse constructed for the purpose of drainage or for protection against overflow or who shall wilfully destroy or injure an embankment of any such drain, ditch or watercourse or any drainage work connected therewith shall upon summary conviction before a justice of the peace be liable to a fine of not less than \$5 nor more than \$50 and costs and in default of payment of such fine and costs to imprisonment for not less than one week nor more than two months.

**55.** *The Alberta Drainage Act*, being chapter eighteen of the Statutes of Alberta, 1908, is hereby repealed.

SCHEDULE.

FORM A.

(Section 3 (2).)

PETITION FOR DRAINAGE WORK.

To the Honourable the Minister of Public Works:

The petition of the undersigned resident owners of at least one-half of the area of the lands of resident owners to be benefited by the work herein prayed for otherwise than merely by having an outlet afforded thereby—

Humbly sheweth:

Your petitioners request that the area of land situate in the Province of Alberta and described as follows: (*Here give description of the land to be included in drainage district*) may be drained by means of—

1. A drain or drains;

2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse known as (*here give the name or other general description*);

3. Lowering the water of Lake.....or the pond .....or slough on (*describe the land on which situate or by any or all of the said means*).

The following are the names of the resident owners of land within the said described area and the lands respectively owned by them (*name and address of resident owners*), (*description of land owned*).

And your petitioners will ever pray.

Dated at.....in the Province of Alberta, this.....day of....., 19.....

| Signature of petitioners | Address | Witness |
|--------------------------|---------|---------|
|                          |         |         |

FORM B.

(Section 8.)

NOTICE OF WITHDRAWAL OF NAME FROM PETITION.

To the Honourable the Minister of Public Works,  
Edmonton, Alberta.

I,....., resident owner of (*here describe land*), hereby withdraw my name from the petition for a drainage work in the area in which the said land is included.

.....  
(*Signature.*)

Witness:

.....



No. 4.

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FOURTH SESSION  
THIRD LEGISLATURE  
6 GEORGE V  
1916

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BILL

An Act respecting Drainage.

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Received and read the

First time. . . . .

Second time. . . . .

Third time. . . . .

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HON. CHAS. STEWART.

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EDMONTON:  
J. W. JEFFERY, GOVERNMENT PRINTER,  
A.D. 1916