

BILL

No. 33 of 1921.

An Act respecting Drainage Districts.

(Assented to _____, 1921.)

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 Districts Act, 1921.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) "Board" shall mean a board of trustees elected under the provisions of this Act;
 - (b) "Construction" shall mean the original work of opening or making any drainage work;
 - (c) "Council" shall mean a drainage council appointed under the provisions of this Act;
 - (d) "District" shall mean any drainage district formed or continued under the provisions of this Act;
 - (e) "Drainage work" or "work" shall include the construction of a drain or drains, the deepening, straightening, widening, clearing of obstruction or otherwise improving of any stream, creek or water-course and the lowering of the waters of any lake or pond and the construction of guards in connection therewith;
 - (f) "Election" shall include an election for trustees and the taking of any vote under the provisions of this Act;
 - (g) "First election" shall mean an election held for the purpose of taking a vote as to the formation of a district;
 - (h) "Irrigation Act" shall mean the Irrigation Act of the Parliament of Canada;
 - (i) "Land" shall mean the ground or soil and everything annexed to it by nature or lying in or under the soil, except mines and minerals (previous or base) belonging to the Crown;
 - (j) "Maintenance" shall include the preservation of any drainage work and the keeping of it in repair;

- (k) "Minister" shall mean the Minister of Public Works;
- (l) "Municipality" shall mean a city, town, village, municipal district, or improvement district;
- (m) "Municipal secretary" shall mean the clerk, secretary or secretary-treasurer of a municipality, or in the case of an improvement district the Minister of Municipal Affairs;
- (n) "Occupant" includes the inhabitant occupier of any land exempt from taxation in a district, or if there be no inhabitant occupier of such land the person entitled to the possession thereof;
- (o) "Owner" means and includes any person who appears by the records of the land titles office of the land registration district within which such land is situated to have any interest in any land in the district other than as mortgagee, lessee or encumbrancee, and means and includes any *bona fide* purchaser of any such land under written agreement for sale, and with respect to roads in an improvement district the Minister of Public Works or with respect to roads in a municipality, such municipality;
- (p) "Parcel of land" shall mean 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, or by more persons than one as tenants in common as joint tenants and with respect to the assessment of roads within a drainage district, the aggregation of roads within any municipality or part thereof within that district;
- (q) "Registered owner" shall mean any person who is registered under *The Land Titles Act* as the owner of a freehold estate in possession in land, and with respect to roads in a municipality, such municipality;
- (r) "Road" includes any road surveyed and set apart as a highway under the provisions of *The North-West Territories Act*, *The Land Titles Act*, *The Alberta and Saskatchewan Roads Act*, or *The Public Works Act* and any road allowance within the meaning of *The Dominion Land Surveys Act*;
- (s) "Sufficient outlet" shall mean an outlet sufficient to ensure safe discharge of water at a point where it will do no injury to lands or roads;
- (t) "Voter" shall mean any person duly qualified under the provisions hereof to vote at any election or upon the taking of any vote under the provision hereof;

(u) "Works" shall include any dike, dam, weir, floodgate, breakwater, drain, ditch, basin, reservoir, canal, tunnel, bridge, culvert, crib, embankment, headwork, flume, aqueduct, pipe, pump, and any contrivance for carrying or conducting water, or any other work which is authorized to be constructed under the provisions of this Act.

3. All drainage districts heretofore constituted or erected in the province are hereby continued and shall be subject to the provisions of this Act as if formed thereunder.

PART I.

GENERAL PROVISIONS.

FORMATION OF DRAINAGE DISTRICTS.

4. A drainage district may consist of one tract of land or several isolated tracts of land but no district, whether formed or continued under the provisions of this Act, shall include or continue to include as the case may be any minerals the ownership of which is vested in some person other than the owner of the surface superjacent thereto, nor, in the case of minerals leased by the owner of the surface, such minerals during the continuance of the lease.

5. A petition for the formation of a drainage district may be forwarded to the Minister.

(2) The petition shall define the content of the proposed district by setting out the quarter sections (or where a quarter section is owned by more than one owner the smaller parcels comprised therein which belong in their entirety to one owner or to more owners than one as tenants in common or joint tenants) to be comprised therein, and shall concisely state the nature of the work which it is proposed to undertake.

(3) The petition shall be signed by corporations or by persons who have attained the age of twenty-one years who collectively are the registered owners of at least one-half of the proposed district.

(4) The petition shall be in the form set out as form A in the schedule hereto and be accompanied by a statutory declaration as therein particularized.

(5) Where it is more convenient, there may be several statutory declarations.

6. The petition must further be accompanied by—

- (a) A sum of money sufficient in the opinion of the Minister to constitute an expense fund to defray all expenses properly incurred (prior to the formation of the district or the refusal of the Minister to form the same) in carrying out the directions contained in this Act, or in taking any step rendered necessary or proper by such directions; or
- (b) At the option of the Minister by a bond in a sum sufficient to cover the said expenses.

7. Upon receipt of the petition 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 proposed district, 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 as stated in the petition.

8. Such engineer shall prepare a report, plans, specifications and estimates of the cost of the drainage work and shall ascertain what lands and roads will be beneficially affected by the proposed drainage work.

9. Upon receipt of the report of the engineer the Minister may make such alteration in the content of the proposed district either by exclusion or inclusion of lands as he may deem just and proper.

(2) The effect of any such alteration in the content of any district by the Minister shall be to substitute the district as so altered for the district as originally proposed in the petition.

10. Within one month after the report of the engineer has been received the Minister shall cause the same to be published in the Gazette together with a notice stating that application has been made for the formation of a drainage district as therein described and shall in the notice give the proposed district a name.

(2) A like notice shall be published by the petitioners not less than once a week for three consecutive weeks in a newspaper of general circulation within the proposed district and named by the Minister.

11. Where any vacant Dominion lands are included in the proposed drainage district, the Minister may make application to the Dominion Government for the purchase of the said lands, and such lands may be purchased by the department from the Dominion Government under

the provisions of *The Reclamation Act* upon such terms and conditions as may be approved by the Lieutenant Governor in Council and by the Dominion Government.

(2) The Minister in making application to the Dominion Government shall with such application forward to the Minister of the Interior a copy of the plans and estimates of cost of the proposed works, and a report showing the area and character of the lands affected thereby, and the proportion of the cost to be assessed against each parcel of land affected, together with a separate schedule of the Dominion lands affected and the proportion of the cost of the work to be assessed against each parcel.

12. Any land so purchased by the province from the Dominion Government shall be offered for sale in the manner provided in *The Reclamation Act* with regard to Dominion lands purchased by the province to facilitate the construction or improvements of public highways.

13. If at the expiration of two weeks from the last publication of the newspaper notice no substantial objection to the formation of the proposed district has been made, the Minister shall appoint an owner resident in the proposed district to be returning officer for the purpose of taking a vote as to the formation of such district and for the election of a board.

(2) The Minister shall be sole and uncontrolled judge as to whether any objection is of a substantial nature or not.

(3) The board of every district shall consist of three trustees who must be—

- (a) Voters of the district;
- (b) Of the full age of twenty-one years;
- (c) British subjects.

(4) Matters preparatory to any such election and proceedings thereat and consequent thereon shall be regulated by the provisions of part II of this Act.

14. If the Minister, owing to the receipt of a substantial objection to the formation of the proposed district or for any other good reason determines not to proceed with the proposed work or if the statement of the result of the election made by the returning officer under the provisions of part II of this Act shows that less than two-thirds of the persons voting were in favour of the formation of the district then each person or municipality who signed the said petition shall be chargeable with and liable for a share of all disbursements and expenses incurred in and about the investigation of the engineer, his report and

other services in respect thereof, in proportion to the extent of the land owned by him or it within the proposed district and such share shall be chargeable upon the said land except such portion thereof as consists of roads within a municipality and shall upon receipt of a list of the said lands and amounts by the secretary of the municipality within which they are situate and subject to the provisions of subsection 2 hereof be recoverable by the Minister in a manner similar to that hereinafter provided for the recovery of drainage rates.

(2) Any amount charged under the provisions of subsection 1 of this section against any municipality shall constitute a debt due from such municipality to the Minister.

15. If the statement as to the result of the election made by the returning officer to the Minister under the provisions of part II of this Act shows that two-thirds of the persons voting were in favour of the formation of the district, the Minister, subject to the provisions of part II of this Act as to irregular or improper conduct of elections and corrupt practices thereat and as to recounts, shall by order form the land described in the petition into a drainage district and shall therein declare the names of the trustees thereof, nominating any trustee or trustees that may be required to complete the proper number.

(2) The order forming such drainage district shall set forth—

- (a) The name in full, situation and content thereof;
- (b) The date and places at which the election was held;
- (c) The names of the trustees and their post office addresses in order of votes given for them, or, where there has been no voting alphabetically.

(3) Such order shall be published by the Minister within one month in the Gazette.

(4) After such publication the validity of the formation of the district and the election of trustees shall not be questioned in any court or in anyway whatsoever, and notwithstanding any want of compliance with the terms of this Act, the district shall be deemed to have been formed and the trustees to have been elected as validly as if all the terms of this Act had been complied with.

16. Within three months from the passing of this Act, the Minister shall cause an election of three trustees to be held in all drainage districts heretofore constituted or erected and such election shall be conducted as nearly as possible in the same way as an election as to the formation of a district; and such trustees when so elected shall have all the powers of trustees elected in a district formed under the provisions of this Act.

CONSTITUTION AND GENERAL POWERS OF BOARD.

17. The board of every district formed hereunder shall be a body corporate and shall have full power to execute and carry out the drainage work of the district and to take, hold and alienate any property real or personal, and shall subject to the provisions of this Act have all the powers necessary for the construction, operation, maintenance and renewal of drainage works necessary for the uses and purposes of the district and the inhabitants thereof.

18. Every board may make regulations and by-laws in respect of matters not specially provided for by this Act and not contrary to law, consistent with the object for which the district was created, for governing its proceedings, calling meetings, appointing committees and generally such regulations as the interest of the district may require, and may repeal, alter and amend its own regulations and by-laws.

(2) Every by-law shall be given three readings before its final passing but not more than two readings shall be given thereto at any one meeting except by the unanimous vote of the trustees present.

(3) A copy of any by-law written or printed without erasure or interlineation and under the seal of the board, certified to be a true copy by the secretary and a trustee, shall be authentic and received as *prima facie* evidence of its passing and of the contents thereof without any further proof in any court unless it is specially pleaded or alleged that the seal of the signature of the secretary or trustee has been forged.

(4) Every by-law finally passed by the board shall be valid and binding notwithstanding any want of substance or form therein or in the proceedings prior thereto or in the time and manner of passing thereof.

19. Every board may pass a by-law for paying the members thereof; but the payment of any one member shall in no case exceed the sum fixed by the Minister per day of attendance at board meetings or of employment upon the necessary business of the board, as directed by the board, and ten cents for every mile necessarily travelled to so attend or while so employed.

20. Every board may pass by-laws from time to time authorizing the chairman and treasurer thereof to borrow from any person, bank or corporation such sum or sums of money (not exceeding the uncollected portion of the drainage rate for the year) as may from time to time be required to pay any instalment of principal and interest

or both falling due upon any debentures or to provide for any other expenditure until such time as the drainage rate levied or to be levied therefor can be collected.

(2) Any amounts so borrowed shall be repaid out of the drainage rates for the year in which they were borrowed and shall, after payment of the amounts falling due to debenture holders in that year, be a first charge thereon.

(3) When through any unforeseen defect in repair, wash-out or other inevitable and unforeseen accident it is necessary to expend money upon the works in excess of what is provided for by the imposition of the annual drainage rate hereinafter imposed, the board may, with the approval of the council, impose a special rate to cover such expenditure (which rate shall be charged against the same property and be recoverable in the same way as the annual drainage rate hereinbefore referred to) and may borrow as aforesaid in anticipation of the collection thereof.

(2) Any person or bank lending any sum to a board under this section need not enquire whether any necessity thereof exists nor see as to the disposition thereof.

21. Every board may also, with the approval of the Minister, raise money in the manner directed by subsection 1 of the previous section to reimburse those persons who deposited the expense fund at the time of the presentation of the petition, or to pay expenses lawfully incurred in connection with the formation of the district, the engineers report, the preparation of assessment rolls, or any matter or thing directed to be done by this Act.

(2) Any temporary loan raised under the authority of this section may be guaranteed by the Lieutenant Governor in Council without any further or other authority than is provided by this subsection.

22. Whenever any appointment, act or thing is directed by this Act to be made or done by any board or any officer thereof and such appointment, act or thing is not made or done, then the Minister may make such appointment or do such act or thing with the same effect as if it had been done by the board or the said officers.

OFFICERS OF THE BOARD.

23. Every board shall within thirty days after the formation of the district hold a meeting at which it shall elect a chairman from its own number, who shall preside at all meetings of the board.

(2) At such meeting the board shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall be

entrusted with all the powers and charged with all the duties conferred or imposed upon the secretary or the treasurer under the provisions of this Act.

(3) Every board shall have power to appoint any other officers or servants that may in its opinion be necessary for the effective carrying out of the business of the district, and shall when so directed by the council appoint an engineer who shall be a registered professional engineer within the meaning of *The Engineering Profession Act* but no such appointment shall be made save with the prior approval of the council.

(4) Any officers or servant so appointed by the board shall hold office for such period as may seem proper to the board.

24. Every board shall define the duties and fix the salaries of its officers and may exact security from them for the faithful performance of their duties, but in the case of the treasurer or secretary-treasurer as the case may be the exaction of security shall be compulsory upon the board.

MEETINGS OF BOARD.

25. Every board of trustees shall hold a regular monthly meeting on a fixed date at its head office which shall be registered with the Provincial Secretary; provided that the council may from time to time give directions as to the times of meeting of any board other than those contained in this subsection.

(2) A special meeting of any board may be summoned at any time and place by the chairman or by any two trustees, and notice thereof must be given by the secretary to each trustee; such notice must specify the business to be transacted and no other business than that specified therein is to be transacted at any special meeting unless all the trustees are present and consent thereto.

(3) The meetings of every board shall be public and two members shall constitute a quorum for the transaction of business.

(4) All official records of the board shall be open to public inspection during business hours.

26. The chairman of any meeting of a board may vote with the other members of the board on all questions and any question on which there is an equality of votes shall be deemed to be negatived.

27. In the event of the absence of the chairman from any meeting that trustee of the remaining trustees who stands lowest in the list of trustees shall be the chairman at such meeting.

RETIREMENT OF TRUSTEES.

28. The names of the first trustees shall be placed by the secretary upon a list in order of votes given for them, the trustee obtaining the lowest number of votes being placed first.

(2) Where there has been no voting, or the number of votes is equal, the trustees shall be placed in the order unanimously agreed upon by the trustees, and in default of agreement then in the alphabetical order of their surnames.

(3) The trustee from time to time standing at the top of the list shall retire to make room for the trustee elected at the annual election hereinafter provided for.

(4) Subject to the provisions of the following section the trustee elected at any annual election shall be placed at the bottom of the list.

(5) Any trustee due to retire under this section shall remain in office until his successor is elected.

29. Notwithstanding anything contained in this Act, of the first trustees elected in any district that trustee placed at the top of the list shall retire, under the provisions of this Act, at the end of the second December following the first election, and thereafter each retirement shall take place annually on the 31st day of December.

30. In the case of any vacancy occurring otherwise than by retirement under the provisions of this Act, such vacancy shall, if a regular annual election is to be held within six months of the occurrence of the vacancy, be filled by appointment by the continuing trustees, and any trustee so appointed shall hold office until the date of the said election when a new trustee shall be elected to fill the vacancy for the remainder of the unexpired term.

(2) If a vacancy occurs as aforesaid more than six months prior to the date of a regular annual election, a special election to fill the same shall be held under the provisions of this Act and any trustee elected thereat shall hold office until the term of office of the trustee whom he succeeds would have expired by effluxion of time.

(3) In any case where owing to there being no continuing trustee, or where for any other reason new trustees cannot be or are not appointed, the Minister may appoint to the vacancy or vacancies.

31. The regular annual election of a trustee or trustees shall, in the event of more candidates being nominated than the number required to fill the vacancies then existing in the board, take place on a day in the first week of December,

and the proceedings at, prior to and subsequent to such annual election, shall as nearly as possible be the same as at the first election of trustees.

(2) At every election after the first election, the secretary of the drainage district shall be the returning officer.

32. In particular, but without prejudice to the generality of subsection 1 of the preceding section, any irregularity in an election subsequent to the first shall be dealt with as provided for with regard to irregularities at a first election, and an order of the Minister setting out the name of any newly elected trustee shall operate to render his appointment absolutely valid, notwithstanding any prior irregularities in the election.

DRAINAGE COUNCIL.

33. There shall be a drainage council of three members, or any less number whose duty it shall be to advise every board upon the conduct of the affairs of its district and who may forbid any act or course of conduct proposed to be done or entered upon by the board.

(2) The member or members constituting the council shall be appointed by the Lieutenant Governor in Council.

(3) No money received by any board upon any debenture issue shall be expended at any time without the prior approval of the council.

(4) The council shall be entitled at all times to require from any board all such information as it may be in its power to give, with respect to anything done or proposed to be done by it.

(5) The council may employ any assistants that it may deem necessary for the proper conduct of its business.

(6) All such assistants shall be paid by the board in connection with whose affairs they are employed.

(7) No contract for the construction of any work, entered into by any board, shall be of any effect whatsoever until the same shall have received the assent of the council.

(8) No rate of assessment fixed by a board shall be effective until approved by the council.

(9) The member or members from time to time constituting the council shall be paid such salary or salaries as may be determined by the Lieutenant Governor in Council who may, when necessary, and by order in council advance the same out of the general revenue fund of the province without any further or other legislative appropriation or authority than is provided by this subsection.

AUTHORITY FOR THE CONSTRUCTION OF WORKS.

34. The board shall forthwith after receipt of the engineer's preliminary report provided for by this Act make application in accordance with the provisions of section 62 of *The Irrigation Act* for approval of the Minister of the Interior.

(2) The board shall file with the Minister of the Interior any plans required under *The Irrigation Act*.

35. The approval provided for in section 62 of *The Irrigation Act*, together with a copy of all maps and plans filed in connection with obtaining the same as well as all the official records of the district shall be filed in the office of the secretary of the board and shall be open for inspection by any person upon the assessment roll.

(2) A copy of the approval and of the said maps and plans shall also be filed with the Minister and shall be open to the inspection aforesaid.

ISSUE OF DEBENTURES.

36. As soon as possible after the formation of the district every board shall submit to the council an estimate of the amount required—

- (a) To defray the expenses in connection with the formation of the district and of obtaining the authorization aforesaid;
- (b) To construct the proposed works;
- (c) Annually to maintain and operate the proposed works;
- (d) To be paid for the use of any other drainage works as an outlet;
- (e) To defray interest charges upon any debentures proposed to be issued under the authority of the Act and to maintain and operate the proposed works or any part of them until the end of one year after their or its completion.

(2) If the council approves of the said estimate it shall direct the board to prepare an assessment roll and all proceedings in connection with such preparation shall be regulated by the provisions of part III of this Act.

37. Upon receiving notification from the secretary that the assessment roll has been completed and confirmed as provided for by part III of this Act the council shall direct the board to prepare a by-law authorizing the raising of a loan upon the credit of the district sufficient to cover the sums set out in paragraphs (a), (b), (d) and (e) of the

estimate submitted to it or such of them as it may direct, and to take a vote of the voters of the district thereon.

38. Any such by-law shall set forth—

- (a) The amount and proposed terms of repayment of the loan;
- (b) The total acreage contained in the district;
- (c) The total acreage to be benefited;
- (d) The sum estimated as necessary in each year to repay the loan and interest thereon;
- (e) The estimated annual cost of the operation and maintenance of the district and the drainage works.

39. Any election shall be held in accordance with the provisions of part II of this Act.

40. If the statement of the result of the election made by the returning officer under the provisions of part II of this Act shows that less than two-thirds of the persons voting were in favour of the by-law, the board shall immediately proceed in so far as it has not already done so to reimburse those persons who deposited the expense fund at the time of the presentation of the petition and to pay all expenses lawfully incurred in connection with the formation of the district, the preparation of engineers' reports, assessment rolls, or any other matter or thing directed to be done by this Act and to discharge all the outstanding liabilities of the district lawfully incurred.

(2) For that purpose the board shall have power to strike a sufficient rate payable as if it were a drainage rate imposed under the provisions of this Act and shall cause to be prepared a collector's roll as provided for in this Act, a duly certified copy of which shall be transmitted to the municipal secretary of each municipality, any portion of which lies within the district, for the collection and recovery of the said rate in the manner provided for the collection and recovery of municipal taxes.

(3) As soon as all debts and liabilities of the district have been discharged the Minister shall by order published in the Gazette terminate the existence of the district.

41. If the statement of the result of the election made by the returning officer under the provisions of part II of this Act shows that two-thirds of the voters voting at the election were in favour of the by-law for the issue of debentures the Minister, if he is satisfied that all the provisions of this Act have been substantially complied with, may assent to the raising of the proposed loan.

(2) Such assent shall be in writing and when filed with the Clerk of the Executive Council shall be conclusive

evidence that the district has been legally formed and constituted and that all the formalities in respect of the authorization of such loan and the issue of debentures therefor have been fully complied with.

42. The board of trustees may thereupon proceed to raise by loan, upon the credit of the district, such sum of money as has been assented to by the Minister under the provisions of this Act and to issue debentures therefor.

43. Each debenture may be for such an amount as may be determined by the said board subject to the approval of the Provincial Treasurer and the debentures may be sold either all at one time or by instalments from time to time.

44. The debentures shall be sufficient when signed by two of the trustees of the district to bind the board and in the hands of any *bona fide* holder thereof shall be a charge upon all the land (including the buildings and improvements thereon) appearing upon the assessment roll, other than land exempt from taxation by the province, and upon all the property of the board and all rates levied under the provisions of this Act in the district; but shall not have any priority over any charges, liens, mortgages, or incumbrances upon such land created or coming into existence prior to the issue of such debentures.

45. The form of debentures and the rate of interest payable thereon shall be as provided by the board subject to the approval of the Provincial Treasurer.

(2) The board shall arrange for the sale of the debentures and fix the sale price thereof and all other details in connection therewith, but subject always to the approval of the Provincial Treasurer.

(3) Every approval of the debentures by the Provincial Treasurer shall be in writing and when filed with the Clerk of the Executive Council shall be conclusive evidence of the legality of the issue of such debentures and their validity shall not be questioned by any court in the Province of Alberta, but the same shall be a good and indefeasible security in the hands of any *bona fide* holder thereof to the full extent provided by this Act.

(4) The proceeds of sale of the debentures shall be paid directly into a bank or banks approved by the Lieutenant Governor in Council, to the credit of a special account in the name of such person as the Lieutenant Governor in Council may direct, or may be deposited with the Provincial Treasurer and invested in Provincial securities, and no portion thereof shall be paid out save upon application therefor by the trustees and with the approval of the council.

(5) The Provincial Treasurer may at any time invest surplus funds of the Province of Alberta in drainage district debentures.

(6) Any trustee within the meaning of *The Trustee Ordinance* may at any time invest funds in the debentures of a drainage district.

46. Pending the regular issue and sale of debentures authorized under the provisions of this Act money may be temporarily raised by the board with the consent of the Minister by deposit of all or any of the debentures as security for the money so raised; but the money received upon the regular issue and sale of debentures shall not be utilized for any other purpose than the repayment of the money so raised until such money together with the interest due thereon has been repaid.

47. In the event of the cost of completion of the proposed work proving greater than that estimated under the provisions of this Act the board may from time to time as it finds necessary for the completion of the work in accordance with the estimate or with such alterations therein as may be reported by the engineer as necessary for rendering the work effective, and with the approval of the council, apply to the Minister for his assent to the raising of the required amount by loan upon the credit of the district.

(2) If the Minister assents the board may issue debentures for the required amount and such debentures shall be in all respects subject to the same provisions as are applicable to the debentures issued for the cost as originally estimated.

DRAINAGE RATE.

48. The board shall not later than the first day of February in each year make an estimate of the amount required to pay—

- (a) The instalments of principal and interest payable under the terms of the debentures up to the expiration of such year;
- (b) The lawful expenses to be incurred during such year in carrying out the provisions of this Act, including salaries and expenses of officers and such allowances as the members of the board may be entitled to under the provisions of this Act;
- (c) The cost of maintenance of works;
- (d) Such payment into a sinking fund or reserve fund or both, as may seem good to the board and be approved of by the council;
- (e) The general expenses of the district;

(2) If such payments and expenses are not otherwise provided for and if such estimate is approved by the council the board shall forthwith pass a by-law imposing a rate (herein called the drainage rate) upon each parcel of land within the district proportionate to the benefit which it is estimated that the said parcel of land will derive from the drainage work.

(3) Any rate imposed shall be sufficient to bring in the amount of such estimate after making all due and reasonable allowances for the cost of collection and abatement for losses which may occur in the collection of the drainage rate.

(4) Any reserve fund created under this section shall be expended for the benefit of the district in accordance with the directions of the council from time to time.

49. Immediately after the imposition of the drainage rate in each year the secretary of the district shall make out a collector's roll in which he shall set out in the first column thereof the description of each parcel of land to be benefited within the district and in the second column thereof the amount of the drainage rate which is chargeable against the said land and shall deliver to the municipal secretary of every municipality any part of which is included within the district a copy of the portion or portions of such roll as relate to any parcel of land within the municipality and such copy shall be certified in the name of the secretary of the district.

50. Every such municipal secretary shall, upon receipt of the collector's roll of a drainage district within which any part of the municipality is included, enter upon the assessment roll of the municipality for the current year in a separate column the amount shown to be assessed

as drainage rate against each parcel of land within the municipality and the drainage district and shall proceed with the collection and enforcement of the same in the manner provided for the collection and enforcement of municipal taxes.

51. All assessments under this Act shall upon the entry of the amount of the drainage rate upon the assessment roll of the municipality pursuant to the last preceding section be deemed to be a tax not subject to appeal payable to the municipality or the Minister of Municipal Affairs as the case may be, and shall be and constitute a charge upon the lands against 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 and against the same persons as if such assessments were in fact and in law taxes owing to such municipality.

52. The municipal secretary of any municipality having the collection of drainage rates for any drainage district shall as soon as possible after collections are made remit the same less 1% for collection to the secretary of the drainage district and shall before the first day of December of each year return the collector's roll to the secretary of the said district with an account of all moneys received by him accompanied by a solemn declaration that the collection and all proceedings connected therewith were made and taken in the manner by law provided and that the returns are correct.

53. In the case of a parcel of land consisting of the roads in a municipality other than an improvement district, such municipality shall pay the amount of the drainage rate with regard to such roads and in the case of a parcel of land consisting of the roads in an improvement district the Minister shall pay the said drainage rate out of the funds directed to be expended by him in improvements under *The Improvement District Act*.

54. Any rate which is levied under the provisions of this Act with respect to any parcel of land being part of land bought from the Dominion of Canada by the province, and prior to the sale of any such parcel, shall be paid out of the proceeds of sale of such parcel when and not until the same is sold by the province.

OFFICIAL TRUSTEE.

55. The Lieutenant Governor in Council may at any time and from time to time appoint an official trustee

to conduct the affairs of any district who, for the purposes of this Act, shall be deemed to be the board and shall have all the powers and authorities conferred by this Act upon or otherwise possessed by the board or its officers and who shall be remunerated out of the funds of the district or otherwise as the Lieutenant Governor in Council may decide; and the Lieutenant Governor in Council may also at any time and from time to time as he thinks fit remove the official trustee and appoint in his place another official trustee or order an election of new trustees or in some other manner provide for the resumption of the conduct of the business of the district by a board of trustees and give all necessary or proper directions consequent thereon.

(2) The Lieutenant Governor in Council may at any time and from time to time appoint the council to be an official trustee.

56. Upon the appointment of an official trustee the board of the district for which he is appointed shall cease to hold office as such, and shall hand over to him all money, plans, books of account or of any other nature, assets and all and every other species of property belonging to the board, or relating to the affairs of the district in its possession.

ALTERATION OF PLANS AND EXTENSION OF WORKS.

57. For the purpose of doing and performing any work under the provisions of this Act the board with the approval of the council may for the better carrying out thereof vary or alter the preliminary plans, drawing 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 the performance of the said work shall in no wise 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 drainage rate theretofore provided to be paid by such lands.

58. 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 board as part of the original work.

59. In the performance of any drainage work under the provisions of this Act the board may, if necessity requires it, continue the work outside of the drainage district for the purpose of carrying off the water by a proper channel

or outlet and the cost of such outside work shall be considered to be part of the cost of the drainage work authorized within the district.

(2) Whenever it is required to continue any drainage work beyond the limits of any drainage district the same may with consent of the Minister be continued 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.

60. When it is necessary to construct any drainage work on or along a road allowance the board may order the same to be close-chopped or grubbed and cleared not less than twelve feet wide in the middle of the road allowance (if required) and that the earth taken from the work be spread thereon and the cost of so doing shall be charged as part of the cost of the drainage work.

61. Whenever any person or corporation is benefitted by the works of a drainage district through the provisions of an outlet or otherwise, then the board of such drainage district may, with the approval of the Minister, charge against such person or corporation the amount of the benefit accruing to such person or corporation as estimated by the council.

(2) Any charge made under the provision of this section shall constitute a debt due from the said person or corporation so charged.

REMOVAL OF OBSTRUCTIONS.

62. 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 board, remove such obstructions and if they are not so removed within the time specified in the notice the board shall forthwith cause the same to be removed.

(2) If the cost of removing such obstruction or obstructions is not paid by such owner or occupant to the board forthwith after the completion of the work the board may pay the same and the municipal secretary of the municipality shall upon receiving notification of the cost of such removal place or cause to be placed such amount upon the collector's roll against the said lands with ten per cent. added thereto and the same shall be collected in the same manner as other rates.

FORMS AND REGULATIONS.

63. The Minister may from time to time make such regulations and prescribe such forms in lieu of or in addition to the forms in the schedule of this Act as may be deemed necessary for the proper carrying into effect of the provisions of this Act, and may where any procedure is prescribed but such procedure does not seem to him to be adequate or where no procedure is prescribed suitable to the circumstances of the case, provide such procedure as may seem proper to him.

REPEAL.

64. *The Drainage Act*, being chapter 24 of the Statutes of Alberta, 1916, is hereby repealed:

Provided that any order made or act done in assumed compliance with such Act and prior to the passing of this Act shall have the same effect as if such order or act had been made or done in complete compliance with the provisions of this Act and if the same had been then in force.

 PART II.

ELECTIONS.

PROCEDURE AT ELECTIONS FOR FORMATION OF DISTRICT AND OF TRUSTEES.

65. A returning officer shall immediately after his appointment by the Minister under the provisions of this Act, publish once in a newspaper of general circulation within the proposed district a notice of his appointment in the form of form B in the schedule of this Act, and that he will for fourteen days after such publication receive nominations in writing for the board of trustees of the proposed district, signed by at least ten voters and in the form set out in form B.

66. Immediately after the time for receiving nominations for trustees has elapsed the returning officer shall, subject to the directions of the Minister, if any—

- (a) Divide the proposed district into polling divisions and name a polling place in and for each such division, which place shall be as centrally situate as conveniently may be;
- (b) Name the day and hour for taking the vote as to the formation of the proposed drainage district and for holding an election of trustees;

- (c) Appoint a deputy returning officer for each polling place; and
- (d) If he deems advisable appoint a poll clerk to assist the deputy returning officer.

67. Notice of every poll required to be established under this Act shall be posted up by the returning officer in at least two widely separated conspicuous places in each polling division of the proposed district, and also in a post office, if any, within the proposed district, and shall be in the form C in the schedule hereto.

68. The returning officer shall procure for each polling division of the district a suitable ballot box to be made of some dry durable material and each box shall be provided with a lock and key and shall be so constructed that the ballot papers can be deposited therein and cannot be withdrawn therefrom unless the box is unlocked.

69. The returning officer shall also cause to be printed a supply of ballot papers sufficient for the purposes of the election.

70. If the number of candidates for trusteeship exceeds the number of trustees, two separate ballots of different colours shall be prepared,—ballot No. 1 for the vote on the formation of the district, and ballot No. 2 for the election of trustees.

71. The ballots for the formation of the district shall be in the following form:

BALLOT NO. 1.

Are you for or against the formation of the
Drainage District?

FOR

AGAINST

72. The ballot for the election of trustees shall contain the names of the candidates duly nominated arranged alphabetically in the order of their surnames, and shall be in the following form:

BALLOT No. 2.

TRUSTEES.

ANDREWS, HARRY

BLACK, WILLIAM

DAVIES, EDWARD

FOSTER, HENRY

LEE, MARTIN

MURRY, ALFRED

SMITH, FRANK

73. If the candidates for trusteeship do not exceed the number directed by the Minister, the ballot paper shall consist of Ballot No. 1 only, and the part of the directions for the guidance of voters hereinafter referred to relating to the voting for trustees shall be omitted.

74. The returning officer shall provide himself with at least two copies of the next following section.

(2) It shall be the duty of the deputy returning officer for each division to post the same in a conspicuous place at his polling booth and see that they are so kept posted up during the hours of polling.

75. No person shall—

(a) Without due authority supply any ballot paper to any person; or

- (b) Fraudulently put into a ballot box any paper other than a ballot paper which is authorized by law to be put in; or
- (c) Fraudulently take out of the polling place any ballot or paper; or
- (d) Without due authority destroy, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purpose of election; or
- (e) Apply for a ballot paper in the name of some other person whether that name is that of a person living or dead or of a fictitious person, or advise or abet, counsel or procure any other person so to do; or
- (f) Having once voted respecting the formation of the district and the candidates for trusteeship at the same election apply for a ballot paper in his own name or advise or abet, counsel or procure any other person so to do.

(2) No person shall attempt to commit any offence specified in this section.

(3) A person who violates any of the provisions of this section shall be liable on summary conviction before a police magistrate or two justices of the peace if he is the returning officer or deputy returning officer to imprisonment for any term not exceeding two years with or without hard labour and if he is any other person to imprisonment not exceeding six months with or without hard labour, or to a fine not exceeding \$500 or to both.

76. At least twenty-four hours before the opening of the poll the returning officer shall deliver or cause to be delivered to every deputy returning officer the ballot papers which have been prepared for use in the polling division for which such deputy returning officer has been appointed to act and such other materials as are necessary to enable the voters to mark their ballot papers.

77. 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 may deem sufficient and such directions shall be printed in conspicuous characters and may be according to the following form:

DIRECTIONS FOR THE GUIDANCE OF VOTERS.

The voter shall go into the compartment and with a pencil provided in the compartment place a cross (thus X) against the word "FOR" or the word "AGAINST" in ballot No. 1, according as he wishes to vote for or against the formation of a drainage district (and shall also place a cross on the right hand side of ballot No. 2 opposite the

name of each of the candidates for trusteeship for whom he votes, or at any other place within the division which contains the name of such candidate). The voter shall fold up his ballot paper so as to show the initials of the deputy returning officer on the back and immediately after leaving the compartment shall without showing the front of either paper to any person deliver such ballots so folded to the deputy returning officer and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper he may return it to the deputy returning officer who shall thereupon give him another ballot paper.

If the voter votes for more or less candidates for trusteeship than he is entitled to vote for, his ballot paper containing such vote will be void and will not be counted for any of the candidates.

If the voter place any mark on either ballot paper by which he may afterwards be identified, or if either of his ballot papers have been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void and not counted.

If the voter takes a ballot paper out of the polling place or deposits in the ballot box any other paper than one given to him by the deputy returning officer he will be liable on summary conviction to imprisonment for any term not exceeding six months with or without hard labour.

78. Every owner or occupant of land within the proposed district who is of the full age of twenty-one years shall be entitled to vote.

(2) Any corporation being an owner or occupant as of land within the proposed district shall be entitled to vote by any one of its properly authorized officers.

PROCEEDINGS AT THE POLL.

79. On the day fixed for the taking of a poll the deputy returning officer shall be present at the polling booth in his division at least fifteen minutes before the time fixed for opening the poll.

80. Every polling booth shall be furnished with a compartment (which shall be arranged by hanging a screen) in which the voters can mark their ballots without being seen and it shall be the duty of the deputy returning officer to see that such compartment is provided.

81. Every deputy returning officer shall before the opening of the poll cause to be posted on the outside of the entrance to the polling booth as well as in the compartment in the polling booth a copy of the Directions for the Guidance of Voters.

82. The returning officer shall also furnish to each deputy returning officer a poll book in which shall be entered the record of the poll and such poll book shall be in the following form:

“POLL BOOK.

“For Polling Division No..... of the proposed Drainage District.

“Records of election held this. day of..... 19....

NAME OF VOTER	VOTED	SWORN OR REFUSED TO SWEAR	REMARKS

83. The persons entitled to be present at any one time in any polling booth during the hours of polling shall be the returning officer, the deputy returning officer, the poll clerk and any of the candidates and not more than two agents of any such candidate and one voter.

84. At the time fixed for the opening of the poll the deputy returning officer shall declare the poll open; and shall immediately after the opening of the poll show the ballot box to such persons as are present in the polling booth so that they may see that it is empty. He shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall then place the box in his view for the receipt of the ballot papers and shall keep it so in his view and locked and sealed during the hours of polling.

DECLARATION OF VOTERS.

85. Every person who presents himself for the purpose of voting shall be required before he is handed ballot papers to sign a declaration in the form of form D in the schedule hereto, and the deputy returning officer shall permit every person who signs the said declaration to vote and shall record in the poll book the name of each person who signs such declaration.

(2) At such election each person signing the said declaration shall be entitled to vote once only respecting the formation of the district and once only for the number of trustees to be elected.

(3) Any voter who is unable to write may sign the declaration by making his mark thereon in the presence of the deputy returning officer, who shall initial the same.

(4) Any person subscribing to the declaration as aforesaid and who thereby makes any false statement shall, unless he can prove that he did not know such statement to be false, be guilty of an offence and liable on summary conviction to a penalty not exceeding \$20.

86. If required to do so by any voter within the proposed district or of his own accord if deemed advisable, the returning officer shall administer an oath to any person applying to vote, which oath shall be as follows:

"You do swear (or solemnly affirm) that you are of the full age of twenty-one years, and that you are an owner or occupant (within the meaning of *The Drainage Districts Act, 1921*) in respect of land situated within the proposed drainage district and that you have not received any reward or offer or promise of reward for voting at this election. So help you God."

Or, in the case of an officer of any corporation, as follows:

"You do swear (or solemnly affirm) that you are of the full age of twenty-one years; that you are an officer of the (*naming the corporation*) and duly authorized to vote on behalf of the said corporation; and that the said corporation is an owner or occupant (within the meaning of *The Drainage Districts Act, 1921*) in respect of land situate within the proposed drainage district; that neither you nor to the best of your knowledge and belief the said corporation has directly or indirectly received any reward for the vote which you now tender nor do you or to the best of your knowledge and belief does the said corporation expect to receive any. So help you God."

87. If the voter takes the said oath or affirmation 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.

88. Whenever a voter is required to take the said oath or affirmation and he refuses to do so the deputy returning officer or the poll clerk shall enter opposite the name of such person in the proper column of the poll book the words "Refused to swear or affirm," and such person shall not be allowed to vote but shall be required to immediately leave the polling booth and shall not be allowed to again enter the same on the day of election for any purpose whatever.

89. When the proper entries respecting a person who presents himself to vote have been made in the poll book in the manner hereinbefore provided the deputy returning officer shall place his initials on the back of the ballot papers to which such person is entitled and hand the same to him.

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

91. If a person claiming to be entitled to vote is incapacitated by blindness or other physical cause from marking his ballot papers or if he makes a declaration that he is unable to read, the deputy returning officer shall in plain view of the agents of the candidates cause the votes of such person to be marked on the respective ballot papers for or against the formation of the district and for the candidate or candidates directed by such person and shall cause the ballot papers to be deposited in the ballot box.

(2) The declaration aforesaid may be in the following form:

"I, A.B., of.....being a duly qualified voter at this election, hereby declare that I am unable to read.

X
" (A.B., his mark).

"Dated this.....day of.....19..."

(3) The deputy returning officer shall attest the said declaration in the following form:

"I, C.D., the undersigned, being the deputy returning officer for the Polling Division No..... in the proposed.....drainage district, do hereby certify that the above declaration having first been read to the above A.B. he made his mark thereto in my presence.

"(Signed) C.D.,
"Returning Officer.

"Dated this.....day of.....19..."

92. Every deputy returning officer who refuses or wilfully omits to sign his initials upon the back of any ballot paper as provided by this Act, shall forfeit to any person aggrieved by such refusal or omission, the sum of \$100 in respect of every ballot paper deposited in the ballot box at his polling place upon which the said returning officer has not signed his initials as aforesaid.

93. When any voter has qualifications for voting in more than one polling division of the proposed district he shall vote in that polling division in which he actually resides, or if he does not reside in the district, then in any one polling division in which there is any land in respect of which he is qualified to vote.

94. The receipt by any voter of ballot papers within the polling booth shall be *prima facie* evidence that he has then and there voted.

95. Upon receiving the ballot papers prepared as aforesaid the voter shall forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot papers in the manner mentioned in the directions for voting hereinbefore referred to; he shall then fold each ballot paper so as to conceal its face and so as to expose the initials of the deputy returning officer, and immediately after leaving the compartment shall without showing the front to anyone or so displaying either ballot paper as to make known to any person how he has voted, deliver the ballot papers so folded to the deputy returning officer, who shall without unfolding the same or in any way disclosing the face of either ballot paper verify his own initials and at once deposit the papers in the ballot box in the presence of all persons entitled to be present and then being present in the polling place, and the voter shall forthwith leave the polling place.

(2) Immediately after the ballot papers of a voter have been deposited in the ballot box the deputy returning officer or poll clerk shall enter in the poll book in the proper column after voter's name the word "Voted."

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

97. No person who has received ballot papers from the deputy returning officer shall take the same out of the polling place; and any person having so received ballot papers who leaves the polling place without first delivering the same to the said officer in the manner prescribed shall thereby forfeit his right to vote; and the said officer shall make an entry in the poll book in the column for remarks to the effect that such person received ballot papers but took the same out of the polling place or returned the same declining to vote, as the case may be; and in the latter case the said officer shall immediately write the word "Refused" upon such ballot papers and shall preserve the same.

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

PROCEEDINGS AT CLOSE OF POLL.

99. Promptly at the hour of five o'clock the deputy returning officer shall declare the poll closed:

Providing that if when the poll is so closed there is a voter in the polling booth who desires to vote he shall be permitted to do so, but no other voter shall be allowed to enter the polling booth for this purpose.

100. 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 may then be present, open the ballot box and proceed as follows:

(1) He shall examine the ballot papers individually and any ballot paper which is not initialled as herein provided or on which anything is written or marked by which the voter can be identified or which has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified shall not be counted but shall be set aside as rejected.

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

(3) The deputy returning officer shall then count the votes given for and against the formation of the drainage district and also for each candidate upon the ballot papers not rejected as aforesaid and shall enter in the poll book a statement in words as well as in figures of the number of votes given for and against the formation of the district and for each candidate and of the number of ballot papers rejected and not counted by him, which statement shall be made under the following heads:

- (a) The number of the polling division and the name of the district and the date of election;
- (b) The number of persons who voted at the polling booth;
- (c) The number of votes for and against the formation of the district;
- (d) The number of votes for each candidate for trusteeship;
- (e) The number of ballot papers supplied to the deputy returning officer;
- (f) The number of rejected ballots respecting the formation of the district;
- (g) The number of rejected ballots respecting candidates for trusteeship;

- (h) The number of cancelled ballot papers and ballot papers marked "Refused" respecting the formation of the district and the candidates for trusteeship respectively.

(4) Upon completion of the statement the deputy returning officer shall make, separate from the poll book, a duplicate thereof and such 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 the same.

(5) Every deputy returning officer upon being requested so to do shall deliver to each of the persons authorized to attend at his polling place a certificate of the number of votes given at that polling place for and against the formation of the district and for each candidate and of the number of rejected ballot papers.

(6) The deputy returning officer shall then in the presence of the candidates or their agents or such of them as may be 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 respecting the formation of the district;
- (b) The ballot papers rejected respecting the formation of the district;
- (c) The ballot papers counted respecting candidates for trusteeship;
- (d) The ballot papers rejected respecting candidates for trusteeship;
- (e) The unused, cancelled and refused ballot papers.

(7) Before leaving the polling booth the deputy returning officer shall enter in the poll book the following statement which shall be signed by him in the presence of the poll clerk, if any, or some other witness:

"I,, the deputy returning officer for Polling Division No..... of the proposed..... Drainage District, do hereby declare that to the best of my knowledge and belief I have conducted the election held by me on this date in the manner provided by law and that the entries required by law to be made in the poll book have been correctly made.

"Dated this..... day of..... 19.....,

"Witness:

"..... *Deputy Returning Officer.*"

(8) The deputy returning officer shall then place in the ballot box all the said packets, the poll book, all lists used and all declarations, and the box shall be locked and sealed with his seal and with the seals of such candidates or agents of candidates as desire to affix their seal.

101. 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 receipt of the same the returning officer shall give to such deputy a receipt therefor.

102. At twelve 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 may be present sum up the result of the poll as shown by the duplicate statements furnished him by the various returning officers.

103. If it appears upon the summing up of the result of the poll aforesaid that two or more candidates for trusteeship have an equal number of votes the returning officer shall give such casting vote or votes as may be necessary to decide the election.

104. A returning officer may vote at any election as well as give the casting vote referred to in the previous section.

105. The returning officer shall make no public declaration of the result of the poll but shall transmit to the Minister a statement of the result of the poll, together with a solemn declaration as in form E in the schedule hereto, and if the candidates for trusteeship do not exceed in number the number directed by the Minister the names of such candidates.

106. The returning officer shall unless otherwise ordered by the Minister retain for two months the said ballot boxes with their seals unbroken and shall then unless otherwise ordered as aforesaid cause the ballot boxes to be opened and the packets therein to be burned in the presence of two witnesses.

RECOUNT.

107. If at any time within five days from the date of the transmission of the statement as to the result of the poll to the Minister it is on the affidavit of a credible person made to appear to such returning officer that any deputy returning officer or other officer in counting the votes given at any election has improperly counted or rejected any ballot papers and that such action has materially affected the result of such election and the sum of \$50 as security for the payment of costs and expenses is deposited with such returning officer, such returning officer shall forthwith forward such affidavit and deposit to the Minister, who may at his discretion order a recount and give directions for the conduct of the same.

108. If any two persons who were entitled to vote at the election within two weeks after the election make it appear to the satisfaction of the Minister by their solemn declaration that the election was irregularly or improperly conducted or that corrupt practices prevailed thereat and that by reason thereof the result of the election was affected the Minister may make or appoint some other person to make inquiries into the matter and cause evidence to be taken under oath or by solemn declaration and by order require the attendance of witnesses or production of documents and may make such order respecting the said election as to the formation of the proposed district and as to the persons to hold the office of trustee as may seem proper and the trustees and officers of the district, if formed, shall be bound by and shall observe such orders and the non-observance of any order made under this section shall be an offence and the offender on summary conviction thereof be liable to a penalty not exceeding \$100.

109. No election shall be declared invalid by reason of non-compliance with the provisions of this Act as to holding of the polls, or the counting of the votes, or by reason of any mistake in the use of any of the forms, or by reason of non-compliance with any conditions precedent or any other irregularity, if it appears to the satisfaction of the Minister that the election was fairly conducted.

PROCEEDINGS AS TO VOTING ON DEBENTURE BY-LAW.

110. Upon being directed by the council to prepare a by-law as to the issue of debentures as hereinbefore provided for, the board shall by resolution fix the time for the holding of a poll, appoint the secretary as returning officer, divide the district into polling divisions and name a polling place in each of the said polling divisions and a deputy returning officer therefor and appoint the time and place when and where the returning officer shall sum up the votes given for and against the by-law.

(2) Such polling place shall be within the polling division or within a city, town or village which is within or touches at some point the area of such polling division.

111. Notice of the poll as near as may be in the form C in the schedule hereto shall be posted up at least fourteen clear days before the date of voting in the form and manner prescribed with regard to elections for trustees as nearly as may be.

112. At the day and hour fixed by the said notice a poll shall be taken in each polling division of the district and all proceedings thereat and preliminary and sub-

sequent thereto and for the purposes thereof including a recount, shall be conducted in the same manner as nearly as may be as at an election for trustees.

113. The ballot papers for voting on the by-law shall be in the following form:

DEBENTURE BY-LAW.

FOR

AGAINST

114. On the application of any person interested in promoting or opposing the by-law the secretary shall authorize the attendance of two persons on behalf of the party applying at each polling place and at the final summing up of the votes, but no more than two such persons on each side shall be so authorized.

115. Every voter shall be entitled to vote once and once only on the by-law and such vote shall be recorded at the polling booth in the polling division in which he resides, or in case he is not a resident of the district then in the polling division in which there is any land in respect of which he is qualified to vote.

116. The returning officer shall at the time and place appointed by the board and in the presence of those authorized to attend or such of them as may be present count and sum up the number of votes for and against the by-law and shall then and there declare the result and forthwith certify to the board under his hand whether or not two-thirds of the voters who have voted on the by-law approved of the same.

117. In the event of the by-law being approved the secretary shall forthwith forward to the Minister—

- (a) A certified copy of the by-law under the seal of the board;
- (b) A certified copy of the returning officer's statement as to the result of the poll.

PART III.

ASSESSMENT ROLL.

118. The board shall, as soon as possible after approval by the council of the estimate required by section 36 of this Act, cause to be prepared an assessment roll in which shall be set down in the first column thereof the name of the owner or occupant of each parcel of land in the district owned or occupied in its entirety by one person or by more persons than one as tenants in common or joint tenants and the post office address of each such person if known; in the second column thereof a description of the parcel of land for which he is assessed, and in the third column the amount of the estimated benefit to the said parcel of land.

(2) It shall be the duty of the board by personal inspection of the ground, assisted by the engineer, to estimate the amount of benefit aforesaid.

119. If the secretary does not know and cannot after reasonable inquiry ascertain the name of any person which ought to be entered in the first column of the assessment roll, the entry of the word "Unknown" therein shall be a sufficient assessment of such person and of the parcel of land concerned.

120. If in any year it appears to the board that by reason of a change in the proportionate benefit accruing to some of the parcels of land within the district it would be advisable that a new assessment should be made, then the council upon the report of the board to that effect and with the approval of the Minister may direct the board to prepare a by-law providing for a new assessment.

121. In case it appears that any land in a drainage district is not liable for taxation at the time of the performance of the drainage work but afterwards becomes liable to taxation the board may assess such land for an amount to be approved by the council and upon such assessment being made the said lands shall be charged with all the debentures issued by the said district and then current.

122. If any secretary makes a fraudulent assessment or wilfully or fraudulently inserts in the assessment roll the name of any person which should not be entered therein, or wilfully or fraudulently omits the name of any person which should be inserted therein, or wilfully neglects any duty required of him by this Act, he shall be liable to a penalty not exceeding \$100 for each offence.

123. Immediately after the preparation of the assessment roll the secretary shall mail by registered letter to each person whose name and address appears therein, a copy of the assessment roll together with a notice setting forth a description of the parcel of land in respect of which he is assessed, the estimated amount of benefit to the said parcel of land, the total estimated benefit, the total estimated cost and the part of the said estimated cost attributable to the parcel of land in respect of which he is assessed, which shall as nearly as may be bear the same proportion to the total estimated cost as the estimated benefit to the said parcel bears to the total estimated benefit.

(2) Every such notice shall contain a statement of the last date upon which complaints against the assessment may be lodged with the secretary of the district.

(3) The secretary shall enter upon the roll opposite the name of each person therein the date of each mailing and such entry shall be *prima facie* evidence of the fact of mailing and of the date thereof.

124. The assessment roll shall remain in the office of the secretary except when it is required before the Court of Revision or before the council and shall be open for inspection by any owner, purchaser or occupant of land within the district.

125. No assessment shall be invalidated by reason of any error, omission or misdescription in any assessment notice or by reason of the non-receipt of such notice by the person assessed.

COURT OF REVISION.

126. The board shall form a Court of Revision for the trial of complaints of any person as to himself or any other person being wrongfully assessed on the said roll or omitted therefrom or as to being assessed in respect of property of which he is not the owner or occupant or as to the estimated amount of the benefit to any parcel of land.

127. The secretary shall be the clerk of the Court of Revision and shall record all the proceedings thereof.

128. Any person desiring to complain may within twenty days from the date of the mailing of the assessment notice notify the secretary in writing of the particulars and grounds of his complaint.

129. Every such complaint shall be in the following form:

“To the secretary of Drainage District:

134. The complaints shall be heard as far as possible in the order in which they stand upon the list but the board may adjourn or expedite the hearing of any complaint as it thinks fit.

135. If the complainant or any other person whose assessment may be affected by the decision of the Court of Revision fails to appear in person or by an agent the board may proceed in his absence.

136. It shall not be necessary to hear upon oath the complainant or secretary or any person complained against except where the board deems it necessary or proper or where the evidence of any such person is tendered on his own behalf or is required by the opposite party.

(2) All oaths necessary to be administered to witnesses may be administered by any member of the board hearing the complaint.

AMENDMENT TO THE ASSESSMENT ROLL.

137. Forthwith after the conclusion of the sitting, the secretary shall amend the assessment roll in accordance with the decisions of the board.

138. Every such amendment shall be made in ink of a different colour from that of the original roll and shall be verified by the initials of the secretary.

139. If at any time, not later than three weeks, before the date fixed for holding the Court of Revision it is discovered that any parcel of land has been omitted from the assessment roll, the secretary shall forthwith notify the owner or occupant thereof by registered letter that application will be made to the Court of Revision to add his name and the said parcel of land to the assessment roll and that he is required to attend the Court of Revision to show cause why he should not be assessed in respect of such parcel of land.

(2) After such notice has been given as aforesaid and after the expiration of the time mentioned therein, or if such person be not known, then without notice the board may, unless good cause is shown to the contrary, assess the owner or occupant of such parcel of land, and direct the secretary to enter the said parcel of land upon the assessment roll with the name of its owner or occupant if known, together with particulars as to the estimated benefit and any other necessary or proper particulars.

(3) Upon such entry the owner or occupant of the parcel of land and the said parcel itself shall be deemed to have been duly assessed.

140. The roll as finally passed by the Court of Revision shall be valid and bind all parties concerned notwithstanding any defect, error or mis-statement committed in or with regard to such roll, or any defect, error or mis-statement in any notice required by this Act or the omission to deliver or transmit such notice.

(2) The assessment roll herein provided for and as revised under the provisions hereof shall be the revised assessment roll of the district until it is altered by the council under the provisions of this Act as to appeals, or, if not so altered until the board by by-law from time to time provides for the making of a new assessment roll and any assessment made under any such by-law shall be made and revised subject to all the provisions of this Act relating to assessments and complaints.

141. The board may at any time correct any gross and palpable errors in the roll, and any correction so made shall be initialed by the secretary.

APPEAL FROM COURT OF REVISION TO THE COUNCIL.

142. An appeal to the council shall lie not only against a decision of the Court of Revision on a complaint but also against the omission, neglect or refusal of the said Court to hear or decide a complaint.

143. The person appealing shall in person or by agent serve upon the secretary of the board within eight days after the decision of the Court of Revision a written notice of his intention to appeal to the council.

144. The secretary shall, immediately after the expiration of the time limited for filing notice of appeal, forward a list of the appeals to the council, which shall fix a day and place for the hearing of such appeals.

145. The secretary shall thereupon give notice to all persons appealed against in the same manner as is provided for giving notice on a complaint but in the event of failure by the secretary to have the required service in any appeal made or to have the same made in proper time the council may direct service to be made for some subsequent day upon which it may sit.

146. The secretary shall cause a conspicuous notice to be posted up in his office containing the names of all the appellants and persons appealed against with a brief statement of the ground or cause of appeal together with the time and place at which the council will hear appeals.

147. The secretary shall be the clerk of such court.

148. At any court so held the council shall hear the appeals, and it may adjourn the hearing from time to time and defer judgment thereon at its pleasure.

149. At the court held by the council to hear appeals the secretary shall produce the assessment roll and all papers and writings in his custody connected with the matter of appeal, and such roll shall be amended according to the decision of the council if then given and the chairman of the council shall write his initials opposite any part of the said roll which is amended, and if the decision is not then given the secretary shall, when it is given, forthwith amend the roll in accordance therewith, and shall write his name opposite every amendment.

150. At any such hearing, the secretary shall produce for the information of the council, all plans, profiles and specifications for, or related to, the proposed drainage work and all information upon which the estimate of benefit to the various parcels of land was based and during the hearing, the engineer and the board shall be present and may be required to give evidence.

151. In such proceedings the council shall possess all the powers for compelling the attendance and for the examination on oath of all persons, whether claiming or objecting or objected to, and all other persons whatsoever, and for the production of books, papers, and documents and judgments, which belong to or may be exercised by a judge of the District Court.

152. The cost of proceedings before the council shall be paid or apportioned between the parties in such manner as it thinks proper; and if such costs are not paid forthwith, then upon application of anyone to whom they have been directed to be paid, a District Court judge may enforce payment of the same in the same manner as upon an ordinary judgment for costs in such court.

153. No costs shall be awarded in any case except the costs of witnesses and of procuring their attendance and the costs of issuing and enforcing execution and such costs shall be on the scale allowed in the District Court.

154. The decision of the council shall be final and conclusive in every case.

155. When the roll is finally completed and the time during which appeals may be made has elapsed the secretary shall over his signature enter at the foot of the last page of the roll the following certificate, filling in the date of such entry:

“Roll finally completed this day of 19 . . .” and the roll as thus finally completed and certified shall be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard thereto, or any defect, error or mis-statement in any notice required by this Act or any omission to deliver or transmit such notice.”

156. A copy of the roll or of any portion thereof written or printed without any erasure or interlineation and under the seal of the board, certified to be a true copy by the secretary, shall be received as *prima facie* evidence in any court of justice without the production of the original assessment roll.

157. The assessment roll as amended by the council shall be the revised assessment roll of the district until such time as the board shall by by-law from time to time provide for the making of a new assessment roll and any assessment made under any such by-law shall be made and revised and subject to all the provisions of this Act relating to assessments and complaints or appeals.

PART IV.

EXPROPRIATION OF LANDS.

158. Lands required for any drainage work shall be surveyed and marked on the ground in accordance with the provisions of *The Alberta Surveys Act* and a proper plan of same prepared in accordance with the provisions of *The Land Titles Act*.

159. The board may apply *ex parte* to a judge of the Supreme Court for an order vesting in the board every estate and interest in the lands shown on the plan in the next preceding section mentioned; and the judge shall upon the production to him of a copy of the said plan certified by the district engineer and a certificate of the council stating that the said lands are required for the purposes of this Act, make the said order, which shall have the effect of divesting all persons other than His Majesty of any interest in the said land.

160. If any resistance or opposition is made by any person to the taking by the board or any person authorized by the board, of all lands required in connection with the work as provided by this Act, a judge of the Supreme Court of Alberta may on proof of compliance with the prior

provisions of this part, issue his warrant to the sheriff of the judicial district within which such lands are situated directing him to put down such resistance or opposition and to put the board or some person acting for the board, in possession of such lands, and the sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and shall put the board or person acting for the board, in possession thereof; and shall forthwith make a return to the Supreme Court of such warrant and of the manner in which he executed the same.

161. The plan together with the vesting order made by the judge shall be deposited in the proper land titles office and the registrar shall—

- (a) Call in all the duplicate certificates of title for all patented land affected thereby;
- (b) Upon the receipt of the same, or if the registered owner of such land refuses or neglects to return the said duplicate certificate within thirty days after the demand therefor has been mailed to him by the registrar, then at the expiration of such thirty days, file and register the plan and judge's order and cancel the area shown thereon from the certificate of title and from the duplicates which come into his possession at any time;
- (c) Issue a certificate of title for the land shown on the plan, free from all liens, mortgages and encumbrances of every nature and kind whatsoever other than the charge imposed by any debentures issued under this Act to the board and shall issue to the board a duplicate of such certificate and forward the same to the secretary.

162. Upon the deposit in the proper land titles office of the plan of any land taken for any drainage work as hereinbefore provided the board shall cause to be served by registered mail upon all persons shown by the records of the land titles office to be interested in the lands so taken, a notice setting forth the compensation which it is ready to pay for the lands so taken:

Provided that when compensation is claimed by two or more persons who are unable to agree as to a division thereof the board may pay the same to the Clerk of the Supreme Court nearest to the land affected to be paid out to the parties interested in such proportions as may be ordered by a judge of the Supreme Court on application therefor.

163. If any person entitled to compensation for lands taken for any drainage work is dissatisfied with the amount offered therefor as herein provided he shall within two

months from the date of the mailing of the notice provided in the next preceding section notify the board in writing of such dissatisfaction and shall in such notice state the amount he claims as compensation for the lands so taken, together with a full statement of the facts in support of his claim and in the event of no such claim for increased compensation being received by the board within the said period the person entitled to compensation shall be deemed to be satisfied with and shall be bound to accept the amount of compensation named in the notice referred to in the next preceding section hereof.

164. The board shall consider such claim for increased compensation and shall notify the claimant of its decision in respect thereto by registered letter addressed to the claimant's last known place of abode.

(2) Such claimant if dissatisfied with the decision of the board may within sixty days after being notified as aforesaid of such decision give notice in writing to the board which may be by registered letter that he will submit the claim to arbitration and such submission shall be to two arbitrators, one to be appointed by the claimant and one by the board and shall otherwise be governed by the provisions of *The Arbitration Act*.

(3) If the claimant does not so notify the board and make the deposit as in the next following subsection required within the said period of sixty days from the registration of the notice mentioned in the first subsection he shall be deemed to have accepted the board's decision and shall not thereafter be at liberty to question it.

(4) The claimant shall with the notice of submission to arbitration deposit with the board as security for the costs of the arbitration a sum equal to ten per cent. of the amount claimed by him but not in any event less than \$25; provided, however, that in place of a money deposit the claimant shall be entitled to deposit a bond with two sureties satisfactory to the board but in double the amount of such money deposit.

(5) Subject to the provisions of subsection 7 hereof all costs and expenses of the arbitration shall be in the discretion of the arbitrators; and in the event of costs being awarded against the claimant the board shall be entitled to deduct its costs and expenses of the arbitration out of the moneys deposited by the claimant and the surplus, if any, shall be returned to the claimant.

(6) In the event of the claimant not being required to pay the board's costs of the arbitration the full amount deposited by him shall be returned to him or the bond delivered up to be cancelled.

(7) The only costs allowable upon any arbitration under this section shall be arbitrators' and witnesses' fees.

(8) In estimating the amount to which the claimant is entitled the arbitrators shall consider and find separately as to the value of the land taken and of all improvements thereon, the damage, if any, to the remaining property of the claimant and the original cost only of any extra fencing which may be necessary by reason of the taking of the land.

PART V.

EXECUTIONS AGAINST DISTRICTS.

165. Any writ of execution against a board may be endorsed with a direction to the sheriff to levy the amount thereof by rate and the sheriff shall deliver a copy of the writ and endorsement to the secretary of the board with a statement in writing of the amount required to satisfy such execution including the amount of interest thereon and sheriff's fees and demand the payment of the same.

(2) In case the amount demanded is not paid to the sheriff within thirty days after such delivery the sheriff shall examine the assessment roll of the district and shall strike a rate, as if it were a drainage rate sufficient to cover the amount claimed as aforesaid with such addition to the same as the sheriff deems sufficient to cover interest, his own fees, and the collector's percentage, up to the time when such rate will probably be available.

(3) The sheriff shall thereupon issue a precept under his hand and seal of office directed to the treasurer of the board and shall annex thereto the roll of such rate and shall by such precept after reciting the writ and that the board had neglected to satisfy the same and referring to the roll annexed to the precept command the treasurer of the board to cause to be levied such rate at the time and in the manner by law required in respect to the general annual drainage rate.

(4) The treasurer of the board shall forthwith upon receipt of the rate roll forward the same to the municipal secretary of each municipality, any part of which lies within the district for collection and enforcement in the same manner as the general annual drainage rate.

(5) At the time for levying the annual drainage rate next after the receipt of such precept each such municipal

secretary shall add a column to his assessment roll headed: "Execution rate in *A.B.* versus the..... Drainage District" (as the case may be), adding a similar column if there are more executions than one and shall insert therein the amount by such precept required to be levied upon each owner or occupant respectively, and shall levy the amount of such execution rate aforesaid and shall, as soon as may be, return to the sheriff the precept with the amount levied thereon deducting his percentage.

(6) Any execution rate levied under this Act shall be enforced in the same manner as the drainage rate.

(7) The sheriff shall after satisfying the execution and all fees thereon return any surplus within ten days after receiving the same to the treasurer of the board for the general purposes of the district.

(8) The municipal secretary of each municipality any part of which lies within the district shall, for the purpose of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to such execution, be deemed to be an officer of the court from which such writ is issued and as such may be proceeded against by attachment, *mandamus* or otherwise to compel him to perform the duties hereby imposed upon him.

166. If for any reason the sheriff is unable to proceed as herein provided he may, upon application to a judge of the Supreme Court of Alberta, be invested with full power and authority to assess, levy, collect and enforce payment of such sum or sums of money as may be required to pay and satisfy the execution or executions and all fees and legal expenses including such allowances for the costs, levy, collection and enforcement of payment as the judge may allow, as if such sum or sums of money were a general annual drainage rate:

Provided that in case any person desires to appeal from any assessment or omission of assessment by the sheriff appeal may be had to a judge of the Supreme Court of Alberta.

SCHEDULE.

FORM A.

PETITION.

FOR FORMATION OF A DRAINAGE DISTRICT UNDER THE
DRAINAGE DISTRICTS ACT, 1921.

To the Honourable the Minister of Public Works:

The petition of the undersigned registered owners of land within the meaning of The Drainage Districts Act, 1921, owning at least one-half of the area of the proposed district, humbly showeth:

Your petitioners desire that the area of land more particularly described in the statement forming part of this section, be formed into a Drainage District under *The Drainage Districts Act, 1921*, to be known as "..... Drainage District," and the work as hereinafter shortly described be undertaken therein—

GENERAL NATURE OF WORK.

.....

And your petitioners will ever pray:

SIGNATURE	LAND OWNED WITH- IN PROPOSED DISTRICT					ACREAGE OF LANDS OWNED
	FRAC.	SEC.	TP.	RGE.	M.	ACRES
	S.W.	1				
	S.E.	1				
	N.W.	1				
	N.E.	1				
Etc., continuously from Sec. 1 to 36.						

Canada }
Province of Alberta }
To Wit: }

We,, of
and, of
in the Province of Alberta, do solemnly declare—

(1) That we are two of the petitioners named in the petition hereto annexed;

(2) That the signatures of the said petitioners are their own and that the statements contained in the said petition are true to the best of our knowledge and belief;

(3) That the petitioners are, within the meaning of the Act, the registered owners of the lands set opposite their names.

And we make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at the }
.....of..... }
in the Province of Alberta, }
this... day of... }

A Commissioner in and for the Province of Alberta.

(A declaration is to be made with respect to all the signatures on the petition.)

This is the statement mentioned in the petition for the erection of a drainage district under *The Drainage Districts Act, 1921*, and known as "..... Drainage District."

The lands to be included in the proposed district are as follows.....

FORM B.

Notice is hereby given that pursuant to *The Drainage Districts Act, 1921*, I have been duly appointed as returning officer for the purpose of taking a vote as to the formation of the..... Drainage District, and for the election of the board of trustees of the said district.

And notice is further given that for fourteen days after the date hereof I will receive nominations for..... places on the board of trustees of the said proposed drainage district, in the appended form, which must be strictly adhered to.

Dated this..... day of..... 19....

Returning Officer.

Postal address.....

the said election for trustees). The poll will continue open until and close at the hour of five o'clock in the afternoon of the said day.

Dated this day of , 19....

.....
Returning Officer.

FORM D.

Taken this day of , 19.

The undersigned severally declare each for himself—

- (1) That he is of the full age of twenty-one years;
- (2) That he is a voter (within the meaning of *The Drainage Districts Act, 1921*) in respect of land in polling division No. of the Drainage District, being the proposed drainage district;
- (3) That a faithful description of the said land is hereunder set opposite his name.

NAME	DESCRIPTION OF LAND

FORM E.

..... DRAINAGE DISTRICT.

I, A.B., Returning Officer for the Drainage District, a proposed drainage district, hereby solemnly declare that the record of votes annexed signed by me, is a true record of the statement, delivered to me by the deputy returning officers with regard to the votes cast upon the day of , for and against the formation of the district (and for the election of trustees for the district), and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at.... }
 this. day of..... }
Returning Officer.

.....
A Commissioner or J.P.

No. 33.

FOURTH SESSION
FOURTH LEGISLATURE
11 GEORGE V
1921

BILL

An Act respecting Drainage Districts.

Received and read the

First time

Second time

Third time

HON. A. J. McLEAN

EDMONTON:
J. W. JEFFERY, KING'S PRINTER.
A.D. 1921