

BILL

No. 42 of 1927.

An Act to amend The Irrigation Districts Act.

(Assented to _____, 1927.)

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

1. This Act may be cited as "*The Irrigation Districts Act Amendment Act, 1927.*"

2. *The Irrigation Districts Act*, being Chapter 114 of the Revised Statutes of Alberta, 1922, is amended as to section 11 thereof, by striking out the words "shall have every power necessary for the construction, maintenance or renewal of the irrigation work necessary for the use of the district, and for the operation of the same, the management and cultivation of all lands vested in it, and the general administration of the affairs of the district," and substituting therefor the words "shall be entitled to construct, maintain and renew all irrigation ditches, drainage ditches or other drains necessary or convenient for the use of the district, and shall have all such power as may be necessary for the operation of any work constructed under the provisions of this section and to manage and cultivate all lands vested in it and to administer generally the affairs of the district, and shall also have the power to purchase from the Crown, public lands lying within or adjacent to the district and to resell the same."

3. The said Act is amended by adding as section 11a immediately after section 11 the following:

"**11a.**—(1) No person shall be entitled to bring any action whatsoever for damages or otherwise against the Board in respect of any damage of any nature caused by the seepage of water from any of the canals or ditches of the Board or to obtain payment of any compensation in respect of any such damage, except only as is by this section provided.

"(2) Any person claiming that he has during any year sustained loss on account of the surface of his cultivated land being detrimentally affected for agricultural purposes by the seepage of water from any canal or ditch of the Board shall, not later than the first day of October in that year, give to the Board notice of such claim by

delivering to the secretary of the Board a notice in writing setting out particulars of the alleged damage and the amount of compensation claimed.

“(3) Upon the delivery of any such notice of claim it shall be the duty of the Board to investigate the same and to report to the Council the nature of the claim, the circumstances ascertained by the investigation and the disposition which the Board intends to make of the same.

“(4) The Council, after making such further enquiry into the claim as it deems necessary, shall notify the Board either approving or disapproving the proposed disposition of the matter by the Board.

“(5) The Board shall not admit liability in respect of any such claim without the approval of the Council first had and obtained, and in cases where the proposal of the Board to admit liability is approved by the Council, the Board shall not admit liability for the payment of any greater sum than has been approved by the Council.

“(6) The Board shall have full power to settle any claim for a sum not in excess of that approved by the Council.

“(7) If no settlement has been made between the claimant and the Board before the first day of January following the making of the claim, the Board shall immediately thereafter forward the claim to the Board of Public Utility Commissioners and thereupon the claim shall be deemed to be within its jurisdiction within the meaning of section 22 of *The Public Utilities Act, 1923*.

“(8) The Board of Public Utility Commissioners shall proceed upon such notice to all parties interested as it deems proper to hear and determine the matters in dispute.

“(9) Upon the Board of Public Utility Commissioners being satisfied that the claimant has been damaged by the seepage of water from a canal or ditch, it may order—

“(a) that the Board pay to the claimant compensation for the damage to the surface of the land under cultivation for agricultural purposes which has been sustained by the claimant between the first day of January and the first day of October of the year in respect of which the claim is made;

“(b) the reasonable expenses incurred by any necessary and material witnesses of the claimant;

“(c) that the claimant permit and that the Board effect the execution of such drainage works as in the opinion of the Board of Public Utility Commissioners are necessary for the purpose of preventing or minimizing any recurrent damage, within such time as may be fixed in the Order, or in any subsequent Order.

“(10) This section shall apply to all claims for loss as aforesaid, which have arisen in the year one thousand nine hundred and twenty-six, and any previous year, and in respect of such claims, the notice required by subsection (2) of this section, shall be delivered not later than the first day of May, one thousand nine hundred and twenty-seven, and in default of a settlement on or before the first day of August,

one thousand nine hundred and twenty-seven, the claim shall be forwarded to the Board of Public Utility Commissioners, pursuant to subsection (7) of this section.

- “(11) (a) The Board may with the consent of the Council, and not otherwise, make a compromise with the registered owner of any land detrimentally affected, as aforesaid, for the settlement for all time of all claims for compensation for damage or loss both present and future under this section in respect of such land.
- “(b) If such land is subject to a first mortgage, the first mortgagee shall be a necessary party to such compromise.
- “(c) No agreement for a compromise shall have any effect until the same has been approved by the Council and every such agreement shall be in writing and in such form as shall from time to time be approved by the Council, and shall be executed in duplicate by all parties and attested and shall be accompanied by an affidavit of all the attesting witnesses, and shall be submitted to the Council.
- “(d) Upon the Council signifying its approval and giving its consent thereto in writing the Board shall forthwith pay to the parties thereto entitled the sum or sums payable pursuant to the said agreement, and shall obtain a receipt for the same and shall at once forward that receipt to the Council.
- “(e) Immediately upon the said agreement being approved by the Council, the Board shall be deemed to have a statutory easement entitling it to permit water to escape by seepage in, on and under the land described in the agreement within the meaning of section 57 of *The Land Titles Act*.”

4. Section 12 of the said Act is amended by striking out the words “irrigation ditch” wherever they occur therein and substituting therefor the word “ditch.”

5. Section 12a of the said Act is amended by inserting at the end thereof, the words “and also any lands with respect to which a claim for damages through the construction, operation or maintenance of the irrigation or drainage works of the District has been made.”

6. Section 28a of the said Act is amended—

- (a) as to subsection (1) thereof, by striking out the words “at least two weeks prior to the last day of January in each year” where they occur therein; and by striking out the word “registered” where the same occurs therein; and

- (b) as to subsection (2) thereof, by adding at the end thereof, the words "which shall be held not later than the thirty-first day of January."

7. Section 47 of the said Act is amended as to subsection (1) thereof—

- (a) by adding at the end of clause (a) the following words: "and any payment for new expenditure, whether capital or otherwise, up to the expiration of such year"; and
- (b) by striking out of clause (b) thereof, all the words after the word "debentures."

8. Section 54a is added to the said Act as follows:

"54a.—(1) In any district, the owner of any parcel upon which no arrears of irrigation rates remain unpaid, may, with respect to any number of acres therein, and in the manner hereinafter provided, commute the future water right payments to be levied for the payment of interest and principal of the debentures of the district then outstanding.

"(2) The amount required to be paid in cash per acre in commutation of the said water right payments shall be determined as follows:

"The present worth (computed at the rate of interest fixed for the time being by the Lieutenant Governor in Council) of all the annual payments necessary to be made under the terms of the said debentures to meet the interest thereon and to provide for the repayment of the principal sum or sums at maturity in and including the year in which the proposed commutation is to be made shall be divided by the total number of acres shown by the revised assessment roll of the district as 'to be irrigated.'

"(3) Upon receipt by the secretary-treasurer of any sum paid pursuant to the provisions of this section he shall ascertain the number of acres for which, in accordance with the provisions hereof, the said sum may be accepted in commutation of the said water right payments and shall thereupon note the same on the assessment roll against the said parcel of land in respect of which the payment is made.

"(4) Upon the payment of the said sum, the water rate payment levied against the said parcel with respect to the number of acres determined as aforesaid, and with respect to debentures then outstanding shall, except as hereinafter provided, be paid annually by the Board and shall not be chargeable against the person or persons ordinarily chargeable with rates levied against the said parcel.

"(5) In the case of a district whose debentures are guaranteed by the Province the secretary-treasurer shall forthwith remit the said sum to the Provincial Treasurer with a statement describing the said parcel and stating the number of acres therein determined, as aforesaid, to which the payment is applicable.

"(6) After certification by the Provincial Auditor as to the correctness of the said statement the water right pay-

ment levied against the said parcel with respect to the number of acres shown in the statement for payments on debentures then outstanding, shall be paid annually by the Provincial Treasurer out of the funds which have come into his possession under the provisions of this section, and shall not be chargeable against the person or persons ordinarily chargeable with rates levied against the said parcel.

“(7) Where any payment is made under the provisions of this section with respect to a parcel of land, the whole of the said parcel, and the owner thereof, shall continue to be subject to all the provisions of this Act regarding the enforcement of rates payable otherwise than by the Board or the Provincial Treasurer, as the case may be, under the provisions of this section.

“(8) In this section, the word ‘debenture’ shall include every form of security which may have been given for the repayment of moneys borrowed for capital expenditure in the district.

“(9) The provisions of this section shall not apply to any irrigation district in respect of which there are special statutory provisions for the commutation of water right payments.”

9. Section 108 of the said Act is amended—

(a) as to subsection (1) thereof, by striking out the words “name of the owner or occupant” where they occur therein and substituting therefor the words “name or names of the owner and of the purchaser, if any, and the name of the occupant”;

(b) by adding as subsection (3) thereof, the following:

“(3) The secretary may at any time correct the assessment roll as to the names of the owner, purchaser or occupant, appearing on the assessment roll in connection with any parcel of land.”

10. Section 146 of the said Act is amended by adding thereto the following proviso:

“Provided, however, that where a seizure is made of a growing crop, or of grain which is unthreshed, the treasurer may cause the same to be cut, harvested and threshed as may be necessary and may add to the amount of the levy the cost thereby incurred and the estimated cost of hauling such grain to a convenient elevator or place of storage:

“Provided further, that he may sell any grain seized, at the current market price.”

11. Section 147*a* is added to the said Act immediately after section 147, as follows:

“**147*a*.** Where personal property liable to seizure for rates as hereinbefore provided is under seizure or attachment or has been seized by the sheriff or by a bailiff of any court or is claimed by or in possession of any assignee for the benefit of creditors or liquidator or of any trustee or authorized trustee in bankruptcy or where such property

has been converted into cash and is undistributed, it shall be sufficient for the secretary-treasurer to, and he shall, give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy, notice of the amount due for rates, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy shall pay the amount of the same to the secretary-treasurer in preference and priority to any other and all other fees, charges, liens or claims whatsoever."

12. Section 148 of the said Act is amended as to subsection (1) thereof—

- (a) by striking out the word "October" where it occurs therein, and substituting therefor the word "December";
- (b) by striking out the words "and the value thereof" at the end of paragraph (b).

13. Section 151 of the said Act is amended by striking out the word "November" where it occurs therein and substituting therefor the word "January."

14. Section 156 of the said Act is amended by striking out the word "January" where it occurs therein and substituting therefor the word "March."

15. Section 166 of the said Act is hereby struck out.

16. This Act shall come into force on the.....day of.....192....

No. 42.

FIRST SESSION
SIXTH LEGISLATURE
17 GEORGE V
1927

BILL

An Act to amend The Irrigation
Districts Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. SMITH

EDMONTON:
W. D. McLEAN, ACTING KING'S PRINTER
M.D. 1927