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No. 146.

3rd Session, 8th Parliament, 61 Victoria, 1898

BILL.

An Act to amend and consolidate the
North-West Irrigation Acts of 1894
and 1895.

First reading, May 17th, 1898.

Mr. SIFTON.

OTTAWA.

Printed by S. E. Dawson
Printer to the Queen's most Excellent Majesty
1898

An Act to amend and consolidate the North-West Irrigation Acts of 1894 and 1895.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The North-West Irrigation Act, 1898.* Short title.

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

(a.) The expression "Minister" means the Minister of the Interior; tation
"Minister."

(b.) The expression "Department" means the Department of the Interior at Ottawa; "Depart-

(c.) The expression "Commissioner" means the Commissioner of Public Works for the North-West Territories; ment,"
"Commis-

(d.) The expression "Chief Engineer" means the Chief Engineer and Surveyor of the Department of Public Works for the North-West Territories; sioner."
"Chief
Engineer."

(e.) The expression "Dominion land surveyor" means a surveyor duly authorized, under the provisions of *The Dominion Lands Act*, to survey Dominion lands; "Dominion
land
surveyor."

(f.) The expression "company" means any incorporated company, the object and powers of which extend to or include the construction or operation of irrigation or other works under this Act, or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes any person who has been authorized or has applied for authority to construct or operate such works or carry on such business, or who has obtained a license under section 11 of this Act, and also includes any irrigation district incorporated under an Ordinance of the North-West Territories; "Company."

(g.) The expression "works" means and includes any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps, and any contrivance for carrying or conducting water or other works which are authorized to be constructed under the provisions of this Act; "Works."

(h.) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second; "Duty of
water."

(i.) The expression "licensee" means any person or company who is granted a license in accordance with the provisions of this Act. "Licensee."

Application.

3. This Act shall apply to the North-West Territories, except the provisional districts of Yukon, Mackenzie, Franklin and Ungava.

Right to use waters.

4. The property in and the right to the use of all the water at any time in any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp, marsh or other body of water shall, for the purposes of this Act, be deemed to be vested in the Crown, unless and until and except only so far as some right therein, or to the use thereof, inconsistent with the right of the Crown, and which is not a public right or a right common to the public, is established; and, save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp, marsh or other body of water, otherwise than under the provisions of this Act.

Rights of grantee of Crown lands.

5. Except in pursuance of some agreement or undertaking existing at the time of the passing of this Act, no grant shall be hereafter made by the Crown of lands or of any estate, in such terms as to vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

Right to use waters may be acquired only under this Act.

6. After the passing of this Act, no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp, marsh or other body of water, shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act unless it is acquired by a grant made in pursuance of some agreement or undertaking existing at the time of the passing of this Act.

Persons already holding right must obtain license.

7. Every company or person who holds water rights of a class similar to those which may be acquired under this Act, or who, with or without authority, has constructed or is operating works for the utilization of water, shall obtain a license under this Act before the first day of July, one thousand eight hundred and ninety-eight.

If license is not obtained within stated time.

2. If such license is obtained with the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such person therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council sees fit.

Application for license.

3. Except in case of applications for water for domestic purposes, as hereinafter provided, the applications for such license shall be made in the same manner as for other licenses under this Act and the like proceedings shall be had thereon and like information furnished in connection therewith.

Application for water rights which

8. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes,

upon application therefor as hereinafter provided; and all applications made in accordance with the provisions of this Act shall have precedence, except applications under section seven, according to the date of filing them with the commissioner.

are vested in the Crown.

2. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock, and all purposes connected with the working of railways or factories by steam, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and, third, other purposes.

Water rights classified.

9. No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes.

Rights of riparian proprietors.

10. Any person contemplating or projecting any works under this Act, may, upon submitting a general description of such works and upon payment of a fee of five dollars, obtain from the chief engineer a license to do the necessary preliminary work in connection with the location of such works; and after he obtains such license may, with such assistants as are necessary, enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

Preliminary work by licensee.

Entering lands.

11. Every applicant for license under this Act, except as hereinafter provided, shall file with the commissioner the following documents:—

Form of application.

(a.) A memorial, in duplicate, on forms provided by the commissioner, in which the applicant, shall set forth his name, residence and occupation, his financial standing, the source from which water is to be diverted, the point of diversion, the probable quantity of water to be used, the size and character of the works to be constructed, the area and location of the land to be irrigated, the value of such land in its present state, including improvements, the probable number of consumers, and the rate, if any, to be charged for water sold; but if the applicant is an incorporated company, the memorial shall also set forth the names of its directors and officers and their places of residence, the date of its incorporation, the amount of the Company's subscribed capital, the amount of its paid up capital, the proposed method of raising further funds, if needed, and the purposes of which the Company is incorporated;

Memorial.

If applicant is an incorporated company.

(b.) An application, on forms provided by the commissioner, for the right to construct any canal, ditch, reservoir, or other works referred to in the memorial, across any road allowance or surveyed public highway, which may be affected by such works;

Application to cross road allowance or surveyed road.

(c.) A general plan, in duplicate, on tracing linen, drawn to a scale of not less than one inch to a mile, showing the source of supply, the position of the point of in-take, the location of the main canals or ditches, the tract of land to be irrigated, the name of the owner of each parcel of land crossed by the

General plan.

canal, or ditch, or by any reservoir or other works connected therewith, or to be irrigated therefrom, and the position and area of all ponds, reservoirs and basins intended to be constructed for the storage of water; and

Detail plan.

(d.) A plan, in duplicate, on tracing linen, showing in detail all headworks, dams, flumes, bridges, culverts or other structures to be erected in connection with the proposed undertaking. 5

Additional plans in the case of certain canals.

12. In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans, in duplicate:— 10

(a.) A longitudinal profile of the ditch, showing the bottom and the proposed service water line, the horizontal scale being not less than one inch to four hundred feet, and the vertical scale not less than one inch to twenty feet; 15

(b.) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. This plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet; 20 25

Plans of works in connection with reservoirs.

(c.) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply, or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect prepared on a longitudinal scale of not less than one inch to one hundred feet, and for cross-sections on a scale of not less than one inch to twenty feet, and showing what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail to a scale of not less than one inch to four feet; 30 35

Plans of grounds under reservoirs.

(d.) Cross-section maps or plans showing the surface of the ground under such pond; reservoir or basin of water, and also the surface of the water proposed to be held therein; the horizontal scale of the said maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet; and a sufficient number of lines of levels shall be shown, so that the contents of the pond, reservoir or basin of water may be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large that the contour lines shall show a vertical distance between them not exceeding one foot. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail on a scale of not less than one inch to four feet the proposed manner of controlling and drawing off the water from any such pond, reservoir or basin. 40 45 50

- 13.** The memorials and plans filed as above prescribed, or a true copy thereof, shall be open for examination by the public at all times in the department and at the office of the commissioner at Regina. Memorials and plans to be open for inspection.
- 14.** In any case in which he thinks proper, the Minister may direct that a copy of the memorial and plans shall be filed in such other place or with such other official or person as he names for that purpose, and such copy also shall be open to public inspection. Filing elsewhere.
- 15.** Public notice of the filing of the memorial and plans shall forthwith be given by the applicant in some newspaper published in the neighbourhood, to be named by the commissioner, not less than once a week for a period of thirty days, within which time all protests against granting the rights applied for shall be forwarded to the Minister, and such notice shall contain a statement of the nature of the rights applied for, and the general character and location of the proposed works; Public notice of application.
- 16.** The Minister, after considering all protests filed, may authorize, as hereinafter provided, the construction of the proposed works, with such changes or variations as he deems necessary. Protests to be considered by Minister.
- 16.** The memorial and plans filed with the commissioner as herein provided shall be examined by the chief engineer, and, after having been approved by him, one copy shall be forwarded for record purposes in the Department; and, upon receipt of such memorial and plans, properly approved, together with a certificate that the proper notice of the filing of such memorial and plans has been published, and that permission has been granted by the commissioner to construct such works across road allowances or surveyed public roads affected thereby, the Minister may authorize the construction of the proposed works, fixing in such authorization a term within which the construction of the works is to be completed. Memorial and plans to be examined and approved.
- 17.** Any changes and variations ordered by the Minister regarding the plans of the proposed works must be filed by the applicant in the office of the commissioner and shall form a portion of the record open for public inspection. Changes in plans to be filed.
- 18.** No material deviation from the plans filed shall be made without permission, and any question arising as to whether any deviation is material or otherwise shall be decided by the chief engineer or such other officer as the Minister designates. Deviation from plans.
- 17.** In the case of applications for water for domestic purposes the Minister may, if he sees fit, waive the necessity for filing the plans required by section 11 of this Act, and may require the applicants to file a memorial only, but he may order that such memorial shall contain all the information necessary to a full and complete understanding of the rights applied for. Filing of plans may be waived in certain cases.
- 18.** Any works authorized under this Act shall, if the minister so determines, be constructed subject to inspection during construction by the chief engineer or any other officer to be Inspection of works.

named by the minister; and the cost of such inspection or such portion thereof as the minister decides, shall be borne by the person or company constructing such works.

Inspection on application of proprietor near works.

2. Should any person residing on or owning land in the neighbourhood of any works, either completed or in course of construction, apply to the minister in writing desiring an inspection of such works, the minister may order an inspection thereof. 5

Deposit to be made by applicant.

3. The minister may require the applicant for inspection to make a deposit of such sum of money as the minister thinks necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit. 10

Enforcing payment of costs.

4. In case the application appears to the minister to have been justified, he may order the person or company to pay the whole or any part of the expenses of the inspection, and such payment may be enforced as a debt due to Her Majesty. 15

Works to be made secure.

5. Upon any inspection under the provisions of this section the minister may order the person or company to make any addition or alteration which he considers necessary for their security to or in any works of the person or company, and non-compliance with such order may be dealt with in the same manner as is provided with respect to an order of the minister under section 40 of this Act. 20 25

When work may be commenced.

19. The person or company, immediately after the receipt of the authorization, may proceed with the construction of the works authorized, and for the purposes of such construction shall have the powers conferred by *The Railway Act* upon railway companies so far as the same are applicable to the undertaking of the person or company and are not inconsistent with the provisions of this Act or with the authority given to the person or company, the provisions conferring such powers being taken for this purpose to refer to any work of the person or company where in the said Act they refer to the railway. 30 35

Powers under c. 29 of 1888.

Time for commencing works limited.

20. The construction of any work authorized under this Act shall be commenced not later than two months after the date of the authorization, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose; and the minister or such officer as he designates, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. 40 45

Extension of time in case of disaster.

2. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the minister may authorize an extension of time for the commencement or completion of the works. 50

Forfeiture of right if works are not

3. Upon the expiration of the time limited for the completion of the works, the rights granted to the person or 55

company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed; and any works at the date of such forfeiture constructed or acquired, may be taken over and operated or disposed of by the minister in the manner and upon the terms hereinafter provided.

completed
within time
limited.

21. Lands required for the works of the person or company, as shown by the maps and plans filed, in whomsoever they are vested, whether in Her Majesty or in any person or company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which is so required, may be taken and acquired by the person or company; and to this end all the provisions of *The Railway Act* which and so far as they are applicable to such taking and acquisition, shall apply as if they were included in this Act, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter minister and department are referred to: Provided, that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are vested in any person or company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting such lands.

Power to take
lands.

2. All the provisions of *The Railway Act* which are applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the person or company or the exercise of any of the powers granted to the person or company under this Act.

Compensation
for damages.

22. All maps, plans and books of reference showing any lands other than Crown lands necessary to be acquired under the provisions of this Act, by any person or company for right of way or for any purpose in connection with the construction and maintenance of their works must be signed and certified correct by a duly qualified Dominion land surveyor. Such maps, plans and books of reference shall be prepared in duplicate, and one copy shall be filed in the office of the commissioner and the other registered by the applicant in the land titles office for the registration district within which the lands affected by such surveys are situated.

Maps, &c., to
be certified
and filed.

23. The minister or such officer as he designates shall, in case of dispute, be the sole arbiter as to the area of land which may be taken by the person or company without the consent of the owner for any purpose in the construction or maintenance of their works.

Disputes as to
lands taken.

24. Upon the expiration of the time mentioned in the authorization for the construction of any works, or at any time before such date, if the construction is sooner completed, an inspection shall be made by the chief engineer or such other officer as the minister appoints; and a certificate shall be issued

Inspection of
works on
completion
and issue of
certificate for
license.

by the chief engineer and be forwarded to the department setting forth that the works have been completed in accordance with the application, that the right of way for the works has been obtained, that agreements have been entered into for the supply of water for the irrigation of lands which are not the property of the applicant, and that the works as constructed are capable of carrying and utilizing a stated quantity of water. 5

2. Upon receipt of such certificate the minister shall issue a license to the applicant for the quantity of water to which he is entitled, and such license shall be recorded in the office of the commissioner at Regina. 10

Priority of right

25. Licensees shall have priority among themselves according to the number of their licenses, so that each licensee shall be entitled to receive the whole of the supply to which his license entitles him, before any licensee whose license is of a higher number has any claim to a supply; and if a complaint is made to the minister, or to an officer authorized by him to receive such complaints, that any licensee is receiving water from a source of supply to which another licensee is entitled by virtue of priority of right, and that the licensee having such priority of right is not receiving the supply to which he is entitled, some officer to be named by the minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and, if he finds that there is ground for the complaint, shall cause the head-gates of the ditch or other works of the licensee who is receiving an undue supply of water to be closed, so that the supply to which the other licensee is entitled shall pass and flow to his works. 15
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Settlement of disputes.

Licensee's rights limited by capacity of works.

26. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying; and in case of dispute as to such quantity the minister may order an inspection of the works; and the report and finding of the inspecting officer as to the capacity thereof shall, for the purposes of this section, be final and conclusive. 30
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Cancellation of license and reservation of water right in certain cases.

27. When the land to be irrigated by the water granted to a licensee is land for which letters patent from the Crown have not been issued, being held by the licensee under a homestead or other conditional entry or a lease in accordance with the provisions of *The Dominion Lands Act*, or under an agreement to purchase such land, the license for such water shall be cancelled upon receipt by the minister of a certificate of the cancellation of such homestead or other conditional entry, lease or sale agreement; but the water right necessary for the irrigation of such land may be reserved for such time as the minister determines, and may be disposed of, together with all works connected therewith, to the next occupant or purchaser of such land, upon such terms and conditions as the minister determines; and the new license issued for such water shall have the same number and hold the same priority of right as the original or cancelled license. 40
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28. Every person and every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof. Information to be afforded to inspecting engineer.
2. The production of instructions in writing signed by the minister or his deputy or the secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer. Proof of his authority.
29. Every person who wilfully obstructs an inspecting officer in the execution of his duty shall be liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, with or without hard labour, or to both. Penalty for obstructing him.
30. Every person who interrupts, molests or hinders in his work any engineer or Dominion land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or both. Penalty for obstructing engineer or surveyor.
31. Every person who, without authority, takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this Act, or who takes or diverts therefrom any greater quantity of water than he is entitled to, is guilty of an offence, and liable, upon summary conviction, to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both, and upon indictment to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both. Penalty for improper diversion by any person.
32. No licensee shall divert more water than the quantity actually granted by his license, and any licensee so doing shall be guilty of an offence punishable on summary conviction by a fine not exceeding five dollars per day, or fraction of a day, for each unit or fraction of a unit of water so diverted. Penalty for improper diversion of water.
2. In case of dispute as to the quantity of water diverted, the minister may order an inspection of the works of the licensee by an officer named by him for that purpose; and for the purposes of this section, the report and finding of such officer as to the quantity diverted shall be final and conclusive. Disputes as to quantity of water diverted.
33. When any licensee abandons or ceases to use or wastes any waters to which his license entitles him and any charge of such abandonment or ceasing to use waste water is made to the minister, such charge may be inquired into by him or by any person or officer appointed by him for that purpose; and the minister if he deems just and proper, may, by order de-

clare a forfeiture of the license, and the license so ordered or declared to be forfeited shall be cancelled and shall cease and determine.

34. Any licensee shall dispose of any surplus water flowing in his works which is not being utilized or used for the purposes authorized, to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices. 5

2. Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them, or shall themselves construct such works; and until this is done the delivery of surplus water need not be made. 10

3. When the necessary works have been constructed and the payment or tender herein provided for has been made, the applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry. 15

4. Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the licensee for the purposes authorized, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual or customary manner after it has been so used as aforesaid. 20

35. No licensee undertaking to sell water conveyed by his works shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price thereof. 25

2. If from any cause the whole amount of water agreed to be supplied by a licensee is not available, then each user shall have furnished to him by the licensee so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. 30

3. Any licensee violating these provisions shall be guilty of an offence against this Act and liable upon summary conviction to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding two months, or to both. 35

36. The minister may grant to any licensee the right to store for irrigation purposes during periods of floods or high water, or during those portions of the year when water is not required for irrigation purposes, any water not being used during such periods. 40

2. Should there be any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance it is required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the licensee desiring to so use it; and if the parties cannot agree upon the compensation to be paid for such service, the minister may fix the rate to be paid therefor. 50

37. Any person or company constructing any works under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when they are crossed by such works, and shall, before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway, construct, to the satisfaction of the minister, a substantial bridge, not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works; and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company.

Highway crossings.

38. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

Unit of measurement.

39. Companies obtaining a license under this Act shall, on or before the thirty-first day of January in each year, make a return to the minister, attested by the oath of its president and secretary, for the year ending the thirty-first day of December preceding, showing:

Annual return by company.

- The amount expended on construction;
- The amount expended on repairs;
- The amount received from shareholders;
- 25 The amount of bonds issued;
- The amount received for water supplied for irrigation;
- The amount received from other sources;
- The amount of dividend declared and paid;
- 30 The amount of capital stock authorized;
- The amount of capital stock subscribed;
- The amount of capital stock paid up to date;
- The amount of bonded indebtedness;
- The amount bonds sold for;
- The rate of interest bonds bear;
- 35 The amount of indebtedness other than bonds, and the rate of interest such indebtedness is bearing;
- The cost of management;
- A statement of the works, and their extent and character;
- 40 The number of miles of canals, ditches, etc.;
- The number of users;
- The number of acres actually under irrigation;
- The number of acres of irigable land in the system;
- The names of officers and employees;
- 45 The proposed extensions during ensuing years and the acreage to be covered thereby;
- Such other *datu* as the Governor in Council sees fit to order.

2. Attached to such annual return shall be a copy of the by-laws of the company, showing all amendments thereto during the year covered by the said return.

Copy of by-laws.

3. The returns required by this section may be waived by the minister in the case of a private person supplying water solely to himself.

Exception.

40. When a complaint, under oath of the complainant and of at least one witness, is made to the minister or the commis-

Order by minister in

case of
complaint
against
licensee.

sioner by a consumer of water who has paid his rates, that a licensee who has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep his works in proper condition, the minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint, and if he considers the complaint established may order and direct that the licensee shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. 5

Reference to
judge.

2. If the licensee fails to obey such order, the minister shall forthwith issue a certificate to that effect, reciting all the facts, which certificate being presented to the judge of the Supreme Court for the judicial district within which such works lie, the judge shall hear and determine the matter in a summary manner, and shall order the licensee to proceed with all despatch to take such measures as he considers necessary in the premises; and refusal or neglect to obey any order made by a judge under this section may be treated and punished as contempt of court, and such other proceedings may be had and taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof. 10

Refusal to
obey order
of judge.

Amalgama-
tion of
companies.

41. The Governor in Council may authorize two or more companies whose works are contiguous, to unite and form one company with a view to providing increased water supply and extending their works, when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union, that users dependent upon the water supply will not be injured, and that the companies to be united have the necessary financial means for carrying out the proposed undertaking,—the same particulars being furnished to the Governor in Council as are required to be furnished upon an application for authorization to construct works under this Act; and public notice of the authorization of the united companies and their proposed works shall be given in the manner prescribed under section 15. 20

Minister
may issue
summons.

42. The minister or any one specially authorized by him may, when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpoena, examine such person under oath, and compel the production of papers and writings; and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days. 30

Penalty for
disobeying it.

Before whom
affidavits may
be taken.

43. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before the Chief Engineer, or any persons specially authorized by the minister to take them, or any other persons authorized to take affidavits in the North-West Territories; and the minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration. 35

44. The minister may take such steps as he deems necessary The Minister may order surveys, etc.
 at any time to secure a complete or partial survey of the
 sources of the water supply for irrigation and other purposes,
 with an estimate of the extent and location of irrigable lands,
 5 and of the site or sites suitable for ponds, basins and reservoirs
 for water storage, and may reserve lands forming such sites
 from general sale and settlement and dispose thereof by sale
 or lease to be utilized for purposes within the purview of this
 Act. He may also take such steps as he thinks necessary to
 10 protect the sources of water supply and to prevent any act
 likely to diminish or injure the said supply.

45. The minister may from time to time authorize the High water marks, analysis of water, etc.
 establishing in rivers, streams, lakes, and other waters, water
 gauges for computing the approximate volume and discharge
 15 of waters, the placing of high water marks on rivers and
 streams, lakes and other waters when in flood, the taking of
 steps for securing analyses of the water of rivers, streams, lakes
 and other waters, and the adopting of such other measures and
 proceedings for promoting the beneficial use of water, and for
 20 controlling and regulating the diversion and the application
 thereof as he finds necessary and expedient and as are con-
 sistent with the provisions of this Act.

46. The Governor in Council may, if in the public interest Expropriation of works by Government.
 it is at any time deemed advisable so to do, take over and
 25 operate or otherwise dispose of the works of any licensee
 authorized under this Act: Provided, that compensation shall
 be paid for such works at their value,—such value to be ascer-
 tained by reference to the Exchequer Court, or by arbitration,
 one arbitrator to be appointed by the Governor in Council, the
 30 second by the licensee, and the third by the two so appointed,
 or in case these cannot agree as to the third arbitrator, by the
 Exchequer Court,—and in estimating such value the court or
 the arbitrators may take into account the expenditure of the
 licensee and interest on such expenditure, and the value of his
 35 property, works and business: Provided also, that no person
 who at such date is using the water of the said works, shall be
 deprived of the quantity of water he is entitled to: Provided Proviso.
 further, that in any such case the Governor in Council shall Proviso.
 have due regard to the claims to consideration of any persons
 40 who have prepared or have in course of preparation any land
 to be supplied with water by the works taken over.

47. The by-laws and regulations of companies operating By-laws of company.
 under this Act shall not contain anything contrary to the true
 intent and meaning of this Act, and shall be subject to revision
 45 and approval by the minister; and no tariff of charges for
 water furnished by any licensee shall come into operation until
 it has been approved by the minister.

48. Any company authorized under this Act may issue Issue of bonds by company.
 bonds, debentures or other securities to the amount of its sub-
 50 scribed capital, or double the amount of its paid-up capital,
 whichever is the smaller amount.

Acquisition of lands by company. **49.** Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such land shall revert to the Crown; excepting however such lands as are actually under cultivation or are being used for farming, gardening, stock-raising, dairying, horticulture, tree-planting and forestry: Provided that the lands so excepted do not comprise more than ten per cent of the total area of land brought under irrigation by the company. 5

Company may construct telegraph and telephone lines, etc. **50.** Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section 21 of this Act. 10 15

General powers of minister. **51.** The minister may—
Define the manner in which the measure of water shall be arrived at; 20

Define the duty of water according to locality and soil;

Define the portion of the year during which water shall be supplied for irrigation;

Fix the fee or charge to be paid for licenses issued under this Act,—which fees or charges may be varied according to the capital employed or volume of water diverted; 25

Regulate the extent of diversion from rivers, streams, lakes or other waters;

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other waters under the authority of this Act; 30

Regulate from time to time the water rates which may be charged by licensees, and the publication of tariffs of rates; 35

Prescribe forms to be used in proceedings under this Act;

Impose penalties for violations of any regulation made under the authority of this Act,—which penalties shall in no case exceed a fine of two hundred dollars or three months' imprisonment, or both; 40

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals, or under both systems;

Authorize some person or officer, whose decision shall be final and without appeal, to decide in cases of dispute as to what constitutes surplus water as mentioned in this Act; 45

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise and for which no provision is made in this Act; and further, make any regulations which are considered necessary to give the provisions of this Act full effect. 50

Publication of Orders in Council. **52.** All regulations made and forms prescribed by the minister under this Act shall be published in the *Canada*

Gazette and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof.

5 **53.** Any companies already formed to promote irrigation shall be subject to all the provisions of this Act, except so far as the powers mentioned in section 48 are concerned. Application of Act to companies now existing.

54. The provisions of sections 41, 48 and 49 of this Act shall not apply to any irrigation district incorporated under an Ordinance of the North-West Territories. Exemption.

10 **55.** The North-West Irrigation Act, being chapter 30 of the statutes of 1894, and chapter 33 of the statutes of 1895, in amendment thereof, are hereby repealed. Repeal.