

AN ACT TO PROVIDE A SYSTEM FOR THE APPROPRIATION OF PUBLIC WATERS, AND FOR THE DETERMINING OF EXISTING RIGHTS THERETO; FOR THE PUBLIC REGISTRATION OF ALL WATER RIGHTS; FOR THE C...

Act No. 2152, February 06, 1912

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By authority of the United States, he it enacted by the Philippine Legislature, that:

SECTION 1. Subject to existing rights, the public waters of the public Philippine Islands may be appropriated for beneficial use, in the manner provided in this Act.

SEC. 2. The power to grant appropriations of public waters is hereby vested in the Secretary of Commerce and Police in accordance with the provisions of this law, upon the recommendation and approval of the irrigation council hereinafter created.

There is hereby created an Irrigation Council which shall consist irrigation Council, of five members as follows: The Secretary of Commerce and Police, who shall be ex officio chairman thereof; the chairman of the Committee on Agriculture of the Philippine Assembly; the Director of Public Works; the chairman of the Committee on Public Works of the Philippine Assembly; and one agriculturist to be appointed by the Governor-General, who shall receive a per diem of fifteen pesos for each session of the council which he actually attends: Provided, That the officers already receiving a salary or per diem from the Government shall serve without additional remuneration: And provided, further, That when the Philippine Assembly is not organized, or is without officers, the persons who held the offices of chairman of the Committee on Agriculture and chairman of the Committee on Public Works at the close of the preceding session shall continue in office as members of the Irrigation Council until their successors are appointed and qualified. The Director of Public Works shall have direction and supervision of the investigation for and construction of irrigation systems by the Government of the Philippine Islands and shall perform such duties as are prescribed herein.

The Chief Irrigation Engineer shall, in addition to the duties and responsibilities stated in his appointment, be charged with those of the superintendent of irrigation as provided in Act Numbered Eighteen hundred and fifty-four.

SEC. 3. Priority of appropriation shall give the better right as between two or more persons using the public waters. In determining the priority, the nonuser of the water for a period of five years shall extinguish any claim of priority unless such nonuser shall have been caused by force majeure. When the waters of any source of supply are not sufficient for the service of all those desiring the use of the same, and when priority of appropriation can not be established the order of preference shall be as follows:

- (a) Domestic purposes.
- (b) Agricultural purposes or power development for agricultural purposes.
- (c) Industrial purposes.
- (d) Ponds for fisheries.

(e) Mining purposes or milling connected with mining purposes.

SEC. 4. Any controversy between the persons claiming right to use of water of any stream shall be submitted to the Secretary of Commerce and Police through the Director of Public Works, and his decision thereon shall be final unless appeal therefrom be taken to the proper court within thirty days after the date of the notification of the parties of said decision. In case of such appeal the court having jurisdiction shall try the controversy de novo.

SEC. 5. The Director of Public Works shall as soon as practicable prepare for such streams in the Philippine islands as may be designated by the Secretary of Commerce and Police a list of the appropriations of water according to priority, and in order to make such list he shall cause a public notice to all claimants of water rights upon such streams to be posted at the usual places for posting public notices in each municipality affected and at such other places as he may deem advisable. Such notice shall contain a statement of the information that it is desired to obtain from the claimants, the date before which all claims must be received, which date shall be at least six months after such notice, the conditions under which such claims must be presented, and any further facts that may be deemed necessary. The said Director of Public Works shall send to each person known to have a claim to the waters of such streams a blank form, on which said claimant shall set forth in writing all the particulars, showing the amounts and dates of appropriations to the use of water of said stream to which he lays claim, the said statement to include the following data, if possible:

- (a) The name and address of the claimant.
- (b) The nature of the use or title on which the claim for an appropriation is based.
- (c) The date of the commencement of such use: Also if used for irrigation, the following:
- (d) The date of beginning of survey.
- (e) The date of beginning of construction.
- (f) The date when completed.
- (g) The date of beginning and completion of enlargements.
- (h) The dimensions of the ditch as originally constructed and as enlarged.
- (i) The amount of land irrigated in the first year.
- (j) The amount in subsequent years, with the date of irrigation and the amount of land such ditch is capable of irrigating.
- (k) The character of the soil and the kind of crops cultivated. Also:
- (l) Such other facts as will show compliance with the law in acquiring the appropriation, and the rank of the priority claimed.

Each of said claimants shall be required to certify to his statements under oath, and any officer authorized to administer oaths is hereby authorized to administer such oaths: Provided, however, That there shall be no charge for such oaths when administered by an officer of the Insular, provincial, or municipal government authorized to administer oaths.

SEC. 6. The blank form required by section five to be forwarded to each known claimant shall be accompanied by a notice that the statement therein called for must be presented within thirty days from the receipt of said notice. The failure of any claimant to make such sworn statement within six months after notice shall, upon the complaint of the Director of Public Works, work a forfeiture of the claim: Provided, however, That the Secretary of Commerce and Police may, for sufficient cause in his discretion, extend the time limit within which the statement may be filed for a period not exceeding six months.

SEC. 7. It shall be the duty of the Director of Public Works, as soon as practicable, to make an examination of such stream and the works diverting therefrom, said examination to include the measurements of the discharge of said stream, and of the carrying capacity of the various ditches and canals diverting water therefrom, an examination of the irrigated lands, and an approximate measurement of the lands irrigated and susceptible of

irrigation from the various ditches and canals, which said observations and measurements shall be reduced to writing and made a matter of official record in his office; and it shall be the duty of the Director Maps, of Public Works to make a map or plat showing, with substantial accuracy, the course of said stream, the location of each dam, ditch, or canal diverting water therefrom, and the divisions and subdivisions of lands which have been irrigated or which are susceptible of irrigation from the works already constructed.

SEC. 8. The Director of Public Works or any official by him thereunto specifically authorized, in the investigations made to determine the priority of appropriation, may examine witnesses under oath, and for this purpose is hereby authorized to administer oaths to witnesses and take affidavits, and shall not be obliged to follow strictly the ordinary rules of evidence, but may, on the contrary, proceed to hear them fully and equitably.

SEC. 9. Upon approval of the list of priorities the Secretary of Commerce and Police shall publish the said approved list in the manner provided in section five. This notice shall show for each appropriation:

- (a) The name and post-office address of the appropriator.
- (b) The priority number of such appropriation.
- (c) The amount of prior appropriations.
- (d) The amount of water to which the appropriator is entitled,
- (e) And if such appropriations be for irrigation, a description of the legal subdivisions of the lands to which said water is to be diverted.

It shall thereupon be the duty of the Director of Public Works to issue to each appropriator represented in such list a certificate signed by the Secretary of Commerce and Police, setting forth the information shown in items (a), (b), (c), (d), and (e) of this section relating to his appropriation. Such certificate shall be transmitted by the Director of Public Works, by registered mail, to the register of deeds of the province in which such appropriation shall have been made, and on the same date a notice of such transmittal shall be forwarded by the Director of Public Works to the appropriator and it shall be the duty of the register of deeds to record the same in a book specially prepared and kept for that purpose and thereupon immediately transmit the same to the appropriator. If the water is to be wholly or partially used in another province than that in which the point of diversion is located, the Director of Public Works shall instruct the register of deeds of the latter to transmit in the same manner, after the proper procedure, the certified copy to the register of deeds of the province where the water is to be used and this officer shall be entitled to the fees and charged with the duties above mentioned: Provided, however, That if such recording fee shall not be paid within one year after receipt of such notice from the Director of Public Works, the claimant shall lose all right to the priority of appropriation as established in this section.

SEC. 10. In case any person shall desire to appeal from the decision of the Director of Public Works as approved by the Secretary of Commerce and Police, such appeal shall lie to the Court of First Instance of the province in which his property is situated to have his right determined. Such action must be brought within ninety days after the termination of the publication of the approved list of priorities provided for in section nine hereof. Such action shall be tried as speedily as possible, and the court is hereby authorized to employ a hydraulic engineer or other expert to examine and make report under oath upon any subject matter in controversy, the cost of such employment to be equitably apportioned by the court and charged against the parties to the suit as costs.

Provided, however, That the final decision of the courts in these cases shall be recorded in accordance with the provisions of section nine hereof.

SEC. 11. The Director of Public Works shall apportion the waters of any stream to the appropriators thereof according to their respective rights, and shall give notice of such apportionment to all the persons interested, by

registered mail, according to the list of priorities approved and finally recorded, or, as the case may be, as corrected by the judgment of some court having jurisdiction of the subject-matter.

SEC. 12. Upon the final approval of the list of appropriations, according to priority, provided for in the preceding sections, there may be formed, at the desire of the majority of all the appropriators in any system, an irrigators' association, for the purpose of maintaining and operating the said system. The presidente or presidentes of the municipality or municipalities in which the land under a given system is located shall, at the request of three or more of the appropriators in such system, call a meeting of all the acknowledged appropriators in said system, for the purpose of perfecting the said association.

Such association when duly organized shall have the following powers.

(a) To appoint a caretaker, who shall be charged with the preservation and administration of the general system, the equitable apportionment of the waters of the stream according to the recorded list of appropriations, and the adjustment of controversies between the irrigators, in accordance with the said list, from whose decision appeal may lie to the Secretary of Commerce and Police, within the time and in the manner prescribed by the regulations, and who shall perform all other duties imposed, and have the powers conferred upon him by said regulations.

(b) To issue the regulations necessary for the proper preservation and administration of the general system and for the adequate operation of the association, which regulations shall be previously approved by the Secretary of Commerce and Police to whom they shall be submitted through the Director of Public Works for this purpose as soon as possible: Provided, however, That in the event of no objection having been made by the Secretary of Commerce and Police within sixty days after the receipt by him of the said regulations for their approval, the said regulations shall then enter into force and effect as if they had been approved by the said Secretary.

(c) To compel the members of the association to contribute in proportion to the benefits derived, to the cost of preservation, improvement, and operation of the general system, the association being authorized to exercise this power in the manner established in the regulations.

(d) To elect annually, on the date fixed by the regulations, a president, who shall represent the interests of the association and carry into execution the resolutions of the same.

The said president shall be the ex officio treasurer of the association and shall collect from each member the assessment or assessments previously fixed for the preservation, improvement, and operation of the system, and prior to entering upon the discharge of his duties, he shall furnish bond in the sum fixed by the regulations ; and

(e) To incorporate in accordance with Act Numbered Fourteen hundred and fifty-nine, entitled "The Corporation Act."

The caretaker shall receive the emoluments fixed by the regulations, and the president shall not be entitled to any compensation, unless expressly provided for by the regulations.

SEC. 13. In the event of the appropriates not organizing in accordance with the provisions of the next preceding section, the organization. system shall be temporarily administered under this Act as follows:

(a) By the municipal council, when the system affects one municipality alone;

(b) By the provincial board, when it affects two or more municipalities of a province;

(c) By the Director of Public Works, when it affects two or more provinces.

The regulations issued for the administration, use, and distribution of waters shall be previously approved by the Irrigation Council and in the preparation of these regulations all the persons interested shall be given a hearing.

The cost of this service shall be a lien upon the crops, in the service; first place, and in the second place upon the land of the water users and ditch owners, in accordance with the distribution thereof, as shown by the accounts of the municipal council, the provincial board, or the Director of Public Works, which distribution shall be based upon the quantity of water consumed by each appropriator or ditch owner, in proportion to the total quantity delivered to all: Provided, however, That the funds necessary to defray the administration expenses prior to the expiration of each agricultural year (the period intervening between the beginning of the planting and the completion of the harvesting of the crops), in accordance with the appropriation, shall be advanced by the municipality or the province out of their funds, or by the Director of Public Works, out of the irrigation fund, and shall be reimbursed at the end of each year with interest at the rate of four per centum: And provided further, That in the event of the municipalities or provincial board being without funds to cover these expenses the administration of such systems shall be given to the Director of Public "Works for such time as the funds advanced to meet said expenses are paid from the Insular Treasury.

The municipal and provincial treasurers shall, in the performance of their official duties, collect the charges for administration expenses for each year upon the completion of each harvest, acting in this respect as delegates of the Director of Public Works. Such lien shall have preference over all other liens except that for taxes on the land and any mortgage lien in favor of the Philippine Agricultural Bank, and such preferred lien shall not be removed until all charges are paid or the property is sold for payment thereof. Within one year after default of payment on an installment payable on any parcel of land, the municipal president, the provincial governor or the Director of Public Works shall file with the clerk of the Court of First Instance of the district in which the land is situated, a list of all lands upon which default has been made. The clerk of the court shall thereupon publish in the manner provided for the publication of the summons in a civil action, a list of the lands so filed by the Director of Public Works, accompanied by a notice requiring the owners to file an answer thereto within thirty , days after the completion of the publication.

Upon the filing of an answer by the person interested, the action in respect to such person shall proceed to judgment, as provided for other actions by the Code of Civil Procedure. Upon termination of such thirty days, judgment shall be entered against, such persons as have not answered, and their lands, or the portion thereof deemed necessary, shall be sold, after ten days" public notice, at public auction by the sheriff to satisfy such preferred lien.

Any excess over the amount of said lien and the cost of such procedure shall be returned to the interested person, who shall have one year thereafter to redeem his land by payment of the amount of the judgment, and costs with interest at six per centum: Provided, however, That in the event of the cost of maintenance being exceptionally high in any year that it exceeds fifty per centum of the net profits, such exceptional cost shall be distributed in an equitable manner, over two or more years, but not more than five: And provided further, That in the cases in which a crop is unharvested at the time of the execution of the lien, the execution shall be levied first on said crop.

In the preparation of the regulations mentioned in this and the next preceding section, the customs and usages of each locality shall be taken into consideration, and in these regulations one day of the year shall be fixed for a meeting of all the persons interested for the purpose of preparing an estimate of expenditures for the next succeeding year.

SEC. 14. Any person hereafter desiring to appropriate any public water shall previously make an application to the Secretary of Commerce and Police through the Director of Public Works. This application shall set forth:

- (a) The name and post-office address of the applicant.
- (b) The source from which said appropriation shall be made.
- (c) The place or site of diversion.
- (d) The approximate amount of water to be diverted.
- (e) A description of the proposed work's.
- (f) The purpose or object of the appropriation.
- (g) If for irrigation, a description of the land to be irrigated and the area thereof, and any additional facts required by the Secretary of Commerce and Police.

On receipt of this application, which shall be on a form prescribed by the Secretary of Commerce and Police, and to be furnished by the Director of Public Works without cost to the applicant, it shall be the duty of the Director of Public Works to make a record thereof in his office, and to carefully examine the same to ascertain whether it sets forth all facts necessary to determine the nature and the amount of the proposed appropriation.

If the application be defective it shall be the duty of the Director of Public Works to point out the defects noted and return it to the applicant for correction, and sixty days after receipt thereof by said applicant shall be allowed for the refile thereof. If refiled, corrected in proper form, within such time the application shall take priority as of the date of original filing, subject to compliance with the further provisions of the law and the regulations thereunder: Provided, That prior to the approval of the application the applicant shall not be authorized to perform any work for the use of the waters.

SEC. 15. When the original or corrected application is filed in accordance with the requirements of this Act, the Director of Public Works shall, within thirty days, cause to be published in English, and when advisable in Spanish and the local dialect, once a week for four consecutive weeks in some newspaper having a general circulation in the province or provinces in which said appropriation is to be made, a notice showing:

- (a) The name of the applicant.
- (b) Date of filing of application.
- (c) The information required in section fourteen hereof under (b),(c), (d),(e), (f), and (g).

Such notice shall also be posted in English, Spanish, and the local dialect, for the space of four weeks provided in the next preceding paragraph, at the usual place for posting public notices in the municipalities affected by the appropriation, and shall besides be published once a week by means of bandillos or public criers:

Provided, That any person interested may object to the appropriation within the time limit stated in the notice and fixed by the tests' Director of Public Works, which shall not be less than thirty days nor more than sixty days, beginning with the last day of the publication in the newspaper of the said notice, filing with the said Director of Public Works a written protest stating reasons for the objection. Upon termination of the period set for the filing of protests, the Director of Public Works shall make the necessary investigations regarding the appropriation, and any objections that may have been filed, taking testimony if necessary, in accordance with the provisions of section eight hereof, and shall make report upon the case to the Secretary of Commerce and Police, who shall take action thereon, after reviewing the evidence in support of and against the appropriation. The decision of the Secretary of Commerce and Police shall be subject to appeal in accordance with the provisions of section four of this Act:

Provided, however, That failure or omission to file such protest shall not work to the detriment of prior rights to the appropriation or use of water.

SEC. 16. If there is no unappropriated water in the source of supply, the Secretary of Commerce and Police, through the Director of Public Works, shall deny the application in writing, a record thereof being filed in his

office, and shall return the application so denied to the applicant, who shall not prosecute any work under his application. If the applicant shall perform any work under his application he shall be guilty of and punished for a misdemeanor.

If the source of supply be a navigable stream, the application must be referred by the Director of Public Works to the Director of Navigation, who shall return the application with his recommendation thereon.

If there is unappropriated water in the source of supply named and the appropriation is not detrimental to the public, the Secretary of Commerce and Police, through the Director of Public Works, shall approve the application, indorse such approval upon the application, a record of such approval and indorsement being filed in the office of the Director of Public Works, and shall return the application so indorsed to the applicant, who shall, on receipt thereof, be authorized to take such measures as may be necessary to perfect such appropriation: Provided, however, That in case Limited right, there is an insufficient supply for the total amount of water applied for, the Secretary of Commerce and Police, through the Director of Public Works, may approve an application for a less amount of water.

SEC. 17. After the approval of an application the applications shall submit in duplicate to the Director of Public Works, for approval, the plans and specifications for the works necessary for the use of the water granted by the said approval. To work shall be begun until the plans for the same have been approved, and no work shall be done at any time except in accordance with the said plans. The Director of Public Works shall have authority to examine and inspect such works during construction and order any changes or alterations which he may consider necessary for the security of the work, or the safe-guarding of life, property, or the public interest. No water shall be turned into such works until the approval of the same by the Director of Public Works has been secured. Penalty.

Any failure to conform to the requirements laid down in this section shall be punishable as a misdemeanor under this Act: Provided, however, That applicants for small appropriations to irrigate land, not in excess of sixteen hectares, shall not be required to submit plans and specifications other than those required in the application.

SEC. 18. Upon the approval of the completed work by the Director of Public Works, he shall issue to the applicant a certificate signed by the Secretary of Commerce and Police, setting forth the name of the applicant, the date, source, purpose, and amount of the appropriation, and if for irrigation, a description of the land to be irrigated, which certificate shall within one year after its issuance be recorded in the province in which the point of diversion of the appropriation is. as well as in the province where the water is used, in the same manner as is provided in section nine for the registration of certificates of appropriation. The priority of such new appropriation shall date from the filing of the application in the office of the Director of Public Works,

SEC. 19. The Director of Public Works shall have authority to inspect all works for the diversion, carriage, storage, apportioning, or measurement of waters, or any works pertaining to the use of waters in the Philippine Islands, and to make and enforce, subject to the approval of the Secretary of Commerce and Police, such regulations relating thereto as may be deemed necessary for the conservation and preservation of the public interest.

SEC. 20. If any appropriation applied for in accordance with section fourteen shall be for the purpose of developing power, the application shall state in addition to the information required by said section, the following:

- (a) The point of restoration.
- (b) The amount of power it is proposed to develop,
- (c) The probable amount of power available at mean low water in the stream from which the water is to be taken between the points of diversion and restoration.

Appropriations for power purposes shall be divided into two classes, which shall be known as "small developments" and "large developments," according to whether such developments be of less than one hundred horsepower, or of one hundred horsepower or over.

SEC. 21. The applicant for an appropriation for a small development shall be allowed one year from the date of approval of such application by the Secretary of Commerce and Police in which to complete surveys and designs and to begin actual construction, and the construction of such projects must be completed within three years from the date of said approval. The applicant for an appropriation for a large development shall be allowed two years from the date of the approval of such application by the Secretary of Commerce and Police in which to complete surveys and designs and to begin actual construction, and the construction of such projects must be completed within five years from the date of such approval: Provided, however, That the Secretary of Commerce and Police may, for good cause shown, extend the time for the completion of any project or portions thereof for such period as he may deem just and equitable.

The failure to comply with the provisions of this section shall render the appropriation null and void, unless such failure shall be due to fortuitous cause or force majeure, in which case the Secretary of Commerce and Police may, in his discretion, extend the time for completion as he may deem necessary.

SEC. 22. The appropriator of water for power purposes for a small plant shall pay to the Government of the Philippine Islands an annual rental of twenty-five centavos Philippine currency per horsepower for the first ten years, beginning on the first day of January after the plant is ready for operation. After this first period, the rental shall become one peso Philippine currency per horsepower per year: Provided, however, That the development of less than thirty horsepower shall be exempt from the rental provided in this section.

The appropriator of water for power purposes for a large development shall pay to the Government of the Philippine Islands an annual rental of fifty centavos per horsepower for the first ten years, beginning on the first day of January after the plant is ready for operation. At the end of the first ten years and of each ten-year period thereafter the Secretary of Commerce and Police shall determine the rate of rental which shall be charged for the succeeding ten years: Provided, That in no case shall the rental rate be less than one peso nor more than two pesos per horsepower per year.

The amount of water upon which rental shall be charged, shall be determined as follows: The normal rated water capacity of the power, water wheels installed expressed in second-liters shall be multiplied by the difference in level of water surface in forebay and tailrace expressed in meters, and the product divided by one hundred, the quotient representing the developed horsepower on the basis of an efficiency of seventy-six per centum for the plant.

SEC. 23. The rental shall be paid at the time and in the manner Payments, directed by the Secretary of Commerce and Police and shall be collected by the Bureau of Internal Revenue as a general tax. If at any time payment shall not be made when the same shall have become due, said payment shall become a lien upon the right of use of water and all the works, lands, buildings, and machinery which constitute the property appurtenant thereto, which lien shall be enforced in the manner prescribed in section thirteen of this Act.

SEC. 24. If it be found possible to generate power in connection with any irrigation canal or system, the Secretary of Commerce with irrigation and Police may authorize the construction and operation of power plants thereon by the Government, or by any person, upon such terms and conditions as he may prescribe.

SEC. 25. Upon determination by the Secretary of Commerce and Police that the Government construction of any

irrigation project is advisable, he shall, in the manner prescribed in section fifteen hereof, give public notice of:

- (a) The land irrigable under such project.
- (b) The approximate annual charge per hectare on said land to cover the cost of construction.
- (c) The number of annual installments, which in no case shall be less than twenty nor more than forty, in which said construction charge shall be paid.
- (d) The estimated approximate annual cost of maintenance and operation.
- (e) A statement that protests against the construction of the project may be filed with the Governor-General within ninety days after completion of publication.

At the beginning of the publication of the notice a map shall be filed in the office of the municipal secretary of each municipality interested, showing the land to be affected by the irrigation project, which map shall be open to inspection by the public.

The Secretary of Commerce and Police shall publish or cause to be published in English and, when advisable, in Spanish and the local dialect, in the newspapers designated for the publication of official notices, the notice provided for in this section, which notice shall be published once a week for four consecutive weeks. Such notice in English, Spanish, and the local dialect shall also be posted at the usual places for posting public notices in each municipality and place affected by said project and shall also be published once a week by bandillos or public criers.

SEC. 26. The owner of any land included as "irrigable" in the of irrigable unite public notice referred to in section twenty-five hereof shall be allowed ninety days after the date indicated in the notice of the said secretary in which to file with the Governor-General, through the Director of Public Works and Secretary of Commerce and Police, objections to the construction of such project, to the inclusion of his land, to the estimated approximate charge or charges, or to the number of annual installments. The Governor-General shall refer such objections to the provincial board of the province in which such land is situated for its report and recommendation after the hearing the persons interested. The Governor-General shall, with Governor-General and recommendation in view, decide whether or not the project shall be constructed, and what changes, if any, shall be made in the conditions as stated in the public notice. The decision of the Governor-General shall be final: Provided, however, That no project shall be constructed if the owners of one-half of the irrigable land or three-fourths of the owners of such land under such project object to its construction within the ninety-day period specified above.

SEC. 27. After favorable decision by the Governor-General, the Secretary of Commerce and Police shall authorize the construction of the project in accordance with the procedure provided by section six of Act Numbered Five hundred and eighty-four for the construction of public works : Provided, That, other things being equal, preference shall be given to the occupants of the land in the matter of awarding contracts for the construction.

SEC. 28. If the Persons interested in the construction of an irrigation system in any district shall determine to effect such construction themselves, they may apply for aid from Government funds, subject to the regulations and conditions imposed upon them by the Secretary of Commerce and Police in order to safeguard the interests of the Government and in accordance with the provisions of this Act: Provided, however, That the amount of Government funds granted for such purpose shall in no case exceed forty per centum of the estimated cost of the project, nor shall the total amount granted for any one project exceed fifty thousand pesos.

Inferior land not included within the designated zone of irrigable lands of an irrigation system shall be entitled to be benefited by the additional supply of water of the said system, under the obligation to pay a proportional share of the administration charges, provided that the rights of the system are not injured thereby, and the necessary

concessions may be made for this purpose.

SEC. 29. Upon the completion of the construction of any project, or sufficient part thereof, by the Government, the Secretary commerce and Police shall issue a second public notice, which shall be posted, and published in the same manner as provided in section fifteen hereof. This notice shall announce:

- (a) The land irrigable under such project, or part thereof.
- (b) The annual charge which shall be made per hectare to cover costs of construction with interest: Provided, however, That such charge shall be uniform for each year and calculated on the basis that it will repay all costs of construction with interest at four per centum per annum on the sum invested in a period which shall not be less than twenty nor more than forty years.
- (c) The conditions of payment thereof.
- (d) The time at which such payments shall be made.
- (e) The date on which the official test of the system is to be made in the presence of the persons interested for their satisfaction.

The construction charge which shall be included shall be such as will repay the actual cost of construction of the project with interest at four per centum.

If an installment payable on a parcel of land shall remain unpaid at the date specified in item (d) above, the same shall become a lien against such land. Such lien shall have preference and be collectible as prescribed in section thirteen hereof.

SEC. 30. Whenever, by reason of shortage of water or other fortuitous event, a failure of crops shall occur on lands included in any irrigation system or any portion of such system, the Secretary of Commerce and Police may extend the time for the payment of the annual installment.

SEC. 31. If at any time any irrigation works or portion thereof constructed by the Insular Government under the provisions of this Act shall be damaged or destroyed by earthquake, fire, lightning, flood, tornado, typhoon, hurricane, war, or by other fortuitous event or force majeure, the same shall be, upon approval of the Governor-General, repaired or reconstructed from the insurance fund hereafter provided for in this section, and the cost of such reconstruction shall not be charged against the appropriators.

There is hereby authorized and created an irrigation insurance irrigation fund which shall be established and maintained as follows: The Secretary of Commerce and Police shall each year instruct the Director of Public Works to add to the amount collectible from each owner of land irrigated by any such irrigation system operated under the provisions of this Act in the Philippine Islands an additional amount not to exceed two per centum of the annual payment for construction, maintenance, and operation due from the said landowner, which amount shall be added to and collected as a portion of the regular annual payment, and shall be covered into the Insular Treasury and set aside as a special fund, to be known as the "irrigation instance fund;" which fund may be invested and reinvested by authority of the Secretary of Commerce and Police, first, in financial transactions with relation to irrigation proceedings, and, second, in the same manner and under the same conditions as other trust funds handled by the Insular Government may be invested; and the said fund, together with the accumulated interest thereon, shall be expended for the purposes and in the manner provided in this section and for no other purpose: Provided, however, That whenever said irrigation fund shall exceed two hundred thousand pesos there shall be no further collections until said fund shall have been reduced by expenditure as authorized herein to less than one hundred and fifty thousand pesos.

SEC. 32. The irrigation works constructed by the Government under the provisions of the foregoing sections shall be administered by the Government in conformity with the provisions of this Act for the benefit of the

landowners: Provided, That after final reimbursement of the expenses of construction of a system, when the property owners included within the same shall organize themselves as an irrigation community under the provisions of section twelve hereof, and even before such final reimbursement if they shall pay the unpaid difference of the expense of construction of such system, the Irrigation Council shall decide if the administration and operation of such system shall be transferred to such irrigation community, such decision remaining subject to the approval of the Legislature, but in case that a session of the Legislature shall pass without either of the two Houses having taken any action on the matter, the decision of the Irrigation Council shall be final.

SEC. 33. In the case provided in section thirty-two, in which the administration of an irrigation system constructed by the Government shall be under the control of the Government, the Director of Public Works shall administer the system for the benefit of the landowners in accordance with the regulations drawn by the Director of Public Works and approved by the Secretary of Commerce and Police. The expense of operation and administration shall be a lien upon the land of the water users and shall lie determined and collected in the manner prescribed in section thirteen hereof. Any complaints arising among the consumers of water derived from said system shall be determined by the Director of Public Works in accordance with the regulations, from whose decision appeal shall lie to the Secretary of Commerce and Police within ninety days after the date of publication of the decision of the Director of Public Works: Provided, finally, That the decision of the Secretary of Commerce and Police shall be appealable to the Court of First Instance of the district within the time and in the manner provided in section four of this Act.

SEC. 34. In order to favor the construction, development, or maintenance of irrigation systems, the Government of the Philippine Islands may exercise the right of eminent domain and acquire any property in this manner and for such purposes, instituting condemnation proceedings in accordance with existing law. Upon filing condemnation proceedings the Government, shall have the right of immediate entry and occupation pending the determination by the court of the amount of compensation and damages.

SEC. 35. If any person shall construct at his own expense works for the diversion and distribution of water to the public for irrigation purposes, the rates to be charged by such person for such service shall be determined from time to time by the Secretary of Commerce and Police: Provided, however, That such rates shall not be changed oftener than once in ten years.

SEC. 36. When the person entitled to the use of water fails to beneficially use all or any part of the water, claimed by him, for a period of five years without sufficient reason the Secretary of Commerce and Police will declare such unused water reverted to the public and to be regarded as unappropriated water.

SEC. 37. The Governor-General, for reasons of public policy may from time to time by proclamation designate as exempt from appropriation any water or waters in the Philippine Islands not previously appropriated, and thereupon the same shall be withdrawn from appropriation for any use whatsoever under this Act until again made subject to appropriation by a similar proclamation : Provided, however, That said proclamation shall not apply Artesian wells, to the use of water for domestic purposes. In the case of artesian wells sunk for public purposes the use of any excess of water over the amount necessary for domestic use may be granted for other purposes, by the province or by the municipality, as the case may be, or by the Director of Public Works in the case of Insular wells, subject to rules and regulations to be prescribed and promulgated by the Irrigation Council.

SEC. 38. The standard of measurement of flow of water shall be the liter per second of time; the standard of measurement of the volume of water shall be the hectare-meter, being the amount of water required to cover one hectare one meter in depth.

SEC. 39. Water turned into any natural or artificial water course or reservoir by any party entitled to the use of

such water may be water' reclaimed below and diverted therefrom by such party, subject to existing rights, due allowances for losses being made as determined by the Director of Public Works.

SEC. 40. The right to use of water for irrigation purposes shall remain appurtenant to the land for which the said right of use is established. If, however, it should at any time become impracticable to use all or any part of said water beneficially or economically for the irrigation of any land to which the right of use of the same is appurtenant, all or any part of said right may be severed from the said land and simultaneously transferred and become appurtenant to other land, without, losing priority of right heretofore established: Provided, That no such transfer shall be made at any time to the detriment of existing rights.

The appropriates desiring such transfer shall make application for the same through the Director of Public Works to the Secretary of Commerce and Police and notice of such application shall be published as provided in section fifteen hereof. If no detriment to existing rights shall appear, the Secretary of Commerce and Police shall approve said transfer, and certificates of same shall be issued and recorded in the manner provided in section nine hereof.

SEC. 41. The Director of Public Works, or any official by him subpoenas, thereunto specifically authorized, in making investigations under this Act shall be authorized, to issue, of his own accord, or on request of any interested party, subpoenas and subpoenas duces tecum for witnesses in any case or inquiry pending before him and shall make the investigation in the province where the waters covered by the investigation are situated: Provided, however, That in the event of the witness residing outside of the province in which the investigation is held, or of his being unable to appear before the said Director or authorized official, his testimony may be received by deposition, in accordance with the provisions of Act Numbered One hundred and ninety, before the officers authorized by said Act for taking depositions.

In case of disobedience to any of the subpoenas mentioned in "this section, the Director of Public Works or authorized official may invoke the aid of the Court of First Instance of the province in which the person subpoenaed resides to require such person to appear Witness fees and evidence or to make deposition. Such witnesses shall be entitled to the same fees and traveling expenses as witnesses appearing before the Courts of First Instance in civil cases: Provided, however, That witnesses so subpoenaed and cost of depositions so requested shall be paid by the Insular Government, in accordance with rules prescribed by the Insular Auditor.

SEC. 42. Whenever ordered to do so by the Director of Public Works, any ditch owner shall construct and maintain a substantial head gate at the point where the water is diverted and shall construct a measuring device, all in accordance with designs approved by the Director of Public Works, at the most practicable point or points for measuring and apportioning the water, as determined by the Director of Public Works. If the said works are not completed within ninety days after the receipt by the ditch owner of the order of the Director of Public Works, said Director may, in his discretion, refuse to deliver water to such owner, or extend the time of completion. The taking of water by such ditch owner after such refusal by the Director of Public Works until the completion of such head gate or measuring device and the approval thereof by the said Director shall constitute a misdemeanor under this Act. Penalty.

Such devices shall be so arranged that they can be locked, and when locked it shall be a misdemeanor under this Act for any unauthorized person to disturb or change the same, and the use of water through such devices after having been disturbed or changed shall be prima facie evidence of the guilt of the person benefited by such interference, disturbance, or change in and of the said device.

SEC. 43. No appropriator of water shall at any time make use of the same for any other purpose than that for which it was appropriated, nor make any change in the place of diversion, storage, use, or restoration, nor in the works necessary for the use of the same, except upon the approval of the Secretary of Commerce and Police in the

manner prescribed in section forty hereof: Provided, however, That no such change shall at any time be approved when the same shall act to the detriment of existing rights. In the event of the approval of changes in the work's necessary for the use of the water, such changes will be made upon approved plans, and subject to the inspection of the Director of Public Works, as provided in section seventeen hereof.

Any failure to conform to the requirements laid down in this section shall be punishable as a misdemeanor under this Act.

SEC. 44. Any person who, after having been notified by the Director of Public Works that any works are unsafe for the purpose for which they are used, makes use thereof for the storage, diversion, or carriage of waters, until the receipt of a notice from said director that in his opinion the works are safe, shall be guilty of a misdemeanor under this Act.

If such works are deemed a menace to life or property, any person interested may call on the proper police authorities to take the necessary steps to remove the danger.

SEC. 45. Any person interfering with or injuring or destroying any dam, head gate, weir, bench mark, monument, or other appliance for the diversion, carriage, storage, apportioning, or measurement of water, or for any hydrographic or topographic survey, or obstructing or diverting the course of the waters pertaining to any system, or maliciously interfering with any person engaged in the discharge of duties connected therewith, shall be guilty of a misdemeanor under this Act, and shall also be liable for the injury or damage resulting from such unlawful act: Provided, however, That if the damages occasioned by such violation shall exceed in amount six hundred pesos, the said violation shall constitute a crime and shall be punishable under the provisions of the Penal Code, chapter three, title thirteen.

The Director of Public Works, or his representative duly authorized thereto, shall have power to arrest any person offending against the provisions of this section, and deliver him to the nearest peace officer of the province. It shall be the duty of the person making the arrest to make complaint at once before a court having jurisdiction thereof.

The Director of Public Works may enter upon private property the performance of his duties under this Act, doing no unnecessary injury thereto: Provided, however, That the owner of such private property shall be indemnified for any actual damage so caused by the Government.

SEC. 46. The use of water by any person not legally entitled to same or the willful waste of water, including that from Insular, provincial, or municipal artesian wells, to the detriment of another or the public shall constitute a misdemeanor under this Act.

SEC. 47. Any violation of the provisions of this Act, declared herein to be a misdemeanor, shall be punished by a fine not exceeding two hundred pesos, or by imprisonment not exceeding six months; and any justice of the peace of the municipality in which such misdemeanor has been committed shall have jurisdiction thereof.

Any violation of the provisions of this Act declared to be a crime shall be punished as such under the provisions of the Penal Code and action shall be brought in the Court of First Instance of the province in which such crime shall have been committed.

SEC. 48. The Director of Public Works shall receive the following fees, to be collected in advance, and to be paid by him into the general irrigation appropriation within a reasonable time:

- (a) For making copy of any document recorded or filed in his office, ten centavos for each one hundred words or fraction thereof.

- (b) For certifying to copies of documents, records, or maps, fifty centavos for each certificate.
- (c) For blue-print copy of any map or drawing, two centavos per square decimeter or fraction thereof:
Provided, That the minimum charge for any such copy shall be twenty centavos.
- (d) For the examination and inspection of plans of work, at the request of the person interested, the actual cost of examination and inspection.

SEC. 49. Wherever required by the sense of the context, the word person in this Act shall be construed to mean person, persons, association, or public or private corporation, and the words "Director of Public Works" shall be construed to mean the Director of Public Works or any authorized agent of the Director of Public Works.

SEC. 50. This Act shall not work to the detriment of rights acquired prior to its passage.

SEC. 51. The existing Ley de Aguas and the provisions of the Civil Code in the matter of waters and all other existing laws dealing with waters and irrigation systems shall continue in force in so far as they are not incompatible with the provisions of this

Act, and all laws, Acts, or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

SEC. 52. The short title" of this Act shall be "The Irrigation Act."

SEC. 53. The public interest requiring the speedy enactment of this Act, the same shall take effect upon its passage, in accordance with section one of Act Numbered Nineteen hundred and forty-five of the Philippine Legislature.

Enacted, February 6, 1912.

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