

[Act No. 3523, February 21, 1929]

AN ACT TO AMEND ACT NUMBERED TWENTY-ONE HUNDRED AND FIFTY-TWO ENTITLED "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 CREATION AND USE OF WATER POWER; FOR INVESTIGATION FOR AND THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF IRRIGATION SYSTEMS BY THE GOVERNMENT OF THE PHILIPPINE ISLANDS; FOR THE REPAYMENT OF MONEY EXPENDED THEREFOR; FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF IRRIGATION SYSTEMS BY PRIVATE PERSONS; FOR THE INSPECTION AND REGULATION OF ALL WORKS PERTAINING TO THE USE OF WATER; AND PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES." AS AMENDED BY ACTS NUMBERED TWENTY-SIX HUNDRED AND FIFTY-TWO AND THIRTY-TWO HUNDRED AND EIGHT, AND THIRTY-THREE HUNDRED AND ONE, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section two of Act Numbered Twenty-one hundred and fifty-two as amended by section one of Act Numbered Thirty-two hundred and eight, is hereby further amended to read as follows:

"SEC. 2. The power to grant appropriations of public waters is hereby vested in the Secretary of Commerce and Communications, in accordance with the provisions of this law, upon the recommendation of the Irrigation Council herein created.

"There is hereby created an Irrigation Council which shall consist of five members who shall be appointed by the Governor-General with the advice and consent of the Senate and shall receive a per diem of fifteen pesos for each session of the council which they actually attend: Provided, however, That officers already receiving a salary or *per diem* from the Government shall serve without additional remuneration.

"The chief water rights inspector of the Bureau of Public Works shall be ex officio secretary of the Irrigation Council without additional compensation.

"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, 2. Section five of Act Numbered Twenty-one hundred and fifty-two as amended by section one of Act Numbered Twenty-six hundred and fifty-two, is hereby further amended to read as follows:

"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 Communications a list of the appropriations of water according to priority, and in order to make such list he shall cause a notice to all claimants of water rights to be published in English, and when he deems advisable, in Spanish and the local dialect, once a week for four consecutive weeks in the Official Gazette. Such notice shall also be posted in English, Spanish, and the local dialect, for the period of four weeks as provided above, at the usual place for posting public notices in the municipalities affected by the appropriation, and shall besides be published once a week for four consecutive weeks by means of bandillos or public criers. Such notice shall contain a statement of the : information that is desired to obtain from the claimants, 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 streams 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 enlargement.

"(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 year, 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.

"(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 oath is hereby authorized to administer such oaths: *Provided, however,* That there shall be no charge for such oaths when administered by any officer of the insular, provincial, or municipal government authorized to administer oaths."

SEC. 3. Section nine of Act Numbered Twenty-one hundred and fifty-two as amended by section four of Act Numbered Twenty-six hundred and fifty-two and section one of Act Numbered Thirty-three hundred and one is hereby further amended to read as follows:

"SEC. 9. Upon approval of the list of priorities the Secretary of Commerce and Communications shall publish the said approved list in the manner provided in section five of this Act. 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 land into 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 Communications, 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, after having received from the appropriator the sum of two pesos, as a fee, 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 entry shall not be made by the appropriator within two years 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 and the certificate mentioned shall also *ipso facto* be cancelled."

SEC. 4. Section thirteen of Act Numbered Twenty-one hundred and fifty-two, as amended by section five of Act Numbered Twenty-six hundred and fifty-two and as amended by section three of Act Numbered Thirty-two hundred and eight, is hereby further amended to read as follows:

"SEC. 13. In the event of the appropriators not organizing in accordance with the provisions of the next preceding section, or during the time in which the rights of using the public waters which have been appropriated are being determined and adjudicated, the 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 those regulations all the persons interested shall be given a hearing.

"The cost of this service shall be a lien upon the crops, in the 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 irrigable area held by each appropriator or ditch owner, in proportion to the total area served by the system: *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 its funds, or by the Director of Public Works, out of any unappropriated funds in the Insular Treasury, and shall be reimbursed by the landowner or ditch owner at the end of each year with interest at the rate of four per centum: *Provided, further,* That the funds that may be advanced by the Director of Public Works shall not exceed five hundred thousand pesos in any one year: *Provided, finally,* That in the event of the municipalities or provincial boards being without funds to cover these expenses the administration of such system 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, or its successor, 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 judgment, and costs with interest at six per centum: *Provided, however,* That in the event of the cost of maintenance being so 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 case in which a crop is unharvested at the time of the execution of the lien the execution shall be levied first on said crops.

"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 of the next succeeding year."

SEC. 5. Section sixteen of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

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