

[Act No. 3208, December 05, 1924]

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 LIGHTS; FOR THE CREATION AND USE OF WATER POWER; FOR INVESTIGATIONS 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 ACT NUMBERED TWENTY-SIX HUNDRED AND FIFTY-TWO; ADD A NEW SECTION, TO BE KNOWN AS SECTION TWENTY-FIVE (A), AND PRESCRIBE THE CONDITIONS UNDER WHICH A LOAN MAY BE OBTAINED FROM REIMBURSABLE FUNDS OF THE GOVERNMENT, 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 is hereby amended to read as follows:

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

"There is hereby created an Irrigation Council which shall consist of five members as follows: The Secretary of Commerce and Communications who shall be *ex-officio* chairman thereof; the Secretary of Agriculture and Natural Resources; the chairman of the Committee on Commerce and Communications of the Senate; the chairman of the Committee on Public Works of the House of Representatives; and one agriculturist who shall be appointed by the Governor-General and 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.

"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 four of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

"SEC. 4. Any controversy between the persons claiming right to the use of water of any stream shall be submitted to the Secretary of Commerce and Communications 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: *Provided, however,* That the Secretary of Commerce and Communications is hereby vested with authority, by virtue of his decision, upon bond in a sum to be fixed by the Secretary of Commerce and Communications being furnished by the party concerned, to order the removal or alteration of the dam, the filling in or opening of canals or ditches, the construction of gates, the installation of gauges or such other measures as may be necessary in order that the interested parties may enjoy the rights to the use of water as determined by him. The Director of Public Works or his authorized agents, after the decision has become final, are hereby authorized to execute the order of the Secretary of Commerce and Communications, and if the party concerned refuses to comply with the same, said Director of Public Works or his authorized agent may direct the order to be executed at the expense of the party concerned, without prejudice to such party being held criminally liable in accordance with the provisions of Act Numbered Twenty- one hundred and fifty-two."

SEC. 3. 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, 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, hoivever,* 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 the funds appropriated for the administration expenses of old irrigation systems, and shall be reimbursed by the appropriator or ditch owner at the end of each year with interest at the rate of six per centum: *Provided, further,* 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.