

[Act No. 2652., February 24, 1916]

AN ACT AMENDING 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 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 PURPOSE," AND PRESCRIBING THE CONDITIONS UNDER WHICH A LOAN MAY BE OBTAINED FROM REIMBURSABLE FUNDS OF THE GOVERNMENT, AND OR OTHER PURPOSES.

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

SECTION 1. Section five of Act Numbered Twenty-one hundred and fifty-two is hereby 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 Police 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 advisable in Spanish and the local dialect, three times a week for three consecutive weeks in some newspaper having a general circulation in the province or provinces in which said appropriation is to be made. Such notice shall also be posted in English, Spanish, and the local dialect, for the space of three weeks as provided above, at the usual place of posting public notices in the municipalities affected by the appropriation, and shall besides be published three times a week for three consecutive weeks by means of bandillos or public criers. Such notice shall contain a statement of the information that it 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 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 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 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.

"(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. 2. Section six of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

"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 promptly presented properly prepared. Whenever the Secretary of Commerce and Police shall, as provided by law, designate a stream or other body of water on which a priority list shall be determined, it shall be the duty of all claimants interested in such stream or other body of water to appear or submit proof of their respective claims, at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings or to submit proof of his appropriation or claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other body of water embraced in such proceedings, and shall be held to have forfeited all rights to the use of said stream or other body of water theretofore claimed by him: *Provided, however,* That any claimant upon whom no other service shall be made than by publication in a newspaper, or by posted notices relative to such proceedings and taking of testimony may, within one year after the date, inclusive, of the approval of the list of priorities for the stream or other body of water, by the Secretary of Commerce and Police, have the approval opened and be let in to give proof of his claim; but before the approval can be opened in such case, the applicant shall give notice to all other persons interested in the water of the stream or other body of water as required of claimants in original proceedings and make it appear to the satisfaction of the Director of Public Works that during the pendency of the original proceedings he had no actual notice thereof in time to appear or to make proof of his claims and all parties interested may present affidavits to the matter of actual notice of the applicant."

SEC. 3. Section seven of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

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 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 of Lands to make a cadastral survey and map or plat, when authorized to do so by the Governor-General, showing 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 work already constructed. These cadastral surveys shall be paid for -exactly as required by Act Numbered Twenty-two hundred and fifty-nine and its amendments."

SEC. 4. Section nine of Act Numbered Twenty-one hundred and fifty-two is hereby amended to read as follows:

"SEC. 9. Upon approval of the list of priorities the Secretary of Commerce and Police shall publish the said ap-' proved 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 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 certificates 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 charging therefor a fee of two pesos, 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 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. 5. Section thirteen of Act Numbered Twenty-one hundred and fifty-two is hereby 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 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 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 distributions 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 of 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 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