

and in the actual cost of transportation from the point of production if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Provided however, that where the same person, persons, estate, association or corporation own or control a majority of the stock in each of two or more corporations doing business in this state, they shall come under and be subject to the provisions of this article.

Approved March 5, 1919.

DRAINAGE

CHAPTER 113.

(S. B. No. 45—McCarten.)

BOARD OF DRAIN COMMISSIONERS

An Act to Amend and Re-enact Section 2478 of the Compiled Laws of North Dakota for the Year 1913 Relative to Extension of Powers of Boards of Drain Commissioners.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. That Section 2478 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted so as to read as follows:

Sec. 2478. **EXTENSION OF POWERS WHEN NECESSARY.**) The powers conferred by this Chapter for establishing and constructing drains shall also extend to and include the deepening and widening or any necessary improvements of drains which have heretofore been or may hereafter be constructed; also to straightening, clearing out and deepening the channels of creeks and streams and the construction, maintaining, remodeling and repairing of levees, dykes and barriers for the purpose of drainage, and the Board of Drain Commissioners may locate or extend the line of any drain, if the the same is necessary, to provide a suitable outlet, and shall cause a survey thereof to be made, and may establish a drain on the line of an abandoned drain, and complete the same, or in whole or in part upon the line of an invalid drain. It may also establish and construct lateral drains with outlets in drains heretofore constructed: provided, however, that all proceedings under this section affecting the rights of persons and property shall only be taken upon the petition and in accordance with the procedure governing the establishment and construction of drains in the first instance, except that petition for establishment and construction of lateral drains shall be deemed

sufficient if signed by one or more freeholders, whose property shall be affected by the proposed lateral drain. Whenever the widening, extending or deepening of a main drain is made necessary by the construction of a lateral drain, the petition for the lateral drain shall contain a request for such widening, deepening or extension and the cost of such widening, deepening or extension shall be charged as a part of the cost of construction of the drain petitioned for and assessed against the property benefited thereby as a part of the cost of construction.

Sec. 2. REPEAL.) All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Sec. 3. EMERGENCY.) Inasmuch as the law providing for the establishment and construction of lateral drains is inadequate, and the preservation of the public health, peace and safety requires that this Act should be in force prior to July 1st: therefore, an emergency is declared to exist and this Act shall become and be in force from and after its passage and approval.

Approved Feb. 14, 1919.

CHAPTER 114.

(H. B. No. 156—C. Ness.)

DRAINS TO BE BUILT BY TOWNSHIP BOARD OF SUPERVISORS.

An Act to Amend and Re-enact Chapter 124 of the Session Laws of North Dakota for the Year 1915, Permitting Townships Through Their Board of Supervisors to Build Drains Within the Township and Outlets Therefor Without the Township, and to Provide the Manner of Assessing the Cost Thereof and Provide for its Payment.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) Whenever six resident freeholders of any organized township shall petition in writing the board of supervisors of any organized township to construct a drainage ditch within the township for the drainage of agricultural lands, or to construct a drainage ditch without the township as an outlet for road drainage ditches within the township, or both a ditch within the township and such outlet without the township, which petition shall state the general course of such ditch, it shall be the duty of such board to call a special township meeting of the people of the township as provided for by Sections 3139 and 3140, Compiled Laws of North Dakota, 1913, for the purpose of considering the advisability of constructing such ditch.

Sec. 2. If at such meeting it is made to appear that such ditch is necessary and desirable and that the same will not cost more than three thousand dollars, the question shall be submitted to a vote of the voters present whether such ditch shall be constructed by the township at a cost not to exceed three thousand dol-

lars and if a majority of such votes shall be in favor of the construction thereof it shall be the duty of the supervisors to proceed with all reasonable dispatch to have the same constructed and the cost thereof shall be paid out of the funds of the township.

Sec. 3. If it appears probable that such proposed ditch will cost more than three thousand dollars, or if a majority of the voters present shall not vote in favor of its construction, then the board of supervisors shall proceed as follows, to-wit: They shall require the petitioner to enter into a bond to the township, to be approved by the board, to pay all costs of surveys and preliminary examination by the board of the route of said proposed ditch in the event it shall be determined that such ditch will not be of more benefit than its cost.

The board must, upon the giving of such bond, proceed to inspect the proposed route and procure some competent person to make an estimate of its cost, and it shall then determine whether the benefits to accrue from the drain exceed the cost, and if so determined it shall then be its duty to determine what lands will be benefited by the construction and the percentage of such benefit to the several pieces. A list of the benefits so found by the board stated in dollars and cents as to each of the several pieces shall then be made up plainly typewritten and posted in five public places in the township, accompanied by a notice that at a time therein stated, not less than ten days from the posting of such notices, the board will meet and review the fixing of such benefits and at such meeting any person feeling himself aggrieved may appear and offer reasons why the assessment of benefits should be reduced as to any piece of land, and the board shall then make such corrections and changes in such statement of benefits as the facts shall warrant, all of which proceedings shall be entered in the minutes of the township meeting kept by the clerk thereof. The record so entered shall show the amount of benefits charged against each piece of land affected and the amount so charged shall become a lien on the several pieces. It shall be the duty of the town clerk to certify the amount of such assessment against each piece of land to the County Auditor, who shall spread the same as a special assessment against the several pieces of land.

Sec. 4. The board of supervisors shall thereupon proceed as soon as practicable to have such ditches constructed, and it may either let a contract therefor or have the work performed by day labor under its supervision.

Sec. 5. No ditch shall be constructed under this Act that shall cost more than three thousand dollars.

Sec. 6. The board of supervisors shall have authority to appropriate from the general fund of the township an amount not to exceed five hundred dollars to aid in the construction of such ditch, if in its judgment there is a general benefit to the property

and roads of the township, as well as to the lands assessed, and it may also cause road ditches to be opened and connected with such ditch.

Sec. 7. In the construction of an outlet ditch under this Act the board may enter upon and deepen and improve any road ditch in existence, or construct a road ditch on any line of road through any other township, but if it does so it must so dispose of the dirt placed in the road as is consistent with the ordinary road work in the community, and leave such road in as good condition for travel as is consistent with the placing of new dirt thereon.

Sec. 8. EMERGENCY. Whereas, an emergency exists in that no power now exists with townships to build drainage ditches, an emergency is declared to exist and this Act shall go into effect immediately upon its approval by the Governor.

Approved March 3, 1919.

CHAPTER 115.

(H. B. No. 189—Committee Appropriations.)

FLOOD CONTROL COMMISSION.

An Act Creating the Flood Control Commission; Prescribing its Powers and Duties; Providing for the Appointment and Compensation of the Flood Control Engineer and Such Other Employees as May be Necessary and Providing an Appropriation to Carry out the Purposes of this Act.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. There is hereby created a Flood Control Commission which shall be composed of the State Engineer, the Dean of the School of Engineer and Mechanic Arts of North Dakota Agricultural College, the Dean of the School of Mines of the University of North Dakota, together with two resident freeholders who shall be appointed by the Governor, each of whom shall hold office for the period of two years from and after the date when this Act takes effect and until their successors are appointed and qualified. The members shall receive no compensation other than necessary traveling expenses.

Sec. 2. The State Flood Control Commission shall meet at the State Capitol within thirty days after this Act takes effect and shall organize by electing a chairman thereof.

Sec. 3. The Governor shall on the recommendation of the State Flood Control Board appoint a State Flood Control Engineer who shall hold office for the period of two years and until his successor is appointed and qualified. He shall receive a salary of Three Thousand (\$3000) Dollars per year and his actual necessary traveling expenses, to be paid monthly out of the funds herein appropriated.

Sec. 4. It shall be the duty of the State Flood Control Engineer under the control, supervision and direction of the State Flood Commission to make survey, borings, sub-soil analysis, excavations and such other examination as may be necessary for the purpose of providing plans and specifications for controlling the floods in the State of North Dakota and he may act without compensation as consulting engineer for county commissioners and drain commissioners on drainage projects. It shall also be the duty, under the control, supervision and direction, of the Flood Control Commission, to co-operate with the Department of Interior, the Department of Agriculture and the Department of War of the United States and with the State of South Dakota and the State of Minnesota in doing the above described work.

Sec. 5. The State Flood Control Commission shall employ such labor and assistance, and make such expenditures for supplies and equipment as may be necessary for carrying out the purpose of this Act, provided, however, all the expenditures provided for herein shall remain within the appropriation hereinafter made. All claims for moneys expended by the State Flood Control Commission under the provisions of this article shall be paid by the State Auditor in the same manner as other claims against the State are now being paid upon the presentation of properly prepared vouchers approved by the State Flood Control Commission.

Sec. 6. There is hereby appropriated out of any of the funds in the State Treasury not otherwise appropriated the sum of Thirty-three thousand (\$33,000) Dollars for carrying out the purposes of this Act.

Approved March 13, 1919.

CHAPTER 116.

(H. B. No. 158—Lazier.)

FLOOD IRRIGATION PROJECTS.

An Act to Provide for the Establishment of Flood Irrigation Projects, the Establishment, Construction and Maintenance of Dams, Gates and Necessary Ditches for the Purpose of Controlling, Regulating and Forcing the Overflow of Waters in Non-Navigable Rivers and Streams, and the Appointment of Boards of Flood Irrigation, and Defining Their Powers and Duties.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. WHEN IMPROVEMENTS MAY BE CONSTRUCTED) Dams, gates, and necessary ditches and canals for the purpose of controlling, regulating and forcing the overflow of water in non-navigable rivers or streams within the State of North Dakota may be established, constructed and maintained in the several

counties of this state whenever the same shall be conducive to the public health, convenience or welfare, under the provisions of this chapter.

Sec. 2. BOARD OF FLOOD IRRIGATION. HOW APPOINTED.) The Board of County Commissioners of any organized county in this state shall have the power and is authorized at any meeting of the Board, by a majority vote of all the members, upon its own motion or on the petition of any person or persons interested, to appoint five freeholders of the county as a Board of Flood Irrigation of such county. At the time of the appointment of such Board one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Subsequent appointments shall be made for terms of five years. All persons so appointed shall hold office until their successors are appointed and qualified. In case of a vacancy the Board of County Commissioners may fill the same for the unexpired term by appointment. The Board of County Commissioners shall provide an office for said Board of Flood irrigation at the county seat, suitable for its use and the keeping of its records and shall provide suitable record books for its use.

Sec. 3. OATH. BOND. ORGANIZATION. LEGAL ADVICE.) Any person appointed as a member of the Board of Flood Irrigation shall within ten days after his appointment take, subscribe and file in the office of the county auditor an oath to faithfully perform the duties of a member of the Board of Flood Irrigation under the law, and within the same time make, execute and file in the Auditor's office a bond to the County with sureties to be approved by the Auditor in such sum as shall be ordered by the Board of County Commissioners, conditioned for the faithful discharge of his duties as a member of the Board of Flood Irrigation. The members of said board shall organize by electing from their number a chairman and a secretary; they shall keep an office at the county seat and shall keep a record of its acts and proceedings and a separate record of the proceedings relating to each separate flood irrigation project, all of which shall be open for public inspection and such records shall have the same force and effect as other public records. Three members of said board shall at all times constitute a quorum for the transaction of business. Said board may, when it is necessary, employ a clerk and fix his compensation. It may also employ and call to its assistance a competent surveyor or engineer. The state's attorney of each county shall, so far as his other duties will permit, act as the legal advisor of the board. The board may, however, by and with the consent of the county commissioners, employ other counsel to advise and represent it in its proceedings.

Sec. 4. HOW ESTABLISHED.) A petition for the construction of

a dam or a system of dams, including gates and other proper and necessary constructions incidental thereto may be made in writing to the Board of Flood Irrigation, which petition shall be signed by at least six freeholders of the district to be affected by the flood irrigation project, and which shall set forth and particularly describe the boundaries of the district that will be affected. The petitioners must accompany the petition with a map of such proposed district, which map shall show the approximate location of the proposed dam or dams and other necessary works by means of which it is intended to control the waters of such river or stream. Said petition shall also describe in a general way the benefits expected to be derived from the establishment of such improvement.

Upon the presentation of a petition, as hereinbefore provided, and filing of same, the Board of Flood Irrigation shall, as soon as practicable, proceed to examine the site of the proposed improvement and the territory or district to be benefited thereby; and if, in its opinion, it is necessary for the public good it shall enter a resolution to that effect and shall also enter a resolution designating a competent engineer who shall make all necessary and proper surveys of the lands that may be benefited or injured by the establishment of such improvements and who shall prepare all proper and necessary plans and specifications for all the improvements required to be constructed, and upon the completion of such plans and specifications shall file the same with the said Board of Flood Irrigation, together with an estimate of the cost of the construction of such improvements as well as of the annual maintenance thereof.

The Board of Flood Irrigation shall require a bond from the petitioners in a sum sufficient to pay all expenses of the required surveys and plans and specifications and of the Flood Irrigation Board, if it should appear, after the engineer's report is filed, that the proposed improvement would cost more than the amount of the benefit to be derived therefrom.

For the purpose of making examinations or surveys or getting the necessary information for the preparation of plans and specifications the Board of Flood Irrigation, its engineers or employes, may enter upon any lands deemed proper and necessary. Copies of the report and of the plans and specifications of the engineer shall be filed in the office of the County Auditor in the county in which the improvement is proposed to be constructed, with the Board of Flood Irrigation, and in such other places as the Board of Flood Irrigation may order, all of which shall be open to inspection.

In locating an improvement, the Board of Flood Irrigation may, under the advice of the engineer, vary from the location described in the petition, as it seems best.

Upon the filing of the engineer's report the Board of Flood

Irrigation shall fix a date and public place for hearing objections to the petition and the place of such hearing shall be located at some point in the vicinity of the land which will be affected by such improvement, and that will be the most convenient point for the majority of the land owners affected to attend. At least ten days notice of such hearing shall be given by causing five notices to be posted in the district to be affected at such points as will be likely, in the opinion of the board, to secure the greatest publicity. And in addition thereto, a notice shall be sent by registered mail to the last known address of each and every owner of land which may be affected by the proposed project at least ten days prior to the date of such hearing.

Notices of this hearing shall briefly set out the substance of the petition, the date of the filing of the engineer's report and the date when the board will act upon the petition and must be signed by the members of the Board, or a majority thereof. All persons whose land may be affected by any such project may appear before the Board of Flood Irrigation and fully express their opinion and offer evidence upon the matters pertaining thereto. Should two thirds of the land owners whose land is subject to assessment for the construction of such project and who own at least one-half of such land believe that the benefits to be derived are not equal to the expense of the construction they may petition the Board of Flood Irrigation to have further proceedings discontinued, whereupon said board shall, by resolution, order all further proceedings in connection therewith discontinued.

Sec. 5. ASSESSMENT OF DAMAGES (HOW MADE.) At the hearing provided for in the preceding section the Board of Flood Irrigation shall also determine what damage will be suffered, if any, by the owners of all lands within the district that will be affected by the building of such irrigation project, and in determining such damages no allowances shall be made for any benefits that may accrue to said land by the building of said project. The benefits, if any, shall be assessed under the provisions of Section 9 of this Act.

The assessment of such damages shall be subject to review, and ten days' notice of the time and place when and where such assessment will be reviewed by the Board of Flood Irrigation shall be given by publishing in some newspaper of general circulation in said county. A notice, not less than five in all, and at least one in each township or municipality interested in such project shall be posted at such points as may be likely, in the opinion of such Board, to secure the greatest publicity for each notice. Printed notices shall also be sent by registered mail to the last known address of each and every land owner whose land shall be affected by the construction of such project. The place appointed for such hearing shall be located at some point in the vicinity of the land which shall be affected, that will be convenient for the majority of the land owners affected by such project to attend.

At the time and place appointed, such Board shall proceed to hear all complaints or objections relative to such assessment of damages and correct or confirm the same.

Should any land owner believe that the assessment of the damage suffered by him has not been fairly or equitably made he may appeal to the district court of the county wherein such land is situated, by filing a petition with the clerk of the district court of said county, asking for a review of such assessment of damages; provided, however, that such petition must be filed within fifteen days after the entry of the order confirming the same.

Upon the filing of such petition in the office of the clerk of said district court, said clerk shall immediately notify the Board of Flood Irrigation thereof, whereupon the said Board shall certify all its records and proceedings in said matter to the district court. Said issue shall be regarded to be on the calendar of said court at the next court term thereof and shall be promptly heard by the court. If it appear to said court upon such hearing that such assessment or assessments have not been equitably made it may proceed to correct the same, which correction and adjustment shall be final, unless appeal is taken to the Supreme Court. Costs may be granted to either party in the discretion of the court.

Sec. 6. SHOWING REQUIRED TO ESTABLISH PROJECT) If, upon the examination by the Board of Flood Irrigation, and after the filing with said Board of the plans and specifications for said project, or if upon the hearing upon the petition, it shall appear that there was not sufficient cause for making such petition, or that the proposed project would cost more than the amount of benefit derived therefrom, the Board of Flood Irrigation shall deny the petition, and the petitioners shall be jointly and severally liable to such board for all costs and expenses incurred in the proceedings, to be recovered by such board by action. If it shall appear that there was sufficient cause for the making of such petition and that the proposed project will not cost more than the amount of benefits to be derived therefrom the Board of Flood Irrigation shall thereupon make an order establishing the project, accurately describing it, and give the same a name by which it shall be recorded and indexed.

Sec. 7. RIGHT OF WAY) The right of way for the construction of any and all improvements required in such project, including all sites for dams, etc., if not conveyed to the county by the owner may be acquired by the Board of Flood Irrigation by the exercise of the right of eminent domain in the manner prescribed by Chapter 36 of the Code of Civil Procedure of the Compiled Laws of 1913. Such right of way, when acquired, shall be the property of the county.

Sec. 8. DAMAGES AND RIGHT OF WAY. HOW PAID.) Upon the assessment by the Board or Court of the amount of damages to which the respective owners of land which may be damaged by the construction of such project may be entitled, and upon the as-

assessment by the Board or Court of the amount of damages to which the respective owners of the right of way may be entitled, the Board of Flood Irrigation shall issue warrants in sums sufficient to pay the damages so assessed, drawn upon the proper County Treasurer and payable out of any funds in the hands of the treasurer for the construction of such Flood Irrigation Project. Such warrants shall be negotiated at not less than their par value and the proceeds thereof paid to the owners of the land entitled thereto, according to such assessments of damages, the surplus, if any, to be paid to the County Treasurer who shall place the same to the credit of the proper Flood Irrigation Project Fund.

Sec. 9. ASSESSMENT OF ACCRUING BENEFITS.) Upon acquiring the right of way and after the completion of the assessments of damages as hereinbefore set out the Board of Flood Irrigation shall assess the per cent. of the cost of constructing and maintaining such Flood Irrigation Project and providing the right of way therefor and of paying all damages incurred by the owners of land affected thereby which any lot, piece or parcel of land shall be liable to pay by reason of the benefits accruing thereto, either directly or indirectly, by reason of the construction of such project, but such assessment shall be subject to review by the Commissioners as hereinafter provided.

Sec. 10. ASSESSMENT OF BENEFITS SUBJECT TO REVIEW.) The assessment of benefits provided for in the preceding Section shall also be subject to review in the same manner, and upon similar notices as provided for the review of the assessment of damages in Section 5 hereof.

Sec. 11. RETURN OF ASSESSMENT OF BENEFITS) After the assessment of benefits has been made, as provided in the preceding Sections, or has been confirmed, if appeals have been taken, and the specific amount of each assessment has been extended as hereinafter provided, the Board of Flood Irrigation shall make return thereof to the County Auditor who shall record the same in a book to be provided by the county for that purpose. Such return shall contain the petition for the project, a copy of the minutes of the survey and of the plans and specifications signed by the engineer, a copy of the order establishing the Flood Irrigation Project, conveyances of the right of way, if any, and the assessments of damages and benefits.

Sec. 12. NOTICE OF CONSTRUCTION.) After the order establishing the project has been entered the Board of Flood Irrigation shall advertise a notice, asking for sealed proposals for bids for the construction of all work required, as shown by the plans and specifications on file, which notice shall be published at least once a week for three successive weeks in the official paper of the county, and in such other papers or builder's bulletins as the Board may order. Sealed bids shall addressed to the Board of

Flood Irrigation and shall be publicly opened by them at a regular or special meeting designated in the notice.

The contract for the construction of the work shall be let to the lowest responsible bidder, but the Board may reject any or all bids submitted. At least fifteen days time shall intervene between the hearing upon the review of the Assessments and the letting of the contracts. The successful bidder shall give a bond to the Board of Flood Irrigation in the sum equal to the contract price, conditioned upon the faithful performance of and compliance with the terms and conditions of said contract.

Sec. 13. COMPUTATION, APPORTIONMENT AND TAXATION OF COSTS.) After the letting of such contracts such Board shall make a computation of the cost of the project which shall include all the expenses of locating and establishing the same, including the cost of right-of-way, the damages paid to land owners for any cause, the fees of the Board, the cost of surveys, plans and specifications, interest on all warrants issued or to be issued by the Board of Flood Irrigation on account of such project, accumulated or to accumulate prior to the time when the tax levied or to be levied to pay therefor is collectible by law, and all other expenses, together with the amount of all contracts let for the construction of the same. The sum of all the costs and expenses thus incurred or to be incurred shall be the cost of the construction of such project.

After fixing the cost as hereinbefore set out the Board of Flood Irrigation shall carry out upon the assessment list the specific amount which each lot or tract of land, benefited by the project for which the tax is levied, is liable to pay on account of procuring the same according to the per cent. which by Section 9 hereof it is required to fix and determine.

Such list shall thereupon be filed in the office of the County Auditor of the county in which the lands benefited are situated, and the Auditor shall thereupon extend upon the tax list as a special tax as provided by law the several amounts shown by such list, specifying in such tax list the particular Flood Irrigation Project for the construction or procurement of which the special tax is assessed, which special tax shall be collected and enforced in the same manner as other taxes.

Sec. 14. COLLECTION OF FLOOD IRRIGATION TAXES. PAYMENT OF EXPENSES.) The flood irrigation taxes shall be collected by the County Treasurer, and all moneys so collected shall be credited to the Flood Irrigation Fund to which they belong, and the County Treasurer shall be the treasurer of such funds. Payment of all expenses and costs of locating and constructing any such project shall be made by the Board of Flood Irrigation who shall issue warrants in such amounts and to such persons as by such Board may be found due, which warrants shall be signed by the chairman and secretary. All such warrants, after presentation to

the County Treasurer for payment, if not paid for want of funds, shall be registered by the County Treasurer, and shall thereafter bear interest at the rate of six per cent. per annum.

Sec. 15. ADDITIONAL ASSESSMENTS. WHEN NECESSARY.) In case the amount realized from the assessment made for the construction of any such project shall not be sufficient to pay therefor or to complete the same and pay all fees and incidental expenses, or to pay and retire any bonds issued in connection with the construction thereof, or in case of an enlargement of such project, or an extension thereof becomes necessary, a further assessment shall be made to meet the additional expense and the amount thereof shall be levied and collected in the manner hereinbefore provided.

Sec 16. ASSESSMENT FOR MAINTENANCE.) The Board of Flood Irrigation shall have the exclusive care, management and control of said project, but may for such purpose enter into contracts with responsible parties for the operation thereof and for the purpose of defraying expenses of the care, operation, maintenance and repair of such project, including fees of the members of the board, said board shall annually certify to the county auditor the amount that will be required for such purposes during the following year; whereupon the County Auditor shall apportion to the several parcels or tracts of land within such project the amount which each parcel or tract of land shall be assessable with, such apportionment to be made on the same basis as the original benefits were assessed under the provisions of Section 9 hereof, and shall extend such amount upon the tax lists as a special tax as provided by law. The taxes so collected shall be credited to the proper fund.

Sec. 17. JOINT POWERS OF FLOOD IRRIGATION BOARDS IN TWO OR MORE COUNTIES.) Apportionment of cost whenever it shall be deemed necessary by the Boards of Flood Irrigation of two or more counties in this state, to construct or extend a project through or into two or more counties in this state, it shall be lawful and the several Boards of Flood Irrigation in the counties into or through which such proposed project may extend when completed, are empowered to establish, construct and maintain such project through or into two or more counties in the manner following, to-wit: There shall first be presented to the several Boards of Flood Irrigation in each of such counties a petition for the establishment of such Flood Irrigation Project in their several counties are provided by law and such boards of such several counties shall determine upon the necessity or expediency of the establishment of such Flood Irrigation Project as provided by law. The several Boards of Flood Irrigation of all counties through or into which such proposed project may run shall then meet and agree upon the proportion of damages and benefits to

accrue to the lands affected in each county affected and for this purpose they shall consider the entire course and territory of such project in all said counties as one project. They may apportion the cost of establishing and constructing such entire project ratably and equitably upon the lands in each county in proportion to the benefits to accrue to such lands, and when they have so apportioned the same they shall make written reports of such apportionment to the auditors of the several counties affected, which reports shall show the portion of cost of such entire project to be paid by tax upon the lands in each of such counties and such reports shall be signed by the Boards of Flood Irrigation of all counties affected. Upon the filing of such reports, the several Boards of Flood Irrigation shall meet and assess against the lands in each of such counties ratably and equitably as provided by law an amount sufficient to pay the proportion of cost of such drain in each of such counties so fixed by all said commissioners.

Sec. 18. **TAX OR ASSESSMENT VOID. WHEN. NEW PROCEEDINGS.)**
The collection of no tax or assessment levied or ordered to be levied to pay for the location and construction of any project of flood irrigation laid out and constructed under this chapter shall be perpetually enjoined or declared absolutely void in consequence of any error of any officer or board in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any such project shall have been located or established, nor for want of proper conveyance or condemnation of the right of way, but the court in which any proceeding may hereafter be brought to reverse or to declare void the proceedings by which any project has been located or established or to enjoin the tax levied to pay the labor and cost and expenses shall on application of either party appoint such person or persons to examine the premises, or to survey the same, or both, as may be deemed necessary and the court shall on final hearing make such order in the premises as shall be just and equitable, and may order such tax to remain on the tax list for collection or any part thereof, or if the same shall have been paid under protest shall order the whole or such part thereof as may be just and equitable to be refunded, the costs of said proceedings to be apportioned among the parties as justice may require. If any proceedings for the location, establishment or construction of any project under the provisions of this chapter, have been heretofore, or shall be hereafter enjoined, vacated, set aside, declared void or voluntarily abandoned by the Board of Flood Irrigation, in consequence of any error, irregularity or want of jurisdiction affecting the validity of such proceedings, and if any warrants have been or shall hereafter be issued in connection with such aforesaid invalid or abandoned proceedings, the Board of Flood Irrigation may nevertheless proceed under the provisions of this chapter to locate, establish and construct the project under

the same or different name, and in the same or different location described in the invalid or abandoned proceedings; provided, however, such new proceedings shall be in accordance with the general provisions of this chapter.

Sec. 19. LIABILITY OF MEMBERS OF FLOOD IRRIGATION BOARD.) Each Board of Flood Irrigation shall make a report to the County Commissioners of all projects begun, in process of construction or finished and shall also render a full account of all moneys which shall come into its hands; and every member of the Board of Flood Irrigation shall be liable on his bond for any mis-application of money coming into his hands as such member of such board. The report required by this section shall include an itemized statement of all expenses and warrants drawn on account of each and every drain.

Sec. 20. COMPENSATION OF MEMBERS OF THE BOARD.) The members of the Board of Flood Irrigation shall receive for their services Three Dollars per day for the time actually spent by them in the performance of the duties of their office.

Sec. 21. POWER TO ADMINISTER OATH.) The members of the Board of Flood Irrigation shall have the power to administer any oath required in any proceeding had before them or in which they may be called to act officially.

Sec. 22. BONDS. WHEN AND HOW AUTHORIZED.) The Board of County Commissioners of any county in which any such project is proposed to be located and constructed is authorized to issue bonds which shall be known as Flood Irrigation Bonds, in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in obtaining the right of way or in locating or constructing any such project, said word "expenses" to be construed to mean and to cover every item of cost of said project from its inception to its completion as hereinbefore provided, which bonds shall be paid out of the revenues to be derived from taxes levied, or to be levied, and collected from that portion of the county found by the Board of Flood Irrigation to be benefited thereby. Such bonds shall bear interest at a rate not exceeding seven per cent. and shall be divided in such amounts and payable at such periods not exceeding fifteen years, as the Board of County Commissioners may determine; provided, that any land owner who may desire to pay the entire amount assessed against his land for the entire cost of such project, including warrants and interest thereon, may, prior to the sale of such bonds pay into the County Treasury the amount of said assessments for which the Treasurer shall give his receipt in full, and such lands shall not be included in the list of lands assessed. The County Auditor shall give notice of the determination of the Board of County Commissioners to issue bonds by publishing a notice in the official newspaper of the county at least fifteen days before the date of selling said bonds. Said notice shall

designate the project proposed to be bonded, and in general terms notify all persons interested of their right to pay their total assessment prior to the date of the sale of said bonds, as provided in this section. The money paid in shall be used to take up warrants, and the bonds issued shall be for such an amount as will pay the remainder of the cost of construction; and the said board shall provide sinking funds for the payment at maturity of each series of bonds issued and for the payment of the annual interest on the same. The bonds issued under the provisions of this chapter shall be signed by the chairman of the Board of County Commissioners of such county and countersigned by the County Auditor, who shall keep a record of the bonds issued under the provisions of this chapter. Such Board shall have the power to negotiate such bonds at not less than the par value thereof as it may deem for the best interest of all persons interested in such project. Such bonds shall contain a recital that the same are issued in accordance with the provisions and pursuant to the authority of this chapter and that they are to be paid out of the sinking funds to be created as in this chapter provided. Whenever such bonds shall be issued the tax hereinbefore provided for shall not be collected all in one year, but shall be divided into parts corresponding with the amounts and maturities of the bonds and such parts shall be extended year by year upon the tax lists by the County Auditor against the proper parcels of land and property liable to taxation for that purpose and collected in such year, and such fund shall constitute the sinking fund provided by this section.

Sec. 23. LEVY OF TAX FOR INTEREST. SINKING FUND.) The Board of County Commissioners shall in each year at the time of levying the taxes, levy upon the property liable to taxation on account of the location and construction of any project as by this chapter provided a tax sufficient to pay the annual interest on any bonds which may have been issued for the purpose of locating and constructing such project. Separate sinking funds shall be provided for each separate project for the construction of which bonds shall have been issued, and no funds in any such sinking fund shall be applied to any other purpose than the payment of the bonds for the payment of which such fund was created. No county shall be liable for the payment of any bonds issued under the provisions of this chapter, but such bonds shall be paid only out of the sinking funds created as in this chapter provided.

Sec. 24. EMERGENCY.) Whereas it is highly necessary and expedient that this Act shall go into immediate operation, this Act is hereby declared to be necessary for the immediate preservation of the public peace, health and safety, and shall go into effect and be in force from and after its passage and approval.

Approved March 7, 1919.