

(subject to the perfect and complete use of all primary rights) to the extent of and reasonable necessity for such use thereof, under any of the following circumstances: First.—Whenever the whole of the waters of any natural stream, water-course, lake, spring, or other natural source of supply has been taken, diverted and used by prior appropriators for a part or parts of each year only; and other persons have subsequently appropriated any part, or the whole of such water during any other part of such year, such person shall be deemed to have acquired a secondary right.

Second.—Whenever, at the time of an unusual increase of water exceeding seven years' average flow of such water at the same season of each year, all the water of such average flow then being used by prior appropriators, and other persons appropriate and use such increase of water, such persons shall be deemed to have acquired a secondary right.

SEC. 8. A right to the use of water may be measured by fractional parts of the whole source of supply, or by such fractional parts with a limitation as to periods of time when used, or intended to be used; or it may be measured by cubic inches, with a limitation specifying the depth, width and declination of the water at point of measurement, and, if necessary, with a further limitation, as to periods of time when used, or intended to be used; and such right may be appurtenant to the land upon which such water is used, or it may be personal property, at the option of the rightful owner of such right, and a change of the place of use of water shall in no manner affect the validity of any person's right to use water, but no person shall change the place of use of water, to the damage of his co-owners in such right without just compensation.

SEC. 9. A continuous neglect to keep in repair any means of diverting, or conveying water, or a continuous failure to use any right to water, for a period of seven years, at any time after the passage of this Act, shall be held to be an abandonment and forfeiture of such right, and whenever hereafter a conveyance of any parcel of land is executed, and a right to the use of water has been continuously exercised from the time of its first appropriation, in irrigating such land, such right shall pass to the grantee of such conveyance; and in cases where such right has been exercised in irrigating different parcels of land at different times, such right shall pass to the grantee of any parcel of land on which such right was exercised next preceding the time of the execution of any conveyance thereof; subject, however, in all cases, to payment by the grantee of any such conveyance, of all amounts unpaid on any assessment then due upon any such right. Provided, that in any of the cases mentioned in this section, any such right to the use of water or any part thereof, may be reserved by the grantor of any such conveyance, by making such reservation in express terms inserted in such conveyance.

SEC. 10. All rights to the use of water, and means of diverting water, shall be exempt from taxation, except for the purpose of regulating the exercise of the use of such right, in all cases where the land, or other property, upon which the water pertaining to such rights is assessable for taxation, but in making the assessment the assessor shall estimate the increased value of such land, or other property, caused by the use of such water.

SEC. 11. It shall be the duty of all persons, using water from any natural source of supply, to provide suitable ditches for conveying surplus water again into the natural channel, or other place of use, to the satisfaction or approval of the Water Commissioners; and if through neglect so to provide such ditches, water is allowed to form pools or marshes, or otherwise run to waste; or if any person shall turn or use any water in a manner that damages the property of another, except when such turning or using is in the prudent, careful exercise of such person's lawful right to so turn or use, such person or persons so offending shall be liable for damages to any aggrieved person entitled to the use of water from the same source of supply, and the Water Commissioners may, on application or of their own motion, cause the water supply to be diverted from such offending party until such waste ditches are provided.

SEC. 12. Whenever the terms mentioned in this section are employed in this act, they are employed in the sense hereinafter affixed to them, except where a different sense plainly appears. First: The term "person,"

when applicable, includes "firm," "partnership," "joint stock company," "association" and "corporation." Second: Words in the singular number may include the plural, and words in the masculine may include the feminine. Third: The term "continuous use" includes use for that part of each year necessary for the purpose used for.

SEC. 13. That Section 2192 of the Compiled Laws of Utah is hereby repealed, and the following enacted in lieu thereof: Any person who in violation of any right of any other person wilfully turns or uses the water, or any part thereof, of any canal, ditch or reservoir, except at a time or times when the use of such water has been duly distributed to such person, or wilfully uses any greater quantity of such water than has been duly distributed to him, or in any way changes the flow of water, when lawfully distributed for irrigating or other useful purposes, except when duly authorized to make such change, or wilfully and maliciously breaks or injures any dam, canal, watergate, ditch or other means of diverting or conveying water for irrigation, or other useful purpose, is guilty of a misdemeanor.

SEC. 14. Whenever the waters of any natural source of supply are not sufficient for the service of all those having primary rights to the use of the same, such water shall be distributed to each owner of such right in proportion to its extent, but those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for irrigating lands, shall have preference over those using the same for any other purpose except domestic purposes. Provided, such preference shall not be exercised to the injury of any vested right, without just compensation for such injury.

SEC. 15. All persons shall have the right of way across and upon public, private and corporate lands, or other right of way, for the construction and repair of all necessary reservoirs, dams, water-gates, canals, ditches, flumes, or other means of securing and conveying water for any necessary public use, or for drainage, upon payment of just compensation therefor, but such right of way shall in all cases be exercised in a manner not to unnecessarily impair the practical use of any other right of way, highway, or public or private road, nor to unnecessarily injure any public or private property.

SEC. 16. Whenever a majority of individuals owning several rights to the use of water and a joint interest in the means of diverting or conveying such water, or who may desire to divert and use any unappropriated water, desire to organize themselves into an association for the purposes of regulating the diversion and distribution of such water, they may organize into a corporation in the manner provided in "An act providing for incorporating associations for mining, manufacturing, commercial and other industrial pursuits," approved February 18, 1870, and all amendments thereto, with power to levy and collect all necessary assessments, and the distribution of water to each stockholder may be regarded as the payment of dividends, and such corporation shall have perpetual succession, unless dissolved by three years' non-use of its right or by a two-thirds majority vote of its members at a meeting called for that purpose; in all cases of dissolution, the property held by the corporation shall revert to the members in proportion to their rights therein, or they may organize into an irrigation district under "An act to incorporate irrigation companies," approved January 20, 1885, as they may elect.

SEC. 17. All acts or parts of acts in conflict with this act are hereby repealed.

ORSON PRATT, Sen.
Speaker of the House of Representatives,
LORENZO SNOW,
President of the Council.
Approved February 20, 1880.

GEO. W. EMERY,
Governor.
UTAH TERRITORY,
Secretary's Office.

I, Arthur L. Thomas, Secretary of the Territory of Utah, do hereby certify that the above act, entitled "An Act Providing for Recording Vested Rights to the use of Water and Regulating their Exercise" is a true and correct copy as appears by the records on file in my office.

Attest: My hand and seal at Salt Lake City, this 21st day of February, A. D. 1880.
[SEAL.] ARTHUR L. THOMAS,
Sec'y of Utah Ter.

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