

Bill No. 67 of 1947.

A BILL TO AMEND AND CONSOLIDATE THE MINERAL TAXATION ACT, BEING CHAPTER 9 OF THE REVISED STATUTES OF ALBERTA, 1945,

NOTE.

This Bill amends and consolidates *The Mineral Taxation Act*, 1945, and is for the most part in similar terms to that Act. Only the most important sections and changes will be mentioned in this note.

Section 3 requires every owner, without notice or demand, between the first day of January and the first day of February, 1948, and each person who becomes an owner after the thirty-first day of January within thirty days of that date to deliver to the Deputy Minister a written statement setting out the legal description of all tracts with respect to which he is the owner of minerals, and the kind or kinds of minerals and what minerals are being produced or have been produced.

Section 4 provides for the payment before the thirty-first day of December in each year a general tax on all minerals as fixed by the Lieutenant Governor in Council but not exceeding five cents per acre.

Section 7 deals with the designation by the Minister of areas in the Province as producing areas and with the designation also of the principal mineral or minerals in a producing area.

Section 8 authorizes the assessment of a tax on the principal mineral or minerals and only on such minerals in a producing area.

Section 9 (2) provides that the assessment shall be made before the first day of June in each year. Section 9 (4) authorizes the Minister to allocate to a producing well any specified area for the purpose of computing the value of the minerals in the manner prescribed in the Schedule. A new method of ascertaining the fair actual value of the minerals for the purpose of assessment is set out in the Schedule.

Section 1 of the Schedule deals with petroleum and fixes the value at one and one-half times the value of the average field price during the first three months of the year in which the assessment is made of all petroleum produced from the well during the preceding year.

Section 2 of the Schedule has similar provisions as to gas fixing the value at four times the value at three cents per thousand cubic feet of the natural gas produced from the well during the preceding year.

Coal is dealt with in section 3 of the Schedule and is valued at an amount equal to three times the value at ten cents per ton of all coal recovered from the tract in the preceding year. Provision is made, in the case of coal, for a reduction in the assessment under certain conditions.

Section 15 of the Bill provides that, when the assessment roll has been revised and appeals disposed of, the Deputy Minister shall levy a tax at such rate on the dollar as the Lieutenant Governor in Council may from time to time direct upon the assessed value of all principal minerals in each producing area; the rates may vary as to different minerals. The change here is that the levy of the tax is limited to "principal minerals" designated as such by the Minister.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 67 of 1947.

An Act to Amend and Consolidate The Mineral Taxation Act, being Chapter 9 of the Statutes of Alberta, 1945.

(Assented to , 1947.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE

1. This Act may be cited as "*The Mineral Taxation Act, 1947.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) "Assessor" means the person appointed by the Lieutenant Governor in Council to perform the or any of the duties of an assessor prescribed by the Act;
 - (b) "Certificate of Title" means a certificate of title issued pursuant to the provisions of *The Land Titles Act*;
 - (c) "Commission" means the Alberta Assessment Commission constituted under the provisions of *The Alberta Municipal Assessment Commission Act*;
 - (d) "Department" means the Department of Lands and Mines;
 - (e) "Deputy Minister" means the Deputy Minister of Lands and Mines;
 - (f) "Mineral" means the right existing in any person by virtue of a certificate of title to work, win and carry away any mineral or minerals within, upon or under the area described in the certificate of title, and also any mineral or minerals which may be found to exist within, upon or under any land;
 - (g) "Minister" means the Minister of Lands and Mines;
 - (h) "Owner" means a person who is registered in a Land Titles Office as the owner, part owner or one of joint owners of an estate in fee simple in any mineral or minerals whether or not the title to the mineral or minerals is severed in the registry from the title to the surface;
 - (i) "Principal mineral" means a mineral designated by the Minister pursuant to section 7, and also the right to work, win and carry away such mineral;

- (j) "Producing area" means,—
- (i) any area in the Province designated as a producing area by order of the Minister pursuant to the provisions of section 7;
 - (ii) any quarter section of land according to the system of surveys under *The Alberta Surveys Act*, any river lot or any parcel described by metes and bounds on which or on any portion of which is situate a mine or well from which any mineral is being produced or has at any time been produced;
 - (iii) any quarter section of land, any river lot, or any parcel described by metes and bounds which, or any portion of which, is within five-eighths of a mile of any producing well, or of the limits of the workings of any mine as shown on the last plan of survey of the said mine workings on file with the Department;
- (k) "Registrar" means a Registrar of Land Titles within the meaning of *The Land Titles Act*;
- (l) "Tract" means the area described in a certificate of title.

3. Each owner shall without any notice or demand to that effect between the first day of January and the first day of February in the year 1948, and each person who becomes an owner after the thirty-first day of January, 1948, shall within thirty days thereafter deliver to the Deputy Minister a written statement in which shall be set forth the legal description of all tracts in respect of which he is the owner of a mineral or minerals, and the kind or kinds of mineral or minerals; and the statement shall also set forth what mineral or minerals, if any, are being produced or have to his knowledge been produced at any time within the said tracts.

4.—(1) Every owner shall be liable for, and shall, on or before the thirty-first day of December in each year, pay to the Minister a tax on the mineral or minerals within, upon or under the tract of which he is the owner at such rate per acre, not exceeding five cents per acre, as may from time to time be determined by the Lieutenant Governor in Council.

(2) Where the name of more than one owner appears upon a certificate of title, then all such owners shall be regarded as one owner for the purpose of taxation.

(3) No tax shall be payable under this section with respect to any mineral or minerals the mining and working of which is prohibited by the provisions of *The Urban Mining Operations Act*, being chapter 274 of the Revised Statutes of Alberta, 1942, or any mineral or minerals within, upon or under any land forming part of the right-of-way of any railway.

5. If the tax payable by an owner under the provisions of section 4 is less than twenty-five cents, the amount payable shall be twenty-five cents.

6. Where more than one certificate of title exists for defined or undefined interests in the same mineral or minerals, then each owner whose name appears upon a certificate of title shall be liable to a tax at the rate per acre determined pursuant to the provisions of section 4 in proportion to the interest defined, and the amount of tax for any undefined interest shall be computed in accordance with a signed statement of the owner of such interest.

7.—(1) The Minister may from time to time, by order published in *The Alberta Gazette*, designate any area in the Province as a producing area and shall designate the mineral or minerals which, for the purpose of this Act, shall be deemed to be the principal mineral or minerals in that area.

(2) Where any mineral has been designated as a principal mineral in any producing area pursuant to subsection (1), any such mineral when produced in a producing area other than an area designated by the Minister shall be deemed to be a principal mineral in such non-designated producing area.

(3) The Minister may at any time, by order published in *The Alberta Gazette*, rescind the designation of a producing area, or may from time to time by order as aforesaid alter the boundaries of a producing area in any manner which he deems proper.

(4) The Minister may from time to time, by order published in *The Alberta Gazette*, designate, in addition to the mineral or minerals already designated, any mineral or minerals as principal mineral or minerals in an existing producing area.

8. Every owner of a principal mineral in a producing area shall be liable to be assessed and to pay a tax levied on the principal mineral under the provisions of this Act, and the tax shall be in addition to and not in substitution for the tax imposed by section 4.

9.—(1) The Lieutenant Governor in Council may from time to time appoint an assessor for the purpose of this Act and prescribe his remuneration.

(2) In every year, before the first day of June, the assessor shall assess at the fair actual value each principal mineral in each producing area in the Province, and shall have prepared an assessment roll setting out thereon a brief description of the mineral or minerals assessed, the names and addresses of the owners thereof and the assessed values thereof.

(3) In making an assessment, the assessor may take any steps which he in his discretion considers necessary for the

purpose of ascertaining the fair actual value of the assessed minerals, and for that purpose may resort to all sources of available information, and subject to subsection (5) may fix such amount as appears to him to be just and equitable.

(4) The Minister may from time to time by order published in *The Alberta Gazette* allocate to a producing well any specified area for the purpose of computing the value in accordance with the schedule.

(5) The fair actual value for the purposes of subsection (2) of a mineral for which a method of computing the value is provided by the schedule to this Act shall be the value computed pursuant to the provisions of the schedule.

(6) Where a principal mineral is produced for the first time from any well or mine on or after the first day of January and before the first day of May in any year, the assessor shall for that year determine the fair actual value of each principal mineral in each producing area in the manner prescribed by subsection (3).

(7) The assessor or any person duly appointed by him may for any purpose relating to an assessment, enter upon and inspect any land or property.

10. Upon the completion of the assessment roll, the assessor shall indorse thereon or attach thereto a certificate setting out the date upon which the roll was so completed, and sign and deliver the same to the Deputy Minister.

11. The Deputy Minister shall on receipt of the assessment roll cause a copy of the assessment roll and of the certificate indorsed thereon to be posted up in a conspicuous place to which the public have access in the Department at Edmonton and in the Provincial Land Agency at Calgary, and shall keep it so posted up for twenty days, and shall within ten days after the posting up of the assessment roll in the Department at Edmonton, cause to be sent by mail to each owner whose name appears on the assessment roll, an assessment notice containing the particulars appearing in the assessment roll with respect to the minerals assessed, together with a copy of subsection (1) of section 12.

12.—(1) Any owner whose name appears upon the assessment roll may appeal to the Commission, and on such appeal may apply to vary the assessment roll and to alter any assessment shown thereon which the owner alleges to be wrongfully made or improperly assessed or to be too high or too low, or to assess any minerals which he alleges are liable to be and have not been assessed, and to include the same in the assessment roll upon giving the Commission and the Deputy Minister notice in writing after the date upon which the assessment notice was mailed pursuant to section 11, but on or before the thirty-first day of July next following.

(2) The Deputy Minister may appeal to the Commission and on such appeal may apply to vary the assessment roll and to alter any assessment shown thereon which he alleges to be wrongfully made or improperly assessed or to be too high or too low, or to assess any minerals which he alleges are liable to be and have not been assessed, and to include the same in the assessment roll upon giving the Commission notice in writing within thirty days from the date of posting the assessment roll in the Department at Edmonton.

13.—(1) As soon as practicable after the thirty-first day of July in each year, the Commission shall hear all appeals duly filed by owners of minerals and by the Deputy Minister, and make such disposition of all appeals as the Commission may deem fit and proper.

(2) The provisions of sections 19 and 27 to 33, both inclusive, and sections 36 to 38, both inclusive, of *The Alberta Municipal Assessment Commission Act*, shall *mutatis mutandis* and except as varied by this Act, apply to any such appeal.

14.—(1) As soon as the Commission shall have disposed of all appeals as aforesaid, it shall proceed to revise the assessment roll in accordance with the disposition made by the Commission of the appeals, and thereupon shall cause to be attached to the assessment roll so revised a certificate which may be in the following form:

"This is to certify that the assessment roll hereto annexed is the assessment roll for the year 19..... as revised by the Alberta Assessment Commission.

"Dated at the City of Edmonton this day of, 19.....

.....
*Chairman of the Alberta
 Assessment Commission.*"

(2) The assessment roll so revised and every assessment, matter or thing set out therein and the certificate attached thereto, shall be conclusive and binding upon all owners mentioned therein or affected thereby, and shall not be questioned in any proceedings in any court as to any statement, matter or thing contained therein whatsoever.

15. In each year upon delivery of the assessment roll and after appeal and revision, if any, the Deputy Minister shall proceed to levy a tax at such rate or rates on the dollar as the Lieutenant Governor in Council may from time to time direct upon the assessed value of all principal minerals in each producing area on the assessment roll as certified by the assessor or by the Commission, as the case may be, and the rates so prescribed may vary with respect to different minerals in any producing area.

16. If the tax payable by an owner under section 15 with respect to any tract is less than one dollar, the amount payable shall be one dollar.

17. As soon as may be after the Lieutenant Governor in Council has fixed the rate, the Deputy Minister shall cause to be sent by mail to each person whose name appears on the assessment roll as the owner of any assessable mineral or minerals, a notice describing the mineral or minerals assessed, the amount of tax payable to the Minister in respect thereof, a demand for the payment of the tax by a specified date, and a statement of the penalties outlined in subsection (1) of section 21.

18. The Registrar shall not accept any transfer (other than under the provisions of section 25), mortgage, lease or assignment of lease to be registered against a title for a mineral or minerals unless a tax receipt from the Department or a tax certificate from the Deputy Minister is filed with the Registrar showing in either case that there are no taxes owing under this Act with respect to the mineral or minerals.

19. The Deputy Minister shall if requested make a search in the assessment or tax roll in respect of any assessable or taxable mineral or minerals and shall if required, upon receipt of a fee of fifty cents, give a certificate under his hand showing whether or not all taxes in respect of the mineral or minerals described in a certificate of title have been paid, and if not, the amount of current taxes and arrears payable with respect to the mineral or minerals.

20. The Registrar shall at the end of each month furnish the Deputy Minister with a statement showing all changes of ownership of a mineral or minerals which have occurred during the preceding month, showing the name of the registered owner, the mineral or minerals transferred, a brief description of the area according to the certificate of title, and the date thereof.

21.—(1) In the event of the tax imposed under section 15 or any part thereof remaining unpaid after the expiration of six months from the date of mailing of the notice referred to in section 17, there shall be added thereto by way of penalty a sum equal to five per cent of the unpaid taxes, and in the event of the taxes and penalties or any part thereof still remaining unpaid after the expiration of a further period of six months, there shall be added thereto an additional five per cent of the unpaid taxes and penalties and the amount or amounts so added shall form part of the tax or taxes due.

(2) In the event of the tax imposed under section 4 or any part thereof remaining unpaid after the thirty-first day of December in any year, there shall be added thereto after the expiration of six months a sum equal to five per cent of

the unpaid taxes, and in the event of the taxes and penalties or any part thereof still remaining unpaid after the expiration of a further period of six months, there shall be added thereto an additional five per cent of the unpaid taxes and penalties, and the amount or amounts so added shall form part of the tax or taxes due.

(3) Nothing in this section contained shall be construed to extend the time for payment of the taxes nor in any way to impair any remedy provided by this Act for the collection of taxes.

22. The taxes and penalties payable by any person pursuant to this Act shall be deemed to be a debt due His Majesty and shall be recoverable as such in the Supreme Court of Alberta or in any other court of competent jurisdiction in the name of His Majesty represented by the Minister, and the said taxes shall constitute a charge upon the mineral or minerals in respect of which the same are payable, which charge shall have priority over all other mortgages, charges, liens or encumbrances whatsoever excepting a lien for wages filed under the provisions of *The Mechanics' Lien Act*.

23.—(1) Where the taxes with respect to a mineral or minerals are one full year in arrears whether under the provisions of *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, *The Mineral Taxation Act, 1945*, or this Act, the Deputy Minister may send by registered mail a notice to the owner at the address set out in the certificate of title covering the mineral or minerals, advising him that unless all taxes and penalties due and owing at the time of payment with respect to the mineral or minerals are paid within one year from the date of the mailing of this notice, his certificate of title will be cancelled with respect to such mineral or minerals and title vested in His Majesty.

(2) If at the expiration of the period of one year last mentioned, all taxes and penalties due and owing with respect to the mineral or minerals have not been paid, the Deputy Minister may deliver or mail to the Registrar a notice in Form A in the Schedule, and upon receipt of any such notice the Registrar shall cancel the certificate of title of the owner with respect to such mineral or minerals and shall issue a new certificate of title to the mineral or minerals free and clear of all encumbrances in the name of His Majesty in the right of the Province as represented by the Minister.

24. Until title has been issued in the name of His Majesty pursuant to the provisions of section 23, the mineral or minerals shall continue to be assessed and taxed, or taxed, as the case may be, and there shall be added thereto at the time of the payment of the taxes, interest at the rate of five per cent per annum on all unpaid taxes from the date when the second penalty thereon became due under the provisions of section 21 or under the provisions of *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, or *The Mineral Taxation Act, 1945*, until payment.

25. Any owner whose title to a mineral or minerals is free and clear of encumbrances may, with the consent of the Minister first had and obtained, transfer to His Majesty the mineral or minerals, and upon the issue by the Registrar of a certificate of title in the name of His Majesty, the taxes and penalties outstanding against the mineral or minerals under the provisions of this Act, *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, and *The Mineral Taxation Act, 1945*, shall be cancelled and the former owner shall be relieved from the payment thereof.

26. Any mineral or minerals the title to which is vested in His Majesty pursuant to the provisions of section 23 or section 25 shall be provincial lands for the purposes of *The Provincial Lands Act*.

27.—(1) If anything to be done within a number of days or at or before a time fixed by or under this Act cannot be or is not so done, the Minister may by order from time to time appoint a further or other time for doing it, whether the time at or before or within which the same ought to have been done has or has not arrived or expired, as the case may be.

(2) Anything done at or before or within the time specified in such order shall be as valid as if it had been done at or before or within the time fixed by or under the Act.

28. The Lieutenant Governor in Council shall have power to make all such rules and regulations as may be necessary or convenient for the purpose of carrying out the provisions of this Act.

29. *The Mineral Taxation Act, 1945*, being chapter 9 of the Statutes of Alberta, 1945, is hereby repealed.

30. This Act shall come into force on the day upon which it is assented to.

SCHEDULE.

1. The fair actual value for the purpose of assessment in any year of the petroleum within, upon or under the land allocated by the Minister to a well producing petroleum or petroleum and natural gas shall be one and one-half times the value at the average field price during the first three months of the year in which the assessment is made of all petroleum produced from the well during the preceding year.

Provided that in any case where a well has produced petroleum for part only of the preceding year the production of petroleum for the preceding year shall be deemed to be

the amount which the well would have produced had it been producing for the full year at the same rate as it produced during the part of the year it was in production.

2. The fair actual value for the purpose of assessment in any year of the natural gas within, upon or under the land allocated by the Minister to a well producing either natural gas alone or both petroleum and natural gas shall be four times the value at three cents per thousand cubic feet of the natural gas produced from the well during the preceding year.

Provided that in any year where the well has produced natural gas for part only of the preceding year the production of natural gas for the preceding year shall be deemed to be the amount which the well would have produced had it been producing for the full year at the same rate as it produced during the part of the year it was in production.

3. The fair actual value for the purpose of assessment in any year of the coal within, upon or under any tract from which any coal has been recovered in the preceding year, shall be an amount equal to three times the value at ten cents per ton of all coal recovered from the tract in the year immediately preceding the year of the assessment.

Provided that in any case where the owner establishes to the satisfaction of the assessor that the amount of coal within, upon or under a tract is less than an amount equal to three times the amount recovered from the tract in the year immediately preceding the year of the assessment, the fair actual value of the coal within, upon or under the tract shall be the value of ten cents per ton of the amount of coal so established to the satisfaction of the assessor to be within, upon or under the tract.

FORM A.

(Section 23)

To the Registrar of the.....
Alberta Land Registration District.

I,....., Deputy Minister of Lands and Mines, pursuant to the powers vested in me by *The Mineral Taxation Act, 1947*, hereby authorize you to issue certificate or certificates of title to the mineral or minerals enumerated in the Schedule within, upon or under the lands described in the Schedule hereto attached in the name of His Majesty the King in the right of the Province of Alberta as represented by the Minister of Lands and Mines, free and clear of all encumbrances.

.....
Deputy Minister.

FOURTH SESSION
TENTH LEGISLATURE
H1 GEORGE VI
1947

BILL

A Bill to amend and consolidate The Mineral Taxation Act, being chapter 9 of the Statutes of Alberta, 1945.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TANNER.

EDMONTON:
A. Shnitka, King's Printer
1947