

Bill No. 102 of 1949.

A BILL TO PROVIDE FOR THE REGISTRATION OF
ASSIGNMENTS OF INTERESTS IN CROWN LANDS.

NOTE.

This Bill enacts a new Act to be known as "*The Registration of Assignments of Crown Lands Act*".

The provisions of this Act were formerly contained in sections 86 and 86a of *The Provincial Lands Act*. Due to the division of the Department of Lands and Mines into two new Departments and to the transfer of the administration of special areas to the Minister of Municipal Affairs these provisions now become applicable to lands administered by three different Departments. Rather than repeating these provisions in each of three separate Acts administered by each of the Departments it appears desirable to have a special new Act to deal with the subject of the registration of assignments of Crown lands.

Section 3 requires the Minister to keep in his Department books for registering assignments of any right or interest in lands or minerals acquired from the Crown in the right of the Province under the terms of any agreement of sale, lease, license, permit, conveyance or other instrument.

Section 4 provides for the payment of a tax to the Minister at the rate of ten per cent on the increase in value of the interest in Crown lands over the last preceding value.

Section 5 enables the Minister to accept payment of the tax by delivery to him of a share of production or other participation in earnings from the Crown lands.

Section 7 prescribes rules for determining the last preceding value and the new value for purposes of payment of the tax.

Section 8 provides for affidavits of value from the assignor and the assignee when any assignment is tendered for registration.

Section 9 exempts from the tax any transmission of any right or interest in lands or minerals of a deceased person or the transfer of such right or interest from the executors of any such deceased person to his devisee or to the persons entitled thereto upon the distribution of his estate.

Section 10 provides that all moneys realized from this tax shall be paid into the General Revenue Fund.

KENNETH A. MCKENZIE,
Acting Legislative Counsel.

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

BILL

No. 102 of 1949.

An Act to Provide for the Registration of Assignments of
Interests in Crown Lands.

(Assented to _____, 1949.)

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 Registration of Assignments of Crown Lands Act*".

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

- (a) "land" extends to and includes lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, whatever may be the estate or interest therein, and whether legal or equitable and, subject to the provisions of this Act, all paths, passages, waters or water courses, liberties, privileges, easements and all trees and timbers thereon;
- (b) "minerals" means all mines and minerals whatsoever, both precious and base, and without derogating from the generality of the foregoing, includes gold, platinum, silver, uranium, pitchblend and other minerals from which radium is or may be obtained, precious stones, copper, iron, tin, zinc, asbestos, salt, petroleum, oil, asphalt, tar sands, natural gas, coal, limestone, granite, slate, marble, sandstone and any other stone which is or may be quarried for any industrial purpose, sand, gravel, gypsum, clay, marl and volcanic ash;
- (c) "Minister" means,—
 - (i) in the case of public lands within the meaning of *The Public Lands Act* the Minister of Lands and Forests;
 - (ii) in the case of mines and minerals the Minister of Mines and Minerals;
 - (iii) in the case of Crown lands in a special area the Minister of Municipal Affairs.

APPLICATION OF ACT.

3.—(1) Notwithstanding anything to the contrary contained in any other Act the Minister shall cause to be kept in the Department books for registering assignments of any right or interest in lands or minerals acquired from the Crown in the right of the Province under the terms of any agreement of sale, lease, license, permit, conveyance or other instrument.

(2) The assignee of any such right or interest may register his assignment with the Minister except as otherwise provided herein.

(3) The Minister may refuse to register any assignment unless it is unconditional and unless its execution has been proved to the satisfaction of the Minister.

(4) Every assignment so registered shall be valid against and prior to any other unregistered assignment or subsequently registered assignment.

PAYMENT OF TAX.

4. There shall be payable to the Minister,—

- (a) upon the registration in the Department of any assignment of an agreement for sale of land or minerals or of any lease, permit, license, or any other form of agreement for the development of a natural resource; or
- (b) upon the consent of the Minister to a sub-lease of a lease, permit or license;

a tax at the rate of ten per cent on the increase in value thereof, at the time of the registration or consent, over the last preceding value thereof, excluding in all cases the cost of the improvements or development work actually made or done upon or in connection with the land or minerals with respect to which the agreement for sale, lease, permit, license or any other form of agreement for the development of a natural resource has been made.

5. Where the consideration for any assignment or sub-lease consists in whole or in part of a share of production or of some other participation in earnings, or where part or all of the consideration is deferred, the Minister may accept payment of the tax by delivery to him of the share of production or other participation in earnings or of the share of the deferred consideration equivalent in value to the tax as and when the said share of production or participation or share of the deferred consideration becomes payable to the assignor or sub-lessor and for that purpose,—

- (a) the Minister may require and accept an assignment from the assignor or sub-lessor of such portion of his interest as the Minister may deem proper; and

- (b) the assignor or sub-lessor may by order direct the assignee or sub-lessee to deliver to the Department out of the share of production or other participation in earnings or out of the share of the deferred consideration belonging to the assignor or sub-lessor as and when payable such portion of his interest as he has assigned to the Minister.

6. The tax shall in each case be payable by the assignor or sub-lessor, and no assignment with respect to which any tax is payable hereunder shall be registered and no sub-lease shall be consented to until the tax has been paid, except as provided in section 5.

7.—(1) The last preceding value for the purpose of section 4 shall be,—

- (a) in the case of the first assignment or the first sub-lease made after the grant from the Crown, a sum equal to the amount of the annual cash rental payable at the time of the tendering of the assignment for registration or the making of the sub-lease, together with the amount of the cash bonus paid by the lessee, licensee or permittee, as the case may be, at the time of the making of the lease, license or permit, with respect to which the assignment or sub-lease is executed;
- (b) in the case of any subsequent assignment or sub-lease the sum fixed for the purposes of this Act as the value at the time of the registration of the last preceding assignment or the making of the last preceding sub-lease, or if no value was then fixed, the amount of the consideration paid with respect to the last preceding assignment or sub-lease to be ascertained in such manner as may be prescribed by the Minister;
- (c) in the case of the first assignment of an agreement for sale of land, the sale price stated in the agreement for sale, and in the case of a subsequent assignment, the value of the land without improvements ascertained in such manner as may be prescribed by the Minister.

(2) The increase in value for the purpose of section 4,—

- (a) where the consideration for an assignment or sub-lease comprises any item of a different nature than that established in the last preceding value, shall include the whole of such item of a different nature unless otherwise directed by the Minister, together with the increase in value if any, of any item of a similar nature; or
- (b) shall be such amount as may be fixed by the Minister which in his opinion represents the actual value of the consideration given for the assignment or sub-lease.

(3) Where a portion only of the interest of the assignor or sub-lessor is assigned or sublet, the last preceding value for the purposes of section 4 of the portion assigned or sublet, shall be deemed to be the proportionate part of the whole value that the portion assigned or sublet is of the whole interest of the assignor or sub-lessor, unless the claim is made that the portion assigned had a different value, in which case the real value shall be ascertained in such manner as may be prescribed by the Minister.

8. When any assignment is tendered for registration or any sub-lease for approval, it shall be accompanied by the oaths or affirmations of the assignor or sub-lessor and of the assignee or sub-lessee, as the case may be, each of whom shall give a full description of the improvements on the property, if any, with their value and the dates upon which the improvements were placed upon the property or completed, and the actual amount paid or payable and other consideration, if any, paid or payable with respect to the assignment or sub-lease.

9. No tax shall be payable under this Act upon the transmission of any right or interest in lands or minerals of a deceased person or upon any transfer or assignment from the executors or administrators of any such person to the devisee or devisees of such right or interest in lands or minerals, or to the persons entitled thereto upon the distribution of the estate and any value ascertained upon the registration of any such transmission, transfer or assignment shall not be deemed to be a value ascertained for the purpose of this Act.

10. All moneys from time to time realized from the tax paid to the Minister under the provisions of this Act shall be paid into the General Revenue Fund of the Province.

11. This Act shall come into force on the first day of April, 1949.

No. 102

FIRST SESSION
ELEVENTH LEGISLATURE
13 GEORGE VI
1949

BILL

An Act to Provide for the Registration of Assignments of Interests in Crown Lands.

Received and read the

First time

Second time.....

Third time.....

HON. MR. TANNER.
