

Bill No. 75 of 1950.

A BILL RESPECTING FOREST RESERVES.

NOTE.

This Bill repeals *The Alberta Forest Reserves Act*, being chapter 63 of the Statutes of Alberta, 1942, and enacts a new Act in its stead to be known as "*The Forest Reserves Act*".

An Agreement dated the 19th day of June, 1947, was entered into between the Government of Canada and the Government of the Province of Alberta, providing for the conservation of the forests and for the protection of the watershed and rivers of the east slope of the Rocky Mountains. This Agreement was approved, ratified and confirmed by chapter 20 of the Statutes of Alberta, 1948, and by chapter 59 of the Statutes of Canada, 1947. A Board known as the Eastern Rockies Forest Conservation Board was established by the Agreement for the purpose of supervising and carrying out the terms of the Agreement. The Agreement further provides that the Province shall have complete authority and control with respect to the carrying out of the programs of the Board and the employment of persons, firms and corporations in connection therewith. Except as otherwise provided by the Agreement, the Province at all times retains control of the administration of the forest reserves, resources therein and the revenue therefrom.

This Bill is designed to implement the terms of the Agreement and to establish the machinery and powers necessary to administer the forest reserves in the Province. It retains many of the provisions of *The Alberta Forest Reserves Act*, but in redrafted form.

Sections 3 to 10 deal with the application and the administration of the Act. The Act applies solely to all forest reserves in the Province that come under the jurisdiction of the Eastern Rockies Forest Conservation Board. The Minister is required to consult the Board on all matters of policy connected with the administration and development of these forest reserves. All forest reserves within the Province are established for the conservation of the forests, for the maintenance and protection of animal, bird and fish life, and for the maintenance of conditions favourable to a continuous water supply. The Minister of Lands and Forests has exclusive provincial jurisdiction over the lands contained in a forest reserve, and no public lands in such a reserve may be dealt with in any way except under the authority of the Act or except with the written permission of the Minister of Lands and Forests.

Section 11 empowers the Lieutenant Governor in Council to make regulations not inconsistent with the Act governing matters necessary for the effective administration of the Act. Each regulation so made shall come into force on the day upon which it is approved or made, or on such earlier or later date as may be prescribed in the order in council, and every such regulation shall have the same force and effect as if it had been expressly enacted by the Act. All such regulations shall be published in *The Alberta Gazette* and shall be laid before the Legislative Assembly within fifteen days after the opening of the first session following their publication.

Sections 12 to 18 deal with the expropriation or use of freehold lands incidental to the construction or maintenance of local roads or works necessary for the administration of any reserve. The powers are similar to those to be found in *The Public Works Act*. No compensation is to be paid for the expropriation or use of any lands required for these purposes, as it is expected that the benefit accruing to the owners of such lands would more than compensate for the value of the land which may be expropriated or used.

Sections 19 to 24 give the Minister power to establish local roads in a forest reserve and to control traffic over them. He may establish toll rates for the commercial use of any local road or part thereof. The money thereby obtained shall be used for the construction of additional local roads or for the maintenance of any local roads from which the toll has been collected. The Bill also provides that no action shall lie against the Crown or any officer for damages arising out of the use of any highway, development road, local road, trail or bridge within a reserve. Entry into a reserve is permissive only and not a matter of right.

Section 25 prohibits any person other than a forest officer from travelling, camping or being present in a reserve unless he has a permit entitling him to do so, or unless he has registered at a registration point provided for that purpose. From time to time the Minister may prohibit all travelling in a reserve without a special permit when circumstances require it. Section 25 does not apply to travel upon a public highway; or upon a road, street, lane or track upon which he is authorized to travel under the provisions of *The Private Streets Act*; upon a railway train; or upon the right-of-way of a railway company which right-of-way is in actual operation or use.

Sections 26 to 31 contain the same provisions concerning the control of stock in forest reserves as were contained in *The Alberta Forest Reserves Act*. The provisions have been redrafted for greater clarity.

Section 32 provides that if any lessee, licensee or permittee is convicted of an offence against the Act, his lease, license, or permit shall be cancelled without further action. The Minister may authorize the reinstatement of any such lease, license or permit upon such terms as he may deem just.

Section 33 deals with the registration and control of firearms in a reserve.

Section 34 empowers any forest officer to arrest without warrant and bring before a justice of the peace to be dealt with according to law, or to remove from any reserve, any person found violating any provision of the Act or of the regulations. Any forest officer is authorized to seize anything wrongfully removed from a forest reserve or any weapon or appliance which may be used for killing or capturing any animal, bird or fish. He may also search for these articles without warrant within the reserve or within twenty-five miles of the outer boundaries thereof. By section 38 the Minister in his discretion may direct the return of the article seized upon such terms as he may deem just.

Section 39 provides that a contravention of any provision of this Act or of the regulations or of any term or condition of a lease, permit or license shall constitute an offence against the Act.

Section 40 sets out the general penalty clause.

Section 41 provides that in any prosecution or investigation under the Act or the regulations, the onus shall be upon the person charged or investigated to prove compliance with the provisions of this Act or the regulations.

Section 42 provides that every forest officer shall have all the powers of a justice of the peace for the purpose of this Act. This provision is necessary because of the isolation of the forest reserves.

Section 44 adopts sections 116 to 163 of *The Forests Act*, which deal with the prevention of forest fires. These sections shall be administered by the Administrative and Liaison Officer of the Department of Lands and Forests rather than by the Director appointed under *The Forests Act*.

The Alberta Forest Reserves Act, being chapter 63 of the Revised Statutes of Alberta, 1942, is repealed.

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. 75 of 1950.

An Act respecting Forest Reserves.

(Assented to _____, 1950.)

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 Forest Reserves Act*".

Interpretation.

2. In this Act, unless the context otherwise requires,—
 - (a) "Board" means the Eastern Rockies Forest Conservation Board;
 - (b) "Department" means the Department of Lands and Forests;
 - (c) "development road" includes any road built or operated by private interests;
 - (d) "forest officer" or "officer" means any forest officer, game officer or fishery officer appointed under the provisions of *The Public Service Act, 1947*, and such other persons as may be appointed by the Minister and the Board to perform any function incidental to the administration of forest reserves;
 - (e) "forest reserve" or "reserve" means any area comprising public lands for the time being set aside as a forest reserve pursuant to this Act;
 - (f) "freehold lands" means lands held in fee simple;
 - (g) "highway" means any main highway or secondary highway as defined in *The Public Highways Act*;
 - (h) "local road" means any road built or operated by the Board;
 - (i) "Minister" means the Minister of Lands and Forests;
 - (j) "public lands" means all real property of whatever nature or kind to which this Act applies, and all trees and timbers thereon and the beds of rivers, lakes and streams.

Application of Act.

3. This Act and the regulations made thereunder shall apply to all lands within the boundaries of any reserve established pursuant to this Act.

Administration.

4. The Lieutenant Governor in Council, subject to the provisions of *The Public Service Act, 1947*, may appoint such forest officers and other officers and clerks as may be deemed necessary to administer and enforce the provisions of this Act and the regulations under the direction and control of the Minister.

5. All forest reserves within the Province are hereby set apart and established for the conservation of the forests therein, for the maintenance and protection of animal, bird and fish life therein, and for the maintenance of conditions favourable to a continuous water supply.

6.—(1) The lands described in the appendix to the Agreement set forth in the Schedule to chapter 20 of the Statutes of Alberta, 1948, and to chapter 59 of the Statutes of Canada, 1947, and any other lands added thereto by reason of amendments to the Agreement are hereby constituted as forest reserves within the Province.

(2) The Minister shall consult the Board on all matters of policy in any way connected with the administration and development of such reserves.

7.—(1) When public lands in a reserve are laid off in quadrilateral townships under the provisions of section 6 of *The Alberta Surveys Act*, no allowance shall be made for any roads.

(2) Where surveys have been made of such road allowances, the Director of Surveys shall cancel the plan then in force and reissue a plan in accordance with the requirements of this Act.

8.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may purchase, expropriate, or otherwise acquire any land within a reserve or which adjoins and is surrounded on three sides by any reserve, the title to which is not vested in the Crown in the right of the Province, or may exchange therefor available public lands situated outside the boundaries of the reserve, and, where necessary, may make compensation upon an exchange.

(2) Upon the vesting of title to such lands in the Crown in the right of the Province, such lands shall thereupon be deemed to be part of the reserve for all purposes.

9.—(1) Notwithstanding the provisions of any other Act, all public lands within the boundaries of any reserve established by this Act are hereby withdrawn from disposition under the provisions of any other Act or regulation made thereunder, except with the written consent of the Minister of Lands and Forests.

(2) No public lands within the boundaries of a reserve shall be sold, leased, or otherwise disposed of, or be located

or settled upon, and no person shall use or occupy any part of such public lands except under the authority of this Act or of the regulations.

10.—(1) The Lieutenant Governor in Council in his discretion may sell or lease land within a reserve to any railway, pipe line or power company for its requirements; but the land, subject to the use for which it is sold or leased, shall remain part of the reserve within which it is situate.

(2) In the event that such land ceases to be used for the purpose for which it was sold or leased, title thereto shall forthwith revert to the Crown in the right of the Province, and the company shall immediately transfer the land to the Crown in the right of the Province upon being requested to do so in writing by the Minister.

11.—(1) The Lieutenant Governor in Council may from time to time make regulations not inconsistent with this Act, governing:

- (a) the protection, care and management of forest reserves;
- (b) the cutting and removal of timber;
- (c) the use and occupation of lands required for the operation of mines, quarries and mineral deposits;
- (d) the removal of sand, gravel, earth, stone, or any other material;
- (e) the pasturage of cattle;
- (f) the use of hay lands;
- (g) the establishment and use of reservoirs, water power sites, power transmission lines;
- (h) any other use not inconsistent with the purposes of this Act;
- (i) the granting of leases and permits for any of the purposes mentioned in clauses (b) to (h);
- (j) the preservation and destruction of fish, bird and animal life;
- (k) the prevention and extinguishment of fires;
- (l) the prevention of unauthorized business and traffic;
- (m) the removal and exclusion of undesirable persons and trespassers, and of persons making any unauthorized use of any reserve or failing to comply with any regulation or order;
- (n) the confiscation and disposal of things seized;
- (o) the use of land for development roads, bridges, townsites, hospitals, places of worship, burying grounds, and schools, and purposes connected therewith;
- (p) the exploration, excavation and searching of land for the purpose of obtaining fossil remains, or for other objects of geological, ethnological, historical or scientific interest;

- (q) the prices to be fixed for the acquisition of land by a railway, pipeline or power company;
- (r) the sale or leasing of lands in a reserve for residential purposes, tourist cabins, and service stations, or for any other specific purpose;
- (s) the control and operation of any vessel or craft whatsoever, including their equipment, upon any lake, river, stream, or body of water;
- (t) the issuing of a license for the operation of trap lines, or for any other specific purpose;
- (u) the issuing of annual permits for the grazing of stock, the cultivation of land, and the operation of fur farms;
- (v) the tariff of fees payable for all leases, licenses and permits;
- (w) the price to be paid for maps, plans, field notes, documents, papers, or other records or documents of the Department which are for sale to the public;
- (x) the designation of an area, at the request of the Board, for the study, experimentation and demonstration of forest management, silviculture, forest pathology, forest entomology and forest fire protection, and for the maintenance of laboratories for the better utilization of forest products;
- (y) generally as to any matter or thing the doing of which is permitted by this Act, or as to any case which may arise and for which no specific provision is made by this Act for the purpose of carrying out the provisions of this Act according to the true intent thereof.

(2) Each regulation made by the Lieutenant Governor in Council under the authority of this Act shall come into force on the day upon which it is approved or made, or on such earlier or later date as may be prescribed in the order in council, and every such regulation shall have the same force and effect as if it had been expressly enacted by this Act.

(3) All such regulations shall be published in *The Alberta Gazette* and shall be laid before the Legislative Assembly within fifteen days after the opening of the first session following the due publication of the regulations in *The Alberta Gazette*.

Expropriation or Use of Freehold Land.

12.—(1) The Minister, by surveyors, engineers, foremen, agents, workmen, servants and officers, may,—

- (a) enter upon and take possession of any lands required for local roads or works incidental to the administration of any reserve;
- (b) enter into and upon any land to survey and take levels of the same and to take such borings or sink

such trial pits as he deems necessary for any purpose;

- (c) enter upon and take possession of any land which is in his judgment necessary for the use, construction, maintenance or repair of any local roads or works incidental to the administration of any reserve;
- (d) enter upon any lands for the purpose of making proper drains to carry off the water from any reserve or for keeping the drains in repair;
- (e) divert or alter temporarily or permanently the course of any brook, rivulet, or road, or raise or sink the level of the same in order to carry it over or under, on the level of or by the side of any road or work as he thinks proper.

(2) In the event that private land acquired under the provisions of this Act is no longer required by the Minister, he may transfer such land to the owner of the land of which it originally formed a part.

(3) No person shall be entitled to any compensation whatsoever in respect of any land expropriated under this section.

13.—(1) The Minister, by engineers, agents, workmen, servants or officers, may enter into and upon and occupy any land which is contiguous to any local road and may erect snow fences upon any such land for the purpose of preventing the local road from becoming blocked by snow-drifts and may enter upon the land for the purpose of maintaining, repairing, removing or replacing any snow fence.

(2) No person shall be entitled to any rent or any other compensation whatsoever in respect of any entry or occupation effected under this section.

14. Lands taken for any local road shall be surveyed and marked on the ground by a duly qualified surveyor or engineer who shall prepare a proper plan of the same, but the plan need not be prepared before or at the time of the entry or taking possession of lands under the authority of this Act.

15. The plans of any land required for any of the purposes set out in this Act shall be examined and approved by the chief engineer of the Board and one copy thereof shall thereupon be filed in the proper Land Titles Office.

16. Upon the filing in the Land Titles Office of the plan of survey of any land required for the purposes set out in this Act, title thereto shall forthwith vest in the Crown in the right of the Province as represented by the Minister of Lands and Forests.

17. The Registrar, upon the filing of such plan or plans, shall recall any existing certificate of title covering such lands for alteration, correction or amendment, as the case may be.

18.—(1) If any resistance or opposition is made by any person to the taking possession of lands for any purpose set out in this Act by the Minister or any person authorized by him, a judge of the Supreme Court may on proof of the proper taking of such lands as herein provided issue his warrant to the sheriff of the judicial district within which the lands are situated, directing him to put down the resistance or opposition and to put the Minister or some person acting for him in possession of the lands.

(2) The sheriff shall,—

- (a)** take with him sufficient assistance for that purpose; and
- (b)** put the Minister or person acting for him in possession of the lands; and
- (c)** make a return forthwith to the Clerk or Deputy Clerk of the judicial district in which the land is situated of such warrant and of the manner in which he executed the same.

Roads.

19. The Board may cause to be established in any reserve such local roads as may be required for the adequate administration of the reserve and for the convenience of the public.

20.—(1) The Minister, by order, may provide for the closing of any highway, development road, local road, trail or bridge, or any specified part thereof, to all travel or use, or to any specified kind of travel or use.

(2) The Minister, by order, may delegate the powers conferred upon him by this section to the Board or to any person or persons.

21.—(1) The Minister, from time to time, may establish toll rates for the commercial use of any local road, trail or bridge, or any part thereof, within a reserve.

(2) The revenue thereby obtained shall be placed in a special trust account and all the moneys therein shall be paid to the Board on the thirty-first day of December of each year to be used for the construction of additional local roads or for the maintenance of any local roads from which the toll has been collected.

22. No action shall lie at any time against the Crown or any officer for damages arising out of the use of any highway, development road, local road, trail or bridge within any reserve.

23. Any person who is found on a highway, development road, local road, trail or bridge when traffic thereon has been prohibited, or a detour sign has been erected to direct traffic elsewhere, shall be guilty of an offence and liable upon summary conviction to a fine of not less than ten dollars and costs nor more than fifty dollars and costs and in default of payment to imprisonment for a term not exceeding thirty days.

24. Any person who wilfully defaces, knocks down, removes or otherwise renders illegible or injures any sign, signal or obstruction erected for the direction or safety of traffic, or for any other purpose, shall be guilty of an offence and liable upon summary conviction to a penalty of not less than ten dollars and costs nor more than fifty dollars and costs and in default of payment to imprisonment for a term not exceeding thirty days.

Camping and Travelling in Reserves.

25.—(1) No person other than a forest officer shall travel, camp or be present in a reserve unless he is the holder of a permit entitling him to do so, or unless he has registered at a registration point duly provided for that purpose.

(2) The provisions of subsection (1) shall not apply to any person while travelling upon,—

- (a) a highway established pursuant to the provisions of *The Public Highways Act*;
- (b) a road, street, lane or track upon which he is authorized to travel under the provisions of *The Private Streets Act*;
- (c) a railway train;
- (d) the right-of-way of a railway company which right-of-way is in actual operation or use.

(3) Whenever the Minister deems it advisable to do so, he may prohibit by order all travelling or camping in a reserve without a special permit, and a notice of such prohibition shall be posted at the point for registration.

(4) Subsection (3) shall not apply to subsection (2), clauses (b), (c) and (d).

(5) Any person who contravenes any provision of this section shall be guilty of an offence and liable upon summary conviction to a fine not exceeding fifty dollars and costs and in default of payment to imprisonment for a term not exceeding thirty days.

Stock.

26.—(1) No person shall keep, maintain or graze any stock, or allow or permit any stock to run at large, on any forest reserve unless he has a permit from the Minister entitling him to do so.

(2) Any person who violates any provision of subsection (1) shall be liable to pay to the Minister an amount for each animal equal to treble the amount per head fixed by the regulations for the grazing of stock upon a reserve; and in no case shall the amount be less than one dollar per head in the case of horses or cattle, nor less than twenty-five cents per head in the case of sheep.

27. Any forest officer may round up, seize or detain any stock found grazing on any reserve for which no grazing permit has been issued.

28. Upon any stock being so seized, if the owner thereof is unknown to the forest officer, he shall cause the stock to be offered for sale by public auction to be sold to the highest bidder.

29.—(1) Where the owner of such seized stock is known to the forest officer, he shall send to the owner by mail at his last known post office address, a notice in writing setting out,—

- (a) the date of the seizure;
- (b) a description of the animals seized;
- (c) a description of the place at which they are kept; and
- (d) the amount payable in respect thereof.

(2) Upon the expiration of fifteen days from the date of the mailing of the notice, unless the owner has sooner paid to him the amount payable pursuant to section 26, together with the costs of rounding up, seizing and detaining the stock, the Minister may cause the same to be offered for sale by public auction to be sold to the highest bidder.

30. Upon any stock being sold under the provisions of this Act, the property therein shall pass to the purchaser and all rights of property which existed therein immediately before the sale shall be extinguished.

31.—(1) The proceeds of any sale held pursuant to section 28 or 29 shall be applied,—

- (a) firstly, in payment of the costs incurred in seizing, rounding up, detaining, offering for sale, and selling the stock; and
- (b) secondly, in payment of the sums payable to the Minister pursuant to section 26.

(2) The balance shall be held by the Minister for six months and shall be paid over to such persons as may be entitled thereto who make application in writing to the Minister for payment within six months after the day upon which the sale was held, and having regard only to applications so made.

(3) In the event that any surplus remains after the expiration of the period of six months, the surplus shall be paid into and form part of the General Revenue Fund.

General.

32.—(1) Any lease, license or permit issued under the authority of this Act and held by any person convicted of an offence against any of the provisions of this Act or the regulations shall be deemed to be cancelled without further action or notice upon such conviction.

(2) Upon the conviction of any person for an offence against any of the provisions of this Act or the regulations, the justice shall order that any lease, license or permit held by the person so convicted be turned in to him or to a forest officer to be forwarded forthwith to the Department.

(3) The Minister may authorize the reinstatement of any such lease, license or permit so cancelled, upon such terms as he may deem just.

(4) The Minister may at any time cancel a lease, license or permit or other authorization without notice.

33.—(1) Any person entering a reserve and having in his possession any firearm or air gun shall register the same at the registration point.

(2) Any person found in a reserve in possession of any firearm or air gun which has not been registered as aforesaid, shall be guilty of an offence and liable on summary conviction to a fine of not less than ten dollars nor more than fifty dollars and costs and in default of payment to imprisonment for not more than thirty days.

34.—(1) Any forest officer may arrest without warrant and bring before a justice of the peace to be dealt with according to law, or may remove from any reserve, any person found violating any provision of this Act or the regulations.

(2) Any forest officer may seize, whether within a reserve or elsewhere, all timber, trees and hay cut on or removed from a reserve, all mineral or other products obtained in a reserve, all animals, birds and fish captured or killed within a reserve.

(3) Any forest officer may seize within a reserve all firearms, ammunition, explosives, spears, traps, nets, rods, lines, tackle and appliances used or found in the possession of any person without lawful authority, or in contravention of any provision of this Act or the regulations.

(4) Any forest officer may seize within a reserve or elsewhere the outfit and all equipment used by or found in the possession of any person or persons arrested for capturing or killing within a reserve any animal, bird or fish.

35. For the purpose of searching for anything mentioned in section 34, subsections (2), (3) and (4), any forest officer may enter and search without warrant, within a reserve or within twenty-five miles of the outer boundaries

of a reserve, any house, building, structure, camp, or other place, or vessel, boat, vehicle or other conveyance, and may open and examine any trunk, box, barrel, parcel, or other package or receptacle.

36. An arrest, removal, seizure or confiscation shall not relieve the offender from any other penalty to which he may be liable under this Act or otherwise.

37. Any person who hinders, obstructs, resists or impedes any forest officer in the discharge or performance of his duties shall be guilty of an offence and liable upon summary conviction to a fine of not less than twenty-five dollars and costs nor more than one hundred dollars and costs and in default of payment to imprisonment for a term not exceeding thirty days.

38. The Minister, when satisfied that the seizure or confiscation of any article or thing would work undue hardship or injustice, may grant relief against the forfeiture or confiscation and direct the return of the article or thing to the person from whom it has been taken, upon such terms as he may deem just.

39. A contravention of any provision of this Act or of the regulations or of any term or condition of a lease, permit or license shall constitute an offence against this Act.

40. Any person who contravenes any provision of this Act or the regulations for the infraction of which no specific penalty is provided shall be guilty of an offence and liable on summary conviction to a fine of not more than five hundred dollars and costs, and in default of immediate payment to imprisonment with or without hard labour for a term not exceeding six months.

41. In any prosecution or investigation under this Act or the regulations, the onus shall be upon the person charged or investigated to prove compliance with the provisions of this Act or the regulations.

42. Every forest officer, for the purpose of this Act, shall have all the powers of a justice of the peace.

43. Notwithstanding the provisions of this Act and in so far only as is necessary to implement the provisions of *The Alberta Natural Resources Act*, it shall be lawful for any Indian to hunt and trap game for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the Indian may have a right of access.

44.—(1) Sections 116 to 163, both inclusive, of *The Forests Act* shall apply to all lands within a forest reserve.

(2) Wherever the Director is referred to in the sections mentioned in subsection (1), it shall be deemed to be a reference to the Administrative and Liaison Officer of the Department of Lands and Forests for the purpose of this Act.

45. The provisions of the *Fisheries Act* (Canada) and *The Game Act, 1946* and any regulations thereunder which are not inconsistent with the provisions of this Act, shall apply to any reserve now or hereafter constituted pursuant to the provisions of this Act.

46. *The Alberta Forest Reserves Act*, being chapter 63 of the Revised Statutes of Alberta, 1942, is hereby repealed.

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

THIRD SESSION
ELEVENTH LEGISLATURE
14 GEORGE VI
1950

BILL

An Act respecting Forest Reserves.

Received and read the

First time

Second time

Third time

HON. MR. TANNER.
