

No. 32

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4th Session, 13th Legislature, Alberta  
6 Elizabeth II, 1958

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**BILL 32**

**A Bill to amend The Tuberculosis Act**

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**HON. DR. ROSS**

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### **Explanatory Note**

General. At the present time there is no power under The Tuberculosis Act to detain in a sanatorium against his will a person who is suffering from infectious tuberculosis and who is endangering the public health. This amendment will add a new Part to The Tuberculosis Act providing a procedure for ordering the detention in a sanatorium of recalcitrant infectious tuberculosis sufferers.

# BILL

No. 32 of 1958

An Act to amend The Tuberculosis Act

(Assented to , 1958)

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

1. *The Tuberculosis Act*, being chapter 347 of The Revised Statutes of Alberta, 1955, is hereby amended.

2. The following heading is added immediately before section 3:

"PART I  
"ESTABLISHMENT AND MAINTENANCE OF  
SANATORIA

3. The following new Part is added immediately after section 5:

"PART II  
"RECALCITRANT TUBERCULOSIS PATIENTS

"6. In this Part,

"(a) "child" means any person under the age of sixteen years;

"(b) "laboratory" means any laboratory approved by the Minister;

"(c) "medical health officer" means medical officer of health appointed under *The Public Health Act* or any person having the power thereof;

"(d) "open tuberculosis" includes

"(i) all cases of pulmonary tuberculosis that produce sputum containing tubercle bacilli or gastric washings containing tubercle bacilli, and

"(ii) all cases of tuberculosis other than the pulmonary form in which tubercle bacilli are found in the discharges from the diseased tissue;

"(e) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a sanatorium.

"7. (1) A medical health officer may require any per-

son who is resident in the municipality for which the medical health officer is appointed and who in the opinion of the medical health officer is suffering from open tuberculosis, to submit to a physical examination by a qualified medical practitioner from time to time when in the opinion of the medical health officer such examination is required in the interests of the public health.

"(2) Where in the opinion of the medical health officer a person is so suffering from open tuberculosis, the medical health officer shall serve that person, or in the case of a child, the parent or guardian of the child, with a notice in writing signed by the medical health officer specifying the nature, time and place of the examination.

"(3) A person who fails to submit to an examination as required by a notice issued pursuant to subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars and in default of payment to imprisonment for a term not exceeding twenty days.

"8. (1) Any medical health officer or, with the approval of the Minister, any qualified medical practitioner may lay an information in writing and under oath before a magistrate charging that the person named in the information

"(a) is suffering from open tuberculosis,

"(b) is unwilling or unable to conduct himself in such manner as not to expose other persons to danger of infection, and

"(c) refuses to be admitted to, or remain in, a sanatorium or hospital or has left a sanatorium against the advice of the superintendent thereof.

"(2) Upon the laying of an information pursuant to this section, the magistrate before whom it is made shall consider the allegations of the informant and, if he considers it desirable or necessary, the evidence of any witnesses as to the facts alleged in the information and if he deems that a *prima facie* case for so doing has been made, he shall issue a summons directed to the person named in the information requiring that person to appear before him or before another magistrate named in the summons at the time and place mentioned therein.

"(3) Where a person to whom a summons is directed does not appear at the time and place mentioned therein or where the magistrate is satisfied that for any reason the summons cannot be served, the magistrate may issue a warrant directing that the person named in the summons be brought before him.

"(4) Where it is made to appear to the magistrate that the person named in a summons issued pursuant to this section is too ill to appear in person before him, the magistrate may dispense with the personal appearance before him of such person, and in any such case the person named in the summons may appoint a representative to appear in his stead and the magistrate may dispose of the matter

as if the person named in the summons had appeared before him in person.

"(5) Where the person named in the summons does not appear in person or by a representative and the magistrate is satisfied that the person so named is too ill to appear or to be brought before him, he may make an order requiring that person to be admitted to a sanatorium or to a hospital and that magistrate or any other magistrate may hold any further hearings in respect of the matter in the sanatorium or hospital.

"9. Where a person appears or is brought before a magistrate pursuant to this Part, the magistrate shall inquire into the matters charged in the information and for such purpose *The Summary Convictions Act* applies to the matter in so far as applicable, but the decision of the magistrate is final and there is no appeal therefrom.

"10. In any inquiry held by a magistrate pursuant to this Part a certificate signed or purporting to be signed by the director or chief officer of a laboratory stating that tubercle bacilli are present in the sputum or in the gastric washings or in discharges from the diseased tissue of the person is admissible in evidence as *prima facie* proof of the facts stated therein and of the authority of the person signing the same, without proof of his signature or appointment.

"11. Where a magistrate finds that the charges set forth in an information laid pursuant to this Part are proved, he shall order that the person named in the information be admitted to and be detained in a sanatorium for such period not exceeding one year as the magistrate deems necessary.

"12. The Minister may direct the transfer of any person detained pursuant to an order under this Part to any other sanatorium, hospital or any other place when he deems a transfer is necessary for the welfare of the person detained or for the welfare of other patients or persons.

"13. (1) A person who is detained pursuant to an order under this Part may, with the approval of the Minister, be brought before a magistrate at any time during the last thirty days of the period for which he is so detained, and the magistrate shall make further inquiry in the manner provided in this Part.

"(2) If the magistrate finds that the person is still suffering from open tuberculosis, he may order that such person be detained in a sanatorium for such further period not exceeding one year as the magistrate deems necessary.

"14. Where the superintendent is of the opinion that any person detained pursuant to an order made under this Part is no longer suffering from open tuberculosis, he may direct the discharge of that person whether or not the period for which he is detained by the order has expired.

"15. The superintendent, every member of the medical staff and every attendant and nurse employed in a sana-

torium and every medical health officer and every peace officer, may

- "(a) execute any warrant and enforce any order of a magistrate issued or made under this Part,
- "(b) bring any person before a magistrate pursuant to this Part, and
- "(c) apprehend without warrant any person who has left a sanatorium in contravention of any order made under this Part.

"16. The superintendent of a sanatorium may direct the transfer of any patient detained in the sanatorium pursuant to an order made under this Part to a hospital for the purpose of any specialized treatment or care whether for a tuberculous condition or another condition.

"17. The expenses of all proceedings taken under this Part and all expenses incurred pursuant to the provisions of this Part shall be defrayed out of the money appropriated by the Legislature for that purpose or in the absence of an appropriation, out of the General Revenue Fund of the Province.

"18. The Lieutenant Governor in Council may make regulations

- "(a) respecting the custody or discipline of patients detained pursuant to this Part,
- "(b) respecting the transfer of patients detained pursuant to this Part,
- "(c) approving laboratories for the purposes of this Part, and
- "(d) for the further and better carrying out of the provisions of this Part.

"19. A person who contravenes any provision of this Part or the regulations under this Part is guilty of an offence and liable on summary conviction, where no other penalty is provided, to a fine of not more than fifty dollars or less than ten dollars and in default of payment thereof to imprisonment for a term not exceeding thirty days."

4. This Act comes into force on the day upon which it is assented to.

No. 32

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FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

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## BILL

An Act to amend The Tuberculosis  
Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. DR. ROSS

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