

No. 82

2nd Session, 14th Legislature, Alberta
9 Elizabeth II

BILL 82

A Bill respecting the Administration and Protection
of Forests

HON. MR. WILLMORE

Explanatory Note

General. This new Act will repeal and replace The Forests Act, being chapter 118 of the Revised Statutes. The new Act is divided into two Parts. Part I provides for the granting of timber rights on Crown Lands and Part II provides for the control and prevention of forest fires.

2. Definitions of terms used in the Act.

3. Appointment of officers.

4. Minister authorized to dispose of timber on Crown lands and to issue licences.

BILL

No. 82 of 1961

An Act respecting the Administration and Protection of Forests

(Assented to _____, 1961)

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

1. This Act may be cited as "*The Forests Act, 1961*".

2. In this Act,

- (a) "Crown charges" includes all charges and dues in respect of Crown timber costs, expenses and penalties imposed under this Act or the regulations or by any licence and all other charges, rents and claims of the Crown in connection with any licensed area;
- (b) "Crown timber" means timber on public lands;
- (c) "Department" means the Department of Lands and Forests;
- (d) "licence" means any document issued pursuant to this Act that authorizes the cutting of Crown timber;
- (e) "Minister" means the Minister of Lands and Forests;
- (f) "officer" means a forest officer appointed pursuant to this Act;
- (g) "permit" means a permit granted under this Act or under the regulations;
- (h) "timber" means all products of the forest and all trees including young growth and seedlings.

3. The Minister may appoint a Director of Forestry, forest officers, and such other officers as he deems necessary, who shall perform such duties as are assigned to them.

PART I

LICENCES TO CUT CROWN TIMBER

4. (1) The Minister, in his discretion,

- (a) may offer Crown timber for sale by auction or by sealed tender, and

5. Special and fringe permits authorized.

6. Forest management leases authorized.

7. Granting of permits without competition.

8. Licences and permits to cut killed or damaged timber.

(b) may grant a licence to cut timber for any period of time,

subject to such terms and conditions as may be prescribed by the regulations and subject to such other terms and conditions as he deems necessary that are not inconsistent with the regulations.

(2) The Minister is not obliged to accept the highest bid or tender.

(3) A licence or special permit shall not be granted or assigned to a person under the full age of twenty-one years.

(4) A licence or special permit shall not be issued until the Director of Forestry is satisfied that the applicant or purchaser has complied with *The Workmen's Compensation Act* and *The Industrial Wages Security Act*.

(5) Where timber cutting operations are not completed upon the expiration of the licence, the Minister may extend the term of the licence, subject to such conditions as he may deem necessary not inconsistent with the regulations.

5. (1) The Minister may grant special and fringe permits to cut Crown timber at such rates and subject to such terms and conditions as he deems necessary.

(2) A special permit may be granted to cut a maximum of one hundred and twenty-five thousand feet board measure or its equivalent, and the maximum amount that may be cut under a fringe permit shall be determined by the regulations.

6. The Minister, with the approval of the Lieutenant Governor in Council, may enter into an agreement with a person for a forest management lease for the manufacture of pulp, plywood or other products.

7. (1) The Minister may grant permits to cut Crown timber without competition upon payment of dues and fees.

(2) A permit issued under this section shall allow the cutting of such species and quantities of timber and under such conditions as the Lieutenant Governor in Council may prescribe by regulation.

8. (1) The Minister may grant licences and permits to cut

(a) killed or damaged timber to permit the salvage of such timber, or

(b) any other Crown timber that in his opinion should be cut in the interests of economic forest utilization,

at such prices and subject to such terms and conditions as the Minister deems necessary.

(2) Where Crown timber in respect of which a licence or permit has been granted has been killed or damaged, the Minister may order the licensee or permittee to cut such

9. Establishment or re-establishment of boundaries of licensed areas may be undertaken by Minister at the expense of the licensees.

10. Right of licensee or permittee over the land.

11. Vesting of cut timber in licensee, subject to payment of Crown charges.

12. Rights of licensee with respect to forest products taken by an unauthorized person.

timber and any other Crown timber that in his opinion should be cut in the interests of economic forest utilization at such prices and subject to such terms and conditions as the Minister deems necessary.

(3) Where a licensee or permittee refuses or fails to comply with an order given by the Minister under subsection (2), the Minister

(a) may cancel or vary the licence or permit in respect of the timber directed to be cut, and

(b) may grant licences or permits to persons other than the licensee or permittee,

to permit the salvaging of such timber and also the cutting of any other Crown timber that in his opinion should be cut in the interests of economic forest utilization at such prices and subject to such terms and conditions as the Minister deems necessary.

9. The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of any licensed area and the cost of such survey shall be borne by the licensee, or where the boundary in question is a division line between two licensed areas, the cost of such survey shall be borne by the respective licensees in such proportions as the Minister may decide.

10. A licence or permit does not grant to a licensee or permittee any rights to the surface of the land in respect of which the licence or permit is issued except the right to occupy the land for the purpose of cutting timber according to the terms and conditions of the licence or permit.

11. (1) Subject to the payment of Crown charges, the property in all timber of the species set out in a licence and cut during the term of the licence, vests in the licensee at the time the timber is cut.

(2) Crown charges in respect of all timber of the species set out in the licence cut on a licensed area during the term of the licence shall be paid by the licensee whether the timber is cut by the licensee or by any other person with or without his consent.

12. (1) A licence entitles the licensee

(a) to replevy, as his property, any product of the forest cut within the limits of the berth and that is found in the possession of any unauthorized person, and

(b) to bring any action or suit for damages or any other appropriate remedy against any person who

(i) is unlawfully in possession of such product of the forest, or

(ii) has unlawfully cut any product of the forest in derogation of any rights of the licensee under his licence.

13. Prohibition against exporting timber cut under a licence in an unmanufactured state.

14. Licences and permits only assignable with the consent of the Minister.

15. Records to be kept by licensee and purchaser.

16. Crown charges are a first lien on any timber cut.

17. Crown charges recoverable by civil action.

18. Right of officer to seize and detain timber or any product manufactured from timber when person in possession fails to provide information or where Crown charges may not have been paid or where the timber may have been cut without a licence.

(2) Any proceedings commenced before and pending at the expiration of any such licence may be continued and completed as if the licence had not expired.

13. (1) Every licence or permit is subject to the condition that no timber or timber product shall be exported from the Province in an unmanufactured state except dry pulpwood and Christmas trees.

(2) The Lieutenant Governor in Council, after giving thirty days' notice of his intention to do so by publication in the *Gazette*, may suspend the operation of subsection (1) as to any kind or class of timber that he may designate, for such period as he may decide and as to any area that he may define.

14. No person shall assign a licence or permit without the consent of the Minister in writing, and an assignment without the consent of the Minister is void.

15. (1) Every licensee shall keep such records relating to the quantity of timber cut, manufactured or disposed of as may be required by the Minister, and such records may be examined at any time by an officer.

(2) Every purchaser of timber cut on Crown land shall keep an accurate record of all purchases and the records may be examined at any time by an officer.

Lien for Crown Charges and Seizure of Timber

16. All Crown charges constitute a first lien or charge upon timber cut under the authority of a licence or permit and any product manufactured from such timber, and has precedence over all other claims or liens thereon.

17. (1) In addition to other remedies prescribed in this Act, Crown charges may be recovered as a debt owing to the Crown.

(2) Where any timber or timber product to which the lien attaches is under seizure or attachment by a sheriff or a bailiff of any court, or is claimed by or is in the possession of any assignee or trustee for the benefit of creditors, or any liquidator, or where such timber or timber product has been converted into money which is undistributed, the Minister may give to the sheriff, bailiff, assignee or liquidator in possession of such timber or timber product, or money, notice of the amount of the lien and thereupon the sheriff, bailiff, assignee or liquidator shall pay the amount so due and owing to the Minister in preference to and in priority over all other fees, charges, liens or claims whatsoever.

18. (1) An officer may seize and detain any timber and any product manufactured from timber,

19. Notice of seizure to be served on person having actual possession at time of seizure.

20. Seized timber or timber product forfeited to the Crown if no claim made within 30 days.

21. Claimant may apply to a judge for an order releasing the timber or timber products to him upon the posting of a bond covering the market value of the timber or product and the costs of seizure. The bond is forfeited if the claimant is later shown not to be entitled to the timber.

- (a) where the person in actual possession or control of timber or product refuses or fails to inform the officer of the name and address of the person from whom the timber or product was received, or of any fact known to him respecting the timber or product,
 - (b) where the officer believes on reasonable grounds that any Crown charge payable in respect of timber or product has not been paid, or
 - (c) where the officer believes on reasonable grounds that timber or the timber from which a product is manufactured was not cut under the authority of a licence or permit.
- (2) Any timber or product seized under subsection (1) may be removed to any place the officer deems necessary for the safekeeping of the timber or product, and if the timber or product is seized when in possession of a carrier it shall be removed by the carrier on behalf of the Minister to any place the officer may direct, and
- (a) the Minister shall be liable for transportation and all other proper charges incurred resulting from the directions given by the officer, and
 - (b) such a seizure shall not prejudice or affect any lien to which the carrier may be entitled in respect of the timber or product at the time of the seizure.
- (3) Where timber liable to seizure under this section has been so mixed at a mill or elsewhere, as to render it impractical or difficult to distinguish the timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained.

Proceedings After Seizure

19. (1) Where a seizure is made pursuant to section 18, a notice of seizure shall be served in person, or by registered mail, within seven days from the date of the seizure,

- (a) on the person in actual possession of the timber or product in the case of a seizure made under clause (a) or (c) of subsection (1) of section 18, or
- (b) on the licensee or permittee in the case of a seizure made under clause (b) of subsection (1) of section 18.

(2) A notice served by mail shall be deemed to be served on the day the notice is mailed.

20. Where timber or any product manufactured therefrom has been seized and no claim to recover it is made within thirty days from the date of the seizure, such timber or product shall be forfeited to the Crown and may be dealt with according to the discretion of the Minister.

21. (1) Any person claiming to be the owner of timber or any product manufactured therefrom that has been

22. Lieutenant Governor in Council authorized to vary the conditions applicable to any licence for a timber berth.

23. Minister may require certain trees to be left standing.

seized under this Act may, upon at least seven days' notice to the Minister, apply to a judge of the district court of the district in which such timber or product is held under seizure for an order for its release from seizure and its delivery to him.

(2) Upon receipt of a bond of the claimant, with two sureties, in an amount not less than the market value of the timber or product and the expenses of the seizure, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

(3) Upon the application of the Minister or the claimant, and upon at least seven days' notice, the judge shall determine the ownership of the timber or product, whether or not it has been released and delivered to the claimant under subsection (2), and shall make an order

- (a) declaring the claimant to be the owner
 - (i) free of any claim for Crown charges, or
 - (ii) subject to payment of such Crown charges and expenses as he may find to be owing,
 or
- (b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

(4) The judge may in his discretion order the payment of costs with respect to proceedings under this section and the expenses of seizure.

(5) If the claimant is declared not to be the owner of the timber or product, it shall be disposed of in such manner as the Minister may determine.

(6) When the Minister receives evidence that wages are owing to workmen for labour performed in producing the timber or product he shall cause inquiry to be made to ascertain the amount of wages owing and shall add that sum to the amount due to the Crown in respect of which the seizure was made, and such sums shall be recovered as provided by this Act.

22. The Lieutenant Governor in Council may

- (a) amend or vary the conditions or provisions of any licence for a berth,
- (b) insert such further clauses, conditions, provisions and restrictions as he considers warranted by the circumstances in connection with each berth, and
- (c) amend or vary the description of the land comprising a berth.

23. The Minister may for the purposes of forest management, watershed protection, fire protection, recreation, aesthetic values or the management of wildlife, direct the marking of trees to be left standing or to be cut in any area designated by him and direct the licensee or permittee to pay the cost of such marking.

24. Disclosure of information by licensee or permittee.

25. Failure to comply with Act or regulations may result in the suspension of licence or permit by the Minister.

26. Lieutenant Governor in Council may cancel the licence or permit in whole or in part.

27. Lieutenant Governor in Council may reinstate cancelled licence or permit.

28. Minister may prescribe forms to be used for reports, etc.

29. Minister authorized to issue scalers' licences to qualified persons.

24. The Minister may order any licensee or permittee to disclose such information as the Minister may require in a written declaration under oath concerning the cutting, manufacture and disposal of timber cut under the licence or permit, and any product manufactured therefrom.

25. Where a lessee, licensee or permittee fails to comply with or contravenes this Act, the regulations, the terms and conditions of a lease, licence or permit, or any order of the Minister, the Minister may

- (a) suspend the lease, licence or permit with respect to the whole or any part of the operations of the lessee, licensee or permittee for a period not exceeding six months, and
- (b) order the lessee, licensee or permittee to do such acts as the Minister deems necessary.

26. Where a lessee, licensee or permittee fails to comply with an order of the Minister made under section 25 within the period of six months, the Lieutenant Governor in Council may cancel the lease, licence or permit in whole or in part, and upon such cancellation any money paid to the Crown as a guarantee deposit in respect of the lease, licence or permit is automatically forfeited.

27. The Lieutenant Governor in Council may reinstate any cancelled sale, lease, licence or permit upon such terms and conditions as he may prescribe.

28. The form of plans, maps, statements and reports and the manner in which they are to be verified shall be determined by the Minister.

Scaling

29. (1) The Minister may issue a scaler's licence to any person

- (a) who has passed the necessary examinations and received approval of the examining officer, and
- (b) who has taken the oath prescribed by section 31.

and may designate any such licence as a licence to measure all classes of timber or a licence to measure pulpwood.

(2) Every scaler's licence expires on the thirty-first day of July next following the date of the issue thereof.

(3) A scaler's licence may, upon application to the Minister, be renewed from time to time either before or after the expiration thereof or of the last renewal, and every renewal expires on the thirty-first day of July next following the date thereof, but where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed.

30. When a licensed scaler not available a permit may be issued to a trustworthy person.

31. Form of oath to be taken by scaler.

32. Manual of scaling instructions.

33. Scaling to be done in accordance with manual.

34. Scaler to submit records upon request.

35. Cancellation or suspension of scaler's licence.

36. Arbitration board.

37. Establishment of advisory council to advise Minister on the conservation, development and utilization of forest resources.

30. Where a licensed scaler is not available, the Minister may issue a scaler's permit to a person whose trustworthiness and skill has been established by an officer of the Department.

31. (1) Before a scaler's licence or permit is issued, each applicant shall take an oath in the following form:

I,, while acting as a licensed scaler (*or* as holder of a permit), without fear, favour or affection, and to the best of my judgment and skill will measure correctly in accordance with the authorized manual of scaling instructions, all Crown timber which I may be employed to measure, and make true return of the same to the Department of Lands and Forests or its officer. So help me God.

(2) The oath shall be transmitted to the Minister.

32. The Minister may authorize a manual of scaling instructions prescribing the method of measuring Crown timber.

33. Every licensed scaler or holder of a scaler's permit shall measure in accordance with the authorized manual of scaling instructions all Crown timber which he may be employed to measure, making only such deductions as are authorized by the manual and enter in a book of record, for the purpose of a return to the Department, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls.

34. Every licensed scaler and every holder of a scaler's permit shall submit his books and records of measurements of Crown timber for the inspection of any officer when called upon to do so, and shall furnish all information and statements or copies of statements that the Minister or any officer may require.

35. The Minister may suspend or cancel the licence or permit of any scaler who undermeasures, mismeasures or improperly culls any Crown timber, or makes a false return, or fails to make any return when required.

Arbitration Board

36. The Minister may appoint an arbitration board of not more than three persons and may make such regulations as are necessary to deal with requests for arbitration in the awarding of licences disposed of under sealed tender.

Advisory Council

37. (1) There shall be a committee to be known as the Advisory Council to the Minister of Lands and Forests,

38. Minister may levy penalties for contravention of various provisions of the Act.

consisting of a chairman and other members, each of whom shall be appointed by the Lieutenant Governor in Council for such term as may be specified in the order in council.

(2) The members of the Council shall be paid such remuneration and expenses as may be determined by the Lieutenant Governor in Council.

(3) The Council shall meet at the request of the Minister or at the call of the chairman.

(4) The Council shall advise the Minister upon forest policy, either generally or in any particular that may be initiated by the Minister, regard being had to the conservation, development and utilization of the forest resources of Alberta.

Penalties

38. (1) Every person who

- (a) commences cutting operations without the approval of the Minister or who carries on any cutting operations beyond the limits of the area of a licence, fringe permit or special permit is liable to a penalty of not less than twice and not more than three times the amount of the dues on the timber so cut,
- (b) cuts or employs or induces or assists any person to cut Crown timber located on a permanent sample plot established by the Department or established with the consent of the Department, is liable to a penalty of not more than five times the amount of the dues on the timber so cut,
- (c) contravenes subsection (1) of section 13 or any order or direction made under section 22 is liable to a penalty of not less than twice and not more than three times the amount of the dues on the timber in respect of which such contravention occurred,
- (d) except under a licence or permit, cuts or employs or induces or assists any other person to cut Crown timber, or removes or employs or induces or assists any other person to remove Crown timber, is liable to a penalty of not less than twice and not more than three times the amount of the dues on the timber in respect of which such contravention occurred,
- (e) fails to comply with section 15 is liable to a penalty of not less than one hundred dollars and not more than five hundred dollars,
- (f) when in possession or control of any timber or any product manufactured therefrom, upon request refuses or fails to inform any officer of the name and address of the person from whom such timber or product was received or of any fact within his knowledge respecting such timber, is liable to a

39. If a penalty levied by the Minister under clause 38 is not paid the Minister may bring civil proceedings for recovery.

40. Delegation of authority.

penalty of not less than ten dollars and not more than five hundred dollars,

- (g) obstructs any officer who seizes or attempts to seize timber under this Act, is liable to a penalty of not less than one hundred dollars and not more than five hundred dollars,
 - (h) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized under this Act, is liable to a penalty of not less than one hundred dollars and not more than five hundred dollars,
 - (i) contravenes any regulation made under section 43 is liable to a penalty of not less than one hundred dollars and not more than five hundred dollars for the first contravention and to a penalty of not less than three hundred dollars and not more than one thousand dollars for each subsequent contravention, or
 - (j) contravenes any provision of this Part or the regulations thereunder for which no penalty has been prescribed, is liable to a penalty of not less than ten dollars and not more than three hundred dollars.
- (2) Where in the opinion of the Minister a person is liable to a penalty under subsection (1), he may give notice to such person by registered mail,
- (a) setting out the facts and circumstances that in his opinion render such person liable to a penalty,
 - (b) requiring such person to pay such penalty as he may decide in the circumstances, and
 - (c) specifying the time within which the penalty shall be paid.

39. Where a person fails to pay a penalty in accordance with a notice under section 38 the Minister may bring an action for the recovery of such penalty in any court of competent jurisdiction and in such action it is the duty of the court

- (a) to determine whether such person is liable to a penalty under subsection (1) of section 38,
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister,
- (c) to give such judgment as it may decide, and
- (d) to make such order as to costs or otherwise as it may decide.

General

40. The Minister by instrument in writing may authorize the Director of Forestry or any officer to exercise such of the powers conferred by this Act upon him as may in his

41. Alteration of Crown dues by order in council.

42. Transitional provisions.

43. Authority is given to make regulations.

opinion properly be exercised by the Director or such officer.

41. Notwithstanding anything contained in any general or special Act or in any order in council or regulation made pursuant thereto or in any licence, the Lieutenant Governor in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber or increasing or decreasing the annual ground rent and fire protection charges payable in respect of licensed areas, and such regulations may take effect on the first day of August immediately preceding or at a subsequent time that may be specified in such regulations.

42. (1) Every licence or permit granted under any predecessor of this Act and subsisting when this Act comes into force shall, subject to subsection (2), continue in force in accordance with the terms of such licence.

(2) This Act and the regulations apply to every licence or permit heretofore or hereafter granted and where there is any conflict between this Act or the regulations and any licence or permit, this Act and the regulations govern.

Regulations

43. The Lieutenant Governor in Council may make regulations:

- (a) prescribing the terms and conditions that apply to licences, leases and permits;
- (b) fixing the amounts of ground rent, fire protection charges or other charges to be paid in respect of licensed areas,
- (c) fixing the Crown dues to be paid in respect of any species of timber, other than damaged timber;
- (d) fixing the times at which Crown charges shall be payable;
- (e) prescribing the manner in which a seizure of timber may be effected under section 18;
- (f) prohibiting wasteful practices in forest operations;
- (g) classifying mills and providing for the issue of licences therefor;
- (h) prescribing the form of mill licences and the fees to be paid therefor;
- (i) prescribing the term of mill licences and providing for the transfer, renewal, suspension and cancellation thereof;
- (j) imposing conditions as to the location of mills, the mechanical efficiency thereof and operating methods of mill licensees, including the disposal of waste or refuse;
- (k) prescribing the returns that mill licensees shall make to the Minister as to their mills and opera-

44. Definitions of terms used in Part II.

tions, including the sources, species, quantities and disposition of materials processed;

- (l) prescribing the forms of scalers' licences, permits and renewals and the fees payable in respect thereof;
- (m) governing the cutting of timber before the issue of a notification to a purchaser or lessee of lands for agricultural purposes under *The Public Lands Act* and prescribing the extent to which and the conditions under which such cutting may be carried on;
- (n) respecting methods of scaling to be carried out by licence and permit scalers;
- (o) prescribing the charges to be made for damage of timber stands in the cutting of roads, lines, rights of way, or other disturbance of the forest;
- (p) prescribing forms and documents for use under the Act and the regulations;
- (q) prescribing the manner in which purchasers of Crown timber shall pay Crown charges;
- (r) prescribing the conditions under which lumber or other timber products may be exported;
- (s) prescribing the terms and conditions of management, cutting and other reports to be submitted when required by the Minister;
- (t) governing the conduct and procedure of timber sales;
- (u) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

PART II

FIRE PREVENTION

Interpretation

44. In this Part,

- (a) "forest" means the plant cover on any land and consists of trees, shrubs, plants or grass, whether living or dead;
- (b) "forest area" means that area of the Province known as the "Green Area" which comprises the lands included in the area outlined and coloured green on the map annexed to the Order Classifying Public Lands dated October 6, 1959 and published in the *Gazette* on October 15, 1959, as amended from time to time or any order made in substitution therefor;
- (c) "municipal district" includes a county and a special area;
- (d) "owner" includes an assignee, lessee, occupant, purchaser, timber licensee, and any person having the right to cut timber and wood upon any land.

45. Application of Part.

46. Appointment of honorary fire guardians.

47. Establishment of a fire season for the Province.

48. Issue of permit to light fires during fire season.

Administration

45. (1) This Part applies to all lands within the Province except lands included within the corporate bounds of any city, town or village.

(2) Nothing in this Act affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

46. (1) The Minister may appoint honorary fire guardians who shall

- (a) be appointed without salary or other remuneration, and
- (b) have authority to enforce such provisions of this Act as the Minister deems necessary.

(2) The council of a municipal district shall each year appoint such honorary fire guardians as are required to enforce the provisions of this Act within the boundaries of the municipal district.

Fire Season

47. (1) The period from the first day of April to the thirtieth day of November in each year shall be known as the fire season.

(2) The Minister may declare any period after the thirtieth day of November in any year and before the first day of April in the following year to be a fire season for any area.

(3) The Minister may extend or restrict the fire season for such period as he deems necessary with respect to the whole or any part of the Province.

Fire Permits

48. (1) Upon application, an officer may, in any area not contained within a municipal district, issue a permit called a "fire permit" to set out fire during a fire season.

(2) A fire permit may be issued within a municipal district by honorary fire guardians appointed by the council under subsection (2) of section 46.

(3) A fire permit gives authority to the permittee to set out fire only according to the regulations and the terms and conditions printed on the permit.

(4) No person shall without a fire permit set out fire during a fire season for any purpose except cooking or obtaining warmth in any part of the Province not contained within a municipal district.

(5) No person shall without a fire permit set out fire during a fire season for any purposes except cooking or obtaining warmth in any part of the Province within a municipal district.

49. Limitations on fire permit.

50. Establishment of forest travel permit areas wherein a permit to travel is required during the fire season.

51. Minister authorized to close areas during extremely hazardous fire conditions.

(6) Notwithstanding subsection (5), a municipal district may, with the consent of the Minister, allow the setting out of fire during a fire season within all or any part of the municipal district without first obtaining a fire permit, but the consent of the Minister may be withdrawn if he finds that setting of fires without a fire permit is causing damage to property or forest.

49. (1) A fire permit may be limited as to duration and area, but in any event expires on the thirty-first day of March next following the date of its issue, and may contain such other terms and conditions as the issuing officer deems necessary.

(2) A fire permit may be cancelled or suspended at any time by an officer, and immediately upon receiving notice of such cancellation or suspension the permittee shall extinguish any fire set out under the permit.

Forest Travel Permits

50. (1) The Lieutenant Governor in Council may declare any part of the forest area to be a forest travel permit area.

(2) No person shall enter or travel in a forest travel permit area during a fire season without a permit.

(3) An officer may issue, without charge, during a fire season a forest travel permit to an applicant to enter and travel in a forest travel permit area.

(4) Subject to the regulations an officer may issue a forest travel permit for any period of time at his discretion and may issue the permit subject to a prohibition against the setting out of fire for any purpose.

(5) An officer may cancel or suspend a forest travel permit at any time and upon notice of the cancellation or suspension the permittee shall immediately extinguish any fire set by him and leave the permit area.

(6) All forest travel permits expire on the thirty-first day of March next following the date of issue.

Closed Districts

51. (1) Where the Minister considers it expedient to close one or more areas owing to extremely hazardous fire conditions therein, he may make an order in writing closing the area or areas that he designates, specifying therein the period during which such closure shall be in force and prescribing therein such other terms and conditions as he deems proper.

(2) The Minister shall provide for such notice as he deems necessary under the circumstances, and shall publish a notice of the order setting out the area or areas closed and the period of closure in such newspapers as in his opinion will give the greatest publicity.

52. Liability of person working in forest area for fires in the vicinity.

53. Forestry roads.

54. Closing of forestry roads.

55. Agreements for the improvement and use of forestry roads.

(3) No person, unless authorized by the Minister, shall enter a closed district during a period of closure.

(4) In any prosecution under subsection (3) in respect of an offence alleged to have been committed prior to publication of the order, the burden of proving he did not have actual notice of the order at the time the offence is alleged to have been committed is upon the accused.

52. Where fire originates in any area in which any person either by himself or his employees or someone on his behalf, is carrying on, in a forest area,

- (a) any logging, mining or industrial operation,
- (b) clearing of land for a right of way for any road, trail, tote-road, ditch or flume, or for any microwave installation, telephone, telegraph, power or pipe line,
- (c) clearing land to be flooded for water storage purposes,
- (d) constructing a dam, bridge or camp or any other woods operation of any kind, or
- (e) operating any mill for the purpose of manufacturing timber,

in the absence of reasonable evidence that the fire may have occurred from causes other than such operations, except where the person has entered into an agreement under section 59, the onus is upon that person to prove that the fire did not result from such operations, and in the absence of such proof that person shall bear the full cost of controlling and extinguishing the fire.

Forestry Roads

53. (1) The Minister may by order designate as a forestry road any road on land administered by the Department in which no person other than the Crown has an interest.

(2) An order made under subsection (1) shall show the location of the road on a map or plan attached thereto.

54. The Minister may

- (a) close a forestry road at any time when it appears that traffic may damage the road, and
- (b) recover the cost of repairing damage caused by a person at any time as a debt owing to the Crown.

55. The Minister may

- (a) enter into an agreement with any person who wishes to pay the cost of improving and maintaining a forestry road to allow traffic by his vehicles in the course of his business, and
- (b) require any other person who uses a forestry road so improved in the course of his business to share

56. Power of officer to prescribe fire prevention measures.

57. Authority to require the installation of spark preventing devices in chimneys in forest areas.

58. Power of municipality to order certain fire prevention measures.

such portion of the cost of building and maintaining the road as the Minister may decide.

Prevention Measures

56. (1) Where an officer finds upon the land of any person conditions existing which, in his opinion, may cause danger to life, property or forest from fire, he may order the owner or person in control of the land to do what in the opinion of the officer is necessary to remove the danger, and in default may enter upon the land with such equipment and persons as he deems necessary to remove the condition.

(2) The cost of any work done under subsection (1) shall be assessed to the owner or person in control of the lands and may be recovered by the Minister as a debt owing to the Crown.

(3) A person who neglects or refuses to carry out any order given under the authority of subsection (1) is guilty of an offence.

57. (1) Where an officer finds in a forest area a building or structure having a chimney so constructed or used that, in his opinion, it may cause danger to life, property or forest from fire, he may order the owner or person in control of the building or structure to install a spark arrester of such type as he may approve and to do whatever else that in his opinion is necessary to remove the danger.

(2) A person who neglects or refuses to carry out any order given under the authority of subsection (1) is guilty of an offence.

58. (1) In this section "owner" means lessee, assignee, purchaser or occupant.

(2) Where it appears to the council of a municipal district that the condition of any land in the municipal district is by reason of unfinished clearing a source of danger from fire to property in the municipal district, the council may cause an inquiry to be made and a report presented to the council.

(3) Where the council finds that cause for complaint exists owing to the unfinished clearing of land the council may give notice to the owner of the land directing him, within the time to be named in the notice, to properly clear the land or such part thereof or to such extent as is necessary to remove, as far as possible, all source of danger by fire.

(4) If the owner fails to complete the work within the time required, the council may cause the work to be done and the expenses in doing the work shall be a charge upon the land and shall be payable by the owner forthwith.

(5) The cost of any work done by the council may be recovered by the council in court proceedings.

59. Agreements for control of forest fires.

60. Duty to dispose of debris so as to discourage forest fires.

61. Duty of municipality to extinguish forest fires within its boundaries.

59. The Minister may enter into an agreement with respect to the prevention and control of forest fires with a licensee or a lessee under a pulpwood lease.

60. (1) Every person clearing land for a right of way for any road, trail, tote-road, ditch or flume, or for any microwave installation, telephone, telegraph, power or pipe line, or clearing land to be flooded for water storage purposes, shall, subject to the provisions of this Act respecting fire permits, dispose of, to the satisfaction of an officer, all refuse, timber, brush or other flammable material cut or accumulated thereon.

(2) Any person who within three hundred feet of the right of way of any railway causes any accumulation of flammable material shall at the request of any officer immediately dispose of the material to the satisfaction of an officer.

(3) No person shall fell or permit to be felled trees or brush in such manner that the trees or brush fall and remain on land not owned by the person felling or permitting the felling of the trees or brush.

(4) Every person having charge of any logging, mining or industrial operation or any portable or stationary engine located within one-half mile of any forest or woodland shall have the area surrounding the camp, mine, sawmill or engine cleared of flammable material as required by the regulations.

(5) Every person having charge of an operation of the kind referred to in subsection (4) shall keep and maintain such fire fighting equipment in a good state of repair and at such locations as may be required by the regulations, and any other equipment that an officer deems necessary for the control of fires that may be caused either directly or indirectly by the operation.

(6) No person shall within one-half mile of any village, town or city accumulate flammable material or permit any such accumulation to remain on any property owned by him or under his control.

Extinguishment of Fires

61. (1) A municipal district shall do all necessary things to extinguish grass, brush or forest fires in the municipal district, and the costs and expenses thereof shall be borne by the municipal district.

(2) If the action taken by the municipal district in fighting any such fires is in the opinion of an officer not adequate, the officer may do what in his opinion is necessary to control and extinguish such fires, and any costs and expenses incurred by the Crown in controlling or extinguishing such fires shall be a debt due by the municipal district to the Crown and upon presentation of an account of such costs and expenses certified by the Minister, the treasurer of the municipal district shall pay the same.

62. Cost sharing by Crown where fire on Crown lands.

63. Use of private equipment and conscription of persons to fight forest fires.

64. Duty of owners to extinguish and report fires.

65. Offences

62. (1) Upon satisfactory proof being furnished by the municipal district that any fire has started on Crown land within the municipal district, half of the total cost of extinguishing the fire shall be borne by the Crown.

(2) Where any such fire is confined entirely to Crown lands other than the lands of an owner as defined by subsection (1) of section 58, the total cost of extinguishing such fire shall be borne by the Crown.

63. (1) For the purpose of controlling and extinguishing any fire, an officer may use any privately owned equipment and may employ or summon the assistance of any male person between the ages of sixteen and sixty years, excepting only station agents, trainmen, boat crews, radio, telegraph or telephone operators, linesmen, bus drivers, pilots and dispatchers on duty, medical doctors, postmasters, battery operators or persons physically unfit.

(2) Every person who refuses or neglects to provide any privately owned equipment or to render assistance when required under this section is guilty of an offence.

(3) An honorary fire guardian appointed by the council under subsection (2) of section 46 has, within the municipal district, the same authority as is given to an officer in subsection (1).

64. Every owner, within the meaning of subsection (1) of section 58, of land upon which there is a fire, except

- (a) a fire set out for cooking or obtaining warmth and kept under control, or
- (b) a fire set out under the authority of this Act and kept under control,

shall use all reasonable efforts to extinguish such fire and shall report it without undue delay to an officer, and in any prosecution or action the onus is upon the owner to prove that he used all such reasonable efforts or that he so reported such fire, as the case may be.

Offences

65. (1) During a fire season no person, in a forest area or local improvement district, shall

- (a) use or operate within a quarter of a mile of any forest, slashing or bushland an engine that is not provided with a practical and efficient device for arresting sparks, together with an adequate device for preventing the escape of fire or live coals from all ash pans and fire boxes, and that does not comply in every respect with the regulations, or
- (b) destroy any wood or waste material by fire within a burner or destructor operated at or near any mill or manufactory, or operate any power-producing plant using in connection therewith any smoke-

66. Prohibitions.

67. Authority of officer to enter private property.

68. Duty of persons travelling in forest area to give information to officers.

69. Penalty section.

stack, chimney or other spark-emitting outlet, without installing and maintaining on such burner or destructor or on such smoke-stack, chimney or spark-emitting outlet a safe and suitable device for arresting sparks complying in all respects with the regulations.

(2) In addition to the other remedies provided by this Act, the Minister may apply in a court of competent jurisdiction for an injunction restraining the use of any machinery, engine, burner or plant in connection with which a chimney or other spark-emitting outlet is used, until it has been equipped with safety appliances satisfactory to the Minister.

66. No person shall

- (a) throw or drop any burning match, ashes from a pipe, lighted cigarette, cigar or other burning substance without extinguishing it,
- (b) without lawful authority, destroy, deface or remove any notice posted under this Act or the regulations, or
- (c) without lawful authority, destroy, damage or remove any equipment placed in the forest for the purpose of protecting the forests from fire.

67. Every officer has the right without a search warrant while in the performance of his duties to enter into and upon any lands and premises other than a private dwelling, store, or office, and every person who hinders, obstructs and impedes any such officer in the performance of his duty is guilty of an offence.

68. Every person using or travelling in the forest shall, upon request, give an officer or other authorized officer of the Crown, information as to his name, address, routes to be followed, location of camps and any other information pertaining to the protection of the forests, and any person who refuses to give such information is guilty of an offence.

Penalties

69. (1) Where not otherwise provided, a person who disobeys or refuses or neglects to carry out any of the provisions of this Part or any regulation or order made thereunder is guilty of an offence.

(2) A person who is guilty of an offence under this Part is liable on summary conviction to a fine of not less than twenty-five dollars and not more than three hundred dollars, and in default of payment to imprisonment for a term of not more than three months, or to both fine and imprisonment, and such person is liable to the Minister for any expenses incurred by him in endeavouring to control or extinguish any fire caused by or resulting from such disobedience, refusal or neglect.

70. Regulations.

(3) The amount of any expenses for which a person is liable to the Minister under subsection (2) is recoverable as a debt due to the Crown.

(4) Where the amount claimed does not exceed three hundred dollars and the proceedings are taken under *The Summary Convictions Act* in respect of the disobedience, refusal or neglect, the magistrate, upon making a conviction, may order payment of such amount to the Minister and every such order may be enforced in the same manner as a district court judgment.

Regulations

70. The Lieutenant Governor in Council may make regulations

- (a) prescribing forms for use under the Act and the regulations,
- (b) respecting the granting of permits and prescribing the terms and conditions thereof,
- (c) prescribing the precautions to be taken in the use of fire under a permit, and the appliances, implements, and apparatus to be kept at hand by the holders of permits,
- (d) prescribing the circumstances and conditions under which fire may be set out or used without a permit, and under which fire may be used out of doors for cooking or obtaining warmth,
- (e) providing for the making of fire guards and the taking of other precautionary measures when the Minister deems danger from fire to any town or settlement imminent,
- (f) regulating or preventing the piling or accumulation of brushwood, debris and other flammable material,
- (g) prescribing the use of fire protective appliances on machinery, engines, burners or plants which in connection therewith a chimney or other spark-emitting outlet is used, and the precautions to be taken for preventing forest fires being caused by their use and operation,
- (h) providing for the collection of the cost of any work done by an officer or by a municipal district under the authority of this Act in cases not provided for under this Act,
- (i) respecting the control of forestry roads,
- (j) prescribing the fire fighting equipment to be maintained by persons having charge of any logging or industrial operation or any portable or stationary engine in a forest area,
- (k) prescribing the precautions to be taken in the disposal of oil, gas or other waste in oil operations in the forest area,

71. Repealing section.

72. Commencement of Act.

- (l) prescribing the types of burners which may be used in the disposal of mill and other waste material, and
- (m) respecting any other matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Part.

71. *The Forests Act*, being chapter 118 of the Revised Statutes, is hereby repealed.

72. This Act comes into force on the first day of August, 1961.

No. 82

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act respecting the
Administration and Protection
of Forests

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. WILLMORE
