

No. 108

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

BILL 108

A Bill respecting Clay and Marl

HON. MR. MANNING

BILL

No. 108 of 1961

An Act respecting Clay and Marl

(Assented to _____, 1961)

WHEREAS the ownership of clay and marl becomes a matter of doubt and uncertainty if it is dependant on whether evidence indicates that their occurrence is rare and exceptional and that they are regarded as minerals in the vernacular of the mining world, the commercial world and landowners; and

WHEREAS it is desirable in the public interest to resolve doubts and uncertainties and to allay fears and to declare that the clay and marl described in this Act are and always have been part of the surface of land:

THEREFORE, 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 Clay and Marl Act*".
2. This Act applies to all lands in the Province and to the owners thereof, including the Crown in right of Alberta.
3. The owner of the surface of land is and shall be deemed at all times to have been the owner of and entitled to clay and marl on the surface of that land, and all clay and marl obtained by stripping off the overburden, excavating from the surface, or otherwise recovered by surface operations.
4. (1) The clay and marl referred to in section 3 shall be deemed not to be a mine, mineral or valuable stone but shall be deemed to be and to have been a part of the surface of land and to belong to the owner thereof.
(2) Notwithstanding any patent, title, grant, deed, notification, conveyance, lease, licence, agreement, disposition or other document heretofore or hereafter issued or made that contains or reserves mines, minerals or valuable stone, the owner of the mines, minerals or valuable stone in any land is not entitled to the clay and marl referred to in section 3 as against the owner of the surface of the land.
5. (1) Notwithstanding sections 3 and 4, where a person who is the owner of or has an interest in mines, minerals or valuable stone has, prior to the commencement of this

Act, in good faith and for valuable consideration, granted a lease or other disposition of the clay or marl referred to in section 3, the lease or other disposition is not invalidated by the fact that the owner of or person having an interest in the mines, minerals or valuable stone is not entitled to the clay or marl.

(2) Subsection (1) only applies during the current term of the lease or other disposition as provided therein at the date of commencement of this Act and does not apply to any renewal, extension or continuation thereof.

(3) No right of action for damages or for compensation lies against the parties to the lease or other disposition for dealing in the clay or marl in accordance with the terms of a lease or other disposition to which this section applies.

6. Where clay or marl has been removed from any land prior to the commencement of this Act

(a) by the owner of the mines, minerals or valuable stone, or

(b) by a person claiming through him,

acting in good faith and in the honest belief that he was entitled thereto, no right of action lies against such owner or person for damages or for compensation by reason of such removal of the clay or marl prior to the commencement of this Act.

7. In this Act "clay" or "marl" does not include any substance named in the Schedule to *The Mineral Declaratory Act*.

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

No. 108

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

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Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
