

# BILL

No. 32 of 1926.

An Act respecting the Transfer to the Province of the  
Public Lands therein.

(Assented to 1926.)

**H**IS 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 Transfer of Public Lands Act.*"

**2.** The agreement with the Dominion of Canada set out in the Schedule hereto is hereby approved, the following provisions to form part thereof:

- (a) That the school lands fund to be transferred to the Province as in the said agreement provided, and such of the school lands specified in section 39 of *The Dominion Lands Act*, being chapter 20 of seven and eight Edward the Seventh and amending statutes, as pass to the administration of the Province under the terms of the said agreement, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections 39 to 42 of *The Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the provisions of section 17 of *The Alberta Act*, being chapter 3 of four and five Edward the Seventh, and
- (b) That any interest in any lands included in the parks or forest reserves in the said agreement referred to, may, with the consent of the Province, be disposed of by Canada for any purpose other than the purposes specified in the said agreement, and
- (c) That nothing in the said agreement or in any subsequent agreements or statutes such as are therein provided for, shall in any way affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

**3.** This Act shall come into force upon the day which it is assented to.

## SCHEDULE

MEMORANDUM OF AGREEMENT  
Made this Ninth day of January, 1926.

BETWEEN :

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,  
*of the first part,*

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable John Edward Brownlee, Premier of the said Province, and the Honourable Vernor Winfield Smith, Minister of Railways and Telephones thereof,  
*of the second part.*

Whereas by section 21 of *The Alberta Act*, being chapter 3 of four and five Edward the Seventh, it was provided that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the Province under *The North-west Irrigation Act, 1898*, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said Province with the substitution therein of the said Province for the North-west Territories";

And whereas it was further provided by section 20 of the said *Alberta Act* that inasmuch as the Province would not have the public lands as a source of revenue there should be paid to the Province by Canada an annual subsidy as in the said section set out;

And whereas it has been agreed between Canada and the said Province that the said provisions of *The Alberta Act* should be modified as herein set out;

NOW THEREFORE THIS AGREEMENT WITNESSETH :

## SUBSIDY IN LIEU OF LANDS TERMINATED.

1. Sub-section 1 of section 20 of *The Alberta Act* shall stand repealed as and from the date of the coming into force of this agreement, but Canada will thereafter pay to the Province by half-yearly payments in advance an annual sum of five hundred and sixty-two thousand, five hundred dollars in each of the three years next following such repeal, such payment being estimated as sufficient to meet the outlay which it will be necessary for the Province to make in order to carry out the provisions of this agreement and to arrange for the administration of the public lands which are to be administered by the Province as herein provided.

If at the date of the coming into force of this agreement any payment has been made under the provisions of *The Alberta Act* above referred to in respect of any half-year commencing before but terminating after the date of the coming into force of this agreement, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

#### TRANSFER OF PUBLIC LANDS GENERALLY.

2. Subject as otherwise hereinafter provided, the interest of the Crown in all Crown lands, mines, minerals and royalties within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject to the provisions of any Act of the Parliament of Canada relating to such administration only until the provisions of the said Acts are altered by the Legislature of the Province; any payment received by Canada in respect of any such Crown lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or arrear, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said Crown lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

3. At the request of Canada made on behalf of all such persons as may have entered into any contract to purchase or lease any Crown lands, mines or minerals, or may have otherwise become entitled to any interest therein as against the Crown, the Province agrees to carry out every such contract to purchase, lease or other arrangement in accordance with the terms thereof, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto, but any power or right, reserved by any such contract to purchase, lease or other arrangement to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time, and until otherwise directed, may be exercised by the Minister of Municipalities of the Province.

4. The Province will, out of the public lands to be administered by it hereunder, satisfy any claims which may be lawfully put forward by or on behalf of grantees of lands by way of subsidy for the construction of railways or otherwise in accordance with the provisions of any statute of Canada in that behalf, and will further satisfy the claim of the Hudson's Bay Company for and in respect of lands to which it may be entitled under the Deed of Surrender from the Company to the Crown, *The Dominion Lands Act* and the Agreement between His Majesty and the said Company approved by Order in Council dated the 19th of December, 1924 (P.C. 2158), and dated the 23rd day of December, 1924, and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of 23rd of December, 1924, and will release and discharge the reservation in patents referred to in clause 3 of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement, and if it is hereafter decided in judicial proceedings, that the said Company is entitled to the gold, silver and precious metals in, under or upon any lands situate in the Province, the Province will grant the same to the Company so far as the same remain undisposed of at the date of the coming into force of this agreement. Nothing in this agreement shall in any way prejudice or affect the rights or properties held or acquired by the said Company pursuant to the Deed of Surrender from it to the Crown, *The Dominion Lands Act* and the said Agreement of 23rd of December, 1924.

#### SCHOOL LANDS FUND.

5. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting so much of the school lands fund, created under section 22 of *The Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, so far as the said fund is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

#### WATERS AND FISHERIES.

6. The interest of the Crown in the waters within the Province under *The North-west Irrigation Act, 1898*, being chapter thirty-five of sixty-one Victoria, as reserved by section 21 of *The Alberta Act*, and in the land forming the bed or shore of any lake, stream or body of water, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada.

7. Notwithstanding the provisions of the last preceding clause, all rights of fishery, except such as are hereafter specified, shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, license or otherwise, subject only to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries; the Province will be responsible for the protection and development of the fisheries hereby transferred to it.

#### INDIAN RESERVES.

8. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time upon the request of the Superintendent General of Indian Affairs set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter belong to and be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

9. To all Indians who may be entitled to the benefit of any treaty between the Crown and any band or bands of Indians, whereby such Indians surrendered to the Crown any lands now included within the boundaries of the Province, the Province hereby assures the right to hunt and fish on all the unoccupied Crown lands administered by the Province hereunder as fully and freely as such Indians might have been permitted to so hunt and fish if the said lands had continued to be administered by the Government of Canada.

#### SOLDIER SETTLEMENT LANDS.

10. All interests in Crown lands in the Province upon the security of which any advance has been made under the provisions of *The Soldier Settlement Act*, being chapter 71 of nine and ten George the Fifth, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

#### FOREST RESERVES AND PARKS.

11. The Crown lands included in the Cooking Lake Forest Reserve, as such reserve is described in the schedule to *The Act to amend the Dominion Forest Reserves and Parks Act*, being chapter 13 of thirteen and fourteen George the Fifth, including the mines, minerals, royalties and rights of fishery, shall continue to be vested in and administered by the Gov-

ernment of Canada for the purposes of Canada, such reserve being intended to be used as a forest reserve and also as a reserve for military purposes.

12. The Crown lands, including the rights of fishery, but not the mines or minerals or the royalties incident thereto, included in the Rocky Mountains Forest Reserve and the Cypress Hills Forest Reserve No. 1, as the said reserves are defined in *The Act to amend the Dominion Forest Reserves and Parks Act* aforesaid, and in the parks specified in Schedule A hereto, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada. No compensation shall be payable in respect of any mines or minerals within any park by reason of the same being affected or disturbed by the construction by Canada of roads therein.

13. The Parliament of Canada shall have exclusive legislative jurisdiction within the said parks and the laws now enforced therein are confirmed and shall continue in force until changed by the Parliament of Canada or under its authority; the Parliament of Canada shall also have power to apply within the forest reserves in the last two preceding paragraphs mentioned such Acts and regulations as are necessary for the administration of the Crown lands therein which continue to be vested in and administered by Canada for the purposes of Canada, and the provisions of *The Dominion Forest Reserves and Parks Act*, being chapter 10 of one and two George the Fifth, and amendments thereto, of the existing regulations passed thereunder, and of any amendments hereafter made to the said Act or regulations so far as they affect the administration of the Crown lands in the said reserves shall have effect therein notwithstanding anything to the contrary in any law of the Province.

14. Notwithstanding the provisions of the last preceding paragraph, all laws of the Province now or hereafter in force which are not repugnant to any law or regulation made applicable within the said parks, or any of them, by or under the authority of the Parliament of Canada, shall extend to and be in force within the said parks, and all general taxing Acts passed by the Province shall apply within the said parks unless expressly excluded from application therein; no such general taxing Act shall, moreover, be deemed to be repugnant to any Act or regulation made by or under the authority of the Parliament of Canada and applicable within the said reserves.

15. No grant or lease of any mines or minerals in the said parks shall be made by the Province unless the Minister of the Interior for Canada has first certified in writing to the Minister of Mines of the Province that neither the working of such mines and minerals nor the transport of the minerals out of the park will interfere with the scenic beauty or amenity of the park area, and any such certificate may be given only upon conditions which, if made, shall govern the working of the mines and the transport of the minerals.

16. In the event of the Province granting or leasing to any person any rights to any mines or minerals in any of the said parks, the use of any portion of the surface of such park for the purpose of working such mines or minerals, or for the transport of the minerals out of the park, or for residential purposes, shall be subject to the provisions of the Acts and regulations made by Canada and applying to such park, as well as to any such special conditions as are laid down by the Minister of the Interior of Canada under the provisions of the last preceding paragraph, and, upon any breach of any of such provisions or conditions, the right to work or transport such minerals shall be subject to cancellation in pursuance of a judgment of the Exchequer Court of Canada or any other Court of competent jurisdiction.

17. In the event of the Province granting or leasing to any person any rights to any mines or minerals in either of the forest reserves mentioned in paragraph 12, the Minister of the Interior of Canada shall, subject to any laws or regulations made by Canada for the administration of such reserve, have power to permit and shall permit the grantee of such rights to use such specified area of land in such forest reserve as may be necessary for the effective and economical working from time to time of the mines or minerals granted or leased by the Province, and for the transport of the minerals out of the forest reserve, and, subject as aforesaid, he shall also have power to transfer and shall transfer to the Province, by lease or otherwise as may be agreed upon, such specified area or areas of land as may be necessary to be used as a townsite or residential area for the persons who, by reason of the working of the said mines and minerals, require to reside within such reserve.

18. Except as hereinbefore provided, Canada will not dispose of any interest in any lands included in any of the said parks or forest reserves except with a view to increasing the amenity or utility of the said parks or reserves as such, or for the convenience of the administration thereof, and if any of the said parks or reserves or part thereof ceases to be maintained by Canada as such, Canada will surrender such park, reserve or part thereof to the Province.

#### SEED GRAIN, ETC., LIENS.

19. All liens upon interests in any unpatented land which passes to the Province under this agreement, now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, and upon payment in full of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder,

subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior of Canada and the Minister of Municipalities or such other Minister of the Province as may be designated in that behalf under the laws thereof.

CANADA LAND AND IRRIGATION COMPANY, LIMITED.

20. Canada agrees to assign and hereby assigns to the Province its claims against the Canada Land and Irrigation Company, Limited, for, and for interest upon the sums due to Canada on account of advances made by Canada to the said company pursuant to the Orders in Council specified in schedule B to this agreement, and for all other sums and interest which may be recoverable from the said company by reason of any expenditures made by Canada for the operation, construction, reconstruction or extension of the company's works, together with the benefit of all agreements made with the company at any time before the coming into force of this agreement in respect of any such advances or expenditures, and there shall be executed and delivered to the Province such documents as may be necessary to transfer to the Province all interests in patented lands held by Canada as security for the said advances or expenditures.

21. The Province will pay to Canada, forthwith upon their receipt, all sums which may be collected by it from the said company on account of the said advances or the interest thereon and, in the event of the said company failing to repay the said advances and interest and of its becoming necessary for the Province to realize on the security, the Province will pay to the Government of Canada the amount of the said advances and interest thereon out of the first proceeds of the sale or other disposition of such security, provided, however, that if the Province is required to advance further sums to the company or to incur expenditures for the purpose of reconstructing or completing the company's works, any sums so expended, together with interest thereon at the rate from time to time payable on bonds of the Province, shall be a first charge against the said security, but provided, further, that no arrears of provincial taxes on any lands or any interest in any lands forming part of the said security shall be entitled to priority over the sums payable hereunder to Canada.

GENERAL RESERVATION TO CANADA.

22. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under *The Land Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which this agreement comes



into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration, including the administration of the parks hereinbefore referred to.

#### HISTORIC SITES, BIRD SANCTUARIES, ETC.

23. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will, further, maintain such bird sanctuaries and public shooting grounds as have been already established or as may hereafter be established by agreement between the Minister of the Interior of Canada and the Minister of Lands or such other Minister of the Province as may be specified under the laws thereof.

#### FILES AND RECORDS.

24. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all files and records relating exclusively to dealings with Crown lands, mines, minerals and royalties within the Province, and will give to the Province access to all other files and records containing documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the said Crown lands, mines, minerals and royalties.

#### AMENDMENT OF AGREEMENT.

25. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

#### WHEN AGREEMENT COMES INTO FORCE.

26. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives his assent to an Act of the Imperial Parliament of Great Britain and Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of the Province of Alberta, and the Honourable Vernor Winfield Smith, Minister of Railways and Telephones thereof, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Chas. Stewart, Minister of the Interior, in the presence of O. M. BIGGAR.	}	ERNEST LAPOINTE. CHAS. STEWART.
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Signed on behalf of the Province of Alberta by the Honourable John Edward Brownlee, Premier of the said Province, and the Honourable Vernor Winfield Smith, Minister of Railways and Telephones thereof, in the presence of W. S. GRAY.	}	J. E. BROWNLEE. VERNOR W. SMITH.
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## SCHEDULE A.

## PARKS.

Buffalo . . . . .	P.C. 463, 7th March, 1908.
	P.C. 1306, 5th June, 1909.
	P.C. 646, 27th March, 1913.
	P.C. 2842, 26th November, 1920.
	P.C. 498, 31st March, 1924.
Elk Island . . . . .	P.C. 646, 27th March, 1913.
	P.C. 377, 20th February, 1922
Jasper . . . . .	P.C. 1323, 14th September, 1907.
	P.C. 1068, 18th May, 1909.
	P.C. 1338, 8th June, 1911.
	P.C. 1165, 24th June, 1914.
Nemiskam . . . . .	P.C. 1134, 31st May, 1922.
Rocky Mountains . . . . .	P.C. 2197, 25th November, 1885.
	P.C. 1891, 23rd July, 1892.
	P.C. 1338, 8th June, 1911.
	P.C. 2594, 18th September, 1917.
Wawaskesy . . . . .	P.C. 1134, 31st May, 1922.
Waterton Lakes . . . . .	P.C. 1621, 30th May, 1895.
	P.C. 1338, 8th June, 1911.
	P.C. 1165, 24th June, 1914.
	P.C. 1298, 20th April, 1921.
	P.C. 2556, 20th July, 1921.
Wood Buffalo Reserve . .	P.C. 2498, 18th December, 1922.
	P.C. 408, 14th March, 1925.

## SCHEDULE B.

ORDERS IN COUNCIL RELATING TO ADVANCES TO THE CANADA  
LAND AND IRRIGATION COMPANY, LIMITED, AND TO EXPENDI-  
TURES UPON THE WORKS OF THE SAID COMPANY.

P.C. 2728, 12th November, 1914.  
P.C. 3173, 6th January, 1915.  
P.C. 1021, 8th May, 1915.  
P.C. 981, 27th April, 1916.  
P.C. 1639, 13th July, 1916.  
P.C. 1964, 16th July, 1917.  
P.C. 2018, 24th August, 1920.  
P.C. 815, 17th May, 1924.  
P.C. 525, 6th April, 1925.

No. 32.

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SIXTH SESSION  
FIFTH LEGISLATURE  
16 GEORGE V  
1926

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**BILL**

An Act respecting the Transfer to  
the Province of the Public  
Lands therein.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. BROWNLEE.

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EDMONTON:  
W. D. MCLEAN, ACTING KING'S PRINTER  
A.D. 1926.