

Bill No. 9 of 1934.

A BILL TO AMEND AND CONSOLIDATE THE
THRESHERS' LIEN ACT.

NOTE.

Part I of this Bill re-enacts, with slight modifications, the existing provisions as to the registration of threshing machines and makes those provisions expressly applicable to combines.

Part II of the Bill contains new provisions as to the lien of a thresherman for his threshing charges.

It provides for a lien which takes effect at the commencement of the threshing operations and the lien continues for sixty days thereafter, and the thresherman may exercise his lien at any time in the sixty days by taking grain of a sufficient amount at the prevailing market price to satisfy his claim for threshing.

As against creditors of the owner of the grain threshed, the lien is restricted to a fair and reasonable charge having regard to prevailing threshing charges and the circumstances of the crop threshed.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 9 of 1934.

An Act to amend and consolidate The Threshers' Lien Act.

(Assented to 1934.)

HIS 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 Threshers' Lien Act, 1934.*"

PART I.

REGISTRATION OF THRESHING MACHINES.

2. Every person who operates or causes to be operated any threshing machine, separator, harvester thresher, combination thresher or any other implement that both cuts and threshes grain (hereinafter referred to as a machine) shall, in each year before commencing operation, register the machine with the Minister of Agriculture pursuant to this Act.

3. Every application for registration shall be in writing signed by the applicant in such form as may from time to time be prescribed by the Minister of Agriculture, and shall be accompanied by the amount of the registration fee which shall be one dollar.

4. The Minister of Agriculture shall, upon registering any machine, issue or cause to be issued a certificate of registration in Form A in the schedule to this Act and upon the issuance of the certificate of registration the same shall be delivered to the applicant together with a copy of this Act.

5. In case the ownership of a machine which is registered under this Act is transferred or passes from the person who was the owner thereof at the time of registration to some other person in any year for which the machine is registered under this Act, the Minister of Agriculture shall, upon being satisfied that the ownership of the machine has been transferred or has passed as aforesaid, transfer a subsisting certificate of registration to the person who is then the owner of the machine, and shall issue or cause to be issued a certificate thereof in Form B in the schedule hereto upon payment of a fee of fifty cents.

6. The Minister of Agriculture may employ such persons as he may deem advisable from time to time for the purpose

of receiving applications for certificates of registration under this Act and pay any person so employed for so doing ten per centum of the registration fees paid in respect of applications received by any such person.

7. Every person who owns or operates a machine shall, as and when required so to do, make a return to the Minister of Agriculture in such form and as to such matters and with such particulars as may be prescribed by him.

8. Every person who operates any machine which is not registered pursuant to this Act or who makes default in making any return which he is by this Act required to make shall be guilty of an offence and shall be liable on summary conviction therefor to a penalty of not more than twenty-five dollars and costs for each offence, and in default of payment, to imprisonment for a term of not more than thirty days.

PART II.

THRESHERS' LIENS.

9.—(1) Every person who threshes grain or causes grain to be threshed for another person at or for a fixed price or rate of remuneration shall, from the date of the commencement of the threshing until sixty days after the completion of the same, have a lien upon such grain for the purpose of securing payment of the price or remuneration.

(2) Every person who cuts and threshes grain, or causes grain to be cut and threshed for another person with a harvester thresher, combination thresher or any other implement that both cuts and threshes grain, at or for a fixed price or rate of remuneration, shall, from the date of the commencement of the cutting until sixty days after the completion of the cutting and threshing, have a lien upon such grain for the purpose of securing payment of the price or remuneration.

(3) The said lien shall have priority over all writs of execution against the owner of the grain, and subject to the provisions of subsection (5) of this section, over all chattel mortgages, bills of sale or conveyances made by him and over all rights of distress for rent reserved upon the land upon which the grain is grown, and the person performing the work of threshing, or cutting and threshing or procuring the same to be done shall be deemed a purchaser for value of the grain which he takes by virtue of this Act.

(4) The amount for which a lien under this Act shall have priority as against a creditor of the owner of any grain shall not exceed such amount as represents a fair remuneration for threshing or cutting and threshing grain, as the case may be, having regard to the usual and ordinary charges for so doing for the time being, prevailing in the locality in which the grain was so threshed or cut and threshed, and all the circumstances of the threshing or cutting and threshing.

(5) Nothing in this section contained shall derogate from the priority conferred by section 32 of *The Bills of Sale Act* upon mortgages, bills of sale, liens, charges, incumbrances, conveyances, transfers or assignments made, executed or created as a security for the purchase price and interest thereon of seed grain.

(6) If the grain threshed or cut and threshed as aforesaid is sold and delivered to a *bona fide* purchaser, and removed from the possession of the original owner and from the premises and vicinity where it was threshed, the lien shall cease to exist but shall become a first charge upon so much of the price as may remain unpaid when notice of the lien is given to the purchaser.

(7) If the grain threshed or cut and threshed as aforesaid is delivered by the owner to any person who advances money upon the security thereof, all advances made by such person *bona fide* before receiving notice of the thresher's lien shall take priority over the lien.

10. A lien holder may, after having given to the owner of the grain written notice of his intention so to do, take a sufficient quantity of such grain to secure payment of the said price or remuneration, or of such part or proportion thereof as is earned at the time of the taking unless the owner in the meantime pays the price or remuneration or the part or proportion thereof earned at the time of notice given.

11.—(1) The quantity of grain which may be so retained shall be a sufficient quantity, computed as in subsection (2) of this section, to pay when sold for the threshing, or cutting and threshing of all grain threshed or cut and threshed by the person taking the grain, or by his servants or agents, for the owner thereof during that same season.

(2) The value of any grain taken shall be the market value thereof at the nearest market, less one and one-half cents per bushel in the case of oats, and two cents per bushel in the case of all other grain, for each five miles or fractional part thereof between the place of threshing and the nearest available market for hauling the same to and delivering the same at such market.

12. The person taking the necessary estimated quantity of grain may forthwith store it in his own name in any public elevator or at the thresher's risk in any other suitable storing place, and if, at the expiration of five days from the taking, the price or remuneration for the threshing or cutting and threshing has not been paid, he may sell the grain at a fair market price.

13. The proceeds of sale shall be applied first in payment of the cost of transporting the grain to market as provided in subsection (2) of section 10 of this Act, and next

in payment of the price or remuneration for threshing or cutting and threshing; and the residue, if any, shall be paid forthwith to the owner of the grain or his assigns.

14.—(1) Any person who has a valid and subsisting lien or charge upon any grain other than a lien created by this Act shall, upon furnishing evidence of his lien or charge to the person who has threshed or cut and threshed the grain, be entitled to a statement setting forth the number of bushels of grain threshed, or cut and threshed, the kind of grain and the price per bushel or per acre charged for threshing or for cutting and threshing, or the rate per hour and the number of hours, or the rate per day and the number of days for which payment is claimed in respect of such grain.

(2) If the thresher refuses or neglects to give such statement on demand, he shall be liable to a penalty of five dollars for every day during which the default continues.

15. *The Threshers' Lien Act*, being chapter 183 of the Revised Statutes of Alberta, 1922, is hereby repealed.

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

FOURTH SESSION
SEVENTH LEGISLATURE
24 GEORGE V
1934

BILL

An Act to amend and consolidate The
Threshers' Lien Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. HOADLEY

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1934