

Bill No. 76 of 1936.

A BILL PROVIDING FOR THE RECALL OF MEMBERS
OF THE LEGISLATIVE ASSEMBLY.

NOTE.

This Bill provides for the recall of a member of the Legislative Assembly upon a report being made by the Chief Justice of Alberta or by a Judge of the Supreme Court designated by him, after an inquiry as provided in the Bill, to the Clerk of the Executive Council to the effect that a petition has been signed and lodged in conformity to the provisions of the Bill.

The petition must conform to the requirements set out in the Bill some of which are to the effect that the petition shall be signed by electors of the electoral division to which it relates to the number of more than sixty-six and two-thirds per centum of the number of voters upon the last voters' list, and that it must be lodged with the Clerk of the Executive Council within forty days from the issuance of the petition forms by the Clerk, and that it must comply with all the other requirements of the Act.

The reason for recall must be set out in the petition and if a petition has been lodged to recall the member of a constituency, no other petition is permitted in respect of that constituency until after the next ensuing general election of members of the Legislative Assembly.

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. 76 of 1936.

An Act providing for the Recall of Members of the
Legislative Assembly.

(Assented to _____, 1936.)

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 Legislative Assembly
(Recall) Act.*"

2. The seat of any member of the Legislative Assembly
shall become vacant upon the delivery to the Clerk of the
Executive Council of a report made pursuant to this Act by
the Chief Justice of Alberta or a designated judge setting
out that a petition has been signed and lodged in conformity
to the provisions of this Act and that the seat of that
member is vacant.

3. Upon the occurrence of a vacancy pursuant to this Act
the member whose seat has been so vacated shall be eligible
for nomination and election as a member of the Legislative
Assembly for the electoral division for which he was
previously elected as a member or for any other electoral
division.

4.—(1) Subject to the other provisions of this section,
any person desirous of presenting a petition for the recall
of a member of the Legislative Assembly may deposit with
the Clerk of the Executive Council an application in writing
which shall be in Form A in the schedule hereto and which
shall be signed by at least ten persons whose names
appeared upon the voters' list used at the last election for
the election of a member of the Legislature held in the
electoral division to which the proposed petition relates and
who are then residents therein (hereinafter referred to as
"the promoters") and which shall set out the reason for the
recall of the member and which shall designate the name
and address of some person as the agent of the promoters
and shall be accompanied by a declaration in Form B in the
schedule hereto as to the signatures upon the application,
and upon the making of any such application there shall be
paid to the Clerk a fee of two hundred dollars.

(2) In case a petition has been lodged with the Clerk of
the Legislative Assembly for the recall of a member in pur-
ported pursuance of this Act and whether or not a vacancy
has occurred by reason thereof, no other petition for the
recall of the member for the electoral division to which the

first mentioned petition relates shall be permitted under this Act until after the next ensuing general election of members of the Legislative Assembly.

5. Upon the receipt of an application made in conformity with section 4 and payment of the prescribed fee the Clerk of the Executive Council shall proceed to procure, with all reasonable expedition, forms of petition which shall be in Form C in the schedule hereto and shall deliver or transmit to the person designated in the application as the agent sufficient of such forms to contain signatures to the number of seventy-five per centum of the number of voters who were upon the voters' list compiled upon the occasion of the last election held therein for the election of a member of the Legislative Assembly in the electoral division to which the proposed petition relates, and before he delivers or transmits any such forms he shall cause each form to be marked with the date of delivery or transmission thereof, as the case may be, and with a mark of such kind and description that he will subsequently be able to identify every such form as a form which has been issued by him.

6. For the purposes of this Act a petition for the recall of a member of the Legislative Assembly shall comply with all the following requirements:

- (a) The petition shall be signed upon forms issued by the Clerk of the Executive Council and marked by him pursuant to section 5 and not otherwise.
- (b) The petition shall be signed by persons who would be at the time of signing duly qualified electors within the meaning of *The Alberta Election Act* in the electoral division to which the petition relates if an election were then being held under that Act in that electoral division.
- (c) Every signature shall be attested by a witness who shall be over the age of twenty-one years.
- (d) Every signature for the petition shall be verified by the declaration of the attesting witness thereto in Form B in the schedule hereto.
- (e) Every signature upon the petition shall be written in ink.
- (f) The petition shall contain the signatures of persons who are electors of the electoral division to which it relates to the number of more than sixty-six and two-thirds per centum of the total number of voters who were upon the voters' list compiled upon the occasion of the last election held therein for the election of a member of the Legislative Assembly or, in case no such list was then compiled, upon the voters' list available for the purposes of such election.
- (g) The petition shall be lodged with the Clerk of the Executive Council within forty days after the day upon which the forms for the petition were first delivered to the agent designated in the application for the petition, or to the post office or to a common carrier for transmission to the agent.

- (h) The promoters shall cause true copies of the petition to be made setting out all the names which appear upon the petition and shall cause one of such copies to be posted up in a conspicuous place at or near every post office in the electoral division to which the petition relates not later than the tenth day after the day upon which the petition is lodged with the Clerk of the Executive Council and shall cause the same to be kept so posted up at each such place until the fortieth day after the petition is so lodged.

7. Upon the receipt by the Clerk of the Executive Council of a petition he shall immediately give notice thereof to the member affected thereby and to the Chief Justice of Alberta who shall thereupon fix a time, not sooner than forty days after the receipt by the Clerk of the petition, and a place for the purpose of holding an inquiry into the regularity or otherwise of the petition which inquiry shall be conducted either by the Chief Justice of Alberta or by such other judge of the Supreme Court as he may designate for the purpose and shall direct the Clerk of the Legislative Assembly to give sufficient notice of the hearing to the member affected thereby and to such other persons as he may deem proper, and the Clerk shall thereupon cause notice of the hearing to be published in *The Alberta Gazette* and in such newspapers as the Chief Justice of Alberta may direct.

8. The Chief Justice may designate one person or more to represent the promoters of the petition upon the inquiry and such persons, as well as the member affected by the petition, shall be entitled to appear upon the inquiry either in person or by counsel.

9.—(1) Upon the day so fixed for the inquiry or upon any adjournment thereof the Chief Justice or other judge designated by him for the purpose shall proceed to inquire as to whether or not the petition conforms to all the provisions of this Act and for that purpose shall have the same power of compelling the attendance of witnesses and the production of documents as may be conferred upon a Commissioner appointed under *The Public Inquiries Act*.

(2) Every such hearing shall be open to the public.

(3) The declaration by an attesting witness in Form B shall be *prima facie* evidence of the facts set out therein; but in case it is made to appear to the Chief Justice or other judge that it is, for any reason, proper so to do he may require any such facts to be proved before him by oral evidence.

(4) Subject to subsection (3), no evidence shall be received except it is given orally and on oath and at a hearing.

(5) The onus of proving any fact which is material to the regularity of the petition shall be upon the promoters of the petition.

10.—(1) After hearing all the evidence adduced before him and any representations which may be made by or on behalf of any person entitled to appear upon the inquiry, the Chief Justice or other judge designated by him, if satisfied by such evidence that all the requirements of this Act in relation to the petition have been complied with, shall transmit to the Clerk of the Legislative Assembly and to the Clerk of the Executive Council a report in writing declaring that a petition has been duly lodged with the Clerk of the Executive Council which conforms to all the requirements of this Act and that the seat of the member to which the same relates is vacant, otherwise he shall report to the Clerk of the Executive Council that the petition does not so conform and that the same is a nullity and of no effect.

(2) In case it is proved to the satisfaction of the Chief Justice or other judge holding the inquiry that the promoters of the petition have in respect of the petition committed acts or engaged in practices which are declared by section 12 of this Act to be offences, the Chief Justice or other judge shall make a report to the Clerk of the Executive Council thereof and shall declare the petition to be a nullity and of no effect.

11. The Clerk of the Executive Council shall cause every such report to be published in *The Alberta Gazette*.

12.—(1) Every person who directly or indirectly, either by himself or by any other person on his behalf,—

- (a) gives or lends any money or money's-worth to an elector or to any person on behalf of an elector or offers or agrees or promises so to do for the purpose of inducing an elector to sign or refrain from signing a petition, or corruptly does any such act on account of an elector having signed or refrained from signing a petition; or
- (b) gives to or procures for an elector or any other person any office, place or employment, or offers or promises so to do for the purpose of inducing an elector to sign or refrain from signing a petition, or corruptly does any such act on account of an elector having signed or refrained from signing a petition; or
- (c) makes a gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person for the purpose of inducing such person to procure any person to sign or refrain from signing a petition; or
- (d) by reason of or on account of any such gift, loan, offer, promise, procurement or agreement procures or engages or promises or endeavours to procure any elector to sign or refrain from signing a petition; or
- (e) on account of and as payment of or having illegally assisted or agreed to assist in promoting a petition applies directly or indirectly to any persons promoting the petition for the gift or loan of any

money or money's-worth or for the promise of any such gift or loan or for any office, place or employment or for the promise of any office, place or employment;

shall, in every such event, be guilty of an offence.

(2) Payments *bona fide* made for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the petition incurred by the promoters of the petition or the member affected thereby in good faith and without corrupt intent shall be deemed to be payments lawfully made and shall not constitute a contravention of this section.

(3) The distribution by the persons promoting the petition or the member affected thereby of political pamphlets or other political literature, or the sending or causing to be sent to electors by the promoters of newspapers containing political articles, reports of political meetings or other matters of public interest shall not be a contravention of this Act.

13. Every person who directly or indirectly, himself or by any person on his behalf, uses or threatens to use force, violence or restraint or inflicts or threatens to inflict injury, damage, harm or loss or in any manner practises intimidation upon or against an elector in order to induce or compel him to sign or refrain from signing a petition or on account of his having signed or refrained from signing a petition, or who by abduction, duress or false or fraudulent pretence, device or contrivance impedes, prevents or otherwise interferes with an elector in the free exercise of his right to sign or refrain from signing a petition or thereby compels, induces or prevails upon an elector to sign or refrain from signing a petition shall be guilty of an offence against this Act.

14. Every person who signs a petition knowing that he has no right to sign the same or who induces or procures any other person to sign a petition knowing that such person has no right to sign the same shall be guilty of an offence against this Act.

15. Every person who before or during the time when a petition is being signed for the purpose of securing the recall of a member makes or publishes any false statement of fact in relation to the personal character or conduct of such member shall be guilty of an offence against this Act.

16. Every person who commits an offence against this Act who is a promoter of a petition shall be liable on summary conviction to a fine of not more than five hundred dollars and costs and in default of payment to imprisonment for a term of not more than six months, and every other person who commits an offence against this Act shall be liable on summary conviction to a fine of not more than two hundred and fifty dollars and costs and in default of payment to imprisonment for a term of not more than three months.

17. Every declaration in Form B shall be made before a justice of the peace or a notary public or a commissioner for oaths.

18. Any person who wilfully alters, defaces, erases or renders illegible any date or signature or mark placed upon any form of petition by the Clerk of the Executive Council or by any person authorized by him in writing in that behalf shall be guilty of an offence and shall be liable on summary conviction to a fine of not more than five hundred dollars and costs and in default of payment to imprisonment for a term of not more than six months.

19. Any person who takes down, defaces, damages, mutilates or in any other way interferes with any copy of a petition posted up pursuant to this Act shall be guilty of an offence and shall be liable on summary conviction therefor to a fine of not more than five hundred dollars and in default of payment to imprisonment for a term of not more than six months.

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

THE SCHEDULE.

FORM A.

THE PROVINCE OF ALBERTA.

The Legislative Assembly (Recall) Act.

To the Clerk of the Executive Council:

We, the undersigned, being persons whose names appeared upon the voters' list used at the last election for the election of a member of the Legislative Assembly held in the Electoral Division of, and now resident therein, and being desirous of presenting a petition pursuant to *The Legislative Assembly (Recall) Act* for the recall of a member of the Legislative Assembly of Alberta for the said Electoral Division for the following reason:

and do hereby make application to be furnished with the forms prescribed by the said Act for such a petition, and we hereby appoint, of, as our agent in relation hereto.

Dated at, in the Province of Alberta, this day of, 193.....

Signatures of Applicants	P. O. Addresses	Signatures of Witnesses
1.

(With at least nine additional lines, each consecutively numbered.)

FORM B.

The Legislative Assembly (Recall) Act.

I,, of,
in the Province of Alberta,,
do hereby solemnly declare:

1. That I am of the full age of twenty-one years.
2. That I have examined the document now produced and shown to me and marked "Exhibit A" to this my declaration.
3. That I have signed my name upon the said document as an attesting witness against certain signatures upon the said document and that each of such last mentioned signatures was written thereon in my presence, and I verily believe that each such signature is in the proper handwriting of the person who so signed the said document:

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at
in the Province of Alberta,
this day of,
19..... } (Signature of Declarer.)
(J.P., Notary Public or Commissioner for Oaths.)

FORM C.

PROVINCE OF ALBERTA.

The Legislative Assembly (Recall) Act.

Date of Issue Electoral Division of

Pursuant to the provisions of *The Legislative Assembly (Recall) Act* the undersigned electors of the Electoral Division of do hereby petition

for the recall of
a member of the Legislative Assembly for the Electoral
Division of for the following
reason:

Signatures of Petitioners	P. O. Addresses	Signatures of Witnesses
1.

(The remainder of the form to be ruled with lines not less than three-eighths of one inch apart, each such line to be consecutively numbered commencing with the number two.)

No. 76.

FIRST SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

BILL

An Act providing for the Recall of
Members of the Legislative
Assembly.

Received and read the

First time

Second time

Third time

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1936