

BILL

No. 15 of 1938.

An Act to amend and consolidate The Tax Recovery Act,
1929.

(Assented to _____, 1938.)

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 Tax Recovery Act, 1938.*"

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,—
- (a) "Area" means a city, town, village, municipal district or improvement district;
 - (b) "Arrears" or "arrears of taxes" includes all penalties for the non-payment of a tax, and also all costs and lawful expenses incurred, or necessarily to be incurred by a municipality in respect of any parcel;
 - (c) "Chief officer" includes the mayor of a city, town or village, or the reeve of a municipal district, and in the case of an improvement district the Minister;
 - (d) "Improvements" includes all buildings, fencing and fixtures, and all erections or works in or upon land;
 - (e) "Land" includes improvements and minerals;
 - (f) "Minister" means the Minister of Municipal Affairs;
 - (g) "Municipality" includes every body corporate governing any area, and in the case of an improvement district, the Minister, or where authority in the matter is lawfully delegated to him, the Deputy Minister of Municipal Affairs, and, when the context so requires, every area;
 - (h) "Owner" (in respect of land or a mineral or minerals) means a person registered as such in a Land Titles Office;
 - (i) "Parcel" means every parcel of land, improvements or minerals separately assessed on the assessment roll of a municipality when the title to the parcel is vested in any person other than the Crown, and includes every such parcel which is vested in the Crown or in the Minister representing the Crown by reason of the operation of any statute relating to tax enforcement;

- (j) "Prescribed" means prescribed by the Minister;
- (k) "Registered easement" means any easement, incorporeal right, condition, covenant, or caveat referred to in section 57*a* of *The Land Titles Act*;
- (l) "Reporting authority" means the board of trustees of a school district, or a municipality collecting taxes in respect of parcels situate in another municipality;
- (m) "Sale" includes agreement to sell;
- (n) "Tax" includes every rate or tax imposed upon any parcel and any part of any such rate or tax;
- (o) "Tax arrears list" means the list of parcels, the taxes with respect to which have been in arrears for more than a year, prepared pursuant to section 4;
- (p) "Treasurer" includes the treasurer or secretary-treasurer of a municipality, any officer appointed by a municipality to conduct proceedings under this Act, and in the case of an improvement district, the Deputy Minister of Municipal Affairs.

DUTIES OF REPORTING AUTHORITIES.

3.—(1) Not later than the twentieth day of January in every year, every reporting authority collecting a tax imposed upon a parcel shall forward to the treasurer of each municipality within whose area such parcel is situated, a report as to any parcel in respect of which taxes are then in arrear, setting out the amount of all the taxes then in arrear and the years in which such taxes were levied, together with the names and addresses, if known, of the persons by whom the arrears are payable.

(2) If any reporting authority includes in any such report any parcel which is not included in the Tax Arrears List, the treasurer shall forthwith certify in writing to the reporting authority that such parcel is not subject to the provisions of this Act.

(3) Upon being requested so to do by a reporting authority the treasurer may by writing give permission to the reporting authority to collect and enforce payment of any taxes which have been reported as if the same had not been reported until the expiration of the year in which such permission is given or until the date of the sending to the treasurer of the list of the parcels to be offered for sale as required by section 10.

(4) Except only where permission has been given pursuant to subsection (3) and so long as such permission remains in effect, no reporting authority shall collect any arrears of taxes in respect of any parcel included in the Tax Arrears List.

(5) The reporting authority shall notify every person to whom tax notices are sent in respect of all parcels included in the Tax Arrears List, except parcels in respect of which the reporting authority is empowered to collect arrears of

taxes pursuant to subsection (3), that the arrears of taxes payable in respect thereof must be paid to the treasurer.

(6) Any arrears paid to a treasurer under the provisions of this Act shall be forwarded to the reporting authority concerned, after deduction by way of commission of five per cent of the amount thereof.

(7) If any reporting authority in its report sets out the portions of land with respect to which there are arrears otherwise than as parcels within the meaning of this Act, the treasurer shall divide or otherwise redistribute such portions so as to make the report have reference to parcels as herein defined, and in so doing shall make such distribution of arrears amongst such parcels as may be equitable.

(8) The report so altered shall be deemed to be the report sent in by the reporting authority, and the arrears attributed to any parcel shall, for the purposes of this Act, be deemed to be due in respect of that parcel in the same manner as the arrears set out in the original report would have remained due in respect of the said portions, but for this section.

(9) Taxes shall be deemed to be in arrears within the meaning of this section when they remain unpaid after the thirty-first day of December of the year in which they were imposed, or, where a later date has been lawfully fixed for their payment, after such later date.

(10) Notwithstanding that a parcel has become subject to proceedings under this Act, the municipality in which the parcel is situate may at any time collect any arrears of taxes in respect of such parcel as if it had not become so subject whether imposed by that municipality or by a reporting authority, and for the purpose of collecting any reported taxes, shall have the same powers of collection as are conferred by statute on the reporting authority.

TAX ARREARS LIST.

4.—(1) During the month of March in each year, the treasurer shall prepare in triplicate and in the prescribed form, a list (hereinafter called "the tax arrears list") of all parcels, the taxes with respect to which have been in arrears for more than a year; and shall sign the same, giving his address; and shall send the triplicate lists to the chief officer of the municipality concerned.

(2) The chief officer of the municipality, upon receiving the triplicate lists, shall forthwith sign the same and shall return them to the treasurer. The treasurer shall, before the first day of April, forward two of such lists to the proper Land Titles Office, and before doing so shall remove from the list any parcel, the arrears of taxes in respect of which have been paid, and initial all such removals.

(3) Taxes shall be deemed to be in arrears within the meaning of this section, when they remain unpaid after the thirty-first day of December of the year in which they were

imposed, or where a later date has been lawfully fixed for their payment, after such later date.

(4) The treasurer shall post in his office a copy of the Tax Arrears list, which shall be accessible to the public during office hours, up to and including the date of the sale.

TAX RECOVERY NOTIFICATION OR CAVEAT.

5.—(1) Immediately upon the receipt of the Tax Arrears List, the Registrar shall place upon the certificate of title of each parcel a notification that the parcel is subject to the provisions of *The Tax Recovery Act, 1938* (hereinafter sometimes called "the tax recovery notification").

(2) Upon the placing of a tax recovery notification upon the title to any parcel, the registrar shall not cancel the certificate of title to the parcel or to any part of it without the consent of the treasurer of the municipality filing such notification.

(3) Immediately upon making such notifications, the Registrar shall place a certificate upon one of the Tax Arrears Lists to the effect that he duly placed notifications in respect of the parcels comprised in the list on the proper certificates of title, and shall forthwith return such list to the treasurer by registered mail.

(4) The Registrar shall send with the Tax Arrears List, a statement of the fees chargeable in respect of each parcel comprised therein, and the municipality shall pay to the Registrar such fees, and they shall be added to the costs chargeable by the municipality against such parcel.

(5) After such notification has been made, it shall not be removed until,—

- (a) the treasurer directs its removal; or
- (b) a certificate of title has been issued to a municipality or other person, under the provisions of this Act.

6.—(1) As long as any tax recovery notification subsists with respect to any parcel, no buildings, fences, fixtures or other improvements in or upon such parcel shall be removed from such parcel without the consent of the municipality concerned.

(2) Any person contravening the provisions of this section shall be liable upon summary conviction, to a fine of not less than ten dollars nor more than two hundred dollars, or to imprisonment for not more than six months, or to both fine and imprisonment.

(3) No person shall acquire any property in any such building, fence, fixture, or other improvement removed in contravention of this section.

(4) As and from the date fixed for the sale by public auction of any parcel, the municipality shall have the right

to enter upon the same with or without force, and to have quiet and peaceful possession thereof.

(5) The municipality shall have a charge upon all moneys payable under any policy of fire insurance upon the occurrence of any damage or loss occasioned by fire to any buildings, structures or erections upon any parcel of land, if at the time of such occurrence there is a subsisting tax recovery notification in respect of such parcel.

WARNING NOTICE.

7.—(1) Not later than the first day of August following the receipt of the Tax Arrears List, the Registrar of the Land Titles Office shall cause to be sent by registered mail a notice to the following persons, whose names then appear on the register of titles to land kept in accordance with *The Land Titles Act*, namely; registered owners and other incumbrancees referred to in section 92 of the said Act.

(2) The notice shall be in Form A of the schedule hereto.

(3) The notice shall be sent to the address for service of the person concerned, registered pursuant to *The Land Titles Act*, and if there is no such registered address, to the address of such person given in any instrument registered in the Land Titles Office with reference to such parcel.

WITHDRAWAL OF TAX RECOVERY NOTIFICATION BEFORE THE DATE OF THE SALE.

8. Upon payment by the owner of any parcel or on his behalf, prior to the date of the sale,—

- (a) of all taxes which are shown on the records of the treasurer as being due with respect to such parcel other than the taxes of the current year; and
- (b) of the prescribed costs,—

the treasurer shall notify the Registrar of the proper Land Titles Office to remove the tax arrears notification from the certificate of title of such parcel and the Registrar shall forthwith do so.

PUBLIC SALE BY MUNICIPALITY

9.—(1) Every parcel with respect to which there is a subsisting tax recovery notification shall be offered for sale by public auction.

(2) The Minister may by order from time to time prescribe either in respect of all municipalities or in respect of any one class of municipalities or in respect of any municipality specified in any order, a date before which no such parcel as aforesaid shall be offered for sale.

(3) In the absence of any order by the Minister made pursuant to the immediately preceding subsection no such parcel shall be offered for sale until after the expiry of one year from the first day of April of the year in which the notification was made, and such public auction shall be held

upon a date to be fixed by the municipality or the Minister, as the case may be.

(4) In this Act the expression "the date of the sale" or any similar expression shall invariably mean the date upon which the sale by public auction is actually held.

(5) Every parcel offered for sale by public auction by any municipality except a city, shall be so offered upon the express condition that no sale effected thereat shall have any force or effect unless and until the same has been approved in writing by the Minister.

10.—(1) At least two months prior to the date of the sale, the treasurer of the municipality shall send a list of the parcels to be offered at the sale to every reporting authority collecting taxes in respect of any such parcel, and the reporting authority shall forthwith forward to the treasurer a report showing all taxes due to it and remaining unpaid in respect of any such parcel, together with the names and addresses, if known, of the persons by whom such taxes are payable.

(2) The report shall be in the prescribed form.

(3) Any reporting authority omitting to forward the said report of taxes unpaid, with respect to any parcel, shall, subject to the other provisions of this Act, forfeit all claim to such taxes.

(4) No reporting authority after it has received any such list shall collect any taxes which were or should have been included in the said report.

(5) If any reporting authority in its report sets out the portions of land with respect to which there are taxes otherwise than as parcels within the meaning of this Act, the treasurer shall divide or otherwise redistribute such portions so as to make the report have reference to parcels as herein defined, and in so doing shall make such redistribution of taxes amongst such parcels as may be equitable.

(6) The report so altered shall be deemed to be the report sent in by the reporting authority, and the taxes attributed to any parcel shall, for the purpose of this Act, be deemed to be due in respect of that parcel in the same manner as the taxes set out in the report would have remained due in respect of the said portions but for this section.

11.—(1) Every public auction shall be advertised in one issue of *The Alberta Gazette*, published not less than forty days and not more than ninety days before the date of the sale.

(2) No parcel of which a correct description has not been duly advertised in *The Alberta Gazette* shall be offered for sale.

(3) Not less than four weeks before the date of the sale, the treasurer shall send by registered mail a copy of the advertisement appearing in *The Alberta Gazette*, to every

person whose name actually appears on the assessment roll as having any interest in any parcel set out in such advertisement.

12.—(1) Every such advertisement shall specify the place, day and hour at which the auction shall commence, and the conditions of sale, and each parcel shall be described therein by a reasonable description or by stating the number of the registered instrument or instruments from which a description can be deduced or obtained.

(2) The using of abbreviations in any such description shall be sufficient if the parcel so described can be thereby distinguished.

(3) A copy of the advertisement shall be hung up in the treasurer's office and shall be accessible to the public at all times during business hours for a period of ten days before the date of the sale.

13.—(1) The Minister may by general order or by order made with respect to any one or more municipalities prescribe the method of fixing the reserve bids and the conditions of sale upon which sales are to be made.

(2) If no such order is made, the purchase price shall be payable in cash within thirty days of the sale unless the council by resolution authorizes the making of sales upon the instalment payment plan or upon the plan of taking a mortgage for any balance of the purchase price which is not paid at the time of the auction.

(3) Every municipality shall fix a minimum price for each parcel by way of a reserve bid, and if any order has been made, under the provisions of this section, shall observe the terms of the same.

(4) For the purpose of ascertaining the value of any such parcel and fixing the minimum price thereof, the treasurer or any person duly authorized by him is empowered to enter upon such parcel and every part thereof and every building, structure and erection thereon, at any time in the day time.

14. The treasurer may adjourn the auction from time to time, but no such adjournment shall be for a period exceeding fifteen days, nor to a date later than the expiry of two months from the advertized date of termination, unless the Minister by order gives directions as to adjournment, in which case the treasurer shall adjourn the auction to such time or times as the Minister may from time to time direct.

15. No treasurer or other person offering parcels for sale under the provisions of this Act shall be required to obtain an auctioneer's license for the purpose of the sale.

16. Notwithstanding any other provisions of this Act, the Minister may give other direction as to public auctions in improvement districts.

17.—(1) No auctioneer, councillor or official of any municipality shall at a sale conducted by such municipality, whether public or private, purchase any parcel or act as the agent of any person in the purchase thereof, and any sale made to him personally or to him as an agent, shall be null and void.

(2) Every person who acts in contravention of subsection (1), and every person who procures or attempts to procure any person to so act, shall be guilty of an offence and liable on summary conviction to a penalty of not less than one hundred dollars and not more than five hundred dollars, for each offence, and in default of payment to imprisonment for a term of not less than one month and not more than six months.

(3) Notwithstanding the previous provisions of this section, any municipality may by resolution direct any official to bid at any public sale for, or may buy at any private sale, any parcel which such municipality is desirous of acquiring for any purpose for which it is authorized to acquire land, but no purchase by a municipality under the provisions of this section shall be effective until it has been confirmed by the Minister.

PRIVATE SALE.

18.—(1) Any parcel which is not sold at the first public auction held by a municipality after a tax recovery notification has been placed upon the certificate of title thereto, may be sold at such price, in such manner and upon such conditions, in the case of an improvement district as the Minister may prescribe and in the case of any other municipality as the council of the municipality may by by-law prescribe, and no such by-law shall be read oftener than twice at any one meeting of the council, and in the case of municipalities other than cities neither the by-law nor any sale made pursuant thereto shall have any force or effect unless and until the same shall have been approved by the Minister in writing.

(2) A municipality may, with the consent of the Minister, sell a portion of any parcel, if such portion would, in his opinion, be liable to expropriation proceedings under any provision of any Act, and shall apply the purchase money as if it were the proceeds of a sale.

19.—(1) Where a municipality has sold or agreed to sell any parcel under the provisions of this Act, whether by public auction or private sale, and the purchaser or any one claiming by, through or under him objects that the municipality is unable to furnish him with a good title to the parcel by reason of any defect or omission in any proceedings prescribed by this Act with reference to the sale of the parcel, the municipality shall have the right to rescind the sale or agreement for sale upon giving notice thereof to the purchaser, and thereupon the municipality

shall pay forthwith to the purchaser all moneys paid by him in respect thereof, and all the rights of the purchaser in respect of the agreement or sale shall be extinguished.

(2) Notice of rescission shall be in writing under the hand of the treasurer and may be served personally upon the purchaser or may be sent by registered mail to the purchaser's last known post office address.

20.—(1) Subject to the provisions of section 18, upon the expiry of one year from the date of the sale, every parcel with respect to which there is a subsisting tax recovery notification shall be finally acquired by the municipality concerned as legal and beneficial owner thereof, subject only to the encumbrances mentioned in the transfer to it.

(2) Upon the final acquisition of a parcel the municipality may dispose of the same by sale or lease the same either in one parcel or, subject to the provisions of *The Public Works Act* and of *The Town Planning Act, 1929*, in two or more parcels or lots; provided that in the case of municipalities other than cities no such disposition shall be made without the approval of the Minister.

WITHDRAWAL OF THE TAX RECOVERY NOTIFICATION AFTER THE DATE OF THE SALE.

21.—(1) If at any time while a parcel remains unsold and has not been finally acquired by the municipality,—

- (a) all taxes which are shown on the records of the treasurer as being due with respect to such parcel other than the taxes of the current year; and
- (b) the prescribed costs,—

are duly paid or discharged, the treasurer shall notify the Registrar of the proper Land Titles Office to remove the tax arrears notification from the certificate of title of such parcel and the Registrar shall forthwith do so.

(2) With the approval of the Minister and subject to the provisions of subsection (3), if at any time while a parcel which has been finally acquired by a municipality, or any part thereof remains unsold, in the case of an improvement district the Minister by order, and in the case of any other municipality the council by by-law, may at any time within three years of the final acquisition thereof, permit the redemption thereof, subject to any dispositions of or dealings with the same effected pursuant to any provisions of this Act, upon the payment of,—

- (a) all taxes which are shown on the records of the treasurer as being due with respect to such parcel other than the taxes of the current year; and
- (b) the prescribed costs,—

and upon the making of such order or the passing of the by-law as the case may be, and payment being made as

aforesaid, the treasurer shall notify the Registrar of the proper Land Titles Office thereof and thereupon the Registrar shall,—

- (a) in case the person making such payment is the person who was the owner of the parcel at the time of its final acquisition or the personal representative, son, daughter, widow or widower of such owner, transfer the parcel to the person making the payment for the estate and interest of the municipality therein; and
- (b) in any other case, cancel the certificate of title issued to the municipality and revive the certificate of title so cancelled upon such final acquisition, and the certificate so renewed shall be subject to the same mortgage, charges and encumbrances to which it would have been subject had no certificate of title been issued to the municipality.

(3) Any person who considers himself to be aggrieved by the refusal of the council of a municipality to permit him to redeem any parcel or portion of a parcel, may appeal to the Minister by giving to the treasurer of the municipality and to the Minister, within fourteen days after the date of such refusal notice of the intention to appeal therefrom; and thereupon the Minister shall cause such enquiries to be made into the circumstances as he may deem proper and thereafter may by order either dismiss the appeal or direct the municipality to permit the appellant to redeem, and in the latter case the treasurer shall proceed as if the council had by by-law permitted the redemption.

(4) Where any land in an improvement district has been finally acquired and has been declared to be Provincial land pursuant to section 3 of *The Provincial Lands Act*, or where any land in any area constituted under the provisions of *The Special Municipal Areas Act*, has been finally acquired, every right to redeem the same whether under this Act or otherwise, shall cease and determine.

ISSUE OF CERTIFICATES, ETC.

22.—(1) When any parcel has been sold to a purchaser for cash at either a public or private sale, either before or after final acquisition, the municipality concerned shall transfer such parcel to the purchaser by means of a transfer in the appropriate form as set out in Form B in the schedule hereto, and shall forward such transfer to the proper Land Titles Office, and the Registrar shall forthwith upon its receipt cancel the existing certificate of title, and issue a new duplicate certificate of title in the name of the transferee.

(2) When any parcel has been sold to a purchaser upon the mortgage plan, a like procedure shall be followed, save

that the new certificate of title shall be retained in the Land Titles Office.

(3) When any parcel has been sold to a purchaser upon the instalment payment plan, or has been finally acquired by a municipality, a like procedure shall be followed, save that the new certificate of title shall be made out in the name of, and sent to, the municipality concerned.

(4) Every duplicate certificate of title issued under the provisions of this section shall be conclusive evidence of the compliance with all conditions precedent to the issue of such certificate and its validity shall not be questioned in any court of law or equity, save upon the following grounds, or any of them, and no other:

- (a) that the sale was not conducted in a fair, open and proper manner; or
- (b) that there were no taxes whatever in arrears for which the parcel could be sold; or
- (c) that the parcel was not liable to be assessed for taxes;

and shall give to the person or municipality to whom it is issued an estate in fee simple in the parcel named therein, free from all encumbrances save those arising from claims of the Crown in the right of the Dominion of Canada, and save irrigation or drainage debentures, and registered easements, and in the case of a certificate of title issued to a municipality subject to the rights of any purchaser upon the instalment plan.

(5) Upon the issuance of a certificate of title to a parcel to a municipality under this section and thereafter until it is disposed of by the municipality or until the expiry of a three-year period commencing with the year of issuance of the certificate of title, whichever event first happens, the parcel shall continue to be assessed by the municipality and the taxes payable to the municipality in respect thereof shall continue to be charged against the parcel and carried over from year to year without collection in each year of the said period, and if after the expiration of the three-year period the parcel remains undisposed of, the same shall be so assessed and taxes shall be so charged until the amount of the arrears of taxes together with the taxes so charged becomes in excess of the assessed value thereof as at the time of holding the sale by auction at which the same was first offered for sale; and thereafter no taxes shall be levied thereon unless and until it is disposed of by the municipality; and all taxes so charged and carried over shall be treated as arrears of taxes or taxes within the meaning of the provisions of this Act relating to distribution of the proceeds of sale:

Provided that if the municipality disposes of a parcel by agreement of sale or lease, then notwithstanding any other provision of this section and so long as the agreement of sale or the lease subsists, the parcel shall be assessed and the purchaser or lessee and any persons claiming by or

under a purchaser or lessee, as the case may be, shall be liable for the taxes thereon; and in case the taxes are being charged and carried over against the parcel pursuant to this section, any taxes paid by a purchaser or lessee shall be credited against the same.

(6) The Registrar shall, before issuing any title under the provisions of this Act, satisfy himself that the notice required by section 7 hereof has been given; and if he finds that there has been an omission to give any such notice, he shall proceed forthwith to give a notice in the form contained in section 7, substituting for the words "before theday of....., 19.....", the words "before the expiration of three months from the date hereof"; and the Registrar shall not proceed to issue a title to any person until the expiration of the last mentioned period.

APPLICATION TO A DISTRICT COURT JUDGE.

23.—(1) At any time prior to the sale of any parcel, or its final acquisition by the municipality, whichever event first happens, any person interested in any parcel may apply in chambers to the Judge of the District Court of the Judicial District in which the parcel is situated, who, if of the opinion that the provisions of this Act have not been complied with, may summarily make an order directed to the Registrar, staying the issue of any certificate of title with respect to such parcel or the sale of such parcel, as the case may be, until the respective rights of the applicant and of the municipality have been determined by a declaratory order of the Judge of the District Court, or until after the expiration of a period of thirty days or less, as fixed by his order.

(2) If the rights of the applicant and of the municipality are not so determined prior to the expiry of thirty days from the date of the staying order, or upon the expiry of the period fixed by such order, as the case may be, such order shall cease to be of any effect and no further order shall be made.

PROCEEDS OF SALE.

24.—(1) The proceeds of the sale of any parcel, whether sold at a public or private sale, directed by this Act, whether sold before or after the final acquisition thereof by a municipality, shall notwithstanding the provisions of any other Act, be distributed in the following order:

- (a) in the discharge of the prescribed costs and all other expenses lawfully incurred by the municipality in respect of the parcel, including a commission to the municipality of five per cent of the surplus moneys referred to in section 25;
- (b) in the discharge of all irrigation and drainage rates due in respect of the parcel;

- (c) in the discharge or where necessary the *pro rata* discharge, of all taxes due in respect of the parcel other than taxes for the current year and arrears which ought to have been reported and have not then been reported;
- (d) in the discharge or where necessary the *pro rata* discharge, of all other taxes in respect of the parcel;
- (e) in the discharge of all money due to the Crown in the right of the Province and charged upon the parcel.

(2) Any taxes for which any parcel has been sold, which have not been discharged under the provisions of the previous subsection, shall be cancelled upon the books of the municipality, and reporting authority.

(3) Any taxes due in respect of any parcel which ought to have been reported and have not at the date of the sale been so reported, shall be cancelled and irrecoverable.

25.—(1) Any surplus moneys which may remain after distribution of the proceeds of sale as hereinbefore directed, shall be paid into a separate tax sale trust account and shall be paid out to such person or persons as may apply to a District Court Judge and be by him declared to be entitled thereto within three years from the date upon which the parcel is actually sold, and such declaration may be made upon notice to such persons as the Judge may direct, and shall be disposed of summarily, and any order so made shall have the same force and effect as an order of the District Court.

(2) In making any such declaration the District Court Judge shall have regard to the priorities in which sale moneys would be distributed in a foreclosure action.

(3) Upon the expiry of three years from the date upon which the parcel is actually sold, all surplus moneys in respect of which no declaration has been made shall form part of the general revenue of the municipality, or in the case of an improvement district, of the improvement district fund.

LEASE BY MUNICIPALITY.

26.—(1) Prior to the acquisition of any parcel which is not sold at the first public auction held by a municipality after a tax recovery notification has been placed on the certificate of title thereto, the same may be leased for a period of not more than one year, and such parcel may be leased for periods of not more than three years after final acquisition.

(2) All proceeds arising and profits accruing from the leased parcel shall be distributed as if they were proceeds of a sale thereof.

(3) Any lease entered into under the provisions of this section shall be a good and valid lease for the term mentioned therein.

LIMITATION OF ACTIONS.

27. No action, suit or other proceedings for the return by a municipality of any moneys paid to the municipality whether under protest or otherwise, on account of a claim, whether valid or invalid, made by the municipality for taxes, shall be commenced after the expiration of six months after the payment of such moneys, and after the expiration of such period of six months without any such action, suit or other proceedings having been commenced, the payment made to the municipality shall be deemed to have been a voluntary payment.

ANCILLARY METHODS OF RECOVERING ARREARS.

28. A municipality may at any time prior to selling or agreeing to sell any parcel, or becoming the registered owner thereof, as the case may be, exercise any powers to recover all the arrears of taxes due in respect thereof as are given to it or any reporting authority by any other Act.

PENALTIES.

29. Any official of a municipality or of a reporting authority neglecting to comply with the provisions of this Act, as to the making and sending of lists or reports, the publication of notices, the withdrawal of tax arrears notifications, and the issue and forwarding of transfers, shall, on summary conviction before two justices of the peace, be liable for each offence to a fine or penalty of not more than two hundred dollars.

30.—(1) Any reporting authority collecting taxes without observing the provisions of this Act shall be liable on summary conviction to a penalty not exceeding twenty-five dollars, which penalty shall be paid to the municipality concerned.

(2) When any reporting authority pays a penalty under the provisions of the preceding subsection, it may deduct the same from any sum of money payable by it to its officer primarily responsible for the collection of taxes due to it.

(3) When any loss or damage occurs to any person from any action of a treasurer purporting to act under the provisions of this Act, and such loss or damage results from wrong information given by or failure to give information on the part of a reporting authority, such authority shall be liable therefor to both the person to whom the loss or damage occurs and the municipality concerned.

31. Every municipality shall be liable to the Registrar for all losses and damages sustained to the assurance fund on account of any incorrectness in the lists sent or directions given to him by the treasurer, and when any such loss or damage is occasioned by wrong information given by or failure to give information on the part of a reporting

authority, such authority shall be liable therefor, as is provided by this Act.

REGULATIONS, FORMS AND FEES.

32. The Minister may from time to time make such regulations and prescribe such forms in lieu of or in addition to the forms in the schedule to this Act, as may be deemed necessary for the proper carrying into effect of the provisions of this Act.

33. The Lieutenant Governor in Council may fix the fees to be paid to the Registrar in connection with all matters or proceedings in the Land Titles Office under this Act.

34. Whenever any parcel in a municipality with respect to which proceedings have been begun under the provisions of this Act (hereinafter called "the old municipality"), becomes a part of another municipality, whether newly created or not (hereinafter called "the new municipality"), then the said proceedings shall be continued by the new municipality as if the parcel had always been included therein, and the new municipality shall pay to the old municipality all expenses and charges lawfully incurred by it under the provisions of this Act, in connection with such parcel, in so far as the moneys coming to its hands will extend.

35. Any municipality may apply to the Board of Public Utility Commissioners to exercise the powers given to such Board, by Part VIII of *The Public Utilities Act, 1923*.

MISCELLANEOUS.

36. The provisions of this Act shall, subject to the provisions of section 40 hereof, supersede all provisions inconsistent therewith in any Act or Ordinance contained, whether such Act or Ordinance is one of general application or relates to one municipality only.

37. In the case of any land vested in the Minister pursuant to any of the provisions of this Act, the Minister shall not be under any liability in respect of the state and condition thereof or of any buildings, structures or erections thereon.

38. All proceedings taken under *The Tax Recovery Act, 1929*, or which may require to be instituted under the terms thereof, shall be continued or instituted, as the case may be, under the provisions of this Act substituted for the provisions of the said *The Tax Recovery Act, 1929*, so far as possible, and the Minister shall have power to make regulations calculated to overcome the procedural difficulties occasioned by the differences between such Acts, and all such regulations shall have effect as if set out therein.

39.—(1) *The Tax Recovery Act*, being chapter 20 of the Statutes of Alberta, 1919, shall continue to have effect with respect to proceedings begun thereunder.

(2) The said Act shall have effect also with respect to all such proceedings as if it contained section 34 of this Act regarding the transfer of land from one municipality to another.

(3) The Lieutenant Governor in Council may by Proclamation at any time repeal the said *The Tax Recovery Act*, and this section.

40. *The Tax Recovery Act, 1922*, being chapter 122 of the Revised Statutes of Alberta, 1922, is hereby continued notwithstanding the repeal thereof effected by *The Tax Recovery Act, 1929*, in so far as the cities of Calgary, Edmonton and Medicine Hat are concerned, in which case the first mentioned Act (as modified or varied by any special provisions of the charters of the said cities or amendments thereto) shall continue to apply and be of full force and effect.

41. *The Tax Recovery Act, 1929*, being chapter 39 of the Statutes of Alberta, 1929, is hereby repealed.

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

SCHEDULE.

FORM A.

(Section 7.)

The Tax Recovery Act, 1938.

Notice is hereby given that a tax recovery notification has been placed on the certificate of title to a certain parcel of land (*or as the case may be*) situate in the municipal district (*or as the case may be*) of namely (*here insert description of parcel*) in which you appear according to the records of this office, to be interested;

And further take notice that unless before the day of, 19..... (*here insert the first day of April in the year after*) you pay to at (*here insert name and address of treasurer as given in the tax arrears list*), all taxes which are shown on his records as being due with respect to the said parcel, other than the taxes for current year, the said parcel may be offered for sale by public auction and a certificate of title thereto may issue to the purchaser upon cancellation of the existing certificate.

By applying to the treasurer at the address given above you can learn the amount of such taxes and costs, as at the time of your application.

Dated at this day of
....., A.D. 19.....

.....
Registrar.

FORM B.
(Section 22.)

The Tax Recovery Act, 1938.

The of
(or the Deputy Minister of Municipal Affairs, as the case may be), in pursuance of the powers vested in it (or him, as the case may be) by *The Tax Recovery Act, 1938*, hereby transfers to
of free from all encumbrances save those arising from claims of the Crown in the right of the Dominion of Canada, and save irrigation or drainage debentures, and registered easements, all that parcel (*here insert a sufficient description of the parcel*), which was duly sold to upon the day of 19.....

Where the parcel was sold upon the mortgage plan, add to the above form:

"upon the condition amongst others that he would execute a mortgage thereof to the said municipality";

Where the parcel was sold upon the instalment plan, add to the above form:

"subject, however, to the rights of the said as a purchaser of the said parcel, upon the instalment plan";

Where the parcel has been finally acquired, insert in lieu of the last clause of form:

"which was finally acquired by the said upon the day of 19.....".

Attested by
Chief Officer.

.....
Treasurer.

SEAL OF MUNICIPALITY.

Or

Signed by
Deputy Minister of Municipal Affairs.

APPROVED.

.....
Minister of Municipal Affairs.

The consideration paid for this transfer is covered by
Receipts numbered as follows:

.....
Treasurer.

SIXTH SESSION
EIGHTH LEGISLATURE
1 GEORGE VI
1938

BILL

An Act to amend and consolidate The
Tax Recovery Act, 1929.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1938