

Bill No. 41 of 1938.

A BILL TO PROVIDE A LIEN FOR THE COST OF
CLEARING, BREAKING OR OTHERWISE
CULTIVATING LAND UPON CROPS
GROWN THEREON.

NOTE.

This Bill creates a lien for the price of clearing, breaking or cultivating land in favour of a contractor under a contract which is in the form and has been filed as prescribed therein, and such agreement may provide for payment of the contract price in grain. (Sections 2 and 3).

The amount of lien must not exceed an amount calculated at the following rates, namely, for clearing at the rate of \$6.00 per acre; for breaking at the rate of \$6.00 per acre; and for cultivating at the rate of \$3.00 per acre. (Section 7).

Sections 4, 5 and 6 contain provision as to the filing of the agreement and the affidavits which are to be filed with it, and requires the agreement and affidavits to be filed in the Registration District in which the land to which the agreement relates is situate, within thirty days after the date upon which the agreement was executed.

The lien becomes effective upon the compliance with the requirements of the Act as to the execution, filing and registration of the agreement and due performance of the agreement by the contractor. (Section 6).

The money payable under such an agreement is to be payable by two equal annual instalments, the first on the 1st October next after the completion of the work and the second on the 1st October of the following year.

The lien is upon any crops grown on the land cleared, broken or cultivated pursuant to the agreement, sown within eighteen months of the completion of the contract work. (Section 9).

The lien is given priority over all incumbrances, and claims, except claims for taxes, claims of the Crown, mortgages for seed grain and necessities and charges for seed and/or feed advances. (Section 10).

The lien is enforceable by distress. (Section 11).

The prescribed form of agreement is set out in the Schedule to the Bill.

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. 41 of 1938.

An Act to provide a Lien for the Cost of Clearing, Breaking
or otherwise Cultivating Land upon Crops
grown thereon.

(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 Farm Cultivation Lien Act.*"

2. Subject to the other provisions of this Act, any person who, pursuant to an agreement in writing made in good faith with any other person who is in the lawful occupation of any land suitable for farming which has been duly filed and registered pursuant to this Act, clears any such land of brush and timber or either of them, or who breaks up such land, or who otherwise cultivates such land, hereinafter called "the contractor," shall have a lien or charge upon the crop grown upon the land so cleared, broken or otherwise cultivated, for the amount payable under the agreement for clearing, breaking and otherwise cultivating of the said land.

3.—(1) Every such agreement shall be in Form A in the Schedule hereto or to the like effect, and shall be in duplicate and each duplicate shall be signed by each of the parties thereto or their duly authorized agent, and shall be attested by a witness who shall make an affidavit of attestation in Form B of the Schedule hereto.

(2) If the parties so agree, the agreement may provide for the delivery to the contractor of grain in satisfaction of the claims of the contractor under the agreement and such provision shall be valid and binding on the parties to the agreement.

4. Every such agreement shall have endorsed thereon or attached thereto an affidavit of good faith made by each of the parties to the agreement, which shall be in Form C in the Schedule hereto.

5.—(1) A duplicate of such agreement shall be delivered for filing to the Registration Clerk of the Registration District in which the land to which the agreement relates is

situate within thirty days after the date upon which the agreement was executed, and shall be accompanied by the affidavit of attestation and the affidavits of good faith required to be made pursuant to sections 3 and 4 together with a fee of one dollar.

(2) The Registration Clerk shall proceed to file and register such agreement upon the provisions of subsection (1) being complied with and not otherwise.

(3) The Registration Clerk shall proceed to file, register and deal with any such agreement in the manner prescribed under *The Bills of Sale Act* in the case of a chattel mortgage.

6. The lien created by this Act shall become effective upon the compliance with all the terms of this Act as to the execution, filing and registration of the agreement out of which it arises, and upon the due performance by the contractor of all his obligations under the agreement, and not otherwise.

7. The amount of the lien shall not exceed an amount calculated as follows:

For clearing land of brush and/or timber.....	\$6.00 per acre.
For breaking	\$6.00 per acre.
For cultivating	\$3.00 per acre.

8. The money payable under any such agreement shall be payable in two equal instalments and the first of such instalments shall become due and payable on the first day of October next after the completion of the work to be performed under the agreement and the other instalment shall become due and payable on the first day of October of the next ensuing year.

9. The lien shall be upon any crops grown upon the land cleared, broken or cultivated pursuant to the agreement, which are sown within eighteen months of the completion of the work to be performed under the agreement and shall subsist from the time of the sowing of any such crop until such time as the same remains upon the land upon which it is grown or upon any other land under the control of any person who is for the time being the owner, mortgagee, lessee, tenant or occupier of the land upon which the crop is grown.

10. The lien shall have priority over all claims, demands, rights, interests, mortgages, liens, charges or incumbrances whatsoever against or in respect to any crop subject to the lien, save and except only claims for taxes, claims of the Crown, mortgages for seed grain and necessities, and charges for seed and/or feed advances.

11. For the purpose of enforcing any lien created by this Act, the person entitled for the time being to the benefit of the lien may, upon default being made in due payment of

the amount secured by the lien, proceed to issue a distress warrant directing the Sheriff of the Judicial District in which is situate the land upon which the crop subject to the lien is grown, to levy by distress upon the crop subject to the lien the amount owing in respect thereof together with the costs of the distress; and upon receipt of any such warrant the Sheriff shall proceed to realize the amount so owing and costs of the distress and for that purpose to seize the crop subject to the lien and to sell the same or so much thereof as may be required to realize the said amount and costs, and all the provisions of *The Seizures Act* relating to the seizure and sale of crops under a distress shall apply to the execution of any distress warrant issued pursuant to this Act.

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

THE SCHEDULE.

FORM A.

The Farm Cultivation Lien Act.

An Agreement made the day of,
193.....

Between,
of, in the Province of Alberta, (herein-
after called "The Contractor") and
....., of in
the Province of Alberta (hereinafter called "The Party of
the Second Part").

Whereas the party of the second part is in the lawful
occupation of (describe land)
as owner, homesteader, lessee or tenant, as the case may be;

And whereas the party of the second part has requested
the contractor to carry out the operations hereinafter
mentioned.

Now it is hereby agreed and declared as follows:

1. The contractor, in consideration of the agreements on
the part of the party of the second part hereinafter con-
tained, will clear acres of the said land situate
..... at the rate of \$..... per acre.
2. The contractor will break acres of the said
land situate at the rate of \$.....
per acre.
3. The contractor will cultivate by plowing, harrowing,
disk harrowing, seeding acres of the said land
situate at the rate of \$.....
per acre.

The contractor agrees with the party of the second part,—

- (1) That the whole of the said work agreed to be done by him shall be carried out in the same manner as a competent farmer in the district in which the said land is situate would perform similar work upon land owned by him.
- (2) That the whole of the work shall be completed not later than the day of, 193.....

The party of the second part, in consideration of the premises, agrees with the contractor that upon the contractor performing the work hereinbefore by him agreed to be performed, the party of the second part will pay to the contractor the amount due to the contractor for the work so done, calculated at the rate per acre hereinbefore set out, in two equal instalments, the first on the first day of October, 193....., and the other on the first day of October of the next ensuing year.

And further that until such payment is made, the contractor shall have a lien for the amount of the first of such instalments on all crops grown upon the land upon which the said work was done, within six months after the completion of such work, and for the amount of the second instalment together with any sum owing in respect of the first instalment upon all crops grown upon the said land after the expiration of six months and before the expiration of eighteen months after the completion of such work, in accordance with the provisions of *The Farm Cultivation Lien Act*.

(Here set out any agreement by the party of the second part as to any crops to be sown by him.)

It is further mutually agreed between the parties hereto,—

1. That the party of the second part will permit the contractor to proceed with the performance of the said work without any act or hindrance on the part of the party of the second part.

2. That the contractor will furnish all machinery, equipment, horses and all labour and all fuel, feed, supplies and things required for the performance of the said work at the sole costs and charges of the contractor.

(N.B.—If provision is to be made for payment in grain the blanks in the following clause must be filled in.)

3. The party of the second part may deliver to the contractor at, wheat, oats, barley, rye or flax, on account of any of the claims of the contractor, and the contractor hereby agrees to accept any such grain on account of such claims at the following rate, namely: For wheat at the rate of \$..... per bushel; for oats at

the rate of \$..... per bushel; for barley at the rate of \$..... per bushel, and for rye at the rate of \$..... per bushel.

4. That the contract shall enure to the benefit of the executors, administrators and assigns of each of the parties hereto.

As witness the hands of the parties:

Signed by	}	Signature of Contractor.
on the day of		
....., 193.....,		
in the presence of,—		
.....		
Signature of Witness.		

Signed by	}	Signature of Party of the Second Part.
on the day of		
....., 193.....,		
in the presence of,—		
.....		
Signature of Witness.		

FORM B.

I,, of,
in the of, make oath
and say as follows:

1. That I was personally present and did see
..... named in the (within or annexed)
agreement, who is personally known to me to be the person
named therein, duly sign and execute the same for the pur-
poses named therein.

2. That the same was executed at
in the of on the
..... day of, 19.....

3. That I know the said
and that he is in my belief of the full age of twenty-one
years.

Sworn at	}	Signature.
in the of		
this day of		
19....., before me,—		
.....		
A Notary Public <i>or</i>		
A Commissioner for Oaths <i>or</i>		
A Justice of the Peace.		

FORM C.

I,, of,
in the of, make oath
and say as follows:

1. That I am a party to the (within or annexed) agree-
ment.

2. That the said agreement was entered into in good faith
and that the consideration set out in that agreement is truly
set forth therein and that there is no further or other agree-
ment in any way modifying that agreement.

Sworn at
in the of
this day of
19....., before me,—

.....
A Notary Public *or*
A Commissioner for Oaths *or*
A Justice of the Peace.

.....
Signature.

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI

1938

BILL

An Act to provide a Lien for the Cost
of Clearing, Breaking or other-
wise Cultivating Land upon Crops
grown thereon.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MULLEN.

EDMONTON:
A. Shnitka, King's Printer
1938