

Bill No. 50 of 1938.

A BILL TO IMPOSE A TAX UPON MINERALS.

NOTE.

This Bill provides for the imposition of a tax on minerals other than minerals held under lease or license from the Crown in the right of the Dominion or the Province, at the rate of three cents per acre on the surface area of the parcel of land containing the same, payable by the person who has the right to search for, win and get the minerals. The tax falls due on the first day of August in each year.

Every person who has the right to search for, work, win or get any mineral under any land, whether he derives such right from any grant, license or otherwise, either from the Dominion or the Province, or possesses the same by virtue of a reservation or exception thereof or as an incident to a part of the ownership of land, is required to deliver a return to the Minister as to the parcels of land containing minerals in respect of which he is taxable, before the first day of September in each year, and to pay therewith the amount of the taxes due from him.

A penalty of ten per cent of the tax is imposed for failure to pay the tax before the first day of September in any year.

In case default is made in the payment of the tax, provision is made for notification of the default being sent by registered mail by the Minister to the mineral owner.

In case default is made in the payment of the tax for three months after the sending of the notification, the Minister is required to notify the Registrar of the proper Land Registration District of the non-payment and thereupon the Registrar is to enter upon the certificate of title to the land a memorandum to the effect that the minerals have become the property of the Crown in the right of the Province, and thereupon such minerals become the property of the Crown, together with the right to work, win and get the same subject to the liability to compensate surface owners.

The mineral owner may redeem the minerals by paying the taxes with a further penalty of ten per cent at any time before the first day of January next following the making of the memorandum above referred to.

A mineral owner is enabled to surrender any minerals owned by him to the Province and upon such surrender being made he is exempted from taxation in respect of such minerals.

The tax is made recoverable by suit or by distress.

A mineral owner who duly pays the tax payable under *The Corporations Taxation Act* is exempted from taxation under this Act in respect of any quarter section or river lot which is being worked or developed by such owner with the object of extricating minerals therefrom.

The above provisions are not to apply to parcels of land less than ten acres in extent where the ownership of the surface and minerals are not separated; nor in the case of a parcel owned as to both surface and minerals by a person to whom letters patent therefor were originally issued as a homestead and pre-emption and who has not leased or otherwise disposed of the minerals.

The Lieutenant Governor in Council is empowered to exempt from the application of this Act any class of persons which by reference to the quantity of land granted or the smallness of the pecuniary consideration paid therefor can be fairly classified as homesteaders.

Any exemption given to any person pursuant to any of the foregoing provisions enures to the benefit of the widow, lineal descendents and assigns.

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. 50 of 1938.

An Act to Impose a Tax upon Minerals.

(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 Mineral Taxation Act, 1938.*"

2. In this Act, unless the context otherwise requires,—

- (a) "Mineral owner" means a person who has the right to search for, work, win or get any mineral otherwise than by virtue of any lease or license from the Crown in the right of the Dominion of Canada or the Crown in the right of the Province; and also means every person who possesses any such right by way of any reservation or exception thereof or as an incident or part of his ownership of land;
- (b) "Minerals" includes, but not so as to restrict in any way the ordinary meaning of the word, natural gas, petroleum, gasoline and all oils of a mineral nature;
- (c) "Minister" means the Minister of Municipal Affairs;
- (d) "Non-taxable person" means the Crown and any person who is not liable to taxation by the Province;
- (e) "Parcel of land" means,—
 - (i) in respect of land included in any plan of subdivision registered in a Land Titles Office, the amount of land included in each lot according to the plan of subdivision; and
 - (ii) in respect of any other land, a quarter section or any fractional part of a quarter section of land according to the system of surveys under *The Alberta Surveys Act*, and any river lot;
- (f) "Person" includes "corporation";
- (g) "Taxable person" means any person who is liable to taxation by the Province.

3.—(1) Every mineral owner, who is a taxable person shall, in respect of any parcel of land in, on or beneath the surface of which he is entitled to search for, work, win or get any mineral, pay in every year to the Minister a tax at the rate of three cents per acre of the surface of such parcel of land.

(2) The said tax shall fall due upon the first day of August in each year.

4. Every mineral owner shall, before the first day of September in each year, deliver to the Minister a statement of the parcels of land in respect of which he is taxable under the provisions of this Act.

5. If it seems desirable, the Minister may prescribe the form and manner in which the statement is to be drawn up and the information to be given therein, and may require that the statement be verified by the statutory declaration of the mineral owner.

6. At the time of delivery of such statement the mineral owner shall pay to the Minister all taxes due by him under the provisions of this Act.

7. In case of any failure to pay the tax payable in any year before the first day of September in that year, the Minister shall add to the tax ten per cent of the amount of the tax.

8.—(1) In case any mineral owner does not pay the tax payable by him under the provisions of this Act to the Minister before the first day of October next following the day upon which the tax falls due, together with the penalty for non-payment thereof, the Minister shall notify such person of the fact of non-payment by sending a registered letter to his address as shown by his certificate of title, or where no such address is shown, to any address at which it appears to the Minister that he may be likely to be found.

(2) The Minister shall cause a record to be kept of all registered letters so dispatched, and the entry of the dispatch of a letter with the initials of the official in charge of the record placed opposite thereto shall be *prima facie* evidence of such dispatch.

9.—(1) In the event of payment of the tax imposed in respect of any parcel of land and of the penalty not being made within three months from the dispatch of such notice, the Minister shall in case the said minerals are registered in the name of a taxable person, either by separate certificate, or together with the surface, or together with other surfaces of minerals, direct the Registrar of the Land Registration District within which such parcel lies to make a memorandum upon the proper certificate of title that all mines and minerals in, on or beneath the surface of the said parcel of land are the property of the Province, and thereupon the property in all minerals in, on or beneath the surface of such land shall pass to the Crown in the right of the Province, together with full liberty to the Province and to the persons authorized by it to enter upon the said parcel of land and sink pits, erect buildings and fix machinery and

works of any kind for winning, working, getting or converting any such minerals and to carry away the same at pleasure, upon paying such compensation as may be fixed by agreement, or in default, by arbitration in accordance with the provisions of *The Arbitration Act*.

(2) If the said mineral owner pays to the Minister all taxes and penalties in respect of the said minerals, together with a further penalty of ten per cent of the amount so due before the first day of January next following the making of the said memorandum, the Minister shall direct the Registrar to remove the said memorandum from the certificate of title.

(3) If such amount is not paid prior to the expiry of the said year, the Registrar shall issue to the Crown in the right of the Province a certificate of title to the said minerals.

(4) Any mineral owner who so desires, may surrender to the Province any mineral or minerals, and all right to search for, work, win or get the same, which are in, on or beneath the surface of any parcel of land, and upon receipt of such surrender the Minister shall direct the Registrar to make a similar memorandum to that hereinbefore provided for, and the mineral owner shall be exempt from all taxation in respect of such minerals or mineral rights during the year in which he so surrenders the same, and in all subsequent years.

10. In the event of payment of the tax and of the penalty not being made within one month from the dispatch of such notice, the Minister shall, in case the parcel in, on or beneath the surface of which the minerals lie in respect of which the tax has not been paid belongs to a non-taxable person, proceed to enforce the payment of the tax by suit or by distraint levied in the same way, and to the same extent as if the Minister were a landlord who had demised the surface of the parcel of land and the minerals in, on or beneath the same to the mineral owner.

11.—(1) As long as any mineral owner punctually pays any taxes due by him under the provisions of *The Corporations Taxation Act*, he shall not be liable to pay a tax under the provisions of this Act in respect of any quarter section of land or river lot which is being worked or developed by such owner with the object of extracting minerals therefrom.

(2) The Lieutenant Governor in Council may frame regulations as to the amount and sort of development necessary to confer exemption upon any mineral owner under the provisions of the preceding subsection.

12. The Lieutenant Governor in Council shall have power to frame all such rules and regulations as may be necessary or convenient for the purpose of carrying out the provisions of this Act.

13.—(1) This Act shall not apply in the case of any parcel of land less than ten acres in extent, where the ownership of the surface and the right to search for, work, win or get minerals are not separated.

(2) This Act shall not apply in the case of a parcel of land owned as to both surface and all the minerals in, on or beneath the same by a person to whom letters patent therefor were originally issued as a homestead and pre-emption and who has not leased the said minerals or any of them or otherwise granted the right to search for, work, win or get the same.

(3) The Lieutenant Governor in Council may by Order in Council published in *The Alberta Gazette*, confer exemptions from the provisions of this Act, upon any class of persons which by reference to the quantity of land granted and the absence or smallness of the pecuniary consideration therefor can fairly be placed in the same category as homesteaders:

Provided that every person receiving an exemption under this subsection must be the holder of an original patent or other grant from the Crown and must not have made any lease or grant of the land or the minerals in, on or beneath the same aforesaid.

(4) Every exemption given by the provisions of this Act to any person shall inure for the benefit of his widow, lineal descendants, and assigns.

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

No. 50.

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI
1938

BILL

An Act to Impose a Tax upon
Minerals.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A Shnitka, King's Printer
1938