

Bill No. 54 of 1938.

A BILL RESPECTING CROP SHARE PAYMENTS OF  
PURCHASE MONEY ON THE SALE AND  
PURCHASE OF CERTAIN IRRIGATED  
LANDS.

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NOTE.

This Bill is designed to give effect to certain recommendations made by a Commission consisting of Mr. Justice Ewing, Dr. F. A. Wyatt and Roy W. Risinger, commissioners appointed pursuant to *The Public Inquiries Act* to inquire into the various phases of irrigation development.

The Bill relates to sales made on crop share payments and crop leases entered into by an Irrigation District or by The Lethbridge Northern Colonization Manager or by The Canada Land and Irrigation Company Limited, and agreements for the extinguishment of any water right payments entered into by any such District, Manager or Company under which the purchase money is payable by crop shares.

Section 3 relates to agreements for sale, leases and agreements for the extinguishment of water right payments made by an Irrigation District or by The Lethbridge Northern Colonization Manager on crop shares and declares that until the delivery of the share of crop to the vendor or lessor the property and such share is vested in the vendor or lessor.

The maximum share of crop which may under the Act be vested in a vendor or lessor which is either an Irrigation District or The Lethbridge Northern Colonization Manager is one-tenth share of root crops or one-fifth share of other crops, and the maximum share of crop which may be vested in The Canada Land and Irrigation Company Limited is not more than one-tenth share of root crops and not more than one-quarter share of all other crops.

In case of non-delivery of a crop share on the date fixed for the delivery thereof the vendor is empowered to seize and to sell the same and also to distrain upon the goods and chattels specified in section 145 of *The Irrigation Districts Act* and for that purpose is given the same powers of sale as are conferred upon the treasurer by section 146 of the last mentioned Act.

Section 6 provides for the cutting, harvesting, threshing, or making ready for market of any crop seized whilst growing or unthreshed or uncut or not ready for market.

Section 7 requires any person who has under seizure by virtue of any attachment or execution or assignment for the

benefit of creditors, any personal property liable to seizure under this Act, to pay to the vendor any amount due under his agreement on demand.

Section 8 provides for the advertising of sales of property seized other than crops.

Section 9 provides that the proceeds of any share of crop received by a vendor under a crop share agreement shall be applied—

- (i) in payment of all costs of seizure;
- (ii) in payment of indebtedness for water service charges or water rentals;
- (iii) in payment of interest on purchase money; and
- (iv) in payment of principal.

Section 10 excludes the operation of *The Debt Adjustment Act, 1937*, *The Postponement of Debts Act* and *The Crop Payments Act, 1922*, in the case of agreements for sale or leases made by a vendor as defined in the Act.

Section 11 requires the operator of any threshing machine used in threshing crops grown on any land which is held under a crop share agreement as defined in the Act, when required to do so by the vendor under the agreement, to deliver to the vendor a statement under oath of all grain threshed upon such land in the six months preceding the demand upon payment of the sum of one dollar, such statement to be delivered or sent by mail within forty-eight hours of the delivery of the demand, and any person who makes default in complying with any of the provisions of this section is declared to be guilty of an offence and liable upon summary conviction therefor to a fine of not more than fifty dollars and costs and in default of payment to imprisonment for a term of not more than sixty days.

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. 54 of 1938.

An Act respecting Crop Share Payments of Purchase Money  
on the sale and purchase of Certain Irrigated Lands.

(Assented to \_\_\_\_\_, 1938.)

**W**HEREAS the Honourable Mr. Justice Ewing, Dr. F. A. Wyatt and Roy W. Risinger, Commissioners appointed pursuant to *The Public Inquiries Act* to inquire into the various phases of irrigation development in the various irrigation projects of a public nature in Alberta, after making due inquiry therein made their report to the Lieutenant Governor in Council on the fifth day of March, 1937;

And whereas it was a recommendation of the said Commissioners (hereinafter referred to as "the Ewing Commission") that the price at which irrigable land should be sold by an Irrigation District should be ascertained in the manner set out therein, and that where the payment of the purchase price or any part thereof was deferred, the unpaid purchase money should be payable by crop share payments not in excess of the shares of crop mentioned therein;

And whereas it was a further recommendation of the Ewing Commission that it was desirable that any outstanding contracts for the sale of irrigable land by an Irrigation District to a purchaser who is a competent and industrious farmer, under which the price payable exceeds the price as ascertained in the manner recommended by the Commission, or the payments of deferred purchase money were to be made otherwise than by the delivery of a share of crop of the amount recommended by the Commission and set out hereunder, should be replaced by a new contract of sale at the price and upon the terms recommended by the Commission;

And whereas it was a further recommendation of the Ewing Commission that the money received on account of the payment of the purchase money payable to an Irrigation District under a contract for sale of irrigable land made in conformity to the recommendations of the Commission should be applied in the manner mentioned in this Act;

And whereas it was a further recommendation of the Ewing Commission that for the purpose of enforcing the performance by the purchaser of his obligations under any contract of sale entered into by an Irrigation District which is in conformity to the recommendations of the Commission, the Irrigation District should have the powers of distress in this Act set out;

And whereas it was a further recommendation of the Ewing Commission that in case land held by an Irrigation District is leased on a crop share rent, such shares should not exceed the shares of crop recommended by the Commission and set out hereunder;

And whereas all the Irrigation Districts in the Province as well as The Canada Land and Irrigation Company Limited are desirous that the above recited recommendations should be made effective;

And whereas it is convenient and in the public interest that effect be given to the above recited recommendations;

Now therefore, 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 Crop Payments (Irrigated Land Sales) Act.*"

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

- (a) "Crop Share Agreement" means any agreement entered into by an irrigation district or by The Lethbridge Northern Colonization Manager or by any company mentioned in the Schedule to this Act, for the sale of land which is irrigated either wholly or in part, or for the extinguishment of any water right payments for the irrigation of any land, under which the purchase money is payable by the delivery of a share of the crop upon the land to which the agreement relates, and includes every crop lease entered into by any such district, manager or company as aforesaid under which the rental payable is a share of the crop grown upon the leased land and the lessee is or may become entitled to purchase such land;
- (b) "Irrigation District" means an irrigation district to which *The Irrigation Districts Act* applies;
- (c) "Purchaser" means the purchaser under a crop share agreement and includes his successors in title;
- (d) "Vendor" means any person who is a vendor or lessor under a crop share agreement and is either an irrigation district or a company mentioned in the Schedule to this Act and their successors in title.

**3.** Where in any agreement for sale or in any lease or in any agreement for the extinguishment of water right payments made with an Irrigation District or with The Lethbridge Northern Colonization Manager, provision is made for the payment in whole or in part of the purchase money, or rent, or money payable under an agreement for the extinguishment of water right payments, as the case may be,

by the delivery of a share of the crops grown on the said land, or of the proceeds of such share, then the vendor or lessor shall be deemed to be the owner of such share from the moment of the sowing of the said crops until the same have been delivered into his possession, and neither the vendee or lessee or any person claiming through or under him as an execution creditor, purchaser, mortgagee or otherwise howsoever, shall have any claim thereto in priority to that of the said vendor or lessor.

4. The provisions of this Act shall not operate to vest in a vendor or lessor (being either an Irrigation District or The Lethbridge Northern Colonization Manager) more than a one-tenth share of all root crops, or a one-fifth share of all other crops, or in a vendor or lessor (being a company listed in the Schedule to this Act) more than a one-tenth share of all root crops or a one-quarter share of all other crops, nor to confer any priority upon any of them with regard to crops agreed to be delivered in excess of such one-tenth or one-fifth or one-quarter share.

5. In case any share of crop deliverable under a crop share agreement is not delivered on the date fixed by the agreement for the delivery thereof, the vendor may, by himself or his agent, seize the same, or may levy the same, or the value thereof computed on the basis of the market value of grain on the date specified in the agreement for delivery, at the nearest shipping point, or the market value for hay or root crops at the farm, with costs by distress in the same manner as a landlord may recover rent in arrears, and upon the goods and chattels specified in paragraphs (a), (b) and (c) of section 145 of *The Irrigation Districts Act*, and the vendor and his agent shall have the same powers of selling any goods and chattels so seized as are conferred upon the treasurer by section 146 of the last mentioned Act and all the provisions of that section shall be applicable to the sale of any such goods and chattels.

6. Where seizure is made of a growing crop of grain, hay or roots, or of grain which is unthreshed, or of hay uncut or in coils, or of root crops not ready for market, the vendor may cause the same to be cut, harvested, threshed or made ready for market as may be necessary, and may add to the amount of the levy the cost thereby incurred and the estimated cost of hauling such grain, hay or root crops to a convenient elevator or place of storage, and may sell any such crops at the current market price.

7. Where personal property liable to seizure as herein-before provided is under attachment or has been seized by the sheriff, or by a bailiff of any Court, or is claimed by or in possession of any assignee for the benefit of creditors or liquidators or of any trustee or authorized trustee in bankruptcy or where such property has been converted into cash and is undistributed, it shall be sufficient for the vendor to,

and he shall, give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy, notice of the amount due under his agreement, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy, shall pay the amount of the same to the vendor in preference and priority to any other and all other fees, charges, liens or claims whatsoever.

**8.** Where personal property other than share of crops due under the vendor's agreement is under seizure, the vendor shall by advertisement posted up in at least five widely separated and conspicuous places in the district, give at least ten days public notice of the time and place of sale and the name of the person for payment of whose share of crops the property is to be sold, and at the time named in the notice the vendor, or his agent, shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the amount due to the vendor, with all lawful costs, including two dollars for posting notices.

**9.** The proceeds of sale of any share of crop received by a vendor under a crop share agreement, whether such has been delivered to the vendor voluntarily or has been seized and sold pursuant to any provisions of this Act, shall be applied,—

- firstly, in payment of all costs of seizure when such have been incurred;
- secondly, in payment of any sums then owing to the lessor for water service charges or water rental, as the case may be;
- thirdly, in payment of any interest payable to the vendor on account of the purchase price of the land to which the agreement relates; and
- fourthly, in payment of any principal sums owing to the vendor on account of the purchase price of the land.

**10.** Nothing in *The Debt Adjustment Act, 1937*, or *The Postponement of Debts Act*, or *The Crop Payments Act, 1922*, and amendments thereto, shall apply to any agreement for sale or lease heretofore or hereafter made by a vendor; or to the enforcement of any right thereunder; or to any claim or seizure of sale made under or pursuant to any such agreement or lease or pursuant to this Act.

**11.—(1)** Every person who is the vendor under any crop share agreement as defined in this Act, or his agent, may at any time within ninety days after the completion of the threshing of any crop of grain grown upon land which is subject to that agreement, deliver to any person who was at the time such threshing was done the owner, operator or manager of the threshing machine used in such threshing, a notice in writing setting out the address of the vendor or his agent requiring the delivery to the vendor of a statement

of all grain threshed by his machine upon the land for each individual mentioned in the notice in the six months preceding the delivery of the notice.

(2) Upon the delivery of any such notice together with the sum of one dollar to any person who is the owner, operator or manager of the threshing machine so used, such person shall within forty-eight hours of the delivery of the notice, deliver or send by mail to the person giving the notice at the address mentioned in the notice, a sworn statement made by such owner, operator or manager, setting out the different kinds of grain so threshed for each individual mentioned in the said notice grown upon the land referred to in the notice and within the period of six months preceding the giving of the notice and the number of bushels of each kind of grain so threshed.

(3) Every person who makes default in complying with any of the provisions of this section shall be guilty of an offence and liable upon summary conviction therefor to a fine of not more than fifty dollars and costs and in default of payment to imprisonment for a term of not more than sixty days.

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

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#### THE SCHEDULE.

THE CANADA LAND AND IRRIGATION COMPANY, LIMITED.

No. 54

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SIXTH SESSION  
EIGHTH LEGISLATURE  
1 GEORGE VI  
1938

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**BILL**

An Act respecting Crop Share Payments of Purchase Money on the sale and purchase of Certain Irrigated Lands.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MULLEN.

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EDMONTON:  
A. Shnitka, King's Printer  
1938