

Bill No. 118 of 1941.

A BILL TO AMEND AND CONSOLIDATE AN ACT FOR
THE PREVENTION OF PRAIRIE AND
FOREST FIRES

NOTE.

This Bill amends and consolidates *The Prairie Fires Act*. The new Act is divided into three parts, the first of which deals with administration, the second with prohibitions, and the third sets out the offences which constitute infractions of the Act, and the penalties therefor.

The first few sections of Part I under the heading of "General" deal with the application of the Act, the constitution of fire districts, and so forth. The Lieutenant Governor in Council is given wide powers to make regulations regarding permits for the use of fire and the preventive measures which must be taken to prevent its spread. The Royal Canadian Mounted Police are constituted *ex officio* fire guardians and municipalities and other persons have certain powers to appoint other fire guardians. The next section deals with the powers of the Minister which are quite wide with regard to the issue, cancellation, suspension or re-instatement of licenses or permits, the closing of areas and the prohibiting of travel through areas unless persons are the holders of travel permits. Fire guardians, forest officers and other enforcement officers have wide powers to conscript assistance to fight fires or to require work to be done to prevent fires.

The prohibitions are contained in Part II of the Act. Fires are prohibited in fire districts in the close season except under certain circumstances. Persons are prohibited from travelling in fire districts unless they are the holders of permits allowing them to do so. The use of engines which are not provided with proper preventive devices or the destruction of waste in burners which are not so equipped is prohibited. The last few sections in this Part deal with the regulations and requirements to be observed in connection with clearing, milling or other operations.

Part III of the Act sets out the penalties for infractions of the provisions of the Act or the regulations. In addition to penalties, it states that nothing contained in this Act

is to affect or interfere with the right of any person to bring a civil action for damages occasioned by fire. Sections 53 and 54 are matters of procedure.

W. S. GRAY,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 118 of 1941.

An Act to Amend and Consolidate an Act for the Prevention
of Prairie and Forest Fires.

(Assented to _____, 1941.)

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 Forest and Prairie
Fires Prevention Act, 1941.*"

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

- (a) "Crown Lands" means and includes such ungranted Crown or public lands or Crown domain as are within and belong to His Majesty in the right of the Province of Alberta, and whether or not any waters flow over or cover the same;
- (b) "Department" means the Department of Lands and Mines;
- (c) "Director" means the Director of Forestry;
- (d) "Forest" means the plant cover on any forest land, whether standing or dead trees, shrubs, plants or grass;
- (e) "Forest Land", "Forest Area" or "Timber Land" means and includes any uncultivated land in the Province on which trees or shrubs are growing or standing, any barren, dry marsh, or bog, whether such land is owned by the Crown or by private persons, or held under lease from the Crown;
- (f) "Forest Officer" means any officer of the Forest Service, Department of Lands and Mines;
- (g) "Forest Service" means the Forest Service of the Department of Lands and Mines;
- (h) "Minister" means the Minister of Lands and Mines;
- (i) "Owner" in addition to its ordinary meaning, includes locatee, purchaser from the Crown, assignee, lessee, occupant, timber licensee, timber permittee, holder of mining claim or location, and any person having the right to cut timber and wood upon any land;
- (j) "Person" includes a partnership or corporation;
- (k) "Prairie" means all land other than forest land;

(1) "Regulations" means regulations made by the Lieutenant Governor in Council pursuant to this Act.

3. For the purposes of this Act, in any case where reference is made to a municipal district, and the land in question lies within an improvement district or within a special area, the terms "municipal district", "reeve", "deputy reeve", or "council" shall be deemed to mean "improvement district", "Minister of Municipal Affairs" and "Deputy Minister of Municipal Affairs", or "special area", "Minister of Lands and Mines" and "Deputy Minister of Lands and Mines", as the case may be.

PART I

ADMINISTRATION

GENERAL.

4. This Act shall apply to all lands within the Province, except lands included within the corporate bounds of any city, town or village.

5.—(1) The Lieutenant Governor in Council may, by proclamation, declare any lands in Alberta described in the proclamation, a fire district.

(2) Such proclamation shall be published in *The Alberta Gazette*, and from and after publication, the lands so described shall be a fire district within the meaning of this Act.

6. The Lieutenant Governor in Council may, by proclamation, terminate, extend, reduce or otherwise change the boundaries of any fire district.

7. The "close season" with regard to the setting out of fire, unless otherwise varied by the regulations or by Ministerial order, shall be the period from the first day of April to the first day of December (inclusive) in each year.

8. The Lieutenant Governor in Council may upon the recommendation of the Minister, appoint a Director of Forestry for the purpose of carrying out the provisions of this Act and the regulations.

REGULATIONS.

9.—(1) The Lieutenant Governor in Council may from time to time make regulations,—

(a) for the prevention and extinguishing of fires in any fire district;

- (b) for granting permits for the use of fire within any fire district, for clearing land, disposal of debris and other inflammable waste, and for industrial purposes; the conditions under which such permits may be granted; the precautions to be taken in the use of fire under permit, and the appliances, implements and apparatus to be kept at hand by the holders of permits;
 - (c) prescribing the circumstances and conditions under which fire may be set out or used for any such purposes without the issue of a permit therefor;
 - (d) governing the use of fire out of doors for branding, cooking or obtaining warmth;
 - (e) providing for the making of fire-guards and the taking of other precautionary measures when, owing to drought or other circumstances, the danger of fire makes it desirable so to do;
 - (f) regulating or preventing the piling or accumulating of brushwood, debris and other inflammable material;
 - (g) empowering the Minister or any person authorized by him to enter upon the lands of any person for the purpose of removing, destroying and disposing of any such inflammable substance and providing that the cost of such work shall be borne by such person and be recoverable by action at the suit of the Minister;
 - (h) prescribing and regulating the use of fire protective appliances on locomotive engines, logging engines, portable engines, traction engines, stationary engines or other engines, and requiring the use of such appliances and prescribing the precautions to be taken for preventing fires being caused by the use or operation of any such engines;
 - (i) providing for the collection of the cost of any work done by the Minister or any person authorized by him or by a municipal district under the authority of this Act;
 - (j) prescribing penalties for the violation of the regulations;
 - (k) generally for the better carrying out of fire prevention and the provisions of this Act.
- (2) The regulations shall be published in *The Alberta Gazette*, and upon such publication shall have the same force and effect as if expressly enacted hereby.

APPOINTMENT OF OFFICERS.

10. All members of the Royal Canadian Mounted Police, councillors and secretaries of municipal districts, and such other persons as may be appointed by the Minister shall be *ex officio* fire guardians.

11.—(1) The reeve shall be *ex officio* chief fire guardian of each municipal district.

(2) The council of every municipal district shall at its first meeting in each year appoint for each division of the district from among the resident taxpayers thereof a fire guardian.

(3) All fire guardians howsoever appointed shall have power to enforce the provisions of this Act or of any regulations made thereunder, or of any by-law passed by a municipal district with respect to the prevention, suppression of or protection against prairie, forest, ground or bush fires.

(4) Immediately upon the appointment of any fire guardian, notification of his appointment shall be sent to the Director.

12.—(1) Where the owner of any land in a fire district desires to provide protection from fire upon such land in addition to that authorized by the foregoing provisions of this Act, the Minister may arrange with such owner for the appointment of extra or special officers upon such land for the enforcement of this Act and the regulations.

(2) Every such appointment shall be made or approved by the Minister and, subject to the regulations, the person so appointed may exercise and perform the powers and duties of fire guardians or other officers appointed for the enforcement of this Act.

(3) Every person appointed under subsection (1) of this section shall be paid by the owner of the land.

POWERS OF THE MINISTER.

13. The Minister may from time to time,—

- (a) in the public interest, restrict or extend the close season either generally or as to any particular area or areas;
- (b) issue, cancel, suspend, or reinstate in his discretion any permit or license permitted or required by this Act;
- (c) employ for the purpose of enforcing the provisions of this Act, such fire guardians for such time as he may deem necessary, who shall be subject to his instructions;
- (d) appoint any persons nominated by the Forest Service, timber licensees, timber permittees, or the councils of municipalities as honorary fire guardians who shall serve without salary or other remuneration and who shall have authority to enforce any of the provisions of this Act that the Minister may deem necessary.

14.—(1) Whenever in the opinion of the Minister it is deemed necessary or expedient owing to fire hazard conditions to close any area whether forest or prairie either within or without a fire district and to shut out therefrom all persons except such as are specifically authorized, the Minister may make an order in writing setting out and delimiting the "closed area" and requiring anyone wishing to enter or travel about therein during the "close season" to obtain a travel permit.

(2) Any such order may contain any terms and conditions which may be necessary for the prevention of fire in the "closed area".

(3) The Minister may from time to time by order reduce or extend the "closed area" or may terminate the same.

(4) The Minister may provide for such notice as may be possible under the circumstances, and shall publish a notice of such order setting out the area closed in such papers as in the opinion of the Minister will give the greatest publicity.

15. A travel permit may be obtained without charge from any authorized officer of the Department, provided, however, that such officer shall satisfy himself that the applicant is a fit and proper person before issuing a travel permit to him.

POWERS OF OFFICERS.

16. The Director and every officer acting under his direction, shall have the right while in the performance of his duties to enter into and upon any lands and premises other than a private dwelling, store, store house, office or farm building.

17. Any person using or travelling in any forest land shall upon request, give any fire ranger or guardian or other authorized officer of the Department, information as to the name, address, route to be followed, location of camps and any other information pertaining to the protection of the forest or forest land from fire which may be required by the officer.

18.—(1) Any fire guardian may personally or otherwise, notify as many male persons over sixteen years of age and under sixty years of age as may be necessary, residing or being within ten miles of any prairie or ground fire or within twenty-five miles of a forest fire, to proceed to such fire taking with them such horses, ploughs and other appliances as they may possess and are requested by the fire guardian to bring with them, for extinguishing or preventing the spread of fire.

(2) On arrival at any such fire such persons shall endeavour to extinguish it in accordance with the directions given by the fire guardian.

(3) This section shall not apply to railway station agents, conductors, engineers, trainmen, firemen and brakemen, boat crews, local telephone operators, telegraphers and despatchers on duty, medical doctors, postmasters or persons physically unfit.

19.—(1) Upon information being received by the reeve of a municipal district, or, in the absence of the reeve, the deputy reeve next in authority to the reeve of such municipal district, that a timber, brush, prairie or ground fire in such municipal district, is in progress, the said reeve or deputy reeve, as the case may be, shall make inquiry as to the said fire, and he shall require the services and summon the assistance of such male persons eligible to be called by a fire guardian who may in his discretion be necessary or available for the purpose of fighting and extinguishing such fires, and such assistance and services shall be rendered without remuneration.

(2) Where any such fire is found to be due to a breach of the provisions of this Act, or to a breach of the regulations, the cost of extinguishing such fire shall be paid by the council of such district, and shall be chargeable to the person convicted of such breach and if not paid by such person within thirty days of the said conviction, the same shall be a charge on the land of such person and the council may lodge a caveat for the protection of such charge in the proper Land Titles Office.

20.—(1) Wherever any guardian finds upon the land of any person in a fire district conditions existing which, in his opinion may be the cause of danger to life or property from fire, the Director may order the owner or person in control of the land to take such steps as the Director in his discretion deems necessary to remove such danger, and in default may enter upon such land with such assistants as he may deem necessary for the purpose of removing the danger.

(2) The cost of any work done by the Director or his assistants under subsection (1) of this section shall be borne and paid by the owner and shall be recoverable by the Minister by action in any court of competent jurisdiction.

21.—(1) Where it appears to the council of any municipal district that the condition of any land in the municipality or adjacent thereto is a source of danger from fire to property in the municipality, the council may cause a statement of the facts to be made to the director.

(2) The Director shall make inquiry as to the conditions described by the council and shall report the result of his inquiry to the council with his recommendation as to what action, if any, should be taken thereon.

(3) Where the Director finds that cause for complaint exists the council may give notice to the owner of the land, directing him within a time to be named in the notice to remove as far as possible all source of danger from fire, and requiring him to comply with such of the recommendations of the Director as are set out in the notice.

(4) If, within the time so fixed, the necessary work has not been done, the council of the municipal district may cause the work to be done and the land to be cleaned up and the expenses of the municipal district in doing such work shall be a charge upon the lands owned by any such person and situate within the Province, for the expenses incurred under this section, and the municipal district may lodge a caveat for the protection of such charge in the proper Land Titles Office.

22. Nothing in this Act shall place any obligation or responsibility on the Forest Service or its officers to fight fires on granted or leased lands.

PART II

PROHIBITIONS

GENERAL.

23. During the close season no person shall set out fire in a fire district except under circumstances and subject to the conditions prescribed by the regulations.

24. No person shall enter or travel in any "closed area" unless he is the holder of a travel permit from the Minister specifically authorizing him so to do.

25. No person shall within a fire district during the "close season",—

- (a) use or operate within a quarter of a mile of any forest, slashing or bush land, any locomotive, logging engine, portable engine, traction engine, stationary engine or other engine, which is not provided with a practical and efficient device for preventing the escape of fire or live coals from smoke stacks, ash pans, fire boxes or other parts and which does not comply in every respect with any regulations for the time being made and in force under and by virtue of the provisions of this Act;

- (b) destroy any wood or waste material by fire within any burner or destructor operated at or near any mill or manufactory or operate any power-producing plant using in connection therewith any smoke-stack, chimney or other spark-emitting outlet, without installing and maintaining on such burner or destructor or on such smoke-stack, chimney or spark-emitting outlet a safe and suitable device for arresting sparks, complying in all respects with the regulations;
- (c) harvest grain or cause grain to be harvested by means of a combined harvester, header or stationary threshing engine, or bail hay by means of a hay press, unless he shall keep at all times in convenient places upon each said combined harvester, header, or stationary threshing machine, or hay press, fully equipped and ready for immediate use, two suitable chemical fire extinguishers approved by the Western Canada Fire Insurance Underwriters' Association, each of the capacity of not less than two and one-half gallons;
- (d) operate or cause to be operated any gas tractor, oil-burning engine, gas-propelled harvesting machine or auto truck in harvesting or moving grain or hay, or moving said tractor, engine, machine or auto truck in or near any grain or grass lands, unless he shall maintain attached to the exhaust on said gas tractor, oil-burning engine, gas-propelled harvesting machine or auto truck an effective flame-arresting, spark-arresting and carbon arresting device.

26. No railway company operating within a fire district shall permit fire, live coals or ashes to be deposited on its tracks, or right-of-way unless they are extinguished immediately thereafter, except in pits provided for the purpose.

27. No person shall fell or permit to be felled, trees or brush in such manner that the said trees or brush shall fall and remain on land not owned by the person felling, or permitting the felling of such trees or brush.

28. No person shall within one-half mile of any hamlet, village, town or city, accumulate inflammable debris or permit any such accumulation to remain on any property owned by him or under his control.

29. No person shall in the skirting or widening of any highway or road on which public money is expended leave the slash or other inflammable material resulting from such skirting or widening unburned or unremoved.

30. No person shall make a fire for the purpose of cooking, branding or obtaining warmth, unless the person so starting or making such fire,—

- (a) selects a locality where there is the smallest quantity of vegetable matter, dead wood, branches, brushwood, dry leaves or resinous trees;
- (b) clears the place in which he is about to light a fire by removing all vegetable matter, dead trees, branches, brushwood and dry leaves, from the soil within a radius of five feet from the fire;
- (c) exercises and observes every reasonable care and precaution to prevent such fire from spreading, and carefully extinguishes the same before quitting the place.

CLEARING, MILLING AND OTHER OPERATIONS.

31.—(1) Every person shall, in addition to any other requirement, be required to obtain from the Director or other authorized officer a written permit irrespective of close or open seasons before,—

- (a) clearing a right-of-way for any railroad not subject to the jurisdiction of the Board of Transport Commissioners for Canada, road, trail, telephone, telegraph, power transmission line or pipe line, tote-road, ditch, flume or other works, or before carrying on any other woods operation of any kind liable to cause the accumulation of any slash or debris on any land;
- (b) operating on any land any mill for the manufacture of lumber, laths, shingles, sawn ties, veneer, cooperage stock or any other forest product, or engaging in the cutting up, barking or rossing of wood.

(2) The application for such permit shall state the location of the proposed operation or mill, the character thereof, the number of men to be employed, the location of camps and the probable duration of the operation.

32. The Minister may in his discretion,—

- (a) refuse the granting of permission for any operation or limit the period during which the operation may be carried on;
- (b) require that any permittee carrying on any operation under and by virtue of the preceding section shall keep and maintain such competent men and fire-fighting equipment in good repair and at specified locations as the Director or other authorized officer may deem necessary for the control of fires which might be caused either directly or indirectly by the operation.

33. In the event of any fire being proved to be caused by or as a result of the operations of any permittee operating under and by virtue of this Act, the permittee shall be required to bear the full cost of extinguishing the same.

34. All permits shall expire on the thirty-first day of March, next, after the date thereof and shall be subject to renewal only upon compliance with the terms thereof and with the provisions of this Act and the regulations made hereunder.

35.—(1) Every person clearing a right-of-way for any railroad not subject to the jurisdiction of the Board of Transport Commissioners for Canada, road, trail, telephone, telegraph, power transmission line, or pipe line, tote-road, ditch, flume, or other works, shall as rapidly as the clearing or cutting progresses, and the weather conditions permit, or at such other time as an officer of the Department may direct, pile and burn on such right-of-way all refuse, timber, brush or other inflammable material cut or accumulated thereon, all such right-of-way burning to be subject to the provisions of this Act and the requirements of the regulations.

(2) Any person who within 300 feet of the right-of-way of any railway causes any accumulation of inflammable debris, shall immediately pile and, subject to the requirements of this Act concerning burning permits, dispose of such refuse in a manner satisfactory to the Director or an officer of the Department.

(3) Every person having charge of a camp, mine, saw-mill, portable or stationary engine, using fuel other than oil and located in, or within one-half mile of any forest or forest land, shall have the area surrounding said camp, mine, saw-mill or engine cleared of inflammable material for a distance of at least 300 feet and such further distance as may, in the opinion of the Director, or other officer of the Department, be required.

36.—(1) Nothing in this Act shall prevent any railway company or its employees from burning over the land held by it under its right-of-way and the lands adjoining the same to an extent not exceeding three hundred feet in width on each side of the centre line of the railway.

(2) Every person causing, commencing or in charge of such burning shall cause the same during the whole period of its continuance to be watched and guarded by a sufficient number of men provided with suitable appliances for extinguishing fire.

(3) This section shall not relieve any person from liability under this Act if any fire so started escapes or runs at large.

PART III

OFFENCES AND PENALTIES.

37. Where not otherwise provided, any person who disobeys or refuses or neglects to carry out any of the provisions of this Act or any regulation or order made hereunder, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding three hundred dollars, and in default of payment to imprisonment for a term not exceeding ninety days.

38. Any person who violates any of the provisions of section 24, shall be guilty of an offence and in addition to any other penalty which may be imposed, may, in the discretion of the Minister, be refused the privilege of entering on Provincial forest lands.

39. Any person who hinders, obstructs or impedes the Director or any officer in the performance of his duty, shall be guilty of an offence.

40. Any person who refuses to give any information required of him by any fire ranger or guardian, shall be guilty of an offence.

41. Any person who neglects or refuses to carry out any order or direction given by the Director or any officer acting under the authority of section 20 of this Act, shall be guilty of an offence.

42.—(1) Every person who without lawful authority destroys, defaces, or removes any notice posted under this Act or the regulations shall be guilty of an offence against this Act.

(2) Every person who shall without lawful authority destroy, injure, or remove any supplies, equipment or apparatus placed in the forest for the purpose of protecting the forests from fire shall be guilty of an offence against this Act.

(3) Every person who refuses or neglects to make proper effort to protect the property of which he is the owner, against injury by fire, shall be guilty of an offence against this Act, and, in addition to the other penalties imposed by this Act, shall be liable for the expense incurred by the Department or any of its employees in an effort to protect against fire the property of the person thus in default and the amount of such expense shall be recoverable with costs in an action brought by the Crown.

43.—(1) Any person neglecting or refusing without lawful excuse to obey any order of a fire guardian pursuant

to section 18 of this Act or failing to proceed to the fire with all reasonable despatch after receiving the same, together with the horses and appliances requested of him, or leaves the fire before it is extinguished or before having been released from further service by the fire guardian or foreman on the fire, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding twenty-five dollars and costs.

(2) Any person refusing or neglecting to give any order pursuant to section 19 of this Act, or any person so ordered refusing or failing to obey the same, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars, and in default of payment to imprisonment for not more than thirty days.

44. Any person who enters or travels a defined forest area without a travel permit as required by section 24 of this Act, shall be guilty of an offence, and in addition to any penalty imposed, may in the discretion of the Minister, be refused the privilege of entering on Provincial forest lands.

45. Any person who sets out fire for the purpose of clearing land, removal of waste or debris or who uses fire for industrial purposes in a fire district during the close season, except in accordance with the regulations, shall be guilty of an offence against this Act.

46. Any person who either directly or indirectly, personally or through any servant, employee, agent or contractor,—

- (a) kindles a fire and permits it to run at large on any land not his own property;
- (b) permits any fire to pass from his own land or land occupied by him; or
- (c) permits any fire under his charge, custody or control or under the charge, custody or control of any servant, agent or contractor to run at large,—

shall be guilty of an offence and liable on summary conviction to a penalty of not less than twenty-five dollars and not more than two hundred dollars.

47. Any person who throws or drops any burning match, ashes of a pipe, lighted cigarette, cigar or other burning substance in a fire district without extinguishing the same, and any person who discharges a firearm within a fire district without seeing that the wadding from such firearm is extinguished shall be guilty of an offence.

48. Any person who kindles or is a party to kindling a fire in the open air, for camping, branding or other pur-

poses, and who leaves the same without having extinguished it, shall be guilty of an offence and liable on summary conviction therefor to a penalty not exceeding one hundred dollars,

49. In any case where the Director or any other authorized officer finds any operation being conducted without a permit as required by section 31 of this Act, he may in addition to any penalty imposed, require that such operation cease until the necessary permit has been secured, and any person carrying on any such operation after such notice has been given, shall be guilty of an offence and liable on summary conviction to a penalty of twenty-five dollars for each and every day such operation is continued without a permit.

50. It shall be the duty of every engineer in charge of any engine which is not subject to the jurisdiction of the Board of Transport Commissioners for Canada to see that all safety appliances required by this Act or by the Regulations are properly used and applied, and in default he shall be guilty of an offence.

51. Any person who does not comply with the requirements of subsection (2) of section 36, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars.

52. Nothing contained in this Act shall affect or be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

53. The obtaining of any leave or permit under this Act or regulations from the Director or other officer of the Department to start or kindle a fire or operate a portable or other steam engine shall not be pleaded or given in evidence in any civil action for negligently setting fires or operating a portable or other steam engine, or in connection therewith, or in extenuation of, or in mitigation thereof, but the absence of such leave or permit shall in such action be *prima facie* evidence of negligence.

54. If any prosecution for a penalty is brought against any person for setting or kindling fire the fact that such person at the time such fire is first noticed or is apparently set or kindled is trespassing on said lands in the vicinity of said fire by roaming over, loitering, camping, or otherwise remaining upon the same shall, in the absence of proof to the contrary, be given *prima facie* evidence that he set or kindled such fire.

55. *The Prairie Fires Act*, being chapter 197 of the Revised Statutes of Alberta, 1922, is hereby repealed.

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

No. 118.

FIRST SESSION
NINTH LEGISLATURE
5 GEORGE VI
1941

BILL

An Act to Amend and Consolidate
an Act for the Prevention of
Prairie and Forest Fires.

Received and read the

First time

Second time

Third time

HON. MR. TANNER.

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