

Bill No. 66 of 1947.

A BILL TO AMEND THE PROVINCIAL LANDS ACT

NOTE.

The amendment to section 15 made by section 1 of this Bill provides that the percentage of the Department's share of the crop from agricultural leases which was formerly payable to school divisions shall now be payable directly to the municipal district or improvement district in which the land is situate. It also provides that in the case of an agricultural lease of cultivated lands where there is an increased rental on account of improvements the municipality receives a percentage of the one-eighth share of the crop which is the basic land rental.

The amendments to section 16 made by section 2 of this Bill provide that the lessee does not have to commence residence during the winter months. In the case of an alien it also provides that he must become naturalized before finally acquiring the land.

There are several amendments to section 17 made by section 3 of this Bill. Subsection (1) is amended to provide that the rent under an agricultural lease shall be one-eighth crop share rather than an amount to be fixed by the Minister. Provision is made for a greater rental during the first seven years where the land is in cultivation at the time of the lease. Subsections (3) to (8) provide that every agricultural lease shall contain an agreement for purchase upon compliance with certain stated requirements as to residence and cultivation. For every year after the fifth that the requirements are complied with the purchase price is reduced so that title may be obtained free at the end of ten years. This provision applies to everyone while previously only veterans could obtain the lands free at the end of ten years.

Section 4 of the Bill amends section 21 by exempting veterans from payment of the five dollar fee payable with applications for a lease.

Section 5 of the Bill amends section 29 relating to forfeiture of leases and enables the Minister to extend the time for performance.

Section 6 of the Bill amends section 44 by striking out provisions relating to Right of Entry which are to be included in *The Right of Entry Arbitration Act*.

Section 7 of the Bill amends section 52 which restricts advertisement of timber berth sales to newspaper advertisements. The amendment removes the restriction. It also en-

ables the Minister to sell a timber berth at any time within six months of the advertisement on the terms and for the dues as advertised.

Section 8 of the Bill amends section 54. This amendment sets out that dues are payable by the licensee on the product on which he bid in accordance with his contract, and on other forest products in accordance with the regulations.

Section 10 of the Bill simplifies section 58 by removing the bonus requirements of timber berth tenders.

Section 11 of the Bill amends section 78 by giving the Lieutenant Governor in Council power to authorize the Minister to grant leases of the lands cleared and broken by the Province, and to pay a portion of the crop share from such leases to the municipalities in lieu of taxes. It further gives the Lieutenant Governor in Council power to authorize the Minister to enter into agreements transferring lands to Canada for National Park purposes. This will facilitate alteration of park boundaries and exchanges of park lands.

Section 12 of the Bill amends section 86a by adding a reference to reservations of petroleum and natural gas rights, and other agreements for the development of a natural resource. This makes the increase in value of a reservation taxable when it is assigned in the same way as timber permits, etc.

Sections 13 and 14 of the Bill amend sections 100 and 101 of the Act to simplify the legal procedure for obtaining possession and to bring the same more in line with the Rules of Court.

Section 16 of the Bill adds a new section 111 to the Act. It is a general penalty provision which provides for cases where an offence was created but no penalty provided.

W. S. GRAY,
Legislative Counsel.

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

BILL

No. 66 of 1947.

An Act to amend The Provincial Lands Act.

(Assented to _____, 1947.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Provincial Lands Act*, being chapter 62 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 15 by striking out subsection (3) thereof and by substituting therefor the following:

“(3) The Minister is hereby authorized and empowered to pay from the money received in any year by him as the proceeds of the Department’s one-eighth share of crop from any land which is held as aforesaid,—

“(a) forty per cent of the money received to the municipal district or improvement district in which the land is situate; and

“(b) forty per cent of the money received to the school district in which the land is situate or in case the school district is in a school division, to the municipal district or improvement district in which the land is situate;

and in any case where the Minister, pursuant to the proviso to subsection (1) of section 17 has fixed as rental a share of the crop greater than one-eighth, the percentage payable to the municipal district, improvement district or school district, as the case may be, shall be a percentage of one-eighth share of the crop, and not of the greater share of the crop.”

2. The said Act is further amended as to section 16,—

(a) by striking out paragraph (a) of subsection (1) thereof and by substituting therefor the following:

“(a) that the lessee will within the period of six months next after the date of the lease personally enter into possession of and commence to perform the residence requirements of the lease, but in no case shall a lessee be required to commence residence during the winter months immediately following the issue of a lease; for the purpose of this paragraph the winter months shall be November, December, January, February and March;”;

- (b) by adding immediately after the words "that he will", where the same occur in the first line of paragraph (b) of subsection (1) thereof, the words "subject to the provisions of subsections (2) and (2b)";
- (c) by striking out paragraph (e) of subsection (1) thereof and by substituting therefor the following:
 - "(e) that in case the lessee is an alien at the time of the granting of the lease he will within seven years of the date of the lease and before acquiring a notification to the land become a Canadian citizen;"

3. The said Act is further amended as to section 17,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

"17.—(1) The rent payable under an agricultural lease shall be a one-eighth share of the crop:

"Provided that where land is in cultivation at the time of the granting of the lease, the Minister may fix as rental a share of the crop greater than one-eighth during each of the first seven years of the lease."

- (b) by striking out subsections (3), (4) and (5) thereof and by substituting therefor the following:

"(3) The Minister shall include in the agricultural lease an agreement for the purchase of the land that may be exercised by the lessee at any time after the fifth crop year or in the case of a lease issued pursuant to the proviso to subsection (1), at any time after the seventh crop year following the granting of the lease provided that,—

"(a) the lessee proves to the satisfaction of the Minister that the lease is in good standing; and

"(b) the lessee has brought into a state of cultivation and made ready for crop the acreage required by the terms of the lease to be in crop in the tenth year.

"(4) A lease shall be deemed to be in good standing if the lessee proves to the satisfaction of the Minister,—

"(a) that he has performed the provisions of any collateral agreement that may have been made with the Minister; and

"(b) that he has complied with the terms of the lease both as to residence and cultivation in each of five crop years and in the case of a lease issued pursuant to the proviso to subsection (1) that he has also complied with the terms of the lease as to cultivation for an additional two years; and

"(c) that the lease is otherwise in good standing; and

“(d) that the requirements of the lease in the year immediately preceding the making of application for a notification have been performed.

“(5) After the performance of the requirements of the lease by the lessee for five crop years the purchase price shall be reduced by twenty per cent for each additional crop year during which the requirements of the lease have been performed.

“(6) No application to purchase shall be accepted unless such application is accompanied by a payment in full for the land.

“(7) A notification shall not be issued for the land to a lessee who has obtained financial assistance under *The Veterans' Land Act, 1942 (Canada)* without the consent of the Director of *The Veterans' Land Act*.

“(8) An agricultural lessee to whom a notification has been granted shall not be eligible to apply for or acquire another agricultural lease.”

4. The said Act is further amended as to section 21 by adding immediately at the end of subsection (1) thereof the following proviso:

“Provided, however, that no fee shall be payable by a veteran certified under *The Veterans' Land Act, 1942 (Canada)*.”

5. The said Act is further amended as to section 29 by adding immediately at the end thereof the words “and extend the time set out in the lease for the performance of the covenants and agreements of the lease”.

6. The said Act is further amended as to section 44,—

- (a) by striking out subsections (2), (3) and (4) thereof;
- (b) by renumbering subsections (5) to (8) inclusive as subsections (2) to (5) inclusive.

7. The said Act is further amended as to section 52,—

- (a) by striking out the words “in a newspaper circulating in the vicinity and in one newspaper in the City of Edmonton” where the same occur in paragraph (b) thereof;
- (b) by adding immediately after paragraph (f) thereof the following new paragraph:
 - “(g) at any time within six months following the holding of a sale the Minister may, without further competition or advertisement make disposition of a license for which no offer was received at the sale, upon the terms and conditions contained in the notice of sale and for dues not less than the upset rate as advertised.”

8. The said Act is further amended as to section 54 by striking out the same and by substituting therefor the following:

"54.—(1) Subject to the provisions of section 52 the license shall be for a term not exceeding one year and shall be renewable from year to year for the term set out in the notice of sale while there is on the berth timber of the kind and dimensions described in the license in sufficient quantity to make it commercially valuable.

"(2) Any renewal of the license shall be subject to such terms and conditions as are fixed by the regulations in force at the time renewal is made.

"(3) Dues shall be payable on the product on which the licensee bid as set out in the sale contract and on all other products of the forest as set out in the regulations in force at the time of the issue of the license, or at the time a renewal of the license is made.

"(4) The Minister shall be the sole judge as to whether the terms and conditions of the license and the provisions of this Act and of the regulations made hereunder respecting timber berths have been fulfilled."

9. The said Act is further amended as to section 55 thereof by striking out the words "such dues as are fixed by the regulations", where the same occur in paragraph (b) thereof, and by substituting therefor the words "all dues".

10. The said Act is further amended as to section 58 by striking out subsections (2) and (3) thereof and by substituting therefor the following:

"(2) No offer shall be accepted unless it complies fully with all the terms and conditions set out in the advertisement.

"(3) No permit berth shall be awarded except to the person who makes the highest offer."

11. The said Act is further amended as to section 78,—

(a) by adding immediately after paragraph (t) of subsection (1) thereof the following new paragraphs:

"(tt) authorize the Minister to enter into any leases or other agreements necessary to implement any agreement made by the Minister pursuant to section 2 of chapter 5 of the Statutes of Alberta, 1945 (Second Session) and for that purpose to exempt from assessment and taxation any lands with respect to which the lease or other agreement has been made, and in lieu of taxes to pay to any municipality in which the land is situate, any moneys remaining in the hands of the Minister from the proceeds of the crops grown upon the lands after the

obligations of the Minister under the agreement made pursuant to the said section have been carried out;

“(ttt) authorize the Minister to enter into an agreement or agreements with His Majesty in the right of Canada which transfers to Canada for National Park purposes all the right, title and interest of His Majesty in the right of Alberta to any lands in Alberta including road allowances, surveyed roads, road diversions, and mines and minerals.”

(b) by striking out the words “in assisting in the successful conduct of the war” where the same occur in paragraph (w) of subsection (1) thereof.

12. The said Act is further amended as to section 86a by striking out subsection (1) thereof and by substituting therefor the following:

“**86a.**—(1) There shall be payable to the Minister,—

“(a) upon the registration in the Department of any assignment of an agreement for sale of land or of any lease, cultivation permit, license of occupation, timber license, permit to cut timber, reservation of petroleum and natural gas rights, or any other form of agreement for the development of a natural resource; or

“(b) upon the consent of the Minister to a sub-lease of a lease, permit to cut timber or timber license,—

a tax at the rate of ten per cent on the increase in value thereof, at the time of such registration or consent, over the last preceding value thereof, excluding in all cases the cost of the improvements or development work actually made or done upon or in connection with the land with respect to which the agreement for sale, lease, cultivation permit, license of occupation, timber license, permit to cut timber, reservation of petroleum and natural gas rights, or any other form of agreement for the development of a natural resource has been made.”

13. The said Act is further amended as to section 100 thereof by striking out the same and by substituting therefor the following:

“**100.**—(1) When any settler, purchaser, lessee, licensee, permittee or other person refuses or fails to cease using, possessing or occupying any land which he is wrongfully or without lawful authority using, possessing or occupying, or refuses or fails to deliver up possession of any land after his right to use, possess or occupy it has been declared forfeited under the provisions of this Act, the Minister or any officer or agent of the Department of Lands and Mines authorized by the Minister for that purpose may apply by originating notice returnable before a judge or local judge of the Supreme Court in Chambers for an order for possession of the land so used, possessed or occupied.

"(2) Every such originating notice shall be served upon the person or persons to whom it is addressed at least thirty days before the date on which it is returnable; service may be made in any manner provided by the Rules of Court, or by leaving a copy thereof with a grown-up person found on the land, and by putting up another copy in some conspicuous place thereon, or, where no grown-up person is found on the land, by putting up a copy in each of two conspicuous places thereon.

"(3) Except as otherwise provided herein, the Rules of the Supreme Court shall apply to any application under this section and to subsequent proceedings."

14. The said Act is further amended as to section 101 by striking out the same and by substituting therefor the following:

"101. Any person remaining upon Provincial lands or returning thereto, or assuming any right of possession or occupancy or use thereof after an order for possession has been granted against him, shall be guilty of an offence and liable upon summary conviction to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment."

15. The said Act is further amended as to section 106 thereof by striking out the words "within one hundred and twenty days from its date", where the same occur therein, and by substituting therefor the words "within one hundred and twenty days from the date of the mailing of the instrument by the Department".

16. The said Act is further amended by adding immediately after section 110 thereof the following new section:

"111. Every person guilty of an offence pursuant to this Act for which no penalty is already prescribed shall be liable on summary conviction to a penalty not exceeding five hundred dollars, and in default of payment to imprisonment for a term not exceeding six months, or to both fine and imprisonment."

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

No. 66

FOURTH SESSION
TENTH LEGISLATURE

11 GEORGE VI

1947

BILL

A Bill to amend The Provincial
Lands Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TANNER.

EDMONTON:
A. Shnitka, King's Printer
1947