

Bill No. 89 of 1947.

A BILL RESPECTING LANDS IN THE PROVINCE
HELD AS COMMUNAL PROPERTY

NOTE

The purpose of this Bill is to prohibit the extension of existing colonies of persons holding land as communal property as defined in section 2, such as the Hutterites, beyond their holdings on March 1st, 1944, the day upon which *The Land Sales Prohibition Act* came into force.

By section 4 each colony is required to forward to the Minister within one month a statement showing the holdings as of that date and any changes since.

Section 5 prohibits the extension of the colonies now established but provision is made for the substitution of land for any land of a colony taken for irrigation or other public purposes.

Section 6 prohibits the establishment of a new colony or branch within forty miles of the lands of an existing colony and provides that sixty-four hundred acres shall be the maximum holdings of such a colony. The acquisition of land, more than half of which is under cultivation, is prohibited.

Section 8 prohibits the sale of land to an established colony or a new colony which would result in a breach of section 5 or section 6.

Section 9 provides that before land is sold to a colony it must be first offered for sale under *The Veterans' Land Act, 1942*.

Section 10 provides the procedure to be followed by a colony desiring to purchase land or an owner wishing to sell. The application is to be made to the Director of Assessments in the Municipal Department, and an appeal is given to a judge of the District Court in case the applicant is dissatisfied with the finding of the Director.

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. 89 of 1947.

An Act Respecting Lands in the Province Held as
Communal Property.

(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. This Act may be cited as "*The Communal Property Act*."

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

- (a) "Colony" means a number of persons who hold land or any interest therein whether as owners, lessees or otherwise, and whether in the name of trustees or as a corporation or otherwise as communal property and includes a number of persons who propose to acquire land to be held in such manner;
- (b) "Communal property" means land held by a colony in such a manner that no member of the colony has any individual or personal ownership or right of ownership in the land, and where each member shares in the distribution of profits or benefits according to his needs and in equal measure with his fellow members;
- (c) "Director" means Director of Assessments appointed pursuant to *The Alberta Municipal Assessment Commission Act*.

3. The Minister charged with the administration of this Act shall be the Minister of Municipal Affairs.

4. Each colony now established in the Province shall within one month after the coming into force of this Act forward to the Minister of Municipal Affairs a statement showing by legal description all of the lands or any interest therein owned or operated by the colony or on its behalf on the first day of March, A.D. 1944, and showing also any additions or subtractions to or from the said lands between the said date and the date of the preparation of the statement.

5.—(1) No colony established at the date of the coming into force of this Act or any branch thereof, and no person on its behalf shall at any time hereafter purchase, agree to

purchase, attempt to purchase, lease or otherwise acquire any lands or enter into any contract or agreement which directly or indirectly may result in the vesting of property in land or the right of possession of any land in a colony or in any trustee or other person on behalf of a colony which would have the effect of increasing the holdings of land of the colony beyond its holdings on the first day of March, A.D. 1944.

(2) Notwithstanding the provisions of subsection (1), where, since the first day of March, A.D. 1944, any land owned by or on behalf of a colony has been or is hereafter taken, or has been or is hereafter transferred by the colony for irrigation purposes or for any other public purpose, in any such case the colony may acquire, by purchase, lease or otherwise, land not exceeding in acreage the land so taken or transferred, provided the total land held by the colony does not exceed its holdings as of the first day of March, A.D. 1944.

6.—(1) No colony hereafter established and no branch of a colony and no person acting on behalf of a colony as trustee or otherwise, shall purchase, agree to purchase, attempt to purchase, lease or otherwise acquire any land or enter into any contract or agreement which directly or indirectly may result in the vesting of title or the right of possession of land in a colony or in any trustee or other person on behalf of a colony or in the acquisition of land by a colony or any branch thereof within forty miles of any part of the communal property held by an established colony.

(2) No such acquisition shall be made of land exceeding in area sixty-four hundred acres or of land which when added to the lands already held by the colony makes their total acreage in excess of sixty-four hundred acres.

(3) No such acquisition shall be made of land more than fifty per cent of the acreage of which is under cultivation at the time of the acquisition.

7. No provincial lands as defined in *The Provincial Lands Act* shall be leased by the Province to any colony.

8. No person either by himself or by his agent shall sell, agree to sell, attempt to sell, lease, agree to lease, or otherwise dispose of any land to a colony which would have the effect of increasing the lands of the colony in contravention of section 5, or which would vest the title or possession of land in the colony in contravention of section 6, and any transfer, agreement or lease having that effect shall be absolutely null and void, and any money paid pursuant to any such transfer, agreement or lease which is rendered null and void by the provisions of this section shall be a debt owing by the person to whom it was paid, to the person by whom or on whose behalf it was paid, and shall be recoverable forthwith by such last mentioned person in any court of competent jurisdiction.

9. No person shall sell, offer for sale or lease any land in the Province to a colony unless it has first been offered for sale or lease under the provisions of *The Veterans' Land Act, 1942*, and such offer has remained open for a period of sixty days.

10.—(1) Any person may apply by written notice to the Director for leave to sell, lease or otherwise dispose of any land to a colony.

(2) Any colony may apply by written notice to the Director for leave to purchase, lease or otherwise acquire any land.

(3) On receipt of an application under subsection (1) or subsection (2), the Director shall within thirty days thereafter fix a time and place for the hearing of the application and shall notify the applicant or applicants of such time and place.

(4) On the hearing of the application the Director shall determine as a matter of fact whether the applicant, if a person other than a colony, has the right to dispose of the land to the colony under the provisions of this Act, and if the applicant is a colony, whether it has the right to acquire the land under the provisions of this Act, and the Director shall make an order granting or refusing the application in whole or in part.

(5) On the hearing of the application the Director shall have all the powers which may be conferred upon a commissioner under the provisions of *The Public Inquiries Act*.

(6) Any person or colony who is not satisfied with the decision of the Director may appeal to a judge of the District Court having jurisdiction in the district in which the land or a part thereof is situate.

(7) A copy of the notice of appeal shall be filed in the office of the Clerk of the Court of the Judicial District in which the land or any part thereof is situate and a copy shall be served on the Director.

(8) The Director shall within seven days of service of the notice of appeal on him transmit to the Clerk of the Court all documents and material in his hands relating to the application, and on receipt of such document and material, the Clerk of the Court shall apply to a judge of the district having jurisdiction to fix a time and place for the hearing of the appeal and shall notify the Director and the appellant and such other person as the judge may direct of the time and place so fixed.

(9) The judge on the hearing of the appeal may affirm or reverse the finding of the Director or make such other disposition of the appeal as he deems proper and the decision of the judge shall be final and there shall be no further or other appeal.

11. Any person who violates any of the provisions of this Act shall be guilty of an offence and liable on summary con-

viction to a fine of not more than five hundred dollars, or to imprisonment for a term not exceeding twelve months, or to both fine and imprisonment.

12. This Act shall come into force on the first day of May, 1947.

FOURTH SESSION
TENTH LEGISLATURE

11 GEORGE VI

1947

BILL

An Act Respecting Lands in the
Province Held as a Communal
Property.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. GERHART.

EDMONTON:
A. Shnitka, King's Printer
1947