

Bill No. 112 of 1949.

A BILL RESPECTING PUBLIC LANDS.

NOTE.

This Bill repeals *The Provincial Lands Act* and enacts a new Act in its stead to be known as "*The Public Lands Act*".

In the division of the Department of Lands and Mines into two new Departments to be known as the Department of Lands and Forests and the Department of Mines and Minerals it was necessary to divide certain of the duties and powers which were contained in *The Provincial Lands Act*.

The Public Lands Act will be administered by the new Department of Lands and Forests. This Act contains most of the provisions of *The Provincial Lands Act* relating to the surface of lands owned by the Crown.

The new Act is divided into four Parts. Part I deals with homestead leases. Part II deals with cultivation leases. Part III deals with grazing leases and Part IV contains provisions of general application.

The Act applies generally to all lands vested in the Crown in the right of the Province.

Sections 4 to 7 set out the statutory and implied reservations which are reserved to the Crown out of every disposition of public lands. Sections 8 to 10 deal generally with the acquisition of public lands. They cannot be acquired until surveyed and title cannot be acquired against the Crown by prescription.

Part I relating to homesteads commences at section 11. Sections 11 to 16 deal with applications for homestead leases. Every person who has attained the age of eighteen years and is not in possession or control of a farm and who is a British subject or a Canadian citizen is eligible for a homestead. Application for a homestead must be made by the applicant in person and the fees and application forms required are set out in the Bill. The applicant is required to pay for improvements on the homestead at the time he acquires it in cash.

Sections 17 to 25 deal with the rents and duties required under a homestead lease. The basic rental is a one-eighth share of the crop. If some of the land was under cultivation at the time the homestead was acquired a one-third share of the crop produced on that land during the first seven crop years is payable to the Department. Certain acreage requirements for breaking of land and seeding of crop are

set out in the Act. The crop share payable is payable only in respect of the acreage requirements set out in the Act and if the lessee exceeds the minimum acreage requirements he pays no crop share in respect of the excess acreage. No crop share is payable in any year in which the lessee suffers a crop failure and the rules for determining whether a crop is a failure or not are set out in the Act.

Sections 18 and 19 deal with the residence requirement of a homestead lessee and how they are calculated. The acreage requirements are set out in section 21.

Sections 26, 27 and 28 deal with disposition of homestead leases of mentally incompetent, physically or mentally incapacitated and deceased persons. If a lessee of a homestead dies or is adjudged to be mentally diseased or becomes physically or mentally incapacitated the forfeiture provisions of the lease are temporarily suspended and provision is made for the disposition of the lease.

Sections 29 to 42 deal with cancellation of homestead leases. Sections 29 to 35 deal with the institution of cancellation proceedings by a person who is eligible for a homestead and who applies for cancellation of an existing homestead of which the lessee is in default. Section 32 sets out the conditions under which a homestead is liable to cancellation. The reasons include failure to perform the residence or cultivation duties, failure to pay for improvements, abandonment of the homestead, etc.

Sections 36 to 42 deal with cancellation proceedings taken by the Minister in cases where the homestead lessee is not fulfilling the conditions of his lease.

Sections 43 and 44 deal with the obtaining of title homesteads. Title may be obtained after fulfilling the requirements of the homestead lease for five years upon payment of the purchase price. After the performance of the requirements of the homestead lease for five years the purchase price is reduced by twenty per cent per year for each additional year during which the requirements of the homestead lease have been performed.

Sections 45 to 49 include the general provisions relating to homestead leases. Provision is made for assignment or exchange of homestead leases. A homestead lessee who has acquired title to his homestead cannot apply for or acquire another homestead. If a homestead is cultivated the lessee who created improvements on the homestead may remove them or may be compensated by the Minister.

Part II deals with cultivation leases.

Sections 50 to 54 deal with applications for cultivation leases. The Minister may grant a cultivation lease in any case where at least one-fourth of the area applied for is suitable for cultivation. The maximum cultivation lease is two quarter sections unless otherwise specifically authorized

by the Minister. Any cultivation lease granted in excess of two quarter sections may be reduced by the Minister on giving the notice required by the Act. The fee and other requirements in connection with an application are set out in the Act. Improvements are required to be paid for in cash. Where land is under cultivation payment for the cultivated land is made by way of an additional share of the crop prescribed by the Minister and set out in the lease. A cultivation lease is for a term of ten years renewable for a further term of ten years.

Section 55 deals with rent for cultivation leases. The rental is payable in cash annually in advance together with such share of the crop grown on the cultivated land as may be prescribed by the Lieutenant Governor in Council and set out in the lease. No share of crop is payable on land broken and brought under cultivation during the three crop years immediately following the granting of the lease. No share of crop is payable in respect of crop produced on acreage in excess of the minimum cultivation requirements prescribed by the Act. No share of crop is payable when the lessee has a crop failure and the rules for determining whether or not a crop is a failure are set out in section 55. The minimum acreage requirements are set out in section 56.

Part III deals with grazing leases.

Sections 58 to 62 deal with applications for grazing leases. Grazing leases are granted for lands which are unsuitable for purposes other than the grazing of stock and the lease runs for a period not exceeding twenty years. The maximum grazing lease is an area large enough to graze one thousand head of cattle in accordance with the carrying capacity of the lands. Under certain circumstances the Minister may allow grazing leases to exceed this size. The qualifications of applicants and the requirements in connection with an application are set out in the Act. Grazing leases may be granted in unsurveyed territory.

Section 63 deals with grazing lease rent. The rent payable for a lease and the tax payable under *The Grazing Lease Taxation Act* together are such percentage of the forage value of the lands as may be fixed by the Lieutenant Governor in Council. The rules for determining the forage value of lands are set out in section 63 and the rent together with the tax are such percentage of this value as may be fixed by the Lieutenant Governor in Council.

Sections 64 to 72 deal with conservation of grazing leases. Stock in excess of the number authorized by the Minister are not allowed to be kept on any grazing lease. The appraiser of grazing lands makes investigations of the carrying capacities of grazing lands throughout the Province. The Minister then divides the Province into districts and fixes the carrying capacity of the grazing lands in each district. Lessees may be required to make sworn returns showing

the number of stock maintained on any grazing lease in order to check that the carrying capacity is not being exceeded. Provision is made for the conserving, reclaiming and regrassing of grazing lands and grazing lands may not be broken up or cultivated.

Section 73 deals with assignment of grazing leases.

Sections 74 to 86 deal with general provisions relating to grazing leases.

A lessee may cut hay on his grazing lease to the extent of three tons of hay for each head of stock without payment of any fee to the Department. Additional hay may be cut by the lessee upon payment of a fee of a dollar and dues at the rate of fifty cents per ton of hay cut.

The Minister may enter on a grazing lease for the purpose of constructing or maintaining any works coming under the provisions of *The Water Resources Act* and the lessee is forbidden to trespass upon, damage or destroy or to allow his stock or other stock to destroy any works constructed under *The Water Resources Act*. The Minister may withdraw lands from a grazing lease upon three years' notice in which case the lessee may remove his improvements or may be compensated for them by the Minister. Land required for an irrigation project may be withdrawn at any time upon one year's notice. Sums payable under a grazing lease are constituted a first lien upon animals grazed upon the lease and the lien is enforceable by seizure and sale of the animals. In a case where a grazing lease is cancelled or expires and a new grazing lease is issued to some person other than the original lessee provision is made for the payment to the original lessee of the value of improvements which he has created.

Part IV contains provisions of general application.

Sections 87 to 102 deal with leases. The Minister may refuse to issue a lease or a renewal and he may refuse to accept applications of leases of any specific lands. Assignment of leases is prohibited without the consent of the Minister. Certain duties are imposed upon the lessee in connection with the preservation and maintenance of timber or other areas of bush or forest. In the preparation of land for cultivation cord wood may be used for fuel purposes. Permits, however, are required before timber can be sold. The form of a lease is determined by the Minister. The Minister may at any time enter upon any lease and have it surveyed. The Minister may grant permission to any person to enter upon a lease for the purpose of exploration for minerals and if any portion of the land leased is found to contain minerals the Minister may withdraw such lands from the lease. In such a case the rent is proportionately reduced. Sections 103 to 107 deal with exchange of lands. Any person who owns land in a drought area may exchange his land for vacant and available public land in some other area.

When the exchange is made the applicant is required to perform settlement duties including residence, cultivation and the maintenance of live stock to the satisfaction of the Minister for a period of at least one year subsequent to the exchange. The public land selected by the applicant cannot exceed in extent or acreage the property surrendered and the exchange is made on the basis of value for value.

Section 108 which deals with school lands is similar to the section in the present Act.

Sections 109 to 111 deal with sales of lands. Ordinarily sales are by public auction at an upset price fixed by the Lieutenant Governor in Council.

Section 112 deals with grants of lands and provides that the Minister may grant land by way of gift for school sites, church or mission sites and as sites for cemeteries, community halls, etc. A grant of this nature cannot exceed four acres.

Sections 113 to 117 contain the powers of the Lieutenant Governor in Council.

Sections 118 and 119 contain the powers and duties of the Minister.

Sections 120 to 122 deal with evidence and its admissibility.

Sections 123 to 125 deal with summary proceeding respecting forfeiture and trespass.

Sections 126 to 128 deal with seizures. All these provisions relating to evidence, summary proceedings and seizures are similar to those in the present *Provincial Lands Act*.

Section 129 to 151 are miscellaneous provisions dealing with a variety of matters. These sections are practically the same as the sections appearing in the later portion of *The Provincial Lands Act* although their sequence has been varied somewhat. Sections 130, 133 and 134 are similar to sections 82, 87 and 88 of *The Provincial Lands Act*. Sections 136 to 141 are similar to sections 90 to 95 of *The Provincial Lands Act*. Sections 142, 143, 144 and 148 are similar to sections 102, 104, 105 and 110 of *The Provincial Lands Act*.

This Act comes into force on the first day of April, 1949, which is the date upon which the division of the Department becomes effective.

KENNETH A. MCKENZIE,
Acting Legislative Counsel.

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

BILL

No. 112 of 1949.

An Act respecting Public Lands.

(Assented to _____, 1949.)

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

SHORT TITLE.

1. This Act may be cited as "*The Public Lands Act*".

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
 - (a) "adjoining lands" means those lands which are not separated by a section or by any of the regular subdivisions into which a section may be divided;
 - (b) "agent" means any person employed in connection with the administration, management, sale or settlement of public lands in a defined district; "sub-agent" means any person so employed with respect to lands in a particular part or division of such district; and "Public Lands Agency" means the office in and for the district;
 - (c) "agricultural lands" means an area of land where at least one-half of the acreage is suitable for cultivation;
 - (d) "certificate" means a certificate of title granted pursuant to *The Land Titles Act*;
 - (e) "crop year" means a twelve-month period computed from the first day of July;
 - (f) "cultivation lease" means a cultivation lease granted pursuant to this Act or a cultivation and grazing lease issued pursuant to *The Provincial Lands Act*;
 - (g) "Department" means the Department of Lands and Forests;
 - (h) "disposition" means every instrument executed pursuant to the provisions of this Act whereby any estate, right or interest in any public lands is granted to any person or by which the Crown divests itself in the favour of any person of any estate, right or interest in any such land, and without derogating from the generality of the foregoing, includes all letters patent, transfers, deeds, conveyances, noti-

fications, assurances, leases, licenses, permits, contracts and agreements made, entered into or issued pursuant to this Act;

- (i) "Director" means the Director of Lands of the Department of Lands and Forests, or an officer appointed to perform any of the duties of the Director;
- (j) "dues" means all ground rents, royalties, dues, fees, rates, charges, or other moneys payable by any person to the Crown in the right of the Province under and by virtue of any sale, lease, license, permit or privilege;
- (k) "farm" means an area of land on which commercial farming or ranching operations are conducted;
- (l) "grant" means letters patent under the Great Seal of Canada and any notification issued pursuant to *The Provincial Lands Act* or this Act;
- (m) "homestead" means an area of adjoining agricultural lands not exceeding one-half section granted by lease;
- (n) "land clearing and breaking projects" means lands cleared and broken by a contractor under an agreement made pursuant to chapter 5 of the Statutes of Alberta, 1945 (Second Session), or *The Land Clearing and Breaking Projects Act*, being chapter 11 of the Statutes of Alberta, 1948;
- (o) "lands" includes lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, whatever may be the estate or interest therein, and whether legal or equitable and, subject to the provisions of this Act, all paths, passages, waters or water courses, liberties, privileges, easements, and all trees and timbers thereon;
- (p) "lessee" means and includes any person, male or female, who has attained the age of eighteen years and who is named as a lessee and the next-of-kin, executors and administrators of any such person and his and their assigns respectively;
- (q) "Minister" means the Minister of Lands and Forests;
- (r) "notification" means a direction in Form A to the Registrar of Land Titles for the issue of a certificate of title;
- (s) "officer" means any person appointed under the provisions of *The Public Service Act* in connection with the administration of public lands;
- (t) "public lands" means and includes all real property of whatsoever nature or kind to which this Act applies;
- (u) "Registrar" means a Registrar of Land Titles within the meaning of *The Land Titles Act*;

- (v) "stock" includes any cow, horse, or sheep at least six months old;
- (w) "telegram" in addition to its ordinary meaning includes radiogram;
- (x) "township", "section", "half-section", "quarter-section", and "legal subdivision", respectively, mean a township, section, half-section, quarter-section, or legal subdivision, as the case may be, of public lands, within the meaning of this Act and of *The Alberta Surveys Act*;
- (y) "veteran" means any person certified under *The Veterans Land Act*, 1942 of the Dominion of Canada, to be a veteran within the meaning of the said Act;
- (z) "winter months" means November, December, January, February and March.

APPLICATION OF ACT.

3.—(1) This Act applies generally to all lands vested in the Crown in the right of the Province, together with the beds or shores of lakes, rivers, streams or bodies of water and former water covered areas in the absence of an express provision to the contrary in the grant by the Crown, and all lands to which title is acquired by the Crown by reason of any Statute which are declared by the Lieutenant Governor in Council to be public lands and subject to the provisions of this Act.

(2) In relation to land in any special area, all the powers, duties, rights and capacities in respect of the leasing of public lands which are by this Act vested in or conferred or imposed upon the Minister of Lands and Forests, the Deputy Minister of Lands and Forests, or the Department of Lands and Forests, shall be vested in, conferred and imposed upon the Minister of Municipal Affairs, the Deputy Minister of Municipal Affairs, or the Department of Municipal affairs, as the case may be, as if the last mentioned Minister, Deputy Minister or Department had been named herein.

(3) Subject to the provisions of subsection (2) every disposition of public lands shall be made pursuant to this Act.

4.—(1) There shall be implied in every disposition of public lands pursuant to this Act any and all reservations which are required to be made by this Act.

(2) In any certificate heretofore or hereafter issued by the Registrar in the absence of an express provision in the original grant from the Crown to the contrary, the certificate is hereby declared to be subject to the reservations contained in the grant from the Crown, and the reservations and exceptions hereinafter made.

5. There is hereby reserved to the Crown out of every disposition of public lands under this Act,—

- (a) the property in and the right to and the right to use all water powers and lands upon or within which there is water power or which is required for the protection of any water power or for the purpose of any undertaking for the use and development of water power;
- (b) the property in and the right to and the right to use all the water at any time in any river, stream, water-course, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh, or other body of water, or contained or flowing therein, and also an exclusive and perpetual property, interest or privilege in the land forming the bed or shore thereof;
- (c) the right to construct without making compensation therefor, any colonization or other road, or any road in lieu of or partly deviating from an allowance for road, or any drain or drainage works, and wood, gravel and other materials required for the construction or improvement of any such road, drain or drainage works may be taken from the said lands without compensation therefor or for the injury thereby done to the lands from which they are taken, and such rights may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown, at any time prior to the issue of a notification;
- (d) all rights of fishery and fishing and occupation in connection therewith, upon, around and adjacent to the said lands;
- (e) all mines and minerals (precious and base), together with the right to enter, locate and prospect for minerals, and with full power to work the same and for this purpose to enter upon, use and occupy the said lands or so much thereof and to such extent as may be necessary for the effectual working and extracting of the minerals.

6.—(1) Where public lands bordering on a lake, river, stream, or any body of water are disposed of by the Crown, in the absence of an express provision in the disposition to the contrary, the bed or shore of the lake, river, stream or body of water shall not pass to the person otherwise acquiring such public lands and the disposition shall be construed accordingly and not in accordance with the rules of the English Common Law.

(2) Where lands within the Province bordering on a lake, river, stream or any body of water have been heretofore granted by the Crown, it shall be presumed in the absence of an express provision in the grant to the contrary, that the bed or shore of the lake, river, stream or body of water has not passed to the person acquiring the grant, and notwithstanding any certificate issued by the Registrar, such

grant shall be construed accordingly and not in accordance with the rules of the English Common Law.

(3) Subsection (2) shall not affect the rights, if any, of a grantee from the Crown or of any person claiming under him, where such rights have heretofore been determined by a court of competent jurisdiction, or of a grantee from the Crown, or any person claiming under him who establishes to the satisfaction of the Lieutenant Governor in Council that he or any person under whom he claims has constructed or caused to be constructed any dam or other works in the development of water power or powers, under the *bona fide* belief that he had the legal right to do so, but in such case the Lieutenant Governor in Council,—

- (a) may require him to develop the said power or powers to the fullest possible extent, and to sell the said power at such price as may from time to time be fixed by the Board of Public Utility Commissioners; and
- (b) may direct that a license granting such right be issued to the grantee or person claiming under him, under and subject to such conditions and provisions as may be deemed proper for insuring the full development of the water power or powers, and the regulations of the price to be charged for such power.

7. Nothing contained in this Act shall affect the right of the Crown to issue licenses, leases, or permits on any lake, river, stream or body of water, including the bed or shore of the lake, river, stream or body of water, for fur farming or for the protection of migratory birds, or for any other purpose deemed by the Minister to be in the public interest.

ACQUISITION OF PUBLIC LANDS.

8. No public land which has not been surveyed under the provisions of either *The Alberta Surveys Act* or the *Dominion Land Surveys Act* shall be disposed of save and except only by way of lease for the grazing of stock or any purpose which is deemed by the Minister to be in the public interest.

9. Notwithstanding the provisions of any other Act or the rules of the English Common Law, no person shall acquire by prescription any right, title or interest to or in any land which is vested in the Crown or to or in any land as against the Crown.

10.—(1) Upon any person becoming entitled to receive a certificate of title to any public lands, a notification in Form A shall be issued and shall be signed by the Minister or by the Deputy Minister and shall be countersigned by the Director and shall be forwarded to the Registrar of Land Titles

for the district in which the land is situate, and no certificate shall be issued by the Registrar until he has received such a notification

(2) Before issue of the notification the prescribed fee payable under *The Land Titles Act* shall be paid to the Director by the person entitled to receive the notification, and the Director shall forward the fee paid to the Registrar of Land Titles for the district in which the land is situate.

PART I.

HOMESTEADS.

APPLICATIONS FOR HOMESTEAD LEASES.

11.—(1) Land declared to be agricultural land, other than land belonging to the School Endowment Fund, and which has not been withdrawn from disposition may be disposed of by lease in accordance with the provisions of this Act, and land so disposed of shall be known as a homestead.

(2) The term of the homestead lease shall be twenty years, renewable for further terms of twenty years each on the terms and conditions in force at the granting of each such renewal.

12.—(1) Every person who,—

- (a) has attained the age of eighteen years; and
 - (b) is not in possession or control of a farm under a certificate or agreement of sale; and
 - (c) is not the holder of a cultivation lease; and
 - (d) is a British subject or Canadian citizen or declares his intention of becoming a Canadian citizen;
- and who makes application in the manner hereinafter provided, shall be eligible for a homestead.

(2) A husband and wife shall not be granted in their individual names agricultural lands which total a greater area than the maximum area obtainable by one person as a homestead.

(3) A married person whose spouse is in possession or control of a farm in Alberta under a certificate or agreement of sale shall not be eligible for a homestead if the combined holdings of the husband and wife exceed one-half section.

(4) Any person who at the time of making application for a homestead is in possession or control of a farm under any terminable agreement, shall divest himself of all interest in such farm within twelve months from the obtaining of a homestead, failing which the homestead lease will automatically become null and void without any declaration by

the Minister, and in the case of married persons, both husband and wife shall comply with these requirements as to divestment.

(5) A veteran who furnishes to the Department a certificate under *The Veterans' Land Act, 1942*, of the Dominion of Canada, certifying the applicant to be a veteran within the meaning of the said Act, and who has not obtained a homestead shall be eligible for a homestead unless otherwise disqualified.

13.—(1) Application for a homestead shall be made by the applicant in person during the regular office hours at the Public Lands Agency for the district in which the land is situate or at such other place as may be authorized by the Minister.

(2) A fee of five dollars shall be paid with the application and the agent, or officer acting for him, shall deal with applications in the order in which they are received.

(3) No fee shall be paid with an application made by a veteran.

14.—(1) When application is made by an eligible person for land which is available for disposition, the agent, or officer acting for him, shall accept the application upon payment of the fee and the land shall be placed under reservation for the applicant until its suitability as a homestead has been determined by investigation.

(2) Notwithstanding the provisions of subsection (1) of section 13, application may be made to the sub-agent in the district in which the land is situate, but such an application shall have no force or effect until it is received by the agent or the officer acting for him at the Public Lands Agency.

(3) If the applicant so desires, the sub-agent shall advise the agent, or the officer acting for him, of the receipt of the application by telegraph at the expense of the applicant, and on receiving the advice the agent, or the officer acting for him, at the expense of the applicant shall acknowledge the advice by telegraph, and shall hold for the applicant the land applied for during a period of time sufficient to permit the receipt of the application by mail, and the application, if received within that period, shall be deemed to have been received at the time of the receipt of the advice by telegraph in the same manner as if the applicant had appeared at that time at the Agency.

15. The Minister in his discretion may restrict the acceptance of applications for any specific land or any particular district in any manner he may consider warranted, and he shall settle in such manner as he deems best all disputes which arise between persons claiming the right to homestead the same land.

16.—(1) A person applying for a homestead shall declare what improvements, if any, there are upon the land with respect to which his application is made, and shall submit with the application an amount in cash sufficient to cover his valuation of the improvements.

(2) For purposes of the cash payment required by subsection (1), cultivated land shall not be considered an improvement.

(3) On receipt of the application the Director shall cause the improvements to be examined and valued by an officer.

(4) Where the officer's valuation exceeds that of the applicant, the difference shall be paid by the applicant to the Department, and where the officer's valuation is less than that of the applicant, the difference shall be refunded by the Department to the applicant.

(5) If the application is not accepted any moneys received for the purchase of the improvements will be refunded unless the applicant is indebted to the Department.

(6) Where land is under cultivation upon the granting of a homestead or where the Minister has made an agreement pursuant to chapter 5 of the Statutes of Alberta, 1945 (Second Session), or pursuant to *The Land Clearing and Breaking Projects Act*, payment for such cultivated land shall be made by way of an additional share of the crop as provided for in section 17 of this Act.

HOMESTEAD LEASE RENTS AND DUTIES.

17.—(1) The rent payable under a homestead lease shall be,—

(a) in each of seven crop years immediately following the date of the commencement of the term of the homestead,—

(i) a one-eighth share of the crop or crops of every kind and description grown or harvested in the fourth and in each subsequent crop year upon the land brought under cultivation subsequent to the date of the commencement of the term of the homestead;

(ii) a one-third share of the whole of the crop or crops of every kind and description grown or harvested upon the land under cultivation at the date of the commencement of the term of the homestead;

(b) in each and every crop year commencing with the eighth crop year a one-eighth share of the crop or crops of every kind and description grown or harvested upon the homestead.

(2) Notwithstanding the provisions of subsection (1), where the lessee crops land in any year in excess of the acreage requirements of this Act, the share of crop payable

shall be the share of a proportion of the total crop that is equivalent to the proportion of the acreage requirements to the acreage actually seeded to crop.

(3) No share of a variety of a crop shall be payable in any year in which the average yield of that variety of crop is a failure, and for purposes of this subsection,—

- (a) the Minister shall determine in each crop year the average number of bushels per acre for each variety of crop which in his opinion are required to meet the cost of producing each such crop, and any lesser yield shall be deemed to be a failure;
- (b) any crop of wheat, oats, barley, or rye with an average production of five bushels per acre or more shall not be deemed to be a failure.

(4) In any case where a homestead lease has been cancelled and a new homestead lease is issued to the same lessee, that lessee shall with respect to the payment of rent be in the same relative position that he would have been in had his previous lease been reinstated and maintained in good standing.

18.—(1) The lessee personally within the period of six months immediately following the date of the execution of the homestead lease shall enter into possession of and commence to perform the residence requirements of the homestead but in no case shall a lessee be required to commence residence during the winter months immediately following the issue of a homestead; and subject to the provisions of subsections (2), (3) and (4), he shall remain in actual occupation of the land and reside on some part thereof for at least six months in every year during the term of the homestead.

(2) Residence by a lessee upon a farm of an area of at least eighty acres, situate within a distance of three miles from the lands comprised in the homestead, in a direct line exclusive of road allowances crossed in the measurement, occupied by the wife or the husband of the lessee, as the case may be, as owner, purchaser under agreement of sale, or lessee from the Crown, and in the event of the death of such wife or husband, as the case may be, continued permanent residence on such farm may in the discretion of the Minister be accepted as residence upon the homestead.

(3) Residence by a lessee upon a farm of an area of at least eighty acres, situate within a distance of three miles from the lands comprised in the homestead, in a direct line exclusive of road allowances crossed in the measurement, held by the father, mother, son, daughter, brother or sister of the lessee, as the case may be, as owner, purchaser under agreement of sale, or lessee from the Crown, and in the event of the death of such father, mother, son, daughter, brother or sister, as the case may be, continued permanent residence on such farm, may in the discretion of the Minister be accepted as residence upon the homestead.

(4) Residence by a veteran upon a farm of an area of at least eighty acres, situate within a distance of three miles from the lands comprised in the homestead, in a direct line exclusive of road allowances crossed in the measurement, occupied by the veteran or by the wife or the husband of the veteran, as the case may be, as owner, purchaser under agreement of sale, or lessee from the Crown, and in the event of the death of such wife or husband, as the case may be, continued permanent residence on such farm shall be accepted as residence upon the homestead.

(5) If for the purposes of this section any question arises as to whether a farm is situate within three miles from the lands comprised in the homestead, the decision of the Minister shall be final.

19.—(1) Residence may be calculated in any of the following ways:

- (a) From the date of the execution of the lease; or
- (b) From the date of commencement of residence, either before or after the date of the execution of the lease; or
- (c) From any date subsequent to the date of the execution of the lease or the date of commencement of residence; or
- (d) By performance of six months' residence in each calendar year, or by continuous residence for one hundred and eighty days.

(2) Residence for any period less than thirty consecutive days cannot be counted as constituting residence.

(3) Residence by the family in the absence of the lessee may not be counted towards fulfilment of the residential requirements.

20. The lessee within five years after the date of the execution of the homestead lease, shall erect upon some part of the land a habitable dwelling house of a value of at least five hundred dollars, unless the lessee is permitted to perform the residence requirements on other land in the vicinity of the homestead.

21.—(1) A lessee residing on a homestead comprising an area not exceeding a quarter section shall break and crop the following areas in each year:

	Break	Seed to Crop
First Year	5 acres	nil
Second Year	5 acres	5 acres
Third Year	10 acres	10 acres
Fourth Year	10 acres	20 acres
Fifth Year		30 acres
Sixth Year		30 acres
Seventh Year	15 acres	30 acres
Eighth Year	15 acres	45 acres
Ninth Year	20 acres	60 acres
Each succeeding year for the duration of the lease		80 acres

(2) A lessee performing the residence requirements of his homestead by residing on land in the vicinity shall break and crop the following areas in each year :

	Break	Seed to Crop
First Year	10 acres	nil
Second Year	10 acres	10 acres
Third Year	15 acres	20 acres
Fourth Year	15 acres	35 acres
Fifth Year		50 acres
Sixth Year		50 acres
Seventh Year	15 acres	50 acres
Eighth Year	15 acres	65 acres
Ninth Year		80 acres
Each succeeding year for the duration of the lease		80 acres

(3) Any land under cultivation at the date of the commencement of the term of the homestead shall be deemed to be land brought under cultivation by the lessee pursuant to this section.

(4) Where the homestead comprises an area greater than one-quarter section, the acreage to be broken and sown to crop shall bear the same proportion to the total acreage as the acreages hereinbefore set forth bear to one quarter section.

(5) For purposes of this section only and where authorized by the Director, summerfallow shall be deemed to be land seeded to crop.

22. The lessee shall farm the lands in a proper and husbandlike manner and after the eighth crop year he shall break and crop as much of the land in condition to plow as the Minister may from time to time prescribe.

23. The lessee shall use only first class seed, free and clear of all noxious weeds, and shall cut, keep down and destroy all noxious weeds growing on the premises.

24. Where for reasons satisfactory to the Minister a lessee fails to perform the requirements of his homestead lease, the Minister may grant the lessee an extension of time for the performance of the covenants and agreements of the homestead lease, and he may exact a penalty in such sum or sums as the case may warrant in lieu of forfeiture, but the penalty shall not be of a lesser sum than the lessee would be required to pay had he performed the cultivation requirements of his homestead lease.

25. A lessee who performs the residence requirements upon land in the vicinity of his homestead must furnish to the agent, upon request, conclusive evidence as to the ownership of the land upon which he resides.

HOMESTEAD LEASES OF INCAPACITATED AND DECEASED
PERSONS.

26.—(1) Except as hereinafter provided, if the lessee of a homestead dies or is adjudged to be mentally diseased, the provisions of this Act as to forfeiture for non-performance of work or non-payment of rent shall not apply in the first case, either during his last illness or after his decease, and in the second case, either after he has been adjudged mentally diseased or during such period prior to his having been adjudged mentally diseased as he may be shown to have been mentally diseased if it appears to the Minister that the neglect or omission on account or by reason of which such homestead would otherwise have been deemed to be forfeited was attributable to his mental disease.

(2) The Minister may limit the period during which the interest of any deceased or mentally diseased person in any homestead shall be exempt from the provisions of this Act which require annual performance of work, residence and payment of rent, and may fix the date upon which the homestead shall again become subject to all the provisions of this Act.

(3) At the termination of the period fixed the homestead shall become subject to all the provisions of this Act, and if such provisions are not complied with the homestead shall be absolutely forfeited.

(4) The Minister from time to time as the necessity of the case in his opinion may demand, may extend the period of the exemption, but in the case of a deceased person, the Minister shall not extend the period during which the exemption applies beyond three years from the date of the death of the deceased or beyond the date of the appointment of a legal representative, whichever is sooner.

(5) The legal representative of a deceased or mentally diseased person shall only be required to perform the cultivation duties and pay the annual rent.

27.—(1) Any person who receives from the administrator or other legal representative of a deceased or mentally diseased person an assignment of a homestead that has been exempted from the provisions of this Act, as to performance of work and payment of rent, because of the death or mental disease of the lessee, shall record the assignment with the Minister within two months from the date of its execution, and after the assignment has been recorded the homestead shall again become subject to all the provisions of this Act.

(2) If the assignment is not recorded as required by this section, the provisions exempting the homestead shall cease to apply and the homestead shall, at the expiration of the said two months, become absolutely forfeited.

(3) If the assignment is recorded as required by this section, any duties performed and any rent paid by the

deceased or the mentally diseased or on his behalf, may count in the obtaining of notification for title.

(4) The Minister shall not record any assignment unless it was made to a person eligible to acquire a homestead.

28.—(1) The Minister, upon being satisfied that the physical or mental condition of the lessee is such as to incapacitate him, may waive in writing the payment of any rent payable under a homestead lease or the performance of any of the covenants of the homestead lease for any period during which the lessee was so incapacitated and for such further period as the Minister may consider proper.

(2) In any case in which the Minister has waived the payment of any rent or the performance of any covenant, the Minister at any time may send by mail to the lessee, or in case of his death to his executor or administrator, or in the case of his becoming an inmate of a mental institution, to the Public Trustee, a notice in writing fixing a date after which the lessee shall perform all the covenants of the homestead and pay the rent thereby reserved and upon the date so fixed the waiver to which the notice relates shall cease, and all the provisions of the homestead lease shall have the same force and effect as if the waiver had not been given.

(3) In the case of the death of a lessee no waiver given by the Minister shall have any effect after the expiration of three years from the date of death, and no waiver shall be given by the Minister after the expiration of the period of three years.

CANCELLATION OF HOMESTEAD LEASES.

29.—(1) Any person who is eligible for a homestead may apply to the agent for the institution of proceedings for the cancellation of a homestead when, to his own knowledge, the duties are in default.

(2) The application for cancellation of a homestead shall be supported by a statutory declaration made by the applicant stating,—

- (a) the particulars of the lessee's default;
- (b) that the applicant has visited the land;
- (c) that the applicant has personally satisfied himself that the duties are not being properly performed.

30. Only one application for cancellation may be accepted in respect of a homestead, and the applicant for cancellation shall not make another application until disposition has been made of his application or it has been withdrawn.

31. The homestead of a veteran who has obtained financial assistance under *The Veterans' Land Act, 1942*, of the Dominion of Canada, shall not be made the subject of cancellation proceedings at the request of an eligible settler,

32. A homestead is liable to cancellation if,—

- (a) the residence or cultivation duties or other conditions are not being fulfilled;
- (b) the lessee is absent from the homestead for a period of over six months at any one time;
- (c) the lease was obtained or granted under an assumed name or by error, personation, misrepresentation, perjury or other fraud;
- (d) the improvements upon the land have not been paid for or have been misrepresented;
- (e) a lessee makes an agreement whereby he abandons his homestead for a consideration, or if before the issue of a notification he has assigned, mortgaged or transferred or agreed to assign, mortgage or transfer the land held by him as a homestead, unless otherwise provided ;
- (f) the land is necessary for the protection of any water supply, or for the location or construction of any works necessary to the development of any water power, or for flooding purposes in connection with such development, or for the purpose of any harbour or landing, or any other purpose considered by the Minister to be in the public interest, but such cancellation or withdrawal shall be limited to the portions which are required for these purposes.

33. A lessee whose homestead is made the subject of cancellation proceedings shall be given sixty days by the agent within which to submit a statement of his objections to the cancellation of his homestead and his failure to submit such a statement will render the homestead subject to summary cancellation.

34. The agent may institute proceedings on behalf of the Department for the cancellation of a homestead when he is satisfied that the lessee is in default in the performance of his duties, and where such proceedings are taken by the agent an application for cancellation cannot thereafter be accepted from an individual .

35.—(1) An application for cancellation may be made before a sub-agent, but the application shall have no force or effect until it is received by the agent.

(2) If the applicant so desires, the sub-agent shall advise the agent of the receipt of the application by telegraph at the expense of the applicant, and the agent shall deal with the application as though it had been made at the Agency.

36. A homestead shall be for the sole use and benefit of the lessee, and the Minister may cancel any homestead which in his opinion is not held for the sole use and benefit of the lessee,

37. The Minister may cancel a homestead granted in error and refund moneys paid by the lessee.

38. If the Minister is satisfied that a homestead has been obtained through personation, misrepresentation or fraud, he shall cancel the homestead, and he shall not refund any moneys paid and he shall not pay any compensation to the lessee on account of any improvements which may have been made by him.

39. If a lessee fails in any year to fulfil the requirements of his homestead lease, the Minister may cancel the homestead lease and all rights of the lessee shall thereupon cease and determine.

40. If at any time the Minister is satisfied that the lessee has made default in paying the rent reserved upon the days appointed for the payment thereof or in performing or observing any of the covenants, conditions, stipulations or agreements of the homestead lease, whether express or implied, and notwithstanding the waiver of any previous breach, the Minister by order may cancel the homestead and thereupon the homestead and the term thereby created shall cease and determine and the homestead except only as to any liability on the part of the lessee existing at the time of cancellation shall thereupon become utterly null and void .

41.—(1) A lessee may, with the permission of the Minister, relinquish his homestead.

(2) A person who relinquishes his homestead or whose homestead is cancelled because of the lessee's failure to perform the requirements of his homestead, may be granted another homestead by the Minister.

42.—(1) Where a homestead lease has been cancelled pursuant to an application for cancellation, the agent shall give the applicant for cancellation thirty days' notice in writing to appear and apply for the homestead, and the notice shall be sent by registered mail.

(2) Where notice has been given pursuant to subsection (1) and the applicant elects to make his application before a sub-agent, the application for a homestead, or telegraphic notice thereof, shall be in the hands of the agent before the thirty days have expired.

(3) If the applicant for cancellation fails to appear within thirty days after the date of mailing the notice pursuant to subsection (1), or if the cancellation took place after abandonment, or other default where there was no application for cancellation, the agent shall forthwith post a notice of the cancellation in the Public Land Agency available for public inspection, which notice shall state the date and hour of the posting, and after the notice has been posted for thirty clear days, the land shall become available to the first eligible applicant for a homestead.

TITLE TO HOMESTEADS.

43.—(1) Where a lessee furnishes satisfactory evidence to the Minister that he has fulfilled the requirements of the homestead lease in each of five years, he may apply for a notification for the land upon payment or the purchase price as follows:

- (a) A minimum of one hundred dollars where the homestead comprises one hundred and sixty acres or less;
- (b) A minimum of one hundred dollars for the first one hundred and sixty acres and a further sum of one dollar and twenty-five cents per acre for each additional acre where the homestead comprises more than one hundred and sixty acres.

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

44.—(1) The application for a notification shall be in the form prescribed by the Minister and shall be signed by the applicant.

(2) The application for notification shall be supported by the evidence in writing of two witnesses residing in the vicinity who have a personal knowledge of the duties completed by the lessee.

(3) The Minister shall not accept any application for a notification unless the application is accompanied by payment in full for the land.

(4) The Minister shall not issue a notification for land to a lessee who has obtained financial assistance under *The Veterans' Land Act, 1942*, of the Dominion of Canada, without the consent of the Director of *The Veterans' Land Act*.

(5) Where the lessee is not a Canadian citizen or a British subject by birth at the time of the granting of the homestead lease, he shall furnish satisfactory evidence to the Minister that he is a Canadian citizen or British subject when he applies for a notification for the land.

HOMESTEAD LEASE GENERAL PROVISIONS.

45.—(1) After the completion of three years' duties and with the permission of the Minister, a homestead lessee, other than a veteran who comes within the provisions of an agreement between the Government of Canada and the Government of the Province for the granting of financial assistance to veterans for their rehabilitation on public lands, may assign his interest in the homestead to a person eligible to obtain a homestead and the assignee shall be entitled to all the benefits accruing under the terms of the homestead.

(2) A person who assigns his interest in a homestead shall not be eligible to apply for or acquire another homestead until the expiration of a period of two years from the date of the registration of the assignment.

(3) Any two lessees whose homesteads are in good standing may be granted permission to exchange their respective homesteads, provided that the exchange shall not increase the holding of either lessee in excess of the acreage such lessee might legally acquire.

46. A homestead lessee to whom a notification has been granted shall not be eligible to apply for or acquire another homestead.

47. A homestead lessee shall not build or make any improvements of a permanent nature other than fencing or cultivation on any part of the land contained in the homestead which lies within one rod of a statutory road allowance.

48. Where improvements other than cultivation have been made by a person whose homestead lease has been cancelled for any reason, the Minister in his discretion and subject to the restrictions contained in section 38 of this Act, may pay to the person who made the improvements, or to any dependant of such person who in the opinion of the Minister is entitled thereto, the moneys collected on account of the improvements, or so much thereof as he may in his discretion consider proper.

49.—(1) The Minister may lease any land cleared and broken under an agreement made by the Minister pursuant to chapter 5 of the Statutes of Alberta, 1945 (Second Session), or pursuant to *The Land Clearing and Breaking Projects Act*, as a homestead or otherwise upon the payment of the rent prescribed in section 17.

- (2) In any lease made pursuant to subsection (1),—
- (a) preference shall be given to a veteran;
 - (b) the land shall be exempt from assessment and taxation for a period of three crop years;
 - (c) in each year subsequent to the third crop year the land shall be liable to assessment in the name of the settler and the taxes shall be paid on his behalf by the Minister.

PART II.

CULTIVATION LEASES.

APPLICATION FOR CULTIVATION LEASES.

50.—(1) The Minister may grant leases to cultivate public lands to be known as "cultivation leases" in any case

where it is determined by investigation that at least one-fourth of the area applied for is suitable for cultivation.

(2) The maximum area that may be leased to any person shall not exceed two quarter sections of adjoining lands, unless otherwise specifically authorized by the Minister in writing.

(3) In any case where a cultivation lease has been granted that exceeds two quarter sections of land, the Minister may reduce it by giving the lessee one year's notice in writing of his intention to do so.

(4) The lessee may select the land that he wishes to retain.

(5) At the expiration of one year from the giving of the notice the lessee shall surrender to the Minister his copy of the lease for amendment in accordance with the notice given and the selection made.

51.—(1) Application for a lease shall be made on the prescribed form and filed with or forwarded to the agent for the district in which the land is situate.

(2) The application shall be accompanied by a fee of five dollars together with the first year's cash rental for the uncultivated land.

52.—(1) A person applying for a lease shall declare what improvements, if any, there are upon the land with respect to which his application is made and shall submit with the application an amount in cash sufficient to cover his valuation of the improvements.

(2) On receipt of the application the Minister shall cause the improvements to be examined and valued by an officer.

(3) For purposes of the cash payment cultivated land shall not be considered an improvement.

(4) Where the officer's valuation exceeds that of the applicant, the difference shall be paid by the applicant to the Minister, and where the officer's valuation is less than that of the applicant, the excess payment remitted with the application shall be refunded to the applicant.

(5) If the application is not accepted, any moneys received for the purchase of the improvements shall be refunded unless the applicant is indebted to the Minister.

(6) Where land is under cultivation upon the granting of a lease, payment for the cultivated land shall be made by way of such additional share of the crop as may be prescribed by the Minister and set out in the lease.

53. Land for which application is made, if available, shall be placed under reservation until its suitability for the purpose of cultivation has been determined, but the receipt of one application shall not preclude other applications being made for the same land.

54. A cultivation lease shall be for a term of ten years, and may be renewed for a further term of ten years, on such terms and conditions as the Minister may prescribe at the time of the granting of the renewal.

CULTIVATION LEASE RENTS AND DUTIES.

55.—(1) The lessee shall pay annually in advance a cash rental for each and every acre of uncultivated land comprised in the lease, together with such share of the crop grown on the cultivated land as may be prescribed by the Lieutenant Governor in Council and set out in the lease.

(2) No share of a crop shall be payable on land broken and brought under cultivation by the lessee during the three crop years immediately following the granting of the lease.

(3) No share of a variety of a crop shall be payable in any year in which the average yield of that variety of crop is a failure, and for purposes of this subsection,—

- (a) the Minister shall determine in each crop year the average number of bushels per acre for each variety of crop which in his opinion are required to meet the cost of producing each such crop, and any lesser yield shall be deemed to be a failure;
- (b) any crop of wheat, oats, barley, or rye with an average production of five bushels per acre or more shall not be deemed to be a failure.

56.—(1) The holder of a cultivation lease comprising an area not exceeding a quarter section shall break and crop the following areas in each year:

	Break	Seed to Crop
First Year	10 acres	nil
Second Year	10 acres	10 acres
Third Year	10 acres	20 acres
Fourth Year	10 acres	30 acres
Fifth Year		40 acres
Each succeeding year for the duration of the lease		40 acres

(2) Where the cultivation lease comprises an area greater than one quarter section, the acreage to be broken and sown to crop shall bear the same proportion to the total acreage as the acreages hereinbefore set forth bear to one quarter section.

(3) The lessee shall farm the lands in a proper and husbandlike manner and raise the greatest amount of crop thereon the nature of the soil and season will permit.

(4) The lessee shall use only first-class seed, free and clear of all noxious weeds, and shall cut, keep down and destroy all noxious weeds growing on the premises.

(5) For purposes of this section only and where authorized by the Director, summerfallow shall be deemed to be land seeded to crop.

57.—(1) If the Minister at any time during the term of the cultivation lease is of the opinion that it is in the public interest to offer the land for sale, he may upon giving the lessee one year's notice in writing cancel the cultivation lease.

(2) In such case any improvements owned by the lessee may be removed by him.

(3) Upon a sale of the land, the Minister shall require the purchaser to pay for any improvements that cannot be removed at a price fixed by the Director, and the Minister shall pay to the former lessee who made the improvements the money paid by the purchaser for the improvements.

PART III.

GRAZING LEASES.

APPLICATION FOR GRAZING LEASES.

58.—(1) Lands that are found upon inspection to be unsuitable for purposes other than the grazing of stock may be leased by the Minister for such purpose for a period not exceeding twenty years.

(2) No person or company shall acquire under grazing lease either by original lease or assignment, an area larger than that required to graze one thousand head of cattle in accordance with the carrying capacity of the lands as determined by the appraiser of grazing lands.

(3) Notwithstanding subsection (2), the Minister may allow additional lands to be included in the lease where in his opinion conditions warrant it, and the inclusion of such lands would not be detrimental to the interests of other settlers residing in the district.

(4) The Minister, if in his opinion it becomes necessary or in the interests of other residents to reduce the area under the control of the lessee, and upon giving the lessee one year's written notice, may withdraw from the grazing lease such lands as are in excess of the area required to graze one thousand head of cattle.

59.—(1) Application for a lease may be accepted from,—

- (a) a British subject or a Canadian citizen; or
- (b) a person who furnishes evidence that he has filed his declaration of intention to become a Canadian citizen, and who has attained the age of twenty-one years.

(2) A company making application for a lease shall show that it is incorporated under the laws of the Dominion of Canada, or under the laws of the Province, and that the

majority of the shares of the company are owned by residents of the Province for their exclusive use and benefit and not in the interests of or for the benefit of any other person.

(3) A company incorporated under the laws of the Dominion of Canada shall not be eligible to acquire a grazing lease by application or assignment unless it is registered in the Province under the provisions of *The Companies Act*.

60.—(1) An alien who has been granted a grazing lease shall become a Canadian citizen as soon as he becomes eligible for naturalization, and he shall inform the Minister when he files his petition for citizenship.

(2) The Minister in his discretion may cancel any grazing lease if the lessee fails to comply with subsection (1).

61.—(1) Application for a grazing lease shall be made on the form prescribed by the Minister and forwarded to the agent for the district in which the lands are situate accompanied by a fee of ten dollars.

(2) The fee shall be credited to the applicant if a grazing lease is issued to him, but where for any reason the application is refused, the fee shall be refunded.

(3) If the applicant is offered a grazing lease and refuses it, the fee together with any other moneys paid with the application shall be forfeited.

62.—(1) Land for which application is made shall be placed under reservation until disposition is made of the application, but the reservation shall not preclude any other eligible person or company from making application for a grazing lease of the same land.

(2) Application for a grazing lease of land situate in unsurveyed territory shall contain a description by metes and bounds so as to define the position of the land in its relation to some prominent topographical feature of the district or some other known point and to adjoining locations.

(3) Before the issue of the grazing lease, the applicant shall stake the boundaries in such manner as may be required by the Director, and shall supply a plan in duplicate to the Minister, a copy of which plan shall be attached to the lease.

(4) The agent immediately upon receiving an application for a grazing lease of lands that are available shall post notice of the application for a period of at least thirty days on a public bulletin board in the Public Lands Agency and shall require the applicant to make his application known to the public in such manner as the Director may prescribe.

(5) Any grazing lease in good standing, irrespective of its area, which has less than five years to run, may be

renewed by the Minister if upon inspection by an official of the Department the lands are found to be unfit for purposes other than grazing and if the granting of a renewal will not be detrimental to the interests of other settlers.

GRAZING LEASE RENT.

63.—(1) The rent payable under a grazing lease together with the tax payable under *The Grazing Lease Taxation Act* shall be such percentage of the forage value of the lands included in the lease as may be fixed from time to time by the Lieutenant Governor in Council.

(2) The forage value of the lands shall be fixed annually by the Minister having regard to,—

- (a) the carrying capacity of the land;
- (b) the average gain in weight of cattle on grass; and
- (c) the average sale price per pound in the Calgary Live Stock Market during the preceding calendar year, or such portion of that year as may be selected by the Minister.

CONSERVATION OF GRAZING LEASES.

64. No lessee shall keep, maintain or allow on any grazing lease stock in excess of the number authorized by the Minister in the interests of conservation and to avoid overgrazing.

65.—(1) The appraiser of grazing lands shall from time to time make investigations of the carrying capacities of grazing lands throughout the Province and shall report to the Minister.

(2) The Minister may divide the Province into districts and may fix the carrying capacity of the grazing lands in each district.

(3) The Minister in his discretion may fix the carrying capacity of a grazing lease in any district either above or below the carrying capacity of other grazing lands in the district, but unless the Minister does so, the carrying capacity of each grazing lease in any district shall be the carrying capacity fixed by the Minister for grazing lands in the district.

66. The lessee shall furnish a sworn return showing the number of stock owned and maintained on the grazing lease at any time when required by the Director.

67. The frontage of a grazing lease on a lake, river or creek, shall not exceed one mile for every four miles in depth, unless otherwise authorized by the Minister, or unless upon inspection it is found that the granting of a grazing lease with a greater frontage would not affect the interests of other ranchers or settlers of the district.

68.—(1) Any land comprised within a grazing lease which has been cultivated and abandoned shall be deemed to be grazing land, and the lessee shall conserve, reclaim and regrass the land in such manner as the Minister may direct.

(2) The Minister in his discretion may compensate the lessee for such conservation, reclamation and regrassing by way of rebate of rental.

69. No part of the land comprised within a grazing lease shall be used or allowed to be used for any purpose other than grazing and the lessee shall not cut or destroy, or allow to be cut or destroyed, any timber, trees or shrubs without having obtained the consent of the Minister in writing.

70. The lessee shall not plow or break up in any other manner, or cultivate any of the land leased to him, or permit or allow the same to be done without the consent of the Minister in writing.

71. The lessee shall not graze, place, hold, pasture or feed any stock not belonging to himself upon the land comprising the lease, or permit or allow any such stock to be grazed, placed, held, pastured or fed without the consent of the Director in writing.

72. The lessee shall confine his stock to the land described in his grazing lease at all times and will not permit their grazing upon, or straying upon any adjoining land, and will not move them across any adjoining land administered by the Department without the consent of the Director in writing.

ASSIGNMENT OF GRAZING LEASES.

73.—(1) No person shall assign a grazing lease without the consent of the Minister, and any assignment without the consent of the Minister is void.

(2) The consent of the Minister to an assignment of a grazing lease shall not be given unless,—

- (a) all arrears of rent, interest, penalties and other moneys due have been paid; and
- (b) the said lessee has been in possession of the lands for a period of not less than three years; and
- (c) the assignment is made to a person eligible to acquire a lease under this Act.

(3) Notwithstanding the provisions of subsection (1), the Minister in his discretion may consent to an assignment where the lessee has not been in possession for three years if,—

- (a) the lessee dies and the assignment is presented by his executors or administrators; or

(b) if the assignment is to the husband, wife, son, daughter, father, mother, brother or sister of the lessee.

(4) If the Minister consents to an assignment all the provisions and conditions of this Act shall extend to and be binding upon the consignee as well as the lessee, and any breach by the assignee shall have the same effect as if the breach were made by the lessee.

(5) The Minister shall not consent to an assignment unless the assignee is eligible to acquire a lease.

GRAZING LEASE GENERAL PROVISIONS.

74.—(1) The lessee may cut hay on the grazing lease without payment of any fee to the extent of three tons of hay for each head of stock authorized in accordance with the carrying capacity of the lease as determined by the Minister and the hay shall be used exclusively for the feeding of the lessee's own stock.

(2) The lessee upon application to the agent for the district in which the land is situate, and upon payment of a fee of one dollar and dues at the rate of fifty cents per ton, may be granted a permit to cut additional hay on the land covered by the grazing lease for the feeding of the lessee's own stock but not for barter or sale.

75. When required by the Minister, the lessee shall enclose the land by a lawful fence within the meaning of section 14 of *The Domestic Animals (Unorganized Territory) Act*.

76. Where the grazing of sheep is specifically authorized, the lessee shall at the request and to the satisfaction of the Minister, enclose the land with a sheep-tight wire fence, and the maintenance of sheep shall be at the ratio of five head of sheep to one head of stock.

77.—(1) The lessee shall in all respects comply with the law relating to the control of contagious diseases of animals in so far as the law affects land comprised within the grazing lease.

(2) In default of performance by the lessee of any duties relating to control of contagious diseases of animals of which he has received notice, the Minister on behalf of the lessee may perform the same, and in such event all moneys expended by the Minister for such purpose shall become part of and additional to the rental provided in the lease and shall be repayable forthwith to the Minister by the lessee.

78. The lessee may construct barns, shelters and corrals and make such other improvements as may be necessary in the utilizing of the land for the grazing of stock, but he shall not have or acquire any title or interest in the land but only in the improvements.

79. Land belonging to the School Endowment Fund may be included in any tract or block of lands leased for grazing purposes if in the opinion of the Minister the land is essential for the establishment of an economic unit.

80. The lessee at all times shall permit the Minister or his duly authorized agent to enter upon the land with men, horses, machinery, and equipment of any kind, for the purpose of constructing, maintaining, repairing and operating any works constructed under the provisions of *The Water Resources Act*.

81.—(1) The lessee shall not trespass upon, damage, or destroy or permit or allow his stock or any person or the stock of any person to trespass upon, damage, or destroy any of the works upon the land constructed under *The Water Resources Act*.

(2) The lessee shall repair or reconstruct any works so damaged or destroyed upon receiving notice in writing from the Minister requiring him to do so.

82.—(1) If the Minister at any time during the term of a grazing lease is of the opinion that it is in the public interest to withdraw the whole or any portion of the land included in the grazing lease, he may, on giving the lessee three years' notice, withdraw such land and cancel the grazing lease to that extent.

(2) Land required for any irrigation project and included in a grazing lease may be withdrawn by the Minister at any time during the term of the lease on giving the lessee one year's notice.

(3) Service of the notice may be effected by mailing the same by registered mail to the address or the last known address of the lessee, and in such case service shall be deemed to have been effected upon the lessee upon the day on which the notice was mailed.

(4) The lessee may remove any improvements owned by him on the land to be withdrawn or he shall be entitled to such compensation therefor as the Minister in his discretion may authorize to be paid.

83. If any portion of the land included in a grazing lease contains timber, the Minister, subject to such conditions for the protection of the interests of the lessee as the Minister deems proper, may grant to any person or corporation a permit or license to enter upon the land included in the grazing lease and to cut and remove the timber.

84.—(1) All sums payable under a grazing lease shall constitute a first lien upon each animal run or grazed upon the lease and the Minister may enforce the lien by the seizure and sale of such animals subject to the lien as may be

required to realize a sufficient sum to satisfy the full amount owing by the lessee.

(2) The Minister after satisfying the lien and paying all expenses that may have been incurred incidental to the seizure and sale, shall pay the balance of any moneys realized from the sale of such animals to the lessee.

85.—(1) In any case where a grazing lease is cancelled or expires and a new grazing lease for the tract of land thereby demised is issued to some person other than the original lessee, the Department shall collect from the person acquiring the new grazing lease the value of any ranch buildings, fences, wells, or other improvements which may be on the said tract of land at the time the new grazing lease is issued.

(2) The value of the improvements shall be fixed by the Department, and the amount collected from the new lessee shall be paid, upon application therefor to the lessee who created the improvements, after deducting any amount for which he may be indebted to His Majesty or to any irrigation and drainage districts, for any rates, taxes or assessments.

(3) The lessee who created the improvements may remove any improvements owned by him which were on the leasehold at the time the lease was cancelled or expired, with the consent in writing of the Minister, and within such time as may be fixed by the Minister.

86.—(1) A lessee may be granted by ancillary agreement permission to use an area not exceeding one quarter-section as a place for his residence and on which to erect the buildings necessary to conduct his operations subject to the payment of an annual rental of twenty-five dollars.

(2) Any such ancillary agreement shall run concurrently with the term of the grazing lease, and if the grazing lease is cancelled or terminated the ancillary agreement shall be void.

PART IV

GENERAL.

LEASES.

87.—(1) The Minister in his discretion may refuse to issue a lease or a renewal and may cancel a lease issued in error and refund moneys paid in connection with any lease.

(2) Any lands seeded to tame hay or grass shall be considered as cultivated land and where the hay or grass is not harvested as a seed crop, the rent payable in lieu of a share of the crop shall be fixed by the Minister.

(3) A lessee shall not make use of the land for any purpose other than that for which the lease was granted without the consent of the Minister and then only on such terms and conditions as the Minister may prescribe.

88. The Minister in his discretion may refuse to accept applications for any specific land or any particular district in any manner and he may settle in such manner as he deems best all disputes which arise between persons claiming the right to lease the same land, and he may require the several applicants to submit tenders.

89. The lessee shall at all times perform, observe and comply with all the provisions of any other Act which may affect the proper utilization and conservation of the lands for the purpose for which they have been granted.

90. The lessee shall not assign, transfer or sublet the lands described in his lease, or any part thereof, without the consent of the Minister in writing.

91. In wooded parkland or brush-covered areas, the lessee shall preserve and maintain for shelter belts, windbreaks and woodlots such areas of brush and forest cover as may from time to time be prescribed by the Director.

92. In any area where there is no native tree growth the lessee shall plant such shelter belts and windbreaks in fire-breaks or clumps or plantations for future use as may from time to time be required by the Director.

93.—(1) At such time and in such form as may be required by the Minister, the lessee shall furnish proof by declaration or otherwise that he has performed all covenants, conditions and agreements which ought to be performed and observed by him.

(2) A lease shall be subject to cancellation by the Minister if the Minister is satisfied,—

- (a) that the lessee has failed to comply fully with the conditions of the lease; or
- (b) that the lease was obtained by misrepresentation of any material fact.

(3) Upon cancellation of the lease for any such reason all payments made to the Crown in connection therewith shall be forfeited and the lessee shall not be entitled to claim compensation for any work performed on the land described in such lease or for any expenditure incurred in connection therewith.

(4) The Minister may, in his discretion, pay to the person who made the improvements or to any dependant or dependants of the person adjudged by the Minister to be

entitled thereto, any moneys collected by him on account of the value of the improvements, or so much thereof as he may in his discretion consider proper.

94.—(1) The lessee in the preparation of land for cultivation may utilize any cordwood for fuel purposes and may make use of any timber for the construction of buildings and other improvements on the leasehold without obtaining a permit.

(2) A lessee cutting timber in the preparation of land for cultivation, before removing the timber or any portion thereof from the leased area for barter or sale or other disposition, shall obtain a permit to cut timber on public lands and shall pay the dues in advance.

(3) If the land from which the timber was cut is cultivated within one year from the date the cutting took place and if the lessee furnishes a sworn statement to that effect to the Minister, the Minister may refund the dues.

95. The Minister may at any time authorize the removal of any fencing or other improvements upon the land which are not the property of the lessee, and may also grant right of entry upon the land for the purpose of such removal.

96. An applicant for a lease shall have no right to enter upon, or to cultivate the land applied for until a lease in his favour has been issued, unless otherwise notified in writing by the Director.

97. A lease shall be in such form as may be determined by the Minister.

98. The holder of a lease may bring and maintain actions for trespass committed at any time during the currency of the lease and all such proceedings pending at the expiration of the lease may be continued and completed as if the lease had not expired.

99. If the Minister at any time during the term of a lease deems it to be in the public interest to cause any unsurveyed part or parts of the lease to be surveyed, or to be resurveyed for any purpose or purposes whatsoever, the surveyors appointed to make the survey or surveys may, with their assistants, servants, horses and other things required in that behalf, enter upon the land and make the survey or surveys.

100.—(1) The Minister may grant a license to any person or corporation to explore and search any land leased pursuant to the provisions of this Act for gold, silver, copper, coal, or other minerals, building stone, gravel or marble, subject to such conditions for the protection of the interests of the lessee as the Minister may deem proper.

(2) If any portion of the land leased contains gold, copper, silver, coal, or other minerals, building stone, gravel or marble, or is suitable for the development of water-power, the Minister may cause written notice to be given to the lessee that the same and such adjoining land as the Minister may require are withdrawn from the lease.

(3) The lessee shall be entitled to a reduction of the rent proportionate to the reduction of the lands leased, but shall have no further or other claim and shall not be entitled to any other compensation for or on account of the withdrawal.

101. Where any question arises the Minister shall be the sole judge as to whether or not the terms or conditions under which the lease was granted have been fully kept, performed and complied with.

102. No lessee or purchaser shall be entitled to receive title to any land to which this Act applies while he is liable,—

- (a) either as principal or surety upon a bond to the Crown or the Minister; or
- (b) as a mortgagor on a mortgage in favour of the Crown or of the Minister; or
- (c) for a sum due or payable in respect of an advance of seed grain; or
- (d) for any other indebtedness to the Crown.

EXCHANGE OF LAND.

103.—(1) Any person who owns any land in an area frequented by drought, for the purpose of the establishment of an economic unit, may be allowed to transfer to the Crown any such land in exchange for vacant and available public land.

(2) In such case the applicant before the issue of a notification for the land so selected shall demonstrate his good faith by performing settlement duties including residence and cultivation, or the maintenance of live stock, to the satisfaction of the Minister during the period of not less than one year immediately subsequent to the authorization of the exchange.

104. The public land selected by the applicant shall not exceed in extent or acreage the property surrendered, and the exchange shall be made on the basis of value for value following an investigation and corroboration of the representations made by the applicant, and upon the recommendation of the investigating officer.

105.—(1) Before the issue of a notification for the public land, the applicant shall pay to the Provincial Treasurer the sum by which the value of the public land exceeds the value of the freehold land surrendered.

(2) The Minister shall not pay to the applicant the amount by which the value of the applicant's freehold land surrendered exceeds the value of the public land selected.

106. The applicant for an exchange with the Crown shall pay in addition to any other charge the sum of twenty-five dollars for each quarter section of public land or fraction thereof comprised in the exchange, and shall convey to the Minister title to the freehold land surrendered free and clear of encumbrances.

107. Lands belonging to the School Endowment Fund shall not be available for exchange.

SCHOOL LANDS.

108.—(1) Sections eleven and twenty-nine in every surveyed township in Alberta, except in forest reserves, together with the gold and silver as well as other minerals contained therein, are hereby set apart as an endowment for purposes of education, and shall be designated school lands; and they are hereby withdrawn from the operation of the provisions of this Act, which relate to homesteads.

(2) Notwithstanding anything in this Act, the Lieutenant Governor in Council may authorize the Minister to include in any block of land sold or to be sold to any person for the purpose of irrigation, or in any lands which may be set aside for the purpose of an Indian, or other public reserve, or may be reserved for any other purpose which the Minister considers to be in the public interest, lands which under the provisions of this Act are school lands.

(3) No block of lands sold or to be sold for the purpose of irrigation, or set aside and reserved for any of the purposes mentioned in subsection (2), shall include school lands, unless other public lands of equal value, as nearly as may be, are selected in lieu thereof; and when other public lands have been so selected and have been designated by the Minister as school lands, they shall be and become school lands and be dealt with in the same manner as ordinary school lands under the provisions of this Act.

(4) Notwithstanding anything contained in this Act, when for any reason a part or a fraction only of a quarter-section of school lands has been disposed of to any person, upon any portion of the balance of the quarter-section becoming available for disposition, the Minister may sell the portion to the registered owner of the part of the quarter-section already disposed of upon such terms and conditions and at such price per acre as may be fixed by the Minister, which price in his opinion, represents the actual market value of the land as determined by an inspection by an officer of the Department.

SALE OF LANDS.

109.—(1) All sales of lands except as herein otherwise authorized shall be made with the approval of the Lieutenant Governor in Council and upon such terms and conditions as are set out in the Order.

(2) In no case shall the lands be sold or offered for sale at a price less than the fair value of corresponding unoccupied lands in the immediate district in which they are situate.

110. The Minister may,—

- (a) sell land by private contract within two years after the holding of any sale by public auction which did not find a purchaser, at a price not less than the upset price;
- (b) sell a fractional quarter-section of any land other than school land at a rate to be determined as the true value of the land after inspection by an officer of the Department;
- (c) sell to the lessee of mining rights such land as may be required by him in his operations at a price which shall take into consideration the purpose for which the land is required, and if the mining operations may destroy the surface of the land, the price may include an amount as compensation for the destruction;
- (d) sell to a school district or division upon the recommendation of the Minister or Deputy Minister of Education, the actual lands required for schools, dormitories, halls, or for other purposes, at a price to be fixed after inspection by an officer of the Department as the actual market value of the land at the time of sale.
- (e) may sell the homestead to a lessee upon such terms and conditions as the Minister may prescribe in the case of a lessee who has faithfully and to the best of his ability endeavoured to perform the duties required of him but who from some unpreventable cause or physical incapacity has failed to complete those duties, or through some technicality is held to have failed in fulfilling the requirements of his lease but yet has an equitable claim entitling him to favourable consideration.

111.—(1) All moneys from time to time realized from the sale of school lands shall be invested in any manner in which the same may be lawfully invested to form a School Fund.

(2) The interest on the School Fund, after deducting the cost of management together with all other revenues realized from the use and occupation of school lands, shall be paid annually into the General Revenue Fund for the support of schools organized and carried on in accordance with the law of the Province, and the moneys so paid shall be distributed for school purposes by the Lieutenant Governor in Council in such manner as he deems expedient.

GRANTS OF LAND.

112.—(1) The Minister may grant land by way of gift to,—

- (a) the board of school trustees of a district or division for which the land is required as a site for a school and purposes connected therewith;
- (b) the governing body of a church or mission as a site for a church or mission;
- (c) a municipality, church or cemetery company as a site for a burial ground;
- (d) a board of trustees as a site for a community hall.

(2) The area that may be granted by way of gift shall not exceed four acres, and the length of the property shall not exceed twice its breadth.

(3) The notification when issued shall restrict the use of the land to the purpose for which it was granted, and where the grant is of a site for a school, church, mission, or community hall, no notification shall be issued until a building has been erected upon the land.

(4) The Registrar shall not alter, modify or remove from any certificate the clause restricting the use of the land unless authorized in writing by the Minister.

POWERS OF LIEUTENANT GOVERNOR IN COUNCIL.

113. The Lieutenant Governor in Council may,—

- (a) make regulations governing,—
 - (i) the cutting of hay and the leasing of land suitable for hay purposes;
 - (ii) the leasing of marsh land, water-covered areas and accretions;
 - (iii) the use of land for a harbour, wharf, pier, landing, bridge, airport, market place, gaol, court house, public park or garden, historic site, town or community hall, hospital, place of worship, burying ground, school and purposes connected therewith, radio station, agricultural exhibition, and for other public purposes, or for model and industrial farms;
 - (iv) the exploration, excavation and searching of land for the purpose of obtaining fossil remains, or other objects of geological, ethnological, historical or other scientific interest;
 - (v) the price to be fixed for the acquisition by a railway, power or tramway company of land for a railway terminus, station or station ground, right-of-way, roadbed, transmission or power line, telegraph and telephone line, workshops, buildings, yards, ballast pit, or other appurtenances of the company;
 - (vi) the sale or leasing of lots in a townsite or subdivision, or public resort, or of land for residential purposes;

- (vii) the control and operation of any vessel whatsoever upon any lake, river, stream, or body of water, including every description of ship, boat or craft of any kind whether propelled by steam, internal combustion engine, or otherwise, including every forming part of the machinery or equipment of the vessel;
- (viii) the issue of a license of occupation with respect to the operation of trap lines, or for any other specific purposes;
- (ix) the issue of annual permits for the grazing of stock, the cultivation of land, and the operation of fur farms;
- (b) set aside out of the available public lands transferred to the Province under the agreement of transfer, such areas as the Minister of Mines and Resources of Canada in agreement with the Minister may select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province;
- (c) set aside public lands for use as Provincial parks, forest reserves, forested areas, game reserves, bird sanctuaries, public shooting grounds, public resorts, or the development of any natural resource;
- (d) lease bird sanctuaries to any company or organization incorporated for the purpose of protecting the migratory wild fowl, on such terms and conditions as may be prescribed;
- (e) exchange any public lands for other lands in the Province, with any person or corporation if the reason for the exchange is set forth in the order;
- (f) transfer for such consideration as he may fix to persons engaged in any project of draining and reclaiming swamp lands, the lands so reclaimed or a portion thereof;
- (g) divide the Province into districts and prescribe the time when and the conditions upon which the public lands in any district or any part thereof shall be thrown open for disposition or settlement;
- (h) withhold from leasing any agricultural land situate in a remote district, or any land the soil of which is of doubtful classification;
- (i) establish a tariff of fees for all leases, licenses, permits and other dispositions and for all copies of maps, plans, field notes, documents, papers or other records or documents of the Department, and for the registration of assignments therein;
- (j) reinstate any sale, lease, license or permit that may have been cancelled or forfeited upon such terms and conditions as may be prescribed in any case

where the application for reinstatement is made within six months of the date of the cancellation or forfeiture;

- (k) authorize the Minister to enter into an agreement or agreements with the Minister of Mines and Resources or the Minister of Veterans' Affairs of Canada dealing with public lands in relation to the re-establishment and rehabilitation of members of His Majesty's forces upon such terms and conditions as the Lieutenant Governor in Council may deem proper;
- (l) authorize the Provincial Treasurer to pay any moneys which may become payable by the Province under any agreement entered into pursuant to paragraph (k) out of the General Revenue Fund without any further or other appropriation than is hereby provided;
- (m) authorize the Minister to enter into any homestead leases necessary to implement any agreement made by the Minister pursuant to section 2 of chapter 5 of the Statutes of Alberta, 1945 (Second Session), or pursuant to *The Land Clearing and Breaking Projects Act*, and for that purpose to exempt from assessment and taxation for a period of three assessment years any lands with respect to which any homestead lease has been made, and to provide that the land in each subsequent year shall be liable to assessment in the name of the homestead lessee and that the taxes shall be paid on his behalf by the Minister;
- (n) 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 the Province to any lands in the Province including road allowances, surveyed roads, road diversions, and mines and minerals;
- (o) from time to time make such regulations and orders, not inconsistent with this Act, as are necessary to carry out the provisions of this Act according to their true intent, or to carry out the agreement of transfer, or to meet cases which may arise and for which no provision is made by this Act;
- (p) where no prohibition is contained herein, authorize the doing of such acts, matters and things relating to the administration of public lands as may be deemed essential and desirable.

114. For the purpose of implementing any obligation affecting any lands vested in His Majesty in the right of the Province by virtue of the agreement of transfer which by the terms of the agreement the Province is bound to

perform the Lieutenant Governor in Council is empowered to do or cause to be done all or any acts and things and to make any disposition of the said lands for the purpose aforesaid and to the extent only that it may be necessary for effecting such purpose to depart from or vary any other provision of this Act.

115. With respect to any lands in a special area the Lieutenant Governor in Council may by order notify, reduce or alter any of the provisions of this Act which relate to the payment of rent or a share of the crop and the terms conditions and provisions of such order shall have the same force and effect as if incorporated herein.

116. With respect to any special area the Lieutenant Governor in Council may depart from or vary any provision of this Act to the extent only that it may be necessary to make disposition of the lands in that special area by lease, license, permit or other agreement.

117. Regulations made by the Lieutenant Governor in Council pursuant to this Act shall be published in *The Alberta Gazette* and thereupon they shall have the same force and effect as if they had been enacted by this Act.

POWERS AND DUTIES OF THE MINISTER.

118. The Minister from time to time may,—

- (a) withdraw any public lands from disposal under this Act for reasons which shall be set forth in the order, and he may cancel any withdrawal and declare the land available for disposition under this Act;
- (b) require any lessee of public lands to adopt such methods of farming and grazing as the Minister may deem necessary to prevent soil drifting or over-grazing;
- (c) promote approved farm cultural practices, efficient range management and such community effort and enterprise as may contribute to greater economic security of the settlers;
- (d) promote measures for the development and conservation of any and all available natural resources;
- (e) classify all public lands and utilize them for the purpose for which they are considered by him to be most adaptable.

119. The Minister annually shall lay before the Legislative Assembly, within fifteen days after the first day of the opening of the session,—

- (a) a report of the proceedings, transactions and affairs of the Department during the fiscal year next preceding;

- (b) a copy of every order made by the Lieutenant Governor in Council authorizing the sale of any land or the granting of any interest therein.

EVIDENCE.

120. Copies or photostatic copies of any records, documents, plans, books or papers belonging to or deposited in the Department, attested under the signature of the Minister, Director, or any chief clerk or officer thereunto authorized by the Minister, and of plans or documents in any Public Lands Agency, attested as aforesaid, or under the signature of the officer in charge of the office, shall be competent evidence in all cases in which the original documents, books, plans, or papers would be evidence.

121. Lithographed or other copies of maps or plans purporting to be issued or published by the Department, the Department of Public Works, or the Government of Canada, shall be received in all courts and proceedings as *prima facie* evidence of the originals, and of the contents thereof.

122. All affidavits, oaths, statutory declarations or solemn affirmations required to be taken or made under this Act, except as herein otherwise provided, may be taken before the judge or clerk of any court, or any justice of the peace, or any commissioner for oaths, or any notary public, or any agent, or any sub-agent, or any person specially authorized by this Act or by the Lieutenant Governor in Council or by the Minister, to take or receive the same.

SUMMARY PROCEEDINGS RESPECTING FORFEITURE AND TRESPASS.

123.—(1) The occupation of public lands without lease, license, permit, contract or agreement made pursuant to this Act, gives to the occupant no right thereto and the occupant may be ejected as a trespasser and any improvements made by him shall thereupon be forfeited to the Crown.

(2) The Minister may, by notice in writing, require any person who is for the time being in the occupation of any public land otherwise than pursuant to a right granted pursuant to this Act, to forthwith cease his occupation and vacate the land, and any person who does not comply with the notice forthwith upon the service thereof upon him, shall be guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and costs, and in default of payment to imprisonment for a term of not more than sixty days.

124.—(1) When any person refuses or fails to cease using, possessing or occupying any land which he is wrong-

fully 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 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.

(3) 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 on the land.

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

125. Any person remaining upon public 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.

SEIZURES.

126.—(1) Notwithstanding anything in *The Seizures Act* or any other Act to the contrary, in case any default is made in the due payment of any rent or any money payable by way of rent or on account of any dues or royalties, or on account of any purchase price, which are payable to the Crown in the right of the Province under and by virtue of any lease, license, permit, agreement of sale or other instrument made, entered into or issued pursuant to any of the provisions of this Act or *The Provincial Lands Act* or of any Act of the Parliament of Canada, then and in every such case and whether the same is demanded or not, the Crown shall have the right to levy the same by distress, upon all or any of the goods and chattels which shall then be found upon any land whatsoever which is for the time being owned by or in the occupation of or under the control of the person for the time being liable for the payment of the rent or purchase price in respect of which the distress is levied, notwithstanding that the same may be subject to any mortgage, lien or other incumbrance.

(2) For the purpose of levying any distress under this section, the Minister is hereby empowered for and on behalf of the Crown to issue a distress warrant under his hand addressed to the sheriff of the judicial district within which is situate the premises upon which the distress is to be made, directing him to levy by distress the sum mentioned therein upon the goods and chattels found upon the premises specified therein and upon receipt of any such warrant, the sheriff shall execute it by the seizure, and unless he is sooner paid, by the sale of the goods and chattels seized, and every seizure and sale shall be subject to the provisions of *The Seizures Act*.

(3) The forfeiture, cancellation or surrender of a lease, license, permit, agreement of sale or other instrument shall not debar or nullify any proceedings taken under this section, whether before or after the occurrence of the forfeiture, seizure or cancellation and all proceedings taken shall be continued as if the lease, license, permit, agreement of sale or other instrument were in force and effect.

127.—(1) When any property is seized under section 126 the person making the seizure shall without delay make a report in writing to the Minister and shall hold the property under seizure until such time as he has received from the Minister directions as to the further dispositions thereof.

(2) The Minister upon the receipt of any such report and upon being satisfied thereby that the property is liable to confiscation to His Majesty, may by writing declare that the property is confiscated, and thereupon the property shall become the property of His Majesty and all rights of property existing therein immediately before the making of the order shall cease and determine.

(3) The Minister may cause the property to be sold in such manner and subject to such terms and conditions as he may prescribe or he shall order the return of the property to the person in whose possession it was at the time of seizure.

128.—(1) In case default is made in the due payment of any share of the crop payable to the Crown in the right of the Province under a lease entered into pursuant to this Act or *The Provincial Lands Act*, the Minister or any person appointed by him in writing, may levy the same with costs by distress, as a landlord may recover rent in arrears, upon any grain wherever found within the Province belonging to the lessee.

(2) The onus of proof that any grain found upon land leased by the lessee is not the property of the lessee shall lie upon the lessee.

(3) The Minister or any person appointed by him in writing may have any grain seized by him pursuant to the provisions of subsection (1) hauled to the nearest ele-

vator or to any other convenient and suitable place of storage and may dispose of the grain at the current market price.

(4) *The Seizures Act* shall not apply to any seizure made under this section.

MISCELLANEOUS.

129.—(1) In the case of any crop or share of crop grown on land leased from the Crown pursuant to this Act or any other Act of the Province under a lease which provides for payment of rental on a crop share basis, any person appointed in writing by the Minister may examine or inspect any storage ticket, book of account or other document or record relating to the possession, delivery, transportation, storage or other disposition of such crop, share of crop or portion thereof.

(2) Any person so appointed may, for the purpose of making such examination or inspection, enter during the hours of daylight the lands and premises of the lessee or of any elevator company or of any storage or transportation company or of any other person, firm or corporation where, in the opinion of the person so appointed, any such storage ticket, book of account or other document or record relating to such crop, share of crop or portion thereof may be found.

130. All leases, licenses and agreements issued or made pursuant to the provisions of this Act may be executed on behalf of the Crown by the Minister or by the Deputy Minister, or by any other officer of the Department authorized for the purpose by the Minister in writing.

131. Notwithstanding anything contained in any lease, license, permit, instrument, document, or other agreement, whether made under the provisions of this Act, *The Provincial Lands Act*, or *The Dominion Lands Act* and the regulations made under the said Acts, such lease, license, permit, instrument, document or other agreement and any renewal or reissue of such lease, license, permit, instrument, document or other agreement shall be in every respect subject to the provisions of this Act and the regulations made under the authority of this Act.

132.—(1) The sale or lease of land, unless the sale or lease has been forfeited, revoked or cancelled, shall entitle the person to whom it was issued and any person lawfully claiming by, through or under him, to take, occupy and use the land and to hold possession of it to the exclusion of any other person, and to bring and maintain actions for trespass committed on the land.

(2) The land shall not be liable to be taken in execution before the issue of a notification to the purchaser or lessee.

(3) The occupancy, use and possession of the land shall be subject to the conditions of the sale or lease, and to the provisions of this Act and of any other Act or regulation affecting it.

133.—(1) If upon any disposition of public lands the payment of any money payable as the consideration therefor is deferred to a date subsequent to the making of the disposition, then subject to any express agreement to the contrary, it shall bear interest at the rate of four per cent per annum.

(2) If any money payable under any sale, lease, license or permit is not paid within one month from the date on which it became due, it shall bear interest at the rate of five per cent per annum from the due date.

134.—(1) Where the interest of any person in any public lands is liable to assessment and taxation in any city, town, village, municipal district, improvement district, school district, school division, irrigation district and drainage district, the land shall not be subject to the provisions of any Statute relating to the recovery of taxes.

(2) If upon the termination of any such interest, there is in the hands of the Minister any money over and above the amount of money owing in respect thereof, the Minister may apply the same in payment of any taxes due and owing in respect of the terminated interest.

135. Whenever any expenditure is incurred by the Department in preventing or extinguishing fire on any land, the owner of the land on demand shall pay to the Minister such amount as the Minister may fix as the amount of the expenditures chargeable in respect of the land.

136. In the event of a notification issuing to or in the name of a person who is dead, the notification shall not be therefore void, but the title to the land thereby granted or intended to be granted shall vest in the heirs, assigns, devisees or other legal representatives of the deceased person according to the laws in force in the Province, as if a notification had issued to or in the name of the deceased person during his lifetime.

137. If a notification has issued to, or in the name of, a wrong person or contains any clerical error, misnomer, or wrong or defective description of the land thereby intended to be granted, or if there is in it an omission of the conditions of the grant or certificate, the Minister may, there being no adverse claim, direct the defective notification to be cancelled and a correct notification to be issued instead, which correct notification shall relate back to the date of the notification cancelled and have the same force and effect as if issued at the date of the cancelled notification.

138. In all cases in which, through error, grants or notifications have issued for the same land, inconsistent with each other, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Minister may order a new grant to the person thereby deprived, of land to a value equal to that of the original grant at the time of the grant; or he may, in case of sale, lease or license cause a refund to be made of any money paid on account of the sale, lease or license with interest at the rate of five per cent per annum; or when the land has passed from the original holder, or has been improved before the discovery of the error, or when the original grant was a free grant, he may grant to the original holder such land as to him seems just and equitable under the circumstances; but no claim under this section shall be entertained unless it is preferred within one year after the discovery of the error.

139. Whenever any notification, lease or other instrument respecting land has been issued through fraud, or improvidence, or in error, any court of competent jurisdiction may, in any appropriate proceeding in that court, decree, order or adjudge the notification, lease or other instrument to be void; and upon the filing of the decree, order or adjudication in the Department, the notification, lease or other instrument shall be void; and if the notification, lease, or other instrument has been registered in the Land Titles Office for the district in which the land described in the notification, lease, or other instrument is situate, and if the notification, lease, or other instrument has been adjudged void at the suit of the Minister, he shall cause a copy of the decree, order or adjudication, certified to be a copy as provided by section 120, to be recorded forthwith in the proper Land Titles Office.

140. Whenever, through error in survey or in the books or plans of a Public Lands Agency, any grant of land is found deficient, the Minister may order a free grant, equal in value at the time the land was granted or sold, to the ascertained deficiency; or he may order the purchase money of so much land as is deficient, with interest thereon at the rate of five per cent per annum, from the time of purchase thereof, to be paid back to the purchaser; but no claim respecting any such deficiency shall be entertained unless it is made within six years from the date of the letters patent, or notification, and unless the deficiency is equal to one-tenth of the whole quantity described therein as being contained in the lot or parcel of land granted.

141. For the purposes of this Act, any lease, contract, agreement or other instrument made pursuant to any of the provisions of this Act whereby any person enters into any obligation with the Crown shall, in the case of a body corporate, be deemed to be sufficiently executed if sealed

with the corporate seal of the body corporate and countersigned by one officer of the corporation, notwithstanding anything contained in any Statute, or charter of incorporation, or memorandum of association, or articles of association to the contrary.

142. Any lessee, permittee or purchaser of land from the Crown who sells any of the timber from the land without having previously obtained permission so to do from the Minister is guilty of an offence and liable upon summary conviction, to a penalty not exceeding one hundred dollars, and the timber so sold shall be liable to seizure and confiscation to His Majesty, as provided by section 127.

143. Notwithstanding the terms or provisions of any lease, license or permit now subsisting made by the Province or by the Dominion of Canada or which may be granted pursuant to the terms of this Act, the demand or acceptance of rent in respect of any lease, license or permit shall not be deemed a waiver of the right of the Minister to enforce the observance of any covenant, condition or regulation made whilst the demised premises are held, or the right to forfeit the lease for breach of any covenant, condition or regulation committed before the making of the demand or the acceptance of the rent.

144. No lessee, licensee, permittee or purchaser of land shall, without the consent of the Minister in writing, do any act or thing calculated or likely to be to the detriment of the surface of the land unless expressly authorized so to do by the terms of the sale, lease, license or permit.

145.—(1) All covenants and conditions contained in or imposed by any agreement, lease, license or permit granted to any minor of the age of eighteen years or upwards shall be as binding upon the minor as if he were of full age.

(2) Any minor who has acquired from the Crown in the right of the Province, any agreement of sale, lease, license, permit or any other form of agreement relating to or affecting lands under the provisions of this Act or the regulations made thereunder, shall not assign, transfer, sublet or part with the possession of any such agreement of sale, lease, license, permit or other form of agreement, unless and until the minor has attained the full age of twenty-one years and upon attaining such age, the minor shall forthwith ratify and confirm such agreement of sale, lease, license, permit or other form of agreement entered into by the minor and the Crown in the right of the Province, and failure so to do within a reasonable time after reaching his majority shall render the sale, lease, license, permit or other form of agreement subject to summary cancellation in the discretion of the Minister.

146. Whenever the singular or masculine or neuter is used in any agreement of sale, lease, license, permit or any other form of agreement relating to or affecting any land granted under the provisions of this Act or the regulations thereunder, the same shall be construed as meaning the plural or feminine or a body politic or corporate where the context or the parties thereto so require.

147. In the absence of the Deputy Minister or the Director, all the powers, duties, rights and capacities which are by this Act vested in or conferred or imposed upon him shall be vested in, conferred and imposed upon any other person appointed or authorized by the Minister to carry on such powers, duties, rights and capacities as if such person had been named herein.

148. If, before or at the time of a public sale of public lands, any person by intimidation, combination or unfair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands offered for sale, the offender and his or their aiders and abettors shall, for every such offence, be guilty of an offence, and liable on summary conviction to a penalty not exceeding four hundred dollars, and in default of payment, to imprisonment for a term not exceeding two years.

149.—(1) Any person who,—

- (a) hinders, obstructs or impedes any agent or official in the performance of his duty; or
- (b) without lawful authority destroys, defaces or removes any notice posted under this Act;

shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for not more than thirty days.

(2) 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.

150. *The Provincial Lands Act*, being chapter 62 of the Revised Statutes of Alberta, 1942, is hereby repealed.

151. This Act shall come into force on the first day of April, 1949.

SCHEDULE

FORM A.

DEPARTMENT OF LANDS AND FORESTS.

NOTIFICATION FOR ISSUE OF CERTIFICATE OF TITLE.

The Registrar,
Land Titles Office,
....., Alberta.

The undernamed is entitled to the issue of Certificate of
Title in.....favour of the following land:

Description

Name

Address

Occupation

Form of patent

Nature of grant

No.....

Remarks

Dateday of.....19

Requisition No.....

Countersigned by

.....
Director of Lands......
*Deputy Minister of Lands
and Forests.*

No. 112

FIRST SESSION
ELEVENTH LEGISLATURE
13 GEORGE VI
1949

BILL
An Act respecting Public Lands.

Received and read the

First time

Second time.....

Third time.....

HON. MR. TANNER.
