

No. 113

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BILL 113

A Bill to amend The Public Lands Act

HON. MR. WILLMORE

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Explanatory Note

2. New. Nothing in The Public Lands Act applies to the disposition of mines and minerals.

3. Section 10 presently reads:

"10. (1) Upon any person becoming entitled to receive a certificate of title to any public lands, a notification in Form A in the Schedule 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 for the district in which the land is situated, and no certificate shall be issued by the Registrar until he has received such a notification.

"(2) Before the 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 certificate, and the Director shall forward the fee paid to the Registrar for the district in which the land is situated."

The new subsection is intended to make it clear that the Crown can issue a notification in favour of itself.

4. Subsection (1) of section 23 presently reads:

"23. (1) A lessee of a homestead not exceeding one-quarter section shall break and crop the following areas in each year of the term:

	Break	Seed to crop
First year	10 acres	nil acres
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 year thereafter		80 acres."

BILL

No. 113 of 1957

An Act to amend The Public Lands Act

(Assented to _____, 1957)

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

1. *The Public Lands Act*, being chapter 259 of the Revised Statutes of Alberta, 1955, is hereby amended.

2. The following new section is added immediately after section 3:

“3a. Nothing in this Act applies to or affects the disposition by agreement, sale, lease, licence, permit or in any other manner of any mines and minerals under *The Mines and Minerals Act* or under any other Act, regulation or order of the Lieutenant Governor in Council, respecting the disposition in any manner of such mines and minerals.”.

3. Section 10 is amended by adding immediately after subsection (2) the following new subsection:

“(3) Notwithstanding anything in this Act, a notification may be issued by the Minister in favour of the Crown with respect to any public lands.”.

4. Section 23 is amended by striking out subsection (1) and by substituting the following:

“23. (1) A lessee of a homestead not exceeding one-quarter section shall break and seed to crop not less than the following areas in each year of the term:

	Break	Seed to crop
First year	10 acres	nil acres
Second year	10 acres	10 acres
Third year	10 acres	20 acres
Fourth year	10 acres	30 acres
Fifth year		40 acres
Sixth year		40 acres
Seventh year	10 acres	40 acres
Eighth year	10 acres	50 acres
Ninth year		60 acres
Each year thereafter		60 acres.”.

5. Subsection (1) of section 28 presently reads:

"28. (1) Except as hereinafter provided, the provisions of this Act as to cancellation of a homestead lease for non-performance of work, non-residence or non-payment of rent do not apply

"(a) during the lessee's last illness leading up to his death,

"(b) after the lessee's death, or

"(c) after the lessee has been adjudged mentally diseased, or during such period prior to his having been adjudged mentally diseased as he is shown to have been mentally diseased, if in either case it appears to the Minister that the neglect or omission on account or by reason of which the homestead lease would otherwise have been cancelled was attributable to his mental disease."

The amendment is intended to clarify the meaning.

6. Subsection (1) of section 57 presently reads:

"57. (1) Application for a grazing 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 eighteen years."

The filing of a declaration of intention is no longer required under the Citizenship Act. The subsection is amended to remove this reference.

7. Section 58 presently reads as follows:

"58. (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)."

8. Section 72 as amended by chapter 43 of the Statutes of Alberta, 1956, reads as follows:

"72. (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,

"(b) the lessee has been in possession of the lands continuously for three years prior to the date of the assignment, either by virtue of the lease or of both the lease and any other disposition to him by the Minister, and

"(c) the assignment is made to a person eligible to acquire a lease under this Act.

"(2a) Where the requirements of clause (b) of subsection (2) have otherwise been met and the lease has, within three years prior to the date of the assignment, been amended by the addition of lands not exceeding in area one-third of the lands demised by the lease, the Minister may waive such requirements with respect to the additional lands.

"(3) Notwithstanding subsection (2), 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, or

"(c) the lessee is a mentally incompetent person and the assignment is made by his committee.

"(4) If the Minister consents to an assignment all the provisions and conditions of this Act extend to and are binding upon the assignee as well as the lessee, and any breach by the assignee has 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."

5. Section 28, subsection (1) is amended by adding immediately after the words "do not apply" the words "where the non-performance of work, non-residence or non-payment of rent occurred".

6. Section 57 is amended by striking out subsection (1) and by substituting the following:

"57. (1) An application for a lease may be made by any person of the full age of eighteen years who

"(a) is a British subject or a Canadian citizen, or

"(b) is an alien resident in the Province and who furnishes evidence satisfactory to the Minister of the date of his landing in Canada for permanent residence."

7. Section 58 is struck out and the following is substituted:

"58. When an alien who has been granted a grazing lease does not acquire Canadian citizenship within six years of the date on which he landed in Canada for permanent residence the Minister in his discretion may cancel the grazing lease."

8. Section 72 is amended

(a) as to subsection (2)

(i) by striking out the word "and" where it occurs at the end of clause (b),

(ii) by adding immediately at the end of clause (c) the word "and",

(iii) by adding immediately after clause (c) the following clause:

"(d) the Minister considers the registration of the assignment to be in the public interest.",

(b) by adding immediately after subsection (5) the following subsections:

"(6) For the purpose of determining whether an assignment is in the public interest, the Minister may require the assignor and the assignee to furnish such information as the Minister may deem necessary.

9. Self-explanatory.

10. This new Part empowers the Minister to dispose of public lands as homesteads in a manner similar to an agreement for sale. The requirements and conditions of sale are in many respects similar to those for homestead leases. It differs from homestead leases in that a purchase price is paid instead of rent and no residence is necessary. The cultivation duties are the same.

163. Defines terms used in this Part.

“(7) Where any person who furnishes information pursuant to subsection (6) misrepresents or fails to disclose any fact and the consent of the Minister to the assignment is afterward obtained, the Minister may cancel the lease where he considers that the fact misrepresented or not disclosed, as the case may be, was material to him in his decision at the time he gave such consent.”.

9. The following new section is added immediately after section 79:

“79a. (1) The Minister may require a company that holds a grazing lease to file a statement certified by an officer or director of the company showing the names, addresses and number of shares held by each of the shareholders at the time the grazing lease is issued or at any time during its term.

“(2) Where a company holds a grazing lease and by the transfer of shares or by the allotment of new shares, or both, the majority of the shares of the company are held by persons other than those persons who held the majority of the shares at the time the grazing lease was issued, the Minister may cancel the grazing lease if he considers it in the public interest to do so.”.

10. The following new Part is added immediately after section 162a:

“PART V

“HOMESTEAD SALES

“163. In this Part,

“(a) “cultivation duties” means the requirements as to breaking and seeding to crop referred to in section 171;

“(b) “first year” means

“(i) the year in which the homestead sale is executed, where the homestead sale is executed on or before the thirtieth day of June in any year, or

“(ii) the next succeeding year after the homestead sale is executed, where the homestead sale is executed on or after the first day of July in any year,

and years subsequent to the first year are numbered correspondingly;

“(c) “homestead sale” means an agreement for the sale of public lands made pursuant to this Part;

“(d) “purchaser” means a purchaser under a homestead sale.

164. Relates to date of sale.

165. Minister authorized to sell.

166. Eligibility.

"164. Where a homestead sale is executed by the Minister and the purchaser, the date on which the homestead sale purports to be executed shall be deemed to be conclusive of its date of execution for the purposes of this Part.

"General

"165. (1) The Minister may dispose of public lands by way of homestead sales.

"(2) A homestead sale

"(a) subject to clause (c), shall contain adjoining agricultural lands not exceeding three quarter-sections,

"(b) shall not include lands that form part of the school land endowment or that have been classified by the Minister as unavailable for settlement, and

"(c) shall not contain adjoining agricultural lands exceeding a half-section where the half-section contains at least two hundred and forty acres of land suitable for cultivation.

"Eligibility

"166. (1) Subject to subsections (2) to (4), every person is eligible to be a purchaser who

"(a) is a veteran or a person resident in the Province continuously for two years immediately prior to making his application for a homestead sale,

"(b) is eighteen years of age or over, and

"(c) is a British subject, a Canadian citizen, or declares in his application his intention of becoming a Canadian citizen.

"(2) No person is eligible to be a purchaser

"(a) who is a purchaser under an existing homestead sale, or

"(b) who is the spouse of a purchaser, and the combined area of the land contained in the homestead sale and the land applied for exceeds three quarter-sections, or one half-section, where the combined area contains not less than two hundred and forty acres of land suitable for cultivation.

"(3) No person is eligible to be a purchaser where such person or the spouse of such person

"(a) is the beneficial registered owner in fee simple of a farm either solely or jointly with any other person,

"(b) is in possession of or in control of a farm through or under the registered owner in fee simple thereof, or

"(c) holds a farm as a lessee or purchaser under an agreement for sale from the Crown,

and the combined area of the land applied for and the lands so owned, possessed, controlled, or held under lease or agreement for sale exceeds three quarter-sections, or one half-section, where the combined areas contain not less than two hundred and forty acres of land suitable for cultivation.

167. Time, place and priority of applications.

168. A fee of \$25.00 a quarter-section must accompany an application. The fee is refunded if the application is rejected or when the purchase is completed.

“(4) A person who has otherwise met the requirements of subsections (2) and (3) is not eligible to be a purchaser where any of the lands applied for are distant from the other lands referred to in subsections (2) and (3) by more than five miles measured in a direct line exclusive of statutory road allowances.

“Applications for homestead sales

“**167.** (1) An application to purchase shall be made in person during regular office hours at

“(a) the Public Lands Agency,

“(b) the office of a sub-agent for the district in which the land is situate, or

“(c) such other place as may be authorized by the Minister.

“(2) The Director shall consider all applications in the order they are received at the Public Lands Agency.

“(3) Where an application is made at a sub-agency or such other place as the Minister may authorize, the application has no effect until it is received at the Public Lands Agency.

“(4) Notwithstanding subsection (3), where an application is made at a sub-agency or such other place as the Minister may authorize the sub-agent may at the expense of the applicant inform the Director of the application and the Director may at the expense of the applicant acknowledge the application by a reply.

“(5) Where subsection (4) applies, the application shall be deemed to have been received at the Public Lands Agency at the time of the receipt of the information from the sub-agent.

“**168.** (1) Every application to purchase shall be accompanied by a fee of twenty-five dollars for each quarter-section or fractional quarter-section of land for which application is made.

“(2) The fee shall be refunded

“(a) to the applicant where the Director rejects his application, or

“(b) to the purchaser upon approval of an application for the issue of a notification in his favour with respect to the land contained in his homestead sale.

“(3) Notwithstanding clause (b) of subsection (2), where a purchaser has otherwise completed the requirements of the homestead sale, he may elect that the fee be applied to the last instalment of the purchase price.

“(4) Where the homestead sale is cancelled pursuant to any provision of this Part, the fee is forfeited to the Crown in the right of the Province.

169. Self-explanatory.

170. Purchase price.

171. Cultivation duties.

"169. The Director may

- "(a) defer his approval of an application until an investigation has been made of the land for which application is made to determine its suitability for settlement, and
- "(b) reject any application at any time before a homestead sale is executed.

"Purchase price and cultivation duties

"170. (1) The purchase price of the land to be contained in a homestead sale shall be determined by the Minister, having regard to the valuation of the land by an officer of the Department who has inspected it.

"(2) The purchase price is payable by the purchaser in equal consecutive annual instalments commencing with

- "(a) the fourth year, where less than twenty-five acres of land are under cultivation,
- "(b) the third year, where not more than fifty and not less than twenty-five acres of land are under cultivation, or
- "(c) the second year, where not less than fifty acres of land are under cultivation,

at the time the homestead sale is executed.

"(3) The purchase price shall, in the discretion of the Minister, be divided into instalments of not more than nineteen in number.

"(4) Every instalment of purchase price is due and payable on the first day of January in the year in which it is due.

"(5) Interest on the purchase price does not begin to accrue until the first instalment is due.

"(6) Any moneys paid by a purchaser under a homestead sale shall be applied to the payment of any interest that is owing, before any such moneys are applied toward payment of the purchase price.

"(7) Any or all of the instalments of purchase price may be paid before they are due.

"171. (1) A purchaser under a homestead sale of land not exceeding one quarter-section shall break and seed to crop not less than the following areas in each year:

	Break	Seed to crop
First year	10 acres	nil acres
Second year	10 acres	10 acres
Third year	10 acres	20 acres
Fourth year	10 acres	30 acres
Fifth year		40 acres
Sixth year		40 acres
Seventh year	10 acres	40 acres
Eighth year	10 acres	50 acres
Ninth year		60 acres
Each year thereafter		60 acres

172. Self-explanatory.

173. Tax exemption.

174. A homestead sale may be cancelled and a new agreement may be made for the same, part of the same, or the same and adjoining land.

- “(2) For the purposes of subsection (1),
- “(a) any land under cultivation at the time the homestead sale is executed shall be deemed to be land broken by the purchaser, and
- “(b) summerfallow or land seeded to tame hay or grass shall, where authorized by the Director, be deemed to be land seeded to crop.
- “(3) Where a homestead sale contains land exceeding one quarter-section, the acreage to be broken and seeded to crop shall bear the same proportion to the total acreage as the acreages set out in subsection (1) bear to one quarter-section.

“**172.** A purchaser shall with respect to the land contained in his homestead sale

- “(a) use only first class seed that is free and clear of all noxious weeds,
- “(b) cut, keep down and destroy all noxious weeds, and
- “(c) farm in a proper and husbandlike manner.

“**Exemption from taxation**

“**173.** No land contained in a homestead sale is liable to assessment and no purchaser is liable to taxation under *The Assessment Act, The County Act, The Improvement Districts Act, The Municipal District Act, The Municipal Hospitals Act or The School Act*, until

- “(a) the fourth year, where less than twenty-five acres of land are under cultivation,
- “(b) the third year, where not more than fifty and not less than twenty-five acres of land are under cultivation,
- “(c) the second year, where not more than one hundred and not less than fifty acres of land are under cultivation, or
- “(d) the first year, where not less than one hundred acres of land are under cultivation,
- at the time the homestead sale is executed.

“**Substitutional homestead sales**

“**174.** (1) Subject to subsection (2), the Minister may, upon the application of a purchaser, cancel a homestead sale and enter into a new homestead sale of

- “(a) the same land,
- “(b) part of the same land,
- “(c) the same land and additional land adjoining thereto, or
- “(d) part of the same land and additional land adjoining the part retained.

“(2) No application shall be accepted under subsection (1) where

175. Application for a substituted homestead sale to be made in same manner as on an original application.

176. Where a substitutional homestead sale is entered into, the purchaser may be credited with all or part of the moneys paid under the old homestead sale depending on how much of the old homestead is retained.

177. Relates to interest due under old homestead sale.

- “(a) the purchaser would be ineligible under section 166, except clause (a) of subsection (2), to enter into a homestead sale on an initial application to purchase the land intended to be contained in the new homestead sale,
- “(b) the purchaser has not repaid in full any moneys loaned to him under a loan made pursuant to *The Homestead Lease Loan Act*, or
- “(c) the purchaser is indebted in respect of financial assistance received by him under the *Veterans’ Land Act* (Canada), unless The Director, The *Veterans’ Land Act*, consents thereto.

“**175.** Every application by a purchaser to enter into a new homestead sale pursuant to section 174 shall be accompanied by the fee referred to in section 168 with respect to land that is to be contained in the new homestead sale, as if it accompanied an initial application to purchase.

“**176.** (1) Where the new homestead sale is to contain the same land as the cancelled homestead sale, or the same land and additional land adjoining thereto, any moneys paid on account of the purchase price under the cancelled homestead sale shall be credited towards the payment of the purchase price under the new homestead sale.

“(2) Where a new homestead sale is to contain part of the land described in the cancelled homestead sale, or part of the same land and additional land adjoining the part retained,

- “(a) there shall be credited toward the payment of the purchase price under the new homestead sale the proportion of the moneys paid on account of the purchase price under the cancelled homestead sale that equals the proportion that the value of the land contained in the cancelled homestead sale and included in the new homestead sale bears to the value of the whole of the land contained in the cancelled homestead sale, and
- “(b) the balance of the moneys not so credited is forfeited to the Crown in the right of the Province.

“**177.** (1) Where the new homestead sale is to contain the same land as the cancelled homestead sale, or the same land and additional land adjoining thereto, any moneys due as interest under the cancelled homestead sale shall be added to the purchase price under the new homestead sale.

“(2) Where the new homestead sale is to contain part of the land described in the cancelled homestead sale, or part of the same land and additional land adjoining the part retained, that portion of any moneys due as interest under the cancelled homestead sale shall be added to the purchase price under the new homestead sale in the same proportion that moneys paid on account of the purchase price are credited pursuant to subsection (2) of section 176.

178. Upon execution of new sale balance due under old sale is extinguished.

179. Self-explanatory.

180. A homestead sale may be substituted for a homestead lease.

“(3) Any moneys paid on account of interest under the cancelled homestead sale are forfeited to the Crown in the right of the Province.

“**178.** Upon the execution of the new homestead sale, the debt of the purchaser under the cancelled homestead sale in respect of arrears of instalments, the unpaid balance of the purchase price and the portion of interest due and not added to the purchase price pursuant to subsection (2) of section 177, is extinguished.

“**179.** Where a new homestead sale is executed pursuant to section 174 the purchaser is in the same position with respect to

“(a) the commencement of payment of instalments under subsection (2) of section 170, and

“(b) exemption from payment of taxes under section 173,

as he would be if the date of execution of the new homestead sale were the same as the first day of January of the first year of the cancelled homestead sale.

“Homestead sales in substitution for homestead leases

“**180.** (1) Subject to subsection (2), the Minister may, upon the application of a homestead lessee, cancel the homestead lease and enter into a homestead sale of

“(a) the same land,

“(b) part of the same land,

“(c) the same land and additional land adjoining thereto, or

“(d) part of the same land and additional land adjoining the part retained.

“(2) No application shall be accepted under subsection (1),

“(a) where the homestead lessee is in default of compliance with any of the provisions of this Act that relate to homestead leases other than sections 20 to 23,

“(b) where the homestead lessee would not be eligible within section 166 to be a purchaser of the land intended to be purchased under the new homestead sale,

“(c) where the land contained in the homestead lease is land within a land clearing and breaking project,

“(d) where the homestead lessee has not repaid in full any moneys loaned to him under a loan made pursuant to *The Homestead Lease Loan Act*, or

“(e) without the consent of The Director, *The Veterans' Land Act* where the homestead lessee is indebted in respect of financial assistance received by him under *The Veterans' Land Act (Canada)*.

181. Determination of purchase price where a sale is substituted for a lease.

182. Cultivation duties performed under a lease will be credited to the purchaser on a substituted homestead sale.

183. Rent paid under a cancelled lease may be credited to a substituted sale in the same manner as where one sale is substituted for another.

184. Relates to obligations of purchaser.

“(3) Every application made pursuant to subsection (1) shall be accompanied by the fee referred to in section 168 for the land to be contained in the homestead sale, and such fee shall be dealt with in the same manner as if it accompanied an initial application.

“**181.** Notwithstanding subsection (1) of section 170, for the purposes of determining the purchase price under a homestead sale the Minister shall, with respect to any land that is contained in the cancelled homestead lease and included in the homestead sale, have regard to the valuation of such land as nearly as it may be ascertained at the time the homestead lease was issued.

“**182.** With respect to any land contained in the cancelled homestead lease and included in the homestead sale, the purchaser shall be credited with the performance of the cultivation duties done during the term of the cancelled homestead lease to the year that such duties would be deemed to have been completed under section 171.

“**183.** (1) In this section “rent” means crop share rent paid under a homestead lease less any amounts paid by the Minister to a municipality or a school district pursuant to *The Crown Cultivation Leases Act* with respect to the land so leased.

“(2) Where the homestead sale is to contain the same land described in the cancelled homestead lease, or the same land and additional land adjoining thereto, any moneys paid as rent under the cancelled homestead lease shall be credited toward the payment of the purchase price under the homestead sale.

“(3) Where the homestead sale is to contain part of the land contained in the cancelled homestead lease, or part of the same land and additional land adjoining the part retained,

“(a) there shall be credited toward the payment of the purchase price under the homestead sale the proportion of the moneys paid as rent under the cancelled homestead lease that equals the proportion that the area of land cultivated under the cancelled homestead lease and included in the homestead sale bears to the whole of the area of the land cultivated under the cancelled homestead lease, and

“(b) the balance of the moneys not so credited is forfeited to the Crown in the right of the Province.

“(4) Notwithstanding subsection (2) or (3), the purchaser is not entitled to a refund of any moneys paid by him as rent where at the time the homestead lease is cancelled the amount credited pursuant to subsection (2) or (3) exceeds the purchase price less any amounts that may be credited pursuant to section 168 or 197.

“**184.** (1) Where a homestead sale is executed in substitution for a homestead lease, the purchaser is in the same position with respect to

185. Conditions on which the Minister may cancel a home-
stead sale.

- “(a) the commencement of payments of instalments under subsection (2) of section 170, and
- “(b) exemption from payment of taxes under section 173,

as he would be if the date of execution of the homestead sale were the same as the date of the commencement of the term of the cancelled homestead lease.

“(2) Where a homestead lessee makes an application under section 180 during the fourth year or any subsequent year of the term of the homestead lease, the Minister shall determine whether the first instalment under the homestead sale shall be paid on or before the date of execution of the homestead sale or on the first day of January in the next succeeding year.

“Cancellation

“**185.** Subject to section 186, the Minister may cancel a homestead sale where the purchaser

- “(a) has not performed, or misrepresents the performance of, his cultivation duties,
- “(b) defaults in the payment of the purchase price or interest,
- “(c) fails to comply with any provision of this Act,
- “(d) is more than two years in arrears in the payment of taxes levied under any of the Acts referred to in section 173,
- “(e) acquired his interest under the homestead sale by using an assumed name or by error, personation, misrepresentation or fraud,
- “(f) made any misrepresentation of fact in his application for purchase,
- “(g) neglects or refuses to pay for any improvements that were inadvertently not paid for at the time the homestead sale was executed,
- “(h) purports to transfer, assign, mortgage, encumber, charge or otherwise dispose of his interest under the homestead sale prior to the issue of a notification with respect to the land described therein, without the consent of the Minister,
- “(i) sells or otherwise disposes of improvements created or chattels purchased with financial assistance obtained under the *Veterans' Land Act* (Canada),
- “(j) fails to comply with the terms and conditions of his contract for a loan under *The Homestead Lease Loan Act*, or
- “(k) does not personally occupy and operate the land contained in the homestead sale or permits or agrees to permit any person other than his employee to use, occupy or operate any part of the land.

186. 30 days' notice of intended cancellation must be given by Minister and purchaser may submit objections.

187. Sale may be cancelled on request of purchaser.

188. Relates to terms of settlement on the cancellation of a sale.

189. Powers of Minister to cancel a homestead sale restricted when purchaser is fatally ill, dead, or mentally diseased.

“186. (1) The Minister shall not cancel a homestead sale under section 185 until at least thirty days after he has given the purchaser, by mail, and at his last known address a notice

“(a) stating the intention of the Minister to cancel the homestead sale and the reason therefor, and

“(b) requiring the purchaser to submit his objections, if any, to cancellation within thirty days of the giving of such notice to him.

“(2) Where a purchaser submits his objections to cancellation, the Minister shall consider such objections and if he finds them insufficient, may cancel the homestead sale.

“(3) Where a purchaser does not submit objections within thirty days of the giving to him of the notice referred to in subsection (1), the Minister may cancel the homestead sale.

“187. The Minister may cancel a homestead sale at the request in writing of a purchaser.

“188. Where a homestead sale is cancelled pursuant to section 185 or 187

“(a) the Minister may pay or refuse to pay to the purchaser any moneys as compensation for improvements made by the purchaser with respect to the lands,

“(b) all moneys paid as purchase price or interest are forfeited to the Crown in the right of the Province, and

“(c) the debt of the purchaser for the unpaid balance of the purchase price and interest is extinguished.

“Homestead sales of incapacitated and deceased persons

“189. (1) Except as hereinafter provided, the Minister shall not cancel a homestead sale where the default by a purchaser in the performance of his cultivation duties or in the payment of the purchase price or interest occurred

“(a) during the purchaser’s last illness leading up to his death,

“(b) after the purchaser’s death, or

“(c) after the purchaser has been adjudged mentally diseased, or during such period prior to his having been so adjudged as he is shown to have been mentally diseased, if in either case it appears to the Minister that the neglect or omission by reason of which the homestead sale might otherwise have been cancelled was attributable to his mental disease.

“(2) The Minister may limit the time during which subsection (1) applies and may from time to time and as he considers necessary extend such period of time.

190. Self-explanatory.

191. Minister may postpone the performance of obligations of a mentally or physically incapacitated purchaser.

192. Where a purchaser is unable, through no fault of his own, to perform his obligations under a homestead sale, the Minister in his discretion may sell the land to the purchaser upon such other terms as he considers just.

193. Assignability of homestead sale.

“(3) No time limit or extensions thereof shall be made beyond three years from the date of death of a purchaser or the date of the appointment of his personal representative, whichever is sooner.

“(4) Where the Minister sets a time limit pursuant to subsection (2) or allows an extension thereof, he shall serve a notice to that effect by mail upon

“(a) the personal representative, in the case of a deceased purchaser,

“(b) a member of the next-of-kin of a deceased purchaser, where no personal representative has been appointed, or

“(c) the administrator of the estate, in the case of a mentally diseased purchaser.

“(5) Upon the expiration of the time limit referred to in subsection (2) or any extensions thereof, subsection (1) no longer applies to the homestead sale.

“**190.** Notwithstanding clause (a) of section 193, the Minister may consent to an assignment of a homestead sale made earlier than in the fifth year where the assignment is made by the personal representative of a deceased purchaser or the administrator of the estate of a mentally diseased purchaser.

“**191.** The Minister, upon being satisfied that the physical or mental condition of the purchaser is or was such as to incapacitate him, may postpone

“(a) the payment of any instalment or instalments of purchase price or of interest payable under a homestead sale, or

“(b) the performance of all or part of his cultivation duties during any period in which the purchaser is or was so incapacitated and for such further period as the Minister considers just.

“**192.** Where the Minister considers that favourable consideration should be given to a purchaser who has faithfully and to the best of his ability endeavoured to perform his cultivation duties and to make payment of his instalments of the purchase price but from some unpreventable cause or physical incapacity has failed in doing so, the Minister may sell the lands contained in a homestead sale to the purchaser upon such terms and conditions as the Minister may prescribe.

“Assignments of Homestead sales

“**193.** A purchaser may, with the consent of the Minister, assign his interest under a homestead sale, but the Minister shall not consent to an assignment

“(a) that is executed earlier than in the fifth year,

“(b) unless the assignee is a person of twenty-one years of age or more,

“(c) subject to clause (b), unless the assignee is a person who would be eligible to become a purchaser upon his own application therefor,

194. Purchaser who has assigned a homestead sale may not reapply within two years of assignment.

195. Prerequisites for application for title.

196. Contents of application.

- “(d) where the purchaser is indebted in respect of financial assistance received by him under the *Veterans' Land Act* (Canada), or
- “(e) where the purchaser has not repaid in full any moneys owing by him under a loan made pursuant to *The Homestead Lease Loan Act*.

“**194.** A purchaser who has assigned his interest under a homestead sale is not eligible to apply for or acquire another homestead sale until the expiration of two years from the date on which the Minister consented to the assignment.

“Application for Title

“**195.** (1) Every purchaser is entitled to be issued a notification in his favour with respect to the land contained in his homestead sale where

- “(a) the purchaser makes an application therefor and the information contained in the application is, in the opinion of the Minister, sufficient and satisfactory,
- “(b) he has paid the purchase price in full,
- “(c) he has performed his cultivation duties for not less than five years,
- “(d) he is not in default of compliance with any of the provisions of this Act other than section 171,
- “(e) he has repaid in full any moneys loaned to him under a loan made pursuant to *The Homestead Lease Loan Act*,
- “(f) The Director, *The Veterans' Land Act* consents thereto, in the case of a purchaser who is indebted in respect of financial assistance received by him under the *Veterans' Land Act* (Canada),
- “(g) he is a Canadian citizen or a British subject at the time the application for notification is made, and
- “(h) no fraudulent misrepresentation of fact is made with respect to the information required in the application for notification.

“(2) Where a purchaser is deceased or mentally diseased and the application for notification is made by the personal representative or the administrator, as the case may be, of his estate it shall not be necessary to prove that the purchaser was or is a Canadian citizen or British subject.

“**196.** (1) Every application by a purchaser for the issue of a notification shall

- “(a) contain such information as the Minister may require, and
- “(b) be supported by the affidavit of the purchaser verifying the information given in the application.

197. Credit may be given on purchase price where habitable house valued at at least \$1,000 has been erected on homestead.

198. Self-explanatory.

199. No permanent improvements to be built within one rod of statutory road allowance.

200. Use of homestead.

201. Certain conditions relating to leases generally apply to homestead sales.

“(2) Where the Minister so requires, the application shall be supported by affidavits of two persons residing in the vicinity of the land contained in the homestead sale verifying the information given by the purchaser in his application.

“**197.** (1) Notwithstanding section 195, a purchaser may be issued a notification in his favour where

“(a) he has complied with all the requirements of section 195 except as to the payment of an unpaid balance of purchase price of four hundred dollars or less, and

“(b) there is, at the time of filing his application, on a permanent foundation on the land contained in the homestead sale, a habitable house of a value of at least one thousand dollars,

and the Minister may, upon approving the application, credit the purchaser with the payment of the unpaid balance of purchase price and refund to him the excess of four hundred dollars over the sum of such unpaid balance.

“(2) Where subsection (1) would otherwise apply but the purchase price has been paid in full, the Minister may, in his discretion, refund to the purchaser the sum of four hundred dollars, upon approving the application for notification.

“Miscellaneous

“**198.** A purchaser may occupy the lands contained in a homestead sale on and after the date of its execution.

“**199.** A purchaser shall not build or make any improvements of a permanent nature, other than fencing or cultivation, on any part of the land contained in a homestead sale that lies within one rod of a statutory road allowance.

“**200.** No purchaser shall use the land contained in a homestead sale other than as a farm and a place of residence, except with the consent of the Minister and then only on such terms and conditions as the Minister may prescribe.

“**201.** Sections 85, 86, 87a, 89, 90, subsection (1) of section 91 and sections 92 to 99, 101 to 103, 105, 107 and 108 apply *mutatis mutandis* to homestead sales and purchasers.”.

11. This Act comes into force on the day upon which the Revised Statutes of Alberta, 1955, come into force.

No. 113

THIRD SESSION
THIRTEENTH LEGISLATURE
5 ELIZABETH II
1957

BILL

An Act to amend The Public Lands
Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. WILLMORE
