

No. 56

5th Session, 13th Legislature, Alberta
7 Elizabeth II, 1959

BILL 56

A Bill to amend The Public Lands Act

HON. MR. WILLMORE

Explanatory Note

2. (3) Subsection (3) of section 52 presently reads:

"(3) The portion of the rent referred to in clause (a) of subsection (1) need not be paid in any year in which the average yield of the variety of crop grown is a failure and, for the 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 that 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, but
- (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) This provision deals with the case where one variety of crop only is sown and is a failure, and the case where all varieties sown are failures.

(5) This provision deals with the case where one or more varieties of many varieties sown is or are a failure.

(6) Present section 52(4) enacted effective April 14, 1958, revised. Subsection (4) presently reads:

"(4) A holder of a lease issued before the coming into force of this section may elect to continue paying rent in accordance with the lease or may agree with the Minister to vary the lease to provide for payment of rent in accordance with this section."

3. This provision is similar to present section 56(3) but will be made subject to new section 56a, for which see next following clause. Section 56(3) presently reads:

"(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."

BILL

No. 56 of 1959

An Act to amend The Public Lands Act

(Assented to _____, 1959)

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, is hereby amended.

2. Section 52 is amended by striking out subsections (3) and (4) and by substituting the following:

(3) For the purposes of subsections (4) and (5), the Minister shall determine in each crop year the average number of bushels per acre for each variety of crop that 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 of that crop, but any crop of wheat, oats, barley or rye with an average yield of five or more bushels per acre shall be deemed not to be a failure of that crop.

(4) Where one or more varieties of crop are grown on lands contained in a cultivation lease, the portion of the rent referred to in clause (a) of subsection (1) need not be paid in any year in which there is a failure of crop in the variety or varieties grown thereon.

(5) Where more than one variety of crop is grown on lands contained in a cultivation lease, the portion of the rent referred to in clause (a) of subsection (1) shall be reduced in the proportion that the number of acres sown to a variety of crop that is a crop failure bears to the total number of acres sown to crop.

(6) A holder of a cultivation lease issued before the fourteenth day of April, 1958, may elect to continue paying rent in accordance with his lease or may, by agreement in writing with the Minister, vary the lease to provide for the payment of rent in accordance with this section.

3. Section 56 is amended by striking out subsections (2) to (4) and by substituting the following:

(2) Subject to section 56a, the Minister may include in a grazing lease an area of lands greater than that required to graze six hundred head of cattle where in his opinion the inclusion of such additional lands would not be detrimental to the interests of other farmers or ranchers residing in the vicinity thereof.

4. 56a(1) Section 56(2) and (4) revised. In order to calculate how many acres may be withdrawn from the area of grazing land so held, the Minister may take into account other lands held under other grazing leases as well as lands forming part of the area. Subsections (2) and (4) presently read:

"(2) No person or company shall acquire under a 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.

.....

(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."

(2) (3) Subsections (2) and (3) are new.

5. Self-explanatory.

4. The following new section is added immediately after section 56:

56a. (1) The Minister may, by giving one year's notice to a grazing lessee of his intention to do so, by order, withdraw from

- (a) a grazing lease issued to or validly assigned to the lessee prior to the first day of May, 1959, such lands as are necessary to reduce the area of land held by the lessee under that lease and any other lands referred to in subsection (2) to an area sufficient to graze one thousand head of cattle in accordance with its carrying capacity, or
- (b) a grazing lease issued to or validly assigned to the lessee on or after the first day of May, 1959, such lands as are necessary to reduce the area of land held by the lessee under that lease and any other lands referred to in subsection (2) to an area sufficient to graze six hundred head of cattle in accordance with its carrying capacity.

(2) For the purpose of determining under subsection (1) the area of land greater than that which is sufficient to graze one thousand or six hundred head of cattle, as the case may be, the Minister may include

- (a) any area of land held by the lessee under a grazing lease other than that from which the withdrawal is to be made,
- (b) any area of land held by the lessee under a grazing lease within a special area,
- (c) where the lessee holds jointly with any other person land under a grazing lease, including land within a special area, an area that bears the same proportion to the total area of land held under the lease that the lessee bears to the total number of joint lessees including himself, and
- (d) where the lessee is a shareholder in a company that holds land under a grazing lease, including land within a special area, an area that bears the same proportion to the total area of land held by the company under grazing lease, that the number of shares held by the lessee in that company bears to the total number of existing shares in the company.

(3) The carrying capacity of any lands referred to in subsection (1) or (2) shall be determined by an inspector of the Department.

5. Section 72 is amended by adding immediately after subsection (3) the following:

(4) Where the Minister refuses his consent to an assignment of a grazing lease he may

- (a) cancel the lease, or
- (b) withdraw any lands from the lease,

upon giving the lessee one year's notice in writing to that effect.

6. Section 72a(1) rewritten to make it clear that the provision is intended to have a retroactive effect. Subsection (1) presently reads:

"72a. (1) Where the holder of a grazing lease dies and the personal representative of his estate does not, within two years of the date of death of the lessee, obtain the consent of the Minister to an assignment of the grazing lease, the Minister may give notice to the personal representative to submit to him an assignment of the grazing lease within the time specified in the notice."

7. (a) Section 79a, subsection (2) presently reads:

"(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."

(b) Under the proposed provision a transfer of control of a company with a grazing lease will be treated as an assignment of the lease.

8. The revised provision relates to two added matters: rent payable otherwise than by crop share, and reversion of land to a natural state. Section 87 presently reads:

"87. The Minister, in his discretion, may exempt a lessee from the payment of a crop share for a period not exceeding three crop years following the date of the granting of the lease if the demised lands are infested with noxious weeds."

9. Section 104(1) with the added circumstance set out in (b). Section 104(1) presently reads:

"104. (1) If the Minister is satisfied that any land leased pursuant to this Act, other than land comprised in a homestead lease, contains sand or gravel in commercial quantities, he may withdraw the land from the lease to which it is subject on giving the lessee thirty days' notice in writing."

(5) Where a grazing lessee to whom a notice has been given pursuant to subsection (4) makes an assignment of his lease to a person other than the person named as the assignee in the assignment to which the Minister refused his consent, and the Minister consents to the subsequent assignment, the notice given pursuant to subsection (4) shall be deemed to be withdrawn.

6. Section 72*a* is amended by striking out subsection (1) and by substituting the following:

72*a*. (1) Where the holder of a grazing lease dies or has died and the personal representative of his estate does not obtain or has not obtained, within two years of the date of death of the lessee, the consent of the Minister to an assignment of the grazing lease, the Minister may give notice to the personal representative to submit to him an assignment of the grazing lease within the time specified in the notice.

7. Section 79*a* is amended

(a) as to subsection (2) by adding immediately after the word "issued" the words "or acquired by way of assignment",

(b) by adding immediately after subsection (2) the following:

(3) Where a company holds a grazing lease and by the transfer of shares or by the allotment of new shares, or both, the major part of its shares at any time become vested in persons other than those persons who held the major part of its shares prior to such transfer or allotment, the Minister may require the company to pay a sum equivalent to the assignment fee that it would be required to pay under the regulations if the grazing lease had been assigned by it to another person.

8. Section 87 is struck out and the following is substituted:

87. The Minister may exempt a lessee from the payment of any portion of his rent for a period not exceeding three crop years following the date of issue of the lease in any case where the lands contained in the lease are infested with noxious weeds or have partly reverted to their natural state.

9. Section 104 is amended by striking out subsection (1) and by substituting the following:

104. (1) The Minister may, upon giving a lessee one month's notice in writing, withdraw any land contained in a lease other than a homestead lease, where

(a) the Minister is satisfied that the land to be withdrawn contains sand and gravel in commercial quantities, or

(b) the land to be withdrawn is intended to be subdivided or made the subject of a disposition to a person requiring it for an industrial or commercial purpose.

10. Self-explanatory.

11. Self-explanatory.

12. The new subsection (1) is for the purpose of clarifying the ownership of livestock found on vacant Crown land. Subsection (1a) is a revision of the present subsection (1). Subsection (3a) is self-explanatory. Section 136, subsections (1) and (2) presently read:

“136. (1) Any person appointed for the purpose by the Minister may round up, seize and detain any livestock found grazing on public lands if the lands are not for the time being leased for grazing purposes.

(2) Immediately upon the seizing of any livestock the person making the seizure shall send to the owner by mail at his last known post office address, a notice in writing setting out

- (a) the date of seizure,
- (b) the description of the livestock seized,
- (c) the description of the place at which the livestock is kept, and
- (d) the amount of rental payable for the use of the public lands upon which the livestock was found grazing.”.

10. The following new section is added immediately after section 129:

129a. (1) Subject to this section, where any person loses or has lost his right to possession of public lands due to the expiration, surrender or cancellation of the disposition made to him or to the withdrawal of lands from his disposition, he may, within one month of the date of such expiration, surrender, cancellation or withdrawal, remove from such lands any chattels belonging to him.

(2) The Director may by notice to such person extend the time under subsection (1) within which that person may remove his chattels from the land.

(3) Any such chattels remaining on such lands after the said period of one month or after any extended period prescribed by the notice of the Director, as the case may be, are thereupon forfeited to the Crown in right of the Province.

(4) Where at the time any disposition is cancelled or expires, the person to whom the disposition was made is indebted to the Crown in right of Alberta or to the Minister, any movable building or structure on the land contained in the disposition shall be deemed to be confiscated to the Crown in right of Alberta, and the Minister may

- (a) sell such building or structure in satisfaction of the indebtedness, and refund to the person to whom the disposition was made the amount, if any, by which the proceeds and expenses of the sale exceed the indebtedness, or
- (b) permit any person to remove such building or structure from the land.

11. Section 134 is amended by adding immediately after subsection (9) the following:

(10) Where any person sows any public lands to crop without the authority of a disposition in his favour to do so, the Minister or any person authorized by him to do so may seize any grain or crop harvested from the lands wherever the grain or crop is found, and it shall be disposed of in any manner the Minister may direct.

12. Section 136 is amended

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

136. (1) All livestock, including any calf, colt or sheep less than six months old, found on public lands that are not the subject of a disposition, become the property of the Crown in right of the Province, unless a person is able to establish his title to the livestock.

(1a) Any person appointed for the purpose by the Minister may round up, seize and detain any livestock, including any calf, colt or sheep less than six months old, that are found on any public lands that are not the subject of a disposition.

13. Section 162a which serves no useful purpose is repealed. It reads:

- “162a. Except with the consent in writing of the Minister,
(a) no public lands shall be mortgaged, encumbered, charged with the payment of money or made subject to any lien, and
(b) no instrument shall be registered in any land titles office that purports to mortgage, encumber or charge public lands with the payment of money or make public lands subject to any lien.”.

14. Commencement.

(b) by striking out subsection (3a) and by substituting the following:

(3a) Notwithstanding subsections (1a) and (2), where seizure is made of horses over six months of age and not bearing any visible brand, mark or vent, the Minister may cause such horses and any colts running with them to be sold by public auction at any time.

13. Section 162a is repealed.

14. This Act comes into force on the day upon which it is assented to.

No. 56

FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

BILL

An Act to amend The Public Lands
Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. WILLMORE
