

No. 42

5th Session, 14th Legislature, Alberta
11 Elizabeth II

BILL 42

A Bill to amend The Public Lands Act

HON. MR. WILLMORE

Explanatory Note

2. Section 18 is revised to clarify crop share payments under homestead leases. The proposed revised section will require crop share payments for the term of the lease. Section 18 presently reads:

"18. On lands that are under cultivation at the time of the granting of the lease, the lessee shall for a period of ten years pay one quarter share of whole crop or crops of every kind and description grown or harvested upon the lands under cultivation at the date of the commencement of the term of the homestead lease."

3. See note to clause 2 of this Bill. Subsections (1) and (2) of section 19 presently read:

"19. (1) In any year during the first ten years in which the acreage required to be seeded to crop pursuant to section 23 does not exceed the acreage that was under cultivation at the time of the granting of the lease, there is no rent payable under section 17.

(2) In any year during the first ten years in which the acreage required to be seeded to crop pursuant to section 23 does exceed the acreage that was under cultivation at the time of the granting of the lease, the rent payable under section 17 is payable only in respect of the number of acres by which the acreage required to be seeded under section 23 is in excess of the acreage that was under cultivation at the time of the commencement of the lease."

4. Subsection (8) of section 20 is amended in respect of an alternative method of satisfying homestead lease residence requirements. Subsection (8) of section 20 presently reads:

"(8) Residence by a lessee upon a farm of an area of at least eighty acres situated within a distance of five miles from the lands comprised in the homestead in a direct line exclusive of road allowances crossed in the measurement, and occupied by the lessee as owner, purchaser under an agreement of sale, or lessee from the Crown, may, in the discretion of the Minister, be accepted as residence if the farm was acquired by the lessee after the issue of his homestead lease."

5. Subsection (3) of section 40 is revised to clarify the adjustment in the purchase price of a homestead lease that is subject to a crop share payment under section 18. Subsection (3) of section 40 presently reads:

"(3) In the case of lands that were under cultivation at the time of the commencement of the lease, a lessee who pays the purchase price prescribed in subsection (2) before the expiration of the period of ten years referred to in section 18, shall also pay, on account of the cultivated land and in lieu of one-quarter crop share payable under section 18, such amount as may be fixed by the Minister."

6. The deposit for grazing leases is increased from ten dollars to twenty-five dollars. The disposition of the deposit is clarified. Subsections (1) and (2) of section 59 presently read:

"59. (1) Application for a grazing lease shall be made on the form prescribed by the Minister and forwarded to the Director and accompanied by a deposit of ten dollars.

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

7. The proposed new section 87c is presently subsection (1) of section 134 of the Act. See note to clause 12 of this Bill.

BILL

No. 42 of 1963

An Act to amend The Public Lands Act

(Assented to _____, 1963)

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 18 is struck out and the following section is substituted:

18. During the term of a homestead lease, the lessee shall pay a one-quarter share of any crop grown or harvested on any lands contained in the lease that were under cultivation when the lease was granted.

3. Section 19 is amended as to subsections (1) and (2) by striking out the words "first ten years" and by substituting the words "term of the lease".

4. Section 20, subsection (8) is amended by striking out the words "if the farm was acquired by the lessee after the issue of his homestead lease".

5. Section 40 is amended by striking out subsection (3) and by substituting the following:

(3) In addition to any purchase price prescribed by this section, a homestead lessee whose lease contained cultivated lands when it was granted shall pay any additional amount that the Minister prescribes in lieu of the payment prescribed in section 18.

6. Section 59 is amended

- (a) as to subsection (1) by striking out the word "ten" and by substituting the words "twenty-five",
- (b) as to subsection (2) by adding immediately after the word "applicant" the words "for fee and rental".

7. The following new section is added immediately after section 87b:

8. Subsection (1) of section 117a is revised to allow the Minister to pay arrears for water service charges. Section 117a presently reads:

"117a. (1) Where an agreement for the sale of public lands under this Part is cancelled or the purchaser quit claims his interest under the agreement to the Minister and the purchaser at that time owes taxes in respect of that land, the Minister may pay the taxes owing to the city, town, new town, village, municipal district, county or to the Minister of Municipal Affairs in respect of an improvement district, as the case may be, but no such payment shall exceed half the amount collected by the Minister as principal under the agreement for sale.

(2) Subsection (1) does not apply to the cancellation of an agreement for sale of

- (a) lands situated in a land clearing and breaking project that was obtained in substitution for a homestead lease of the same lands, or
- (b) tax recovery lands administered by the Department".

9. Section 119 is amended to provide for public access on public lands that have not been disposed of under an agreement for sale, homestead lease or any other agreement leading to a title to the lands.

10. This proposed section provides authority to deal with crops unlawfully planted on public lands.

11. Subsections (1) and (2) of section 133 are revised to clarify the procedure for seizing clay, marl, sand or gravel unlawfully removed from public lands. Section 133 presently reads:

"133. (1) When any officer receives satisfactory information supported by affidavit or statutory declaration that any sand or gravel has been removed without authority from public lands, including the beds of rivers, or whenever any officer from other sources of information or from personal knowledge is aware that any sand or gravel has been removed without authority from such lands, he may seize or cause to be seized wherever found the sand or gravel so reported or known to be removed, together with any automobile, truck, tools and equipment used in the removal or transportation of the sand or gravel.

(2) The person making the seizure shall immediately report in writing to the Minister and shall retain the sand or gravel or thing seized until he has received directions from the Minister as to the future disposition thereof.

(3) Upon receipt of the report the Minister may

- (a) by writing declare the sand, gravel or other thing seized to be confiscated to the Crown, and cause the sand, gravel or other thing so confiscated to be sold in the manner and subject to such terms and conditions as he may prescribe, or
- (b) order the return of the sand, gravel or other thing seized to the person possessed of it at the time of seizure.

(4) Where the Minister makes a declaration of confiscation pursuant to subsection (3), the property in the sand, gravel or thing seized vests in the Crown and all rights of property existing therein immediately before the making of the declaration cease and determine."

87c. The title in and to all crops of every nature and description grown and produced on any public land is and remains in Her Majesty the Queen in right of Alberta, until the crops are divided and Her Majesty's share delivered to Her as set out in any lease, licence or permit entered into by Her Majesty pursuant to this Act or *The Provincial Lands Act*.

8. Section 117a is amended by striking out subsection (1) and by substituting the following:

117a. (1) When an agreement for the sale of lands made under this Act or the regulations is cancelled, or the purchaser surrenders his interest to the Minister, and the purchaser is in arrears for taxes on the land or for water service charges under *The Irrigation Districts Act*, the Minister may apply not more than one-half the amount paid by the purchaser as principal under the agreement in payment of the arrears.

9. Section 119 is amended by adding the following clause after clause (u)

- (v) provide for public access to recreation areas, lakes, rivers and streams on any public lands subject to a disposition granted under the Act that does not lead to a notification for title.

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

129b. Where a person without authority seeds a crop on public lands, the Minister may

- (a) authorize an officer to seize the crop either before or after it is harvested, and
- (b) order the crop to be disposed of as he decides.

11. Section 133 is struck out and the following section is substituted:

133. (1) Where an officer believes on reasonable grounds that any clay, marl, sand or gravel, has been removed unlawfully from public lands, he may seize the clay, marl, sand or gravel, and any vehicle, tools or equipment used to remove or transport the clay, marl, sand or gravel.

(2) Any officer making a seizure under this section shall make a written report to the Minister and shall retain any thing seized until the Minister instructs him how to dispose of it.

(3) When the Minister receives a report of a seizure he may

- (a) order whatever is seized to be confiscated to the Crown in right of the Province and may dispose of it in any way he considers proper, or

12. Section 134 is revised to clarify the seizure of crops grown on public lands for default in payment under agreements under the Act. Seizure procedure is also modified. Subsection (1) of section 134 is contained in clause 7 of this Bill.

13. Section 185 is amended to provide the Minister with power to cancel a homestead sale applied for after December 1, 1962, where a purchaser does not personally use the land as a homestead and defeats the purpose of a homestead sale.

14. Section 195 is amended for the same reason as section 185. See note to clause 13 of this Bill

- (b) order whatever is seized to be returned to the person from whom it was seized.

12. Section 134 is struck out and the following section is substituted:

134. (1) The Minister may by an order in writing authorize any officer to seize any grain owned by any lessee who defaults in payment of

- (a) rent payable under a cultivation lease,
- (b) any crop share payable under any lease granted under this Act or *The Provincial Lands Act*, or
- (c) any indebtedness owing for a loan made under *The Homestead Lease Loan Act*.

(2) When any grain is seized pursuant to this section, the officer making the seizure shall deliver a notice in Form B to the lessee by

- (a) giving it to him personally,
- (b) posting it in a prominent place on the land described in the lease, or
- (c) mailing it to his last known address.

(3) Any costs or expenses incurred by the officer in making a seizure under this section shall be deemed to be part of the unpaid rent, crop share or loan payment for which the seizure was made.

(4) When an officer seizes grain under this section, he may

- (a) have the grain carried to any convenient place of storage, or
- (b) sell the grain at a price as near as possible to the current market price.

(5) No officer while discharging his duties under this section, or any officer assisting him, is liable for trespass on privately owned land.

13. Section 185 is amended

- (a) by striking out the word "or" at the end of clause (j) and by adding the word "or" at the end of clause (k),
- (b) by adding the following new clause immediately after clause (k):
 - (l) in respect of a homestead sale applied for after the first day of December, 1962, he has been, in the opinion of the Minister, primarily occupied as a farmer for at least one year immediately before the date of his application for the notification.

14. Section 195, subsection (1) is amended

15. Commencement of Act.

- (a) by striking out the word "and" at the end of clause (g) and by adding the word "and" at the end of clause (h),
- (b) by adding the following new clause immediately after clause (h):
 - (i) in respect of a homestead sale applied for after the first day of December, 1962, he has been, in the opinion of the Minister, primarily occupied as a farmer for at least one year immediately before the date of his application for the notification.

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

No. 42

FIFTH SESSION

FOURTEENTH LEGISLATURE

11 ELIZABETH II

1963

BILL

An Act to amend The Public Lands
Act

Received and read the

First time

Second time

Third time

HON. MR. WILLMORE
