

BILL

No. 8 of 1939.

An Act to Amend and Consolidate The Provincial Lands Act.

(Assented to _____, 1939.)

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 Provincial Lands Act, 1939.*"

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" or "Officer" means any person or officer employed in connection with the administration, management, sale or settlement of Provincial lands; "Local agent" means the agent so employed with respect to the 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 "Provincial Lands Office" means the office in and for such district.
 - (c) "Agreement of Transfer" means the agreement made the fourteenth day of December, 1929, between the Government of the Dominion of Canada, represented therein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, of the First Part, and the Government of the Province of Alberta, represented therein by the Honourable John E. Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture, of the Second Part, on the subject of the transfer of the Natural Resources of Alberta.
 - (d) "Agricultural lands" means an area of land where at least one-half of the acreage is suitable for cultivation.
 - (e) "Certificate of Title" and "Certificate" means the certificate granted pursuant to *The Land Titles Act*.

- (f) "Director of Lands" means the officer of the Department of Lands and Mines who bears that designation, or any officer appointed to perform the Director's duties for the time being.
- (g) "Disposition" means every instrument executed pursuant to the provisions of this Act whereby any estate, right or interest in any Provincial 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, notifications, assurances, leases, licenses, permits, contracts and agreements made, entered into or issued pursuant to this Act.
- (h) "Department" means the Department of Lands and Mines.
- (i) "Dues" means all ground rents, royalties, duties, 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.
- (j) "Lands" extends to and 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, mines and minerals (precious and base), and all trees and timbers thereon.
- (k) "Mines and minerals" means all mines and minerals (both precious and base) whatsoever and without derogating from the generality of the foregoing includes gold, platinum, silver, pitchblende and other minerals from which radium is or may be obtained, precious stones, copper, iron, tin, zinc, asbestos, salt, petroleum, oil, asphalt, tar sands, natural gas, coal, limestone, granite, slate, marble, sandstone, and any other stone which is or may be quarried for any industrial purpose, gypsum, clay, marl, gravel, sand and volcanic ash.
- (l) "Mining Recorder" shall mean the local agent of Provincial lands for a district, or such other officer appointed by the Government for the particular position referred to.
- (m) "Minister" means the Minister of Lands and Mines.
- (n) "Notification" means the direction in Form A to the Registrar of Land Titles for the issue of a Certificate of Title.
- (o) "Provincial lands" means and includes all real property of whatsoever nature or kind to which this Act applies.

- (p) "Registrar" means a Registrar of Land Titles within the meaning of *The Land Titles Act*.
- (q) "Timber" means trees standing, fallen, or cut, and round, flatted, squared timber or sawn products thereof.
- (r) "Timber agent" means the local Agent of Provincial Lands for a district, or such other officer appointed by the Government to perform such duties as are assigned to him in respect to the timber on Provincial Lands.
- (s) "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 Provincial lands, within the meaning of this Act, or of *The Alberta Surveys Act*.

APPLICATION OF ACT.

3. This Act applies generally to the lands vested in the Crown in the right of the Province by virtue of the agreement of transfer and such other lands as may be vested in the Crown in the right of the Province or any lands vested in the Minister of Municipal Affairs by reason of any statute for the recovery of taxes which shall from time to time be declared by the Lieutenant Governor in Council to be Provincial lands and subject to the provisions of this Act, and where the context so permits or requires, to all land in the Province.

4. The Minister shall annually lay before the Legislative Assembly, within fifteen days after the first day of meeting thereof, a report of the proceedings, transactions and affairs of the Department of Lands and Mines during the fiscal year next preceding.

RESERVATIONS.

5. There shall be implied in every disposition of Provincial lands pursuant to this Act any and all reservations which are required to be made by this Act upon the disposition of any Provincial lands.

6. There is hereby reserved to the Crown out of every disposition of Provincial lands under this Act the property in and the right to and to use all water powers and lands upon or within which there is water power or required for the protection of any water power or for the purpose of any undertaking for the use and development thereof.

7. There is hereby reserved to the Crown out of every disposition of Provincial lands under this Act the property in and the right to and to use all the water at any time in

any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh, or other body of water, or contained or flowing therein, and also any exclusive or perpetual property, interest or privilege in the land forming the bed or shore thereof;

Provided that nothing herein contained 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 such lake, river, stream or body of water, for fur farming or for the protection of migratory birds.

8.—(1) Where Provincial lands bordering on a lake, river, stream, or any body of water shall be disposed of by the Crown, in the absence of an expressed provision in the disposition to the contrary, the bed or shore of such lake, river, stream, or body of water shall not pass to the person otherwise acquiring such Provincial 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 of Alberta 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 expressed provision in the grant to the contrary, that the bed or shore of such lake, river, stream or body of water has not passed to the person acquiring such grant.

(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 in accordance with the rules of the English Common Law, 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, previous to the 23rd day of July, 1894, constructed or caused to be constructed any dam, water power or powers, or other works under the *bona fide* belief that he had the legal right to do so, provided that he may be required to develop the said power or powers to the fullest possible extent, and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Board of Public Utility Commissioners; and the Lieutenant Governor in Council may direct that a license granting such right be issued to such 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 such water power or powers, and the regulations of the price to be charged for power derived from them.

9.—(1) There is hereby reserved to the Crown out of every disposition of Provincial lands under this or any other Act of this Legislature the right to construct any colonization or other road, or any road in lieu of or partly

deviating from an allowance for road, drain or drainage works without making compensation therefor, 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.

(2) The rights mentioned in the preceding subsection 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.

10. There is hereby reserved to the Crown out of every disposition of Provincial lands under this Act all mines and minerals (precious and base), together 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 said minerals, and such mines and minerals together with the right to enter, locate, prospect and mine such minerals shall be disposed of only in such manner and on such terms and conditions as are hereinafter provided.

11. There is hereby reserved to the Crown out of every disposition of Provincial lands under this Act all rights of fishery and fishing and occupation in connection therewith, upon, around and adjacent to the said lands.

12. The reservations contained in the preceding sections shall not affect the right of the Crown to dispose of minerals, under the provisions of this Act, in, upon and under the lands forming the bed or shore of the said waters, or in aqueous solution of mineral salts occurring in a natural state, and containing more than one per cent. of mineral salts in solution.

DISPOSAL OF LANDS.

13. No provincial land which has not been surveyed under the provisions of either The Alberta Surveys Act or The Dominion Surveys Act shall be disposed of save and except only by way of lease for the purpose of the grazing of stock and then only on the condition that the lessee shall within the first three years of his term cause to be surveyed any land comprised in his lease which is unsurveyed.

14. Notwithstanding the provisions of any other Act, 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.

15. Any land which is declared to be agricultural land and which has not been withdrawn from disposition by the Lieutenant Governor in Council may be disposed of by lease subject to the other provisions of this Act.

16. In every lease granted pursuant to section 15 (hereinafter referred to as an agricultural lease) in addition to the covenants, agreements and stipulations set out therein, there shall be implied the following covenants, conditions, stipulations and agreements on the part of the lessee, namely:

- (a) that the lessee will within the period of six months next after the date of the lease, in his own proper person, enter into possession of and commence to reside upon the leased land;
- (b) that he will during the term of the lease remain in the actual occupation of the leased land and reside on some part thereof for at least eight months in every calendar year;
- (c) that he will within five years after the date of the lease erect upon some part of the leased land a habitable dwelling house of a value of at least five hundred dollars;
- (d) that he will break, cultivate and summer fallow in each year;
- (e) that in case the lessee is an alien at the time of the granting of the lease he will within six years of the date of the lease become a British subject;
- (f) that until the expiration of the second year of the term of the lease he will not assign or sublet the premises or any part thereof to any other person whatsoever;
- (g) that after the expiration of the second year of the term of the lease he will not assign or sublet the leased premises or any part thereof to any person whatsoever without the consent in writing of the Minister first had and obtained;
- (h) that he will duly pay the rent reserved by the lease upon the days appointed thereby for the payment thereof;
- (i) that he will pay all taxes payable in respect of the leased premises to the municipal district or improvement district and to the school district as and when the same become due and payable.
- (j) that upon the expiration or sooner determination of the term of the lease he will forthwith deliver up to the Minister or his agent on demand quiet vacant and peaceable possession of the demised premises.

17.—(1) The rent payable under any agricultural lease shall be such amount as may be fixed by the Minister upon the granting thereof.

(2) The lease shall be in such form and shall contain such covenants, agreements and stipulations as may be prescribed by the Minister.

(3) The Minister may, with the approval of the Lieutenant Governor in Council, include in any agricultural

lease an agreement for the purchase of the land that may be exercised by the lessee after the lease has been in force for at least ten years and in good standing. The sale price shall be determined by the Minister when granting the lease, and in no case shall the purchase price be less than one dollar an acre.

Provided also that all trees suitable for the manufacture of timber products shall be reserved, together with the right to use and occupy so much of the land as may be needed when cutting such trees.

18. Every person (male or female) who is not the owner of a farm and has attained the age of eighteen years, and who is a British Subject or declares intention to become a British Subject, and who makes application in the manner hereinafter provided, shall be eligible to lease an area of available adjoining agricultural lands, not exceeding one-half section:

Provided that a husband and wife shall not hold jointly a greater area of land than the maximum area which may be granted to any one person under this Act;

Provided also that any person who, at the time of making application for an agricultural lease is in possession of agricultural lands other than by title in fee simple or contract to purchase, shall within six months from the obtaining of a lease divest himself of all interest in any other agricultural lands.

19. The term of the lease shall be twenty years renewable for a further term of twenty years provided the lessee furnishes evidence satisfactory to the Minister to show that during the term of the lease he has complied fully with the conditions of such lease, and subject to renewal for additional periods of twenty years on such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

20. A lease shall be for the sole use and benefit of the applicant and the violation of this provision shall render the lease liable to cancellation by the Minister.

21.—(1) Application for a lease shall be made at the Provincial Lands Office for the district in which the land is situate between such hours as are, from time to time, fixed by the Lieutenant Governor in Council. A fee of five dollars shall be payable with the application and the Agent, or officer acting for him, shall deal with applications in the order in which they are received.

(2) When application is made for land available for disposition, the Agent, or officer acting for him, shall accept it upon payment of the fee, and the land shall be placed under reservation until its suitability for the purposes of agriculture, has been determined by investigation.

(3) Application may be made to a sub-agent in a district in which the land is situate but this application shall have no force or effect until it is received by the local agent, or the officer acting for him;

Provided that, at the request and expense of the applicant, the sub-agent shall by telegraph advise the local agent, or the officer acting for him, of the receipt of his application; and on receiving the advice the local agent, or the officer acting for him shall, if the applicant has provided for its being done at his expense, acknowledge the advice by telegraph, and shall hold for the applicant the land applied for during a period of time sufficient to admit of the receiving of the application, and the application, if received within that period, shall be regarded as received at the time of the receipt of the advice by the local agent:

(4) Every application for a lease shall be made by the applicant in person, unless otherwise provided by regulations made by the Lieutenant Governor in Council.

22. A person applying for a lease shall declare what improvements, if any, there are upon the lands, with respect to which his application is made.

23. The Minister shall settle in such manner as he deems best all disputes which arise between persons claiming the right to lease the same land.

24. The local agent or the officer acting for him shall furnish over his signature to any person who applies therefor and pays him a fee of fifty cents, an abstract from his records showing whether the land mentioned or referred to in an application is available for leasing or not; if the land is not available, the name of the lessee and the date on which he obtained a lease shall be shown on the abstract.

25. A lessee shall furnish proof by declaration or otherwise at such time or times and in such form as may be required by the Minister that he has performed and observed all the covenants, conditions and agreements which ought to be by him performed and observed under his lease.

CANCELLATION OF LEASE.

26. If a lease is obtained through error, misrepresentation or fraud, the Minister may cancel the lease.

27. If a lessee fails in any year to fulfil the requirements of this Act in respect to an agricultural lease, the Minister may cancel the lease and all rights of the lessee shall thereupon cease and determine; where improvements have been made on any Provincial lands by a person whose lease for such land has been cancelled for any reason, the Minister may, in his discretion, pay to the person who made

the improvements, or to any dependent or dependents of such person adjudged by the Minister to be entitled thereto, the moneys collected on account of such improvements, or so much thereof as he may in his discretion consider proper.

28. Where a lessee furnishes satisfactory reasons to the Minister for his failure to perform the requirements of his lease, the Minister may, in lieu of forfeiture, exact a penalty in such sum or sums as, in the opinion of the Minister, the case may warrant.

29. If the Minister is satisfied that a lease has been obtained through personation he shall cancel the lease.

30. In the case of a lease cancelled for misrepresentation or fraud, no compensation shall be made to the lessee on account of any improvements which may have been made by him.

31. A lessee may, with the permission of the Minister, relinquish his lease or, after the completion of two years' duties, he may assign his interest in the lease to a person eligible to obtain an agricultural lease and such assignee will require to fulfil the conditions set forth in this Act.

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

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

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

(4) The Minister may from time to time, as the necessity of the case may, in his opinion, demand, extend the period of such exemption, provided that in the case of deceased persons the period during which such exemption shall apply shall not extend beyond three years from the date of the death of the deceased.

(5) The legal representative of the deceased or mentally diseased person shall only be required to fulfil the conditions of Section 16 of this Act as to payment of the annual rent and cultivation of the land.

(6) Any person receiving from the administrator or other legal representative of a deceased or mentally diseased person an assignment of a lease 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 owner thereof, shall record such assignment within two months from the date thereof, and after the assignment has been recorded the lease shall again become subject to all the provisions of this Act. If the assignment is not so recorded the provisions exempting such lease shall cease to apply and the lease shall, at the expiration of the said two months, become absolutely forfeited.

(7) No assignment shall be recorded unless made to a person eligible under this Act to acquire an agricultural lease.

33.—(1) If at any time the Minister is satisfied that the lessee under an agricultural lease has made default in paying the rent reserved thereby upon the days appointed for the payment thereof or in performing or observing any of the covenants, conditions, stipulations or agreements of the lease whether express or implied, and notwithstanding the waiver of any previous breach, the Minister may by order cancel the lease and thereupon the lease and the term thereby created shall cease and determine, and the lease 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.

(2) Where the lessee under an agricultural lease which has been cancelled has during the term of his lease made any improvements upon the land leased thereby, and the Minister upon making a subsequent agricultural lease of the said land has been paid any money on account of the value of such improvements, the Minister may in his discretion pay the money so received or so much thereof as he thinks proper to the lessee first mentioned herein or to his dependents or any of them or to any person who is in the opinion of the Minister entitled thereto.

34.—(1) The Minister may in writing waive the payment of any rent payable under an agricultural lease or the performance of any of the covenants of the lease relating to the manner in which the land thereby leased is to be cultivated upon being satisfied that the physical or mental condition of the lessee is such as to incapacitate him for any period during which he was so incapacitated and for such further period as the Minister may consider proper.

(2) In any case in which the Minister has so waived the payment of any rent or the performance of any covenant

the Minister may at any time send by mail to the lessee, or in case of his death to his executor or administrator, or in case of his becoming an inmate of a Mental Institution to the Administrator of Estates of the Mentally Incompetent, a notice in writing fixing a date after which the lessee shall perform all the covenants in the lease 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 lease shall have the same force and effect as if such 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 after the date of death, and no waiver shall be given by the Minister after the expiration of such period of three years.

CHARGES AGAINST LAND.

35. In any case in which any settler or purchaser is entitled to receive title for any land to which this Act applies, but the granting of title is delayed because of a liability of the settler or purchaser, either as principal or surety upon a bond to the Crown or the Minister, or as a mortgagor on a mortgage in favour of the Crown or of the Minister, for a sum due or payable in respect of an advance of seed grain, or because of any other indebtedness to the Crown, the Minister, in his discretion, may cause a notification with a memorandum of the liability or indebtedness to be sent to the Registrar. The Registrar shall endorse on the Certificate of Title memoranda setting forth therein the particulars of the liability or indebtedness, including the total amount thereof, the rate of interest and the names of the persons liable or indebted therefor. The said liability shall be and remain a charge upon the land until satisfied and extinguished according to law.

SALE OF LANDS.

36. Except as otherwise provided in this Act, there shall be no sale of Provincial lands without the approval of the Lieutenant Governor in Council.

Provided, however, that the Minister may sell a fractional quarter section at a rate to be determined as the true value of the land after inspection by an officer of the Department.

GRAZING LANDS.

37.—(1) Provincial lands which are suitable for grazing and are not suitable for agriculture, may be leased under regulations made by the Lieutenant Governor in Council.

(2) The holder of a grazing lease may be granted permission by the Minister, upon such terms and conditions as

he may prescribe, to use and occupy for residential purposes in operating the lease an area not in excess of one quarter section of the land described in such grazing lease.

(3) Notwithstanding the terms or provisions of any lease now subsisting made by the Province or the Dominion of Canada, the lessee shall not, without the consent of the Minister in writing, plow or break up in any other manner, cultivate, or seed to crop, any of the lands leased to him, and any abandoned lands comprised within a leasehold which have been under cultivation shall be considered as grazing lands, and the lessee shall conserve, reclaim and regrass these lands in such manner and on such terms as the Minister may from time to time prescribe.

(4) Notwithstanding the terms or provisions of any lease now subsisting made by the Province or the Dominion of Canada, the rental payable under any such lease shall become due and be payable in advance on the first day of January in each and every year during the term of such lease, and that all sums payable under such lease or under any lease issued pursuant to this Act, 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 sum sufficient to satisfy the full amount owing by the lessee.

38.—(1) Any person who permits or allows any livestock of which he is the owner or over which he has control to graze on any Provincial lands in respect of which he is not the holder of a lease or permit issued under this Act shall be liable for the payment to the Minister of an amount equal to treble the amount fixed for the time being by the regulations as the amount payable for the grazing of livestock upon Provincial lands by the holder of a grazing lease issued pursuant to this Act, and in no case shall such amount be less than one dollar, in the case of horses or cattle, for each head thereof, and in the case of sheep, than twenty-five cents for each sheep.

(2) Any person appointed for the purpose by the Minister may round up, seize and detain any livestock found grazing on Provincial lands which are not for the time being leased for grazing purposes: upon so doing such person shall, in case the owner is known to him, send to the owner by mail at his last known post office address, a notice in writing setting out the date of the seizure, a description of the animals seized, the description of the place at which the same are kept, and the amount payable in respect thereof: upon the expiration of fifteen days from the date of the mailing of such notice the Minister unless the owner has sooner paid to him the amount so payable, together with the costs of rounding up, seizing and detaining the livestock, may cause the same to be offered for sale by public auction and to be sold to the highest bidder: and upon any livestock being so sold the property therein shall

pass to the purchaser and all rights of property which existed therein immediately before such sale shall be extinguished.

(3) The proceeds of any sale held pursuant to subsection (2) shall be applied firstly in payment of the costs incurred in seizing, rounding up, detaining, offering for sale and selling the livestock; secondly in payment of the sums payable to the Minister in respect thereof and the balance shall be held by the Minister for six months and shall be paid over to such persons who may be entitled thereto who make application in writing to the Minister for payment within six months after the day upon which the sale was held, and having regard only to applications so made; and if after the expiration of such period of six months, after paying such persons as have within that period made application for payment any surplus remains, such surplus shall be paid into and form part of the General Revenue Fund.

HAY AND MARSH LANDS.

39. Provincial lands suitable for hay purposes, and marsh lands may be leased under regulations made by the Lieutenant Governor in Council.

IRRIGATION.

40. Provincial lands unsuitable for cultivation without the aid of irrigation or drainage, or Provincial lands required in connection with any system of irrigation or drainage, may be sold or leased in such manner and under such terms and conditions as are fixed by the Lieutenant Governor in Council.

LANDS FOR OTHER PURPOSES.

41. Provincial lands to be used for the purpose of a harbour, landing, bridge site or railway terminus or station, or for a townsite, or for an airport, or for other purposes, shall only be disposed of on such terms and subject to such conditions as may be prescribed by the Lieutenant Governor in Council.

MINERAL LANDS.

42.—(1) Provincial lands containing any minerals, together with the right to win, work and get the same, may be leased in such manner as may be prescribed by regulations made by the Lieutenant Governor in Council; and the regulations may provide for the leasing of mining rights underneath Provincial lands acquired or held as agricultural, grazing, or hay lands, or any other lands held as to the surface only, but provision shall be made for the pro-

tection and compensation of the holders of the surface rights, in so far as they may be affected under the regulations.

(2) The Lieutenant Governor in Council may from time to time make regulations prescribing the conditions under which and the manner in which any person entitled in any way whatsoever to carry on any mining or drilling operations with the object of searching for, mining, getting or removing any minerals shall exercise any right of entry, user or taking in respect of the surface of any land which is not the property of such person and the method of ascertaining the amount of any compensation to be paid to the persons having any interest in the surface, the time for payment of the compensation so to be paid, and prohibiting the exercise of any such right of entry until such compensation has been paid or until adequate provision has been made for the payment of compensation by the person exercising such right of entry, user or taking.

(3) In case there is any conflict between the provisions of any regulations made pursuant to this section and anything contained in any Statute or in any grant, conveyance, lease, license or other instrument, whether made before or after the coming into force of this Act, whereby the right of entry, user or taking of the surface of any land incidental to any mining or drilling operations as aforesaid, the provisions of such regulations shall prevail.

(4) Any person who, in the exercise of any such right of entry, taking or user as aforesaid, enters upon, takes or uses any of the surface of any land in contravention of any of the provisions of any regulation made pursuant to this section shall be deemed to have thereby committed a trespass and shall be liable in damages or otherwise for such trespass to any person who is the owner or entitled to the possession of the surface of such land.

QUARRIABLE STONE.

43.—(1) Provincial lands containing quarriable stone may be leased under regulations made by the Lieutenant Governor in Council.

(2) Provincial lands of a class designated as School Lands containing sand, stone or gravel, may be disposed of under regulations made by the Lieutenant Governor in Council.

SCHOOL LANDS.

44.—(1) Sections eleven and twenty-nine in every surveyed township in Alberta, 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 re-

late to agricultural leases, or sale; and no right to obtain agricultural lease or to purchase shall be recognized in connection with the said sections, or any part of them, and no right or title of any kind shall be acquired by prescription in respect of any lands so set apart so long as the Crown has any right, title or interest therein:

(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; but no such block of lands so sold or to be sold for the purpose of irrigation, or lands set aside and reserved or to be set aside and reserved for any of the purposes aforesaid, shall include school lands, unless other Provincial lands of equal value, as nearly as may be, shall be selected in lieu thereof; and when other Provincial lands have been so selected and have been designated by the Minister as "school lands" they shall thereafter be and become school lands and be dealt with in the same manner as ordinary school lands under the provisions of this Act:

Provided that if it be established to the satisfaction of the Minister by request, in writing over the signature of the Minister or Deputy Minister of Education, that it is desirable to take or reserve out of any school lands a small portion thereof as a site for a school and for purposes properly connected therewith, the Minister may, forthwith, grant by way of gift to the board of school trustees for the district for which the same is required upon such terms and conditions as he may prescribe, such portion of school lands, in no case to exceed an area of four acres, which must front on a road allowance and may forthwith, upon compliance with the prescribed terms and conditions, cause a notification to be issued for the portion of school lands so required as a site for a school and for purposes properly connected therewith:

Provided that notwithstanding anything contained in this Act where a lease has been granted for mining rights on or under school lands, and in the opinion of the Minister the proper carrying on of mining operations will destroy the surface of the land for agricultural purposes, the Minister may sell the surface rights of the said land to the lessee of the said mining rights at a price to be fixed as the actual market value of the land at the time of such sale, irrespective of its mining value. The sum realized from such sale shall become part of the School Fund, as provided by section 47 of this Act.

45. All sales of school lands shall be by public auction, and an upset price shall be fixed, from time to time, by the Lieutenant Governor in Council; but in no case shall such

lands be put up at an upset price less than the fair value of corresponding unoccupied lands in the township in which they are situate:

Provided always that the Minister may, within two years after the holding of any sale by auction, sell by private contract, at a price not less than the upset price, any land which was offered for sale thereat and which did not find a purchaser, subject to such terms and conditions as may be prescribed by regulations made by the Lieutenant Governor in Council.

Notwithstanding anything in this section, or elsewhere in this Act, school lands may be leased for any purpose whatsoever, to any person, municipality or other corporation, under and subject to terms and conditions to be provided by regulations made by the Lieutenant Governor in Council:

Notwithstanding anything in this section, or elsewhere 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 said quarter-section becoming available for disposition, the Minister may sell such portion to the registered owner of the part of such quarter-section already disposed of upon terms satisfactory to the Minister, and at a price per acre to be fixed by the Minister as the actual market value of the land:

Notwithstanding anything to the contrary in this Act, the Minister may sell school lands required for reservoir, church, cemetery or hospital sites, or for other public purposes, or as right-of-way for any project, at a price to be fixed as the actual market value of the land, and upon such terms of payment as the Minister may prescribe.

46. In respect of sales of school lands the amount to be paid in cash at the time of sale shall be at least one-tenth of the purchase price and the balance of such purchase shall be paid in eighteen equal, successive, annual instalments, with interest at the rate of four per cent. per annum, which interest shall be paid with each instalment on the balance thereof from time to time remaining unpaid:

Provided that, if the Minister considers that it will further the purposes for which school lands have been set apart under the provisions of this Act, he may dispose of any section or part of a section of school lands in legal subdivisions or in small subdivisions, or in town lots, into which he is hereby empowered to have any section or part of a section of school lands laid out, surveyed and shown on plan of survey; but he shall require that at least one-fifth of the purchase price thereof shall be paid in cash at the time of sale, and the balance in four equal consecutive annual instalments with interest at the rate herein fixed and payable as herein specified:

47.—(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 in conformity with clause 7 of the Agreement of Transfer to form a School Fund, and the interest arising therefrom, after deducting the cost of management, shall be paid annually into the General Revenue Fund of the Province towards 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 that purpose by the Government in such manner as it deems expedient.

(2) The Lieutenant Governor in Council may,—

- (a) appoint a Board of not more than three members to inquire into any application for compromise, adjustment or arrangement in respect of any agreement for the sale of School Lands made on or before the thirtieth day of September, 1930, or of the sum payable under such agreement on account of principal and interest or either of them; and to report thereon to the Minister with such recommendations as may be deemed proper; and
- (b) give effect to the recommendation of such Board of any compromise, adjustment or arrangement in respect of any agreement for the sale of School Lands or of the sum payable under such agreement on account of principal and interest or either of them.
- (c) reinstate any agreements for the sale of School lands as have been cancelled at any time since the thirtieth day of September, 1930, and before the thirty-first day of December, 1936, and upon so doing to adjust and compromise the sums outstanding whether for principal or interest under the cancelled agreement and to enter into a new agreement in lieu of the cancelled agreement upon such terms and conditions as to the amounts payable for principal and interest, the instalments in which payment is to be made and such other terms and conditions as may be prescribed.

RIGHTS UNDER AGREEMENT OF SALE OR UNDER LEASE.

48. A receipt for a payment on account of the sale or lease of land shall, unless the sale or lease has been forfeited, revoked or cancelled, 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 described in the receipt and to hold possession thereof to the exclusion of any other person, and to bring and maintain actions for trespass committed on the said land; and the land shall not be liable to be taken in execution before the issue of a notification therefor:

Provided that occupancy, use and possession of such land shall be subject to the conditions of the sale or lease, and to the provisions of this Act or of any other Act affecting it or of any regulation made thereunder.

DISPOSAL OF TIMBER.

49. The Lieutenant Governor in Council may make regulations for the disposal by public competition of the right to cut timber on berths to be defined in the public notice of such competition:

Provided that,—

- (a) no berth shall exceed an area of twenty-five square miles, excepting a timber berth granted for the cutting thereon of pulpwood, which pulpwood berth shall be of such area as may be determined by the Lieutenant Governor in Council;
- (b) no berth shall be offered for sale unless and until notice of the terms and conditions applicable to such sale has been given by advertisement in a newspaper circulating in the vicinity and in one newspaper in the City of Edmonton;
- (c) no offer shall be accepted unless it complies fully with all the terms and conditions set out in the notice of sale;
- (d) no berth shall be awarded except to the person who makes the highest offer and furnishes an undertaking in writing to the Department to operate annually a properly equipped saw-mill or saw-mills satisfactory to the Minister; and
- (e) no license for a timber berth shall be offered for sale for a term of more than one year and shall not be renewable after the tenth year from the date of sale.

50. The person to whom a timber berth is awarded under the last preceding section shall be granted a license therefor, which license shall describe the land upon which the timber may be cut, the kind of timber to be cut, and the dimension thereof, and shall, during its continuance, vest in the licensee, subject to the conditions mentioned in the license, all rights of property whatsoever in all trees, timber, lumber or other products of timber which he is entitled by the license to cut, and which have been cut within the limits of the berth during the continuance thereof, whether such trees, timber, lumber or other products are cut by consent of the licensee or by any other person without his consent, and shall vest in the licensee, as against any person other than the Crown in the right of the Province, subject to the conditions mentioned in the license, all right of property whatsoever in all trees, timber, lumber and other products of timber cut within the limits of the berth by any other person without his consent; and such license shall entitle the licensee to replevy, as his property, timber of any kind cut within the limits of the berth where it is found in the possession of any unauthorized person, and also to bring any action or suit for damages or any other appropriate remedy against any person who is unlawfully in possession of such timber, or who has unlawfully cut any

timber of any kind in derogation of any rights of the licensee under his license, or who has entered without authority upon the berth covered by the license, if any; and any such proceedings which have been commenced and are pending at the expiration of any such license may be continued and completed as if the license had not expired.

51.—(1) Subject to the provisions of Section 49 the license shall be for a term not exceeding one year, but shall be renewable from year to year while there is on the berth timber of the kind and dimensions described in the license in sufficient quantity to make it commercially valuable, or for the term set out in the notice of sale, and such renewal shall be subject to the payment of such dues and to such terms and conditions as are fixed by the regulations in force at the time such renewal is made.

(2) The Minister shall be the judge as to whether the terms and conditions of the license and the provisions of this Act and of the regulations made hereunder respecting timber berths have been fulfilled.

52. The license shall, in addition to such other provisions as are contained in the regulations or in the conditions under which the berth was disposed of, contain provisions binding the licensee,—

- (a) to manufacture each year not less than 75,000 feet board measure of sawn lumber from timber cut off Provincial lands for each square mile or fraction thereof contained in such berth;
- (b) to pay in advance such annual license fee, fire-guarding charges and ground rent as is fixed by the regulations, together with the tax assessed and payable by the licensee for the current year on such berth pursuant to the provisions of *The Timber Areas Tax Act*, or any Act passed in substitution therefor, and in addition thereto to pay in cash at each time of making the returns prescribed in paragraph (d) of this section, such dues as are fixed by the regulations.
- (c) to keep correct books of account of his business, and to submit them for the inspection of any authorized agent of the Minister whenever required;
- (d) to make to the timber agent of the district, monthly, or at such other intervals of time as they are required of him by regulations made under this Act or by the Minister, returns sworn to by him or by his agent or employee cognizant of the facts, with all the details of his timber operations, in such form and manner as the regulations provide;
- (e) to prevent any unnecessary waste of timber in the process of cutting it, and to prevent all avoidable destruction of growing trees which have not yet attained the dimensions described in the license;

- (f) to exercise strict and constant supervision to prevent the origin and spread of fire; and to comply during the term of the license and of any renewal thereof, with all regulations made in that respect by the Lieutenant Governor in Council, and with all laws or regulations in that respect in force in the Province.

53. If, in consequence of any incorrectness in survey or other error or cause whatsoever, a license is found to cover land covered by another license of prior date, or any land sold, granted, leased, or lawfully set apart for any other purpose under this Act, the later license shall be void in so far as it interferes with any such previous lease, license, sale, grant or setting apart.

54.—(1) Every license of a timber berth shall be subject to the provisions of this Act, or of any other Act, or of any regulations made thereunder, dealing with or affecting the disposal of quarriable stone, salt, petroleum, natural gas, coal, gold, silver, copper, iron, or other minerals within or under lands within the boundaries of such berth; and in and by virtue of any grant, lease or permit issued under regulations made as aforesaid, the grantee, lessee or permittee shall have the right to secure, use and hold possession of such land as is described in the grant, lease or permit for quarrying stone, for the boring and operating of any salt, oil, or natural gas wells, or for the working of any mines, and the right to open any roads necessary in connection with such works;

Provided that the licensee of the berth shall be paid by the grantee, lessee or permittee the value of all timber cut, damaged or destroyed in making such roads, or in boring or operating any salt, oil or gas wells, or in working any quarries or mines, or as a consequence, directly or indirectly, of any such operation or work.

Provided further, however, that in the event of any licensee of a timber berth and any such grantee, lessee or permittee as aforesaid failing to agree upon the amount of such payment to be made to the said licensee, the licensee, grantee, lessee or permittee as the case may be, shall forthwith submit the matter in dispute to a Judge of the Supreme Court of Alberta for decision, and the said parties shall abide by the decision of the said Judge in respect thereof and by such other directions as the said Judge may see fit to order in respect of the matter in dispute, and every such application shall be subject to and governed by the rules of Court applicable to proceedings by way of originating notice.

(2) Every license of a timber berth shall be subject to the right of the Minister to permit prospecting on the berth for quarriable stone, salt, petroleum, natural gas, coal, gold, silver, copper, iron, or other minerals; but the licensee shall be notified of every such permission, and shall be en-

titled to compensation from the prospector for any timber cut, damaged or destroyed by the prospector, or as a consequence of his prospecting of the berth.

(3) The provisions of this section shall apply to all timber berths on Provincial lands, whether granted before or after the passing of this Act.

PERMIT BERTHS.

55.—(1) The Lieutenant Governor in Council may make regulations for the disposal by tender of permits to cut,—

- (a) timber covering isolated tracts of land not to exceed an area of 640 acres;
- (b) timber on tracts of land, not exceeding nine square miles in area, which have been run over by fire and where not less than fifty per cent. of the timber has been fire-killed or will die as a direct result of said fire;
- (c) damaged, fallen or dead timber;
- (d) no offers by tender shall be accepted unless presented in person at time of sale, and accompanied by the full amount of the bonus;
- (e) no permit berths shall be awarded except to the person offering the highest bonus therefor;
- (f) no permit berth shall be offered for disposal by tender unless and until notice has been given by advertisement.

(2) The tenure of the berth shall be one year, but provided operations are conducted in a manner satisfactory to the officers of the Department and payments are being met satisfactorily, annual renewal permits may be granted in respect of each of the five years subsequent to the year in which the first permit was granted, but not further or otherwise.

(3) The berth shall be subject to annual rental and fire-guarding charges similar to licensed berths, together with the tax assessed and payable by the permittee for the current year on such timber permit berth pursuant to the provisions of *The Timber Areas Tax Act* or any Act passed in substitution therefor, whether or not it is operated.

(4) The permittee shall furnish returns of operations similar to those required in connection with licensed berths.

WITHDRAWALS.

56.—(1) When any portion of a berth has not a sufficient quantity of the kind and dimensions of timber specified in the license or permit for such berth to make it profitable to remove the timber upon such portion of the berth, and when such portion of the berth is not necessary for the proper working of the remainder of the berth, the Minister may withdraw such portion in whole or in part from the

berth, but in no case shall such withdrawal be made until the expiration of sixty days after a notice in writing of the proposed withdrawal has been given to the licensee or permittee or to his legal representative by the Minister or by some one thereto authorized by the Minister.

(2) Upon the withdrawal of any portion of a berth, the rental to be paid under the license or permit shall be reduced in proportion to the area withdrawn.

PERMITS TO CUT TIMBER.

57. The Lieutenant Governor in Council may make regulations for the issue of permits to cut timber,—

- (a) to actual settlers or to any number of persons co-operating together, who are owners of farming lands, or lessees under agricultural leases, for use upon their own lands, and the location described in such permit from which timber may be taken, may, in the discretion of the Minister, be reserved for such settlers or persons for the duration of the permit.
- (b) to persons engaged in explorations, in scientific pursuits or in prospecting;
- (c) to steamboat owners, for use on their steamboats;
- (d) for the construction of boats;
- (e) in connection with quarrying or mining, or salt, oil or gas boring operations;
- (f) for the construction and maintenance of railways, bridges, churches, schools and public buildings, or any public works;
- (g) for sale as cordwood, or box wood, or lath bolts or shingle bolts, or fence posts;
- (h) for pulpwood;
- (i) which occurs in areas that are shown by report of an officer of the Department to be isolated from other areas containing merchantable timber, and which contain not more than 150,000 feet, board measure;
- (j) fire-killed, fallen or dead timber;
- (k) on land held under cultivation and grazing lease in the clearing of land to be utilized for cultivation, or in any case where land is held under lease, license or permit or other disposition, and such lessee, licensee or permittee may plough, break up or in any other manner cultivate or seed to crop any such land.

Notwithstanding anything contained in sections 49 and 55, with the approval of the Lieutenant Governor in Council the Minister may issue permits for the cutting of timber to any Department of the Provincial Government provided that the timber so cut is to be used for the construction or maintenance or both of any public work or for

the cutting of timber for the purpose of or in connection with or incidental to any relief work, relief project, relief scheme or relief measure.

FORFEITURE AND RECOVERY OF DUES.

58.—(1) Every license or permit shall be liable to forfeiture on the order of the Minister, for violation of any one of the conditions to which it is subject or for any fraudulent return.

(2) Before making an order for forfeiture the Minister shall cause written notice to be given to the licensee or permittee that it is the intention so to do, upon the ground set forth in such notice, unless within sixty days after service of such notice the licensee or permittee shows cause to the contrary.

(3) Service of such notice may be effected by mailing the same, duly registered, to the address or the last known address of the licensee or permittee, and in such case shall be deemed to have been made upon the day on which the notice reached the said address or in due course of mail should have done so.

(4) Every order made by the Minister pursuant to this section shall be final and conclusive as against the licensee or permittee, and every person claiming by, through or under the licensee or permittee or either of them, and there shall be no appeal therefrom.

59. All dues on timber cut within any timber berth or under any permit, which are not paid when they become due, shall bear interest at the rate of five per cent. per annum until paid, and shall be a lien on any timber cut within the berth or under the permit; and in case of non-payment, whether, in consequence thereof, the license of the berth or permit has or has not been cancelled, the timber agent or other person authorized thereto may, with the sanction of the Minister, seize so much of the timber cut on the berth, or under permit, or in the possession of the licensee or permittee, as will in his opinion, be sufficient to secure the payment of the dues, the interest thereon, the expenses of seizure and sale, and expenses incidental to the protection of the timber, and may detain the timber as security for payment; and if payment is not made within one month after the seizure, he may, with the sanction of the Minister, sell the timber by public auction, and after deducting the sums due, the interest thereon, and the expenses aforesaid, he shall pay over the balance, if any, to the licensee or permittee, if the timber was in his possession at the time of seizure, or if it was not, to the person who had possession thereof at that time:

Provided that, if a bid is not made at the auction amounting to the sum equal to the claim against the licensee or permittee, the timber may be disposed of at private sale.

60.—(1) All timber cut under license or permit shall be liable for the payment of the dues thereon, whenever and wherever the said timber, or any part of it, is found, whether it is or is not converted into deals, boards, or any other manufacture of wood; and all officers or agents employed in the collection of such dues may follow all such timber and may seize and detain it wherever it is found, until the dues thereon are paid or secured, as provided in the last preceding section.

(2) The dues payable on any timber cut under license or permit, together with any additional charges for expenses incurred in enforcing payment of said dues, shall be a first charge in priority to all other charges or claims howsoever created and such priority shall extend to and include any moneys due and payable to the Crown by the licensee or permittee on any timber operations conducted on Provincial lands by him or under his authority.

(3) Notwithstanding the terms or provisions of any license berth, permit berth or permit now subsisting made by the Province or Dominion of Canada, the dues on all timber cut on such license berths, permit berths or permits, shall be payable upon the manufacture of the timber:

Provided that on the thirtieth day of June, 1939, the dues shall be payable on all timber manufactured before the coming into force of this Act, and on which the dues have not been paid:

Provided also that any timber cut on a license berth, permit berth or under the authority of a permit, shall be manufactured into timber products within six months of having been cut down. Failure to comply with this requirement shall render the license berth, permit berth or permit liable to cancellation in the discretion of the Minister, or he may estimate the quantity of timber products and exact payment of dues in double the amount prescribed by regulations made pursuant to this Act.

61. In case any timber or any of the products thereof in respect of which any dues are payable has been removed from the Province or otherwise disposed of and the dues payable have not been paid, the amount of the unpaid dues, and any expenses incurred in enforcing payment of the said dues under this Act, may be added to the dues remaining to be collected on any other timber cut on any timber berth by the licensee or cut under permit by the permittee or by authority of the licensee or permittee, and may be levied and collected or secured on such timber, together with such last mentioned dues, in the manner hereinbefore provided; and the Crown shall have a lien for the amount of any dues or tax reserved, or payable, under this Act and for all expenses of seizure, detention, or sale incurred in enforcing the lien, upon all saw-mills or other factories and lands appurtenant thereto, railway and stationary engines, and upon all engines, logging plant or material, and upon all railway lines belonging to the person by whom the dues,

or taxes, are payable; such lien to constitute a first charge in priority to all other liens and to all encumbrances or charges created by any contract or arising under any Statute or otherwise howsoever, and to confer the same rights and to be enforceable in the same manner as the lien and rights of recovery of dues conferred by the provisions in that behalf of this Act, including an absolute, unconditional power to sell; or the amount due of which payment has not been made may be recovered by action or suit, in the name of the Minister or his agent, in any Court of competent jurisdiction.

62.—(1) Mill owners doing custom sawing for settlers shall obtain a permit from the timber agent for the district wherein they intend to operate before commencing to manufacture each season, and shall notify him of the location of their mills and of each setting to which they move during their season's operations.

(2) Records of all sawing shall be retained in the books provided for the purpose by the Department, and their operations shall be subject to regulations made by the Lieutenant Governor in Council.

(3) The owner of a portable saw-mill who fails to comply with the foregoing requirements shall be guilty of an offence against this Act, and shall be liable on summary conviction therefor to a penalty not exceeding \$50.00 and costs and in default of payment to imprisonment for a term of not more than thirty days.

63.—(1) Every purchaser of timber cut on Provincial lands shall be held liable for the payment of dues thereon, and the onus shall be upon such purchaser to prove that such timber is not liable in whole or in part to dues of any kind, and if such proof is not made to the satisfaction of the timber agent or officer, he may seize and detain such timber, or an equivalent quantity of any other timber in the possession of the purchaser, and the timber may be dealt with as timber cut without authority, or on which the dues have not been paid, according to the circumstances of the case, and the dues thereon may be recovered as hereinafter provided by sections 64 to 70 both inclusive.

(2) No license or permit shall be issued authorizing the cutting of timber in excess of fifty thousand feet board measure or the equivalent thereof in other timber products and no permit shall be issued for the establishment or operation of a saw-mill doing custom sawing for settlers unless and until the applicant therefor has satisfied the Minister by such evidence as the Minister may require that he has complied with all the provisions of *The Workmen's Compensation Act*, and if at any time after the issuance of any such license or permit it is made to appear to the Minister that the holder thereof has made default in complying with

any of the provisions of *The Workmen's Compensation Act*, the Minister may in his discretion by writing under his hand cancel such license or permit.

(3) No license or permit shall be issued until the applicant therefor has filed a statutory declaration with the Department of the number of men in his employ, and as to the amount, if any, of wages in default on timber operations conducted by the applicant during the preceding six months, and the Minister may, in his sole discretion, refuse to issue a license or permit until arrangements satisfactory to him have been made for the payment of such wages. If at any time after the issuance of any such license or permit it is proved to the satisfaction of the Minister that the holder thereof has defaulted in the payment of wages to workmen employed by him on timber operations, the Minister may, in his discretion, by writing under his hand cancel such license or permit, and a penalty not exceeding \$25.00 may be imposed by the Minister for the renewal of such license or permit.

LIABILITY OF PERSONS CUTTING TIMBER WITHOUT AUTHORITY.

64. If any person without authority cuts, or employs or induces any other person to cut or assist in cutting, any timber on Provincial lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away any timber so cut, he shall not acquire any right to such timber or any claim for remuneration for cutting it, preparing it for market, or conveying it to or towards market; and when the timber has been removed out of the reach of the timber officers, or it is otherwise found impossible to seize it, the said person shall incur a penalty not exceeding three dollars for each tree which, or any part of which, he is proved to have cut or removed or carried away, or assisted to cut or remove or carry away; and such sum shall be recoverable with costs, at the suit and in the name of the Crown, in any court having jurisdiction in civil matters to the amount of the penalty; and in all cases the burden of proof of authority to do the thing charged shall lie on the person charged; and the averment of the person seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

65. Whenever any timber agent or officer receives satisfactory information supported by affidavit or statutory declaration made before a justice of the peace or before any other competent officer or person, that any timber has been cut without authority on Provincial lands, or if any timber officer or agent from other sources of information or his own knowledge, is aware that any timber has been cut without authority on any such lands, he may seize or cause to be seized wherever found the timber so reported or known to be cut, together with any automobile, trucks,

tools and equipment used in the cutting and transportation of such timber, and the timber, timber products, trucks, tools and equipment seized shall be liable to confiscation to His Majesty as provided by section 106 of this Act.

66. If the timber reported or known to have been cut without authority has been made up with other timber into a crib, dam or raft, or in any other manner has, at any mill or elsewhere, been so mixed up with other timber as to render it impossible or very difficult to distinguish the timber so cut without authority, from the other timber, the whole shall be held to have been cut without authority, and shall be liable to seizure and forfeiture accordingly, unless the holder separates, to the satisfaction of the timber agent, the timber cut without authority from the other.

67. Whenever any timber agent or other officer or agent is in doubt as to whether any timber has or has not been cut without authority, or is or is not liable to dues on the whole or any part thereof, he may inquire of the persons in possession or in charge of such timber, as to when and where it was cut; and if no satisfactory explanation, on oath or otherwise, as he requires, is given to him, he may seize and detain such timber until proof is made to the satisfaction of the Minister, or of such timber agent or officer, that such timber was not cut without authority, and is not liable, either in whole or in part, to dues of any kind; and if such proof is not made within thirty days after the seizure, the timber may be dealt with as timber cut without authority, or on which the dues have not been paid, according to the circumstances of the case, and the dues thereon may be recovered as hereinbefore provided.

68.—(1) All timber seized under this Act shall be deemed to be forfeited to the Crown unless the owner thereof, or the person from whom it was seized, within thirty days from the day of the seizure, gives notice to the seizing officer or to the timber agent or officer under whose authority the seizure was made, that he intends to contest the seizure; and if, within fifteen days thereafter, the claimant has not instituted proceedings before a court of competent jurisdiction to contest the seizure, or if the decision of the court be against him, or if the claimant fails to duly prosecute such proceedings in the opinion of the judge before whom such case is tried, who may for that cause dismiss the suit on the expiration of one month from the date on which it was instituted, then and in every such event the timber shall be deemed to be confiscated and may, after thirty days' notice posted up at the place where it is situated, be sold by public auction, by order of the Minister.

(2) The Minister may, if he sees cause for so doing, instead of proceeding to the forfeiture of timber cut without authority on Provincial lands, impose a penalty which,

in addition to all costs incurred, shall be levied on such timber; and, in default of payment of the whole on demand, he may, after a notice of fifteen days, sell the timber by public auction, and may, in his discretion, retain the whole proceeds of the sale, or the amount of the penalty and costs only.

(3) In the event of there being no bid for timber put up at public auction under this section the Minister may dispose thereof by private sale.

69. Whenever any timber is seized for non-payment of dues, or for any cause of forfeiture, or any prosecution is instituted for any penalty or forfeiture under this Act, and any question arises as to whether the dues have been paid on the timber, or as to whether the timber was cut on other than Provincial lands, the burden of proving payment, or of proving on what land the timber was cut, shall lie on the owner or claimant of the timber.

70. Any officer or person seizing timber in the discharge of his duty under this Act may, in the name of the Crown, call in any assistance necessary for securing and protecting the timber so seized.

71.—(1) Whenever any timber is seized under this Act if it is made to appear to the Minister by evidence satisfactory to him within thirty days following the date of such seizure that wages are owing to workmen for labour performed within six months previous to the date of seizure, in the production of such timber or in converting the timber into deals, boards, or any other manufacture of wood, the Minister may cause enquiry to be made to ascertain the amount of such wages owing and may add the sum so ascertained to the amount due the Crown in respect of which the seizure was made, and such sums shall be recovered as hereinbefore provided by this Act.

(2) In case any dispute arises as to the amount owing in respect of any such wages, the Minister shall refer the dispute to a Judge or Local Judge of the Supreme Court in Chambers, who shall summarily enquire into the same upon such notice to such persons as to him seem proper and he shall thereupon certify his findings to the Minister and any findings so made shall be final and conclusive, and there shall be no appeal therefrom.

SLIDES AND STREAMS AND LAKE FRONTS.

72. No sale, grant or lease of any Provincial land shall give or convey any right or title to any slide or other similar work previously constructed for the purpose of facilitating the descent of timber or saw-logs, unless it is expressly set forth in the instrument establishing the sale, grant or lease, that the slide or other work is included in the sale, grant or lease.

73. The unimpeded use of slides, and other works to facilitate the descent of lumber and saw-logs, and the right of access thereto for the purpose of using them and keeping them in repair, shall not, in any way, be interrupted or obstructed by or in virtue of any sale, grant or lease of Provincial lands made subsequently to the construction of the said works.

74.—(1) The use for the floating of saw-logs or other timber, of all streams and lakes necessary for the descent thereof from Provincial lands shall be subject to the provisions of *The Water Resources Act*.

(2) The right of access to such streams and lakes, and of passing and repassing on or beside the land on either side and wherever necessary for such use thereof, and over all existing or necessary portage roads past any rapids or falls, or connecting such streams or lakes, and over such roads as, owing to natural obstacles, are necessary to taking out timber from Provincial lands, and the right of constructing slides where necessary, shall continue uninterrupted and shall not be affected or obstructed by or in virtue of any sale, grant or lease of the said lands.

POWERS OF LIEUTENANT GOVERNOR IN COUNCIL.

75.—(1) The Lieutenant Governor in Council may,—

(a) exchange any Provincial lands for other lands in the Province, with any person or corporation;

Provided the reason for such exchange shall be set forth in the Order;

(b) set aside out of the unoccupied Provincial lands transferred to the Province under the Agreement of Transfer, such areas as the Superintendent General of Indian Affairs 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 Provincial lands for use as Provincial parks, forest reserves, game reserves, bird sanctuaries, public shooting grounds, or public resorts;

(d) with the approval of the Dominion of Canada, 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) set aside Provincial lands for the sites of wharves or piers, airports, market places, goals, court houses, public parks or gardens, historic sites, town halls, hospitals, places of worship, burying grounds, or schools, and for purposes of agricultural exhibitions, and for other similar public purposes, or for model and industrial farms, upon such terms and conditions as may be prescribed, and at any time alter or revoke the same;

- (f) authorize the acquisition by any railway, power or tramway company upon and subject to any terms and conditions that may be deemed proper, of a right-of-way or roadbed through Provincial lands, together with such other Provincial lands as may be necessary for stations, station grounds, workshops, buildings, yards, ballast pit, or other appurtenances of the company, as he may consider advisable;
- (g) 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;
- (h) set aside Provincial lands suitable or required for the purposes of a harbour, landing, bridge site, airport, railway terminus, or station or townsite; any lands so set aside shall only be disposed of on such terms and subject to such conditions as are in each case fixed by the Lieutenant Governor in Council;
- (i) withdraw from disposal under this Act any Provincial lands for reasons which shall be set forth in the Order effecting the withdrawal; any lands so withdrawn shall only be disposed of on such terms and subject to such conditions as the Lieutenant Governor in Council may in each case prescribe;
 Provided that at any time on being satisfied that there is no longer reason for continuing the withdrawal of any Provincial lands from disposition under this Act, and after reasonable notice given, he may cancel the withdrawal and declare the land open for disposition under this Act;
- (j) provide that any statement or return required by this Act or by any regulations made under it shall be verified on oath;
- (k) in connection with any question in respect to Provincial lands, whether such question arises before or after the issue of a Certificate of Title therefor, appoint any person or persons to enquire into such question and any person or persons so appointed shall have all the powers which are or may be conferred upon a commissioner pursuant to *The Public Enquiries Act*;
- (l) divide the Province into districts and prescribe the time when and the conditions upon which the Provincial lands in any district or any part thereof shall be thrown open for disposition or settlement;
- (m) 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;
- (n) establish a tariff of fees for all copies of maps, plans, field notes, documents, papers or other re-

cords of the Department of Lands and Mines, and for the registration of assignments therein;

- (o) reinstate any sale, lease, license or permit that may have been cancelled or forfeited upon such terms and conditions as may be prescribed;
- (p) withhold from leasing any agricultural land situate in a remote district, or any land of doubtful classification of the soil.
- (q) make regulations for the preservation by lessees in wooded, park land or brush covered areas of sufficient of the growing timber for shade and shelter in fire-breaks or clumps, or plantations for future timber supply.
- (r) make regulations as are within the legislative competence of the Province for the control and operation of any vessel whatsoever upon any lake, river, stream, or body of water, and without derogating from the generality of the foregoing include every description of ship, boat or craft of any kind whether propelled by steam, internal combustion engine, or otherwise, including everything forming part of the machinery or equipment of such vessel;
- (s) make regulations for the sale or leasing of any vacant lands for residential purposes or for any other purpose which is deemed to be in the public interest.

(2) 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 said 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.

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

(2) All such regulations shall be laid before the Legislative Assembly within fifteen days after the opening of the session thereof next after the due publication thereof in *The Alberta Gazette*.

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

78. The Minister may,—

- (a) require any lessee of Provincial lands to adopt such methods of farming or grazing, or farming and grazing as may be deemed necessary to prevent soil drifting or over-grazing;
- (b) promote approved farm cultural practices and efficient range management, also such community effort and enterprise as may contribute to greater economic security of the settlers;
- (c) promote measures for the development and conservation of any and all available natural resources;
- (d) classify all Provincial lands for the purpose of utilizing them for the purpose for which they are considered by the Minister to be most adaptable;
- (e) set aside and reserve from sale as agricultural lands, any lands which he considers to be unsuited for cultivation without the aid of irrigation, or to be required in connection with any system of irrigation, or any marsh lands, or lands suitable for grazing but not adapted to agriculture, or lands valuable on account of the hay or timber, quarriable stone, salt, petroleum, natural gas, coal, gold, silver, copper, iron, or other minerals thereon or therein, or for the protection of ponds, lakes, or other water supplies, or for the purpose of a water power, harbour, landing or townsite;

Provided that the Minister may, at any time, on being satisfied that there is no longer reason for continuing the reservation of any lands so reserved, after due notice given, remove the reservation.

79. 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 in the absence of the Deputy Minister by the person for the time being acting as Deputy Minister, or by any other officer of the Department authorized for the purpose by the Minister in writing.

80. The Minister may, whenever he deems it necessary so to do, vary the Form in the schedule to this Act, or to any Act amending it, or he may, from time to time, adopt or cause to be adopted any other form or forms which he considers applicable to any special case or class of cases for which a form is not set forth in the schedule;

Provided that every form shall be in accordance with the provisions of this Act.

81.—(1) No person in the service of the Government of the Province or of the Legislative Assembly of the Province, whether his employment is permanent or temporary, whilst such employment continues shall directly or indirect-

ly in his own name or in the name of any other person be a bidder at any auction sale of Provincial lands or acquire any interest in any Provincial lands, and no such employee shall be interested as a shareholder or director of any corporation or company which has any interest in Provincial lands, unless the shares of such company are regularly quoted and dealt in on the Montreal Stock Exchange, or any other stock exchange which may from time to time be declared by the Lieutenant Governor in Council to be an approved stock exchange for the purpose of this section, save and except only and so far as such person may be specifically authorized so to do by the Lieutenant Governor in Council.

(2) Every such employee who wilfully contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of not more than five hundred dollars and costs and in default of payment, to a term of imprisonment for not more than three months.

(3) Any interest in Provincial lands acquired in contravention of this section shall be utterly null and void for all purposes.

(4) For the purposes of this section, the expression "interest" means any interest as a purchaser under an agreement of sale, as the lessee under any lease, the licensee under any license, or the permittee under any permit.

82. No employee of or under the Department of Lands and Mines and no person having access to the records of the Department shall disclose to any person, except with the authority of the Minister, any discovery made by him or by any other employee of the said Department, or disclose any information of which he is possessed in relation to Provincial Lands; and any employee violating this section shall be liable to summary dismissal on the order of the Minister, but his dismissal shall not affect the right which any person may have to bring against him any civil or criminal action.

REGISTRATION OF ASSIGNMENTS.

83.—(1) The Minister shall cause to be kept in the Department of Lands and Mines books for registering, at the option of persons interested, assignments of any right or interest acquired under the provisions of this Act or subsisting at the time of the passing of this Act, which the assignor is not prohibited from assigning or agreeing to assign, by any provision of this Act, or by the terms of the lease, license, permit, conveyance or other instrument by which he has acquired that right or interest; and every assignment so registered shall be valid against any other assignment unregistered or subsequently registered; but no assignment shall be registered unless it is unconditional and unless its execution has been proved to the satisfaction of the Minister;

Provided that in no case shall the registration of any assignment relating to undescribed Provincial lands be held to make it incumbent on the Minister to provide for the future granting of any land or right under that assignment.

(2) When an assignment is of land required for right-of-way, station grounds, or other purposes deemed by the Minister to be in the public interest, nothing in this section contained shall prevent the registration of a conditional assignment or of an assignment of an undefined portion of a quarter-section held under sale, lease, license or permit, or of an agreement providing for such conditional assignment or for an assignment of an undefined portion of a quarter-section held under sale, lease, license or permit;

Provided, however, that where an assignment of an undefined portion of a quarter-section has been registered with the Department a notification for the whole quarter-section may issue without reservation to the person who would otherwise be entitled thereto, after one month's notice to the interested person or corporation, unless a plan and description of the lands required to be reserved has in the meantime been filed with the Department.

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

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

85.—(1) The interest of any person other than the Crown in any Provincial lands shall be liable to assessment and taxation in any city, town, village, hamlet, municipal district, improvement district, school district, irrigation district and drainage district, but such interest 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 of such interest, the Minister may apply the same in payment of any taxes due and owing in respect of the terminated interest.

86. Upon any person becoming entitled to receive a title in fee simple to any lands to which this Act applies, a notification in Form A shall be issued and shall be signed by the Minister or by the Deputy Minister or the person for the time being acting as Deputy Minister and shall be countersigned by the Director or any person acting as Director in his absence and shall be forwarded to the Registrar of Land Titles for the district in which such land is situate.

87. 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 Alberta, as if a notification had issued to or in the name of the deceased person during his lifetime.

88. If a notification has issued to, or in the name of, a wrong person or contain any clerical error, misnomer, or wrong or defective description of the land thereby intended to be granted, or if there is in them 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 thereof, which correct notification shall relate back to the date of the notification so cancelled and have the same force and effect as if issued at the date of such cancelled notification.

89. 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.

90. 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 such court, decree, order or adjudge such notification, lease or other instrument to be void; and upon the filing of the decree, order or adjudication in the Department of Lands and Mines at Edmonton, 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 such 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 93 of this Act, to be recorded forthwith in the proper Land Titles Office.

91. Whenever, through error in survey or in the books or plans of a Provincial Lands Office, 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.

92. 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.

EVIDENCE.

93. Copies of any records, documents, plans, books or papers belonging to or deposited in the Department of Lands and Mines, attested under the signature of the Minister, Director of Lands, or any chief clerk or officer thereunto authorized by the Minister, and of plans or documents in any Provincial Lands Office in Alberta, 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.

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

95. 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 county or circuit court, or any justice of the peace, or any commissioner for taking affidavits, or any notary public, or any Provincial lands agent, or assistant agent, or any sub-agent, or lands inspector, 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.

96.—(1) The occupation of Provincial 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 Provincial land otherwise than pursuant to a right granted pursuant to this Act, to forthwith cease such occupation and vacate such land, and any such person who does not comply with such notice forthwith upon the service thereof upon him, shall be guilty of an offence and liable on summary conviction therefor to a fine of not more than one hundred dollars and costs, and in default of payment to imprisonment for a term of sixty days.

97.—(1) When any settler, purchaser, lessee, licensee, permittee, or other person refuses or fails to cease using, possessing, or occupying any land which in the opinion of the Minister he is wrongfully 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 of Lands and Mines authorized by the Minister for that purpose, may apply to a Judge or Local Judge of the Supreme Court in Chambers for a summons directed to the person who in the opinion of the Minister is wrongfully or without lawful authority using or in possession or occupancy of such land, or who refuses or fails to deliver up possession after his right to use, possess or occupy it has been declared forfeited under the provisions of this Act, calling upon the said person forthwith to vacate or abandon, and cease using, possessing or occupying such land, or to deliver up possession thereof, as the case may be, or within thirty days after service of the said summons to show cause why an order or warrant should not be made for his removal from the said land, and to compel him to vacate or abandon it, and to cease using, possessing or occupying it, or to deliver up possession of it, as the case may be; and if, upon the return of the summons, it appears that he has not removed from, vacated or abandoned the said land, or ceased using, possessing or occupying it, or delivered up possession of it, as the case may be, or if he does not show good cause to the contrary within the period limited by the summons, the judge shall make an order or warrant for the said person's summary removal from the land, directing him to forthwith vacate and abandon it and cease using, possessing or occupying it, and to deliver up possession of it in a case where his right to use, possess or occupy it has been declared forfeited under the provisions of this Act; and the said

order or warrant shall be executed by the sheriff, bailiff, constable or other person to whom it is delivered for that purpose.

(2) The officer or person to whom the order or warrant is addressed shall forthwith remove the person named therein from the said land and also all persons, who as members of his family, or as his employees, servants or labourers, or as his tenants or their families, employees, servants or labourers, or otherwise under his authority, or direction or permission, are using or occupying the said land; and in the execution of the order or warrant the officer or person to whom it is addressed shall have all the powers, rights, immunities and privileges enjoyed by a sheriff, constable or other peace officer in the execution of his duty.

(3) It shall be sufficient service of the summons if a copy thereof is left with a grown up person found on the said land, and another copy is put up in some conspicuous place thereon, or, where no grown up person is found on the land, if a copy is put up in each of two conspicuous places thereon.

(4) In a case of forfeiture, where the order or warrant directs any person who is not in possession or occupancy of the land to deliver up possession thereof, the order or warrant shall be sufficiently executed if a copy of it is left with any grown up person on the said land and another copy is put up in some conspicuous place thereon, or, where no grown up person is found on the land, if a copy is put up in each of two conspicuous places thereon, and the service of the order or warrant in the manner prescribed in the next preceding subsection shall confirm the forfeiture and make it irrevocable; but if, cause having been shown to the contrary, within the period limited in the summons for that purpose, the judge declines to make an order or warrant, the forfeiture shall thereupon be immediately cancelled by the Minister.

98. Any person remaining upon Provincial lands or returning thereto, or assuming any right of possession or occupancy or use thereof, after having been removed therefrom under an order or warrant, shall, upon summary conviction before a judge, stipendary or police magistrate, or two or more justices of the peace, be liable to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, in the discretion of the Court.

99. Any lessee or purchaser of land from the Crown who sells any of the timber from such land without having previously obtained permission so to do from the Minister, is guilty of an offence and liable upon summary conviction therefor, 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 106 of this Act.

100. All licensees of timber berths disposed of on or before the thirtieth day of September, 1930, shall erect and have in operation in connection with the berth not later than the thirty-first day of December, 1940, a properly equipped saw-mill or saw-mills, and failure to erect and operate such mill or mills shall render the license for the berth subject to cancellation by the Minister.

101. 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.

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

103. If any successful applicant fails to execute the lease within ninety days in the prescribed manner, he shall forfeit his deposit and all other moneys paid by him in respect of the land applied for, and all right to the lease of the lands.

104. 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.

105.—(1) Notwithstanding anything in *The Distress 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 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 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,—

- (a) in case the sum for which distress is levied is for rent, royalties and dues, or any of them, payable in respect of any mines and minerals, upon all or any of the goods and chattels which shall then be found in, on or about any property which is used or occupied for the purpose of the operation of any mine,

or the mining and getting of any minerals, as the case may be, if such mine or minerals are held of the Crown under any lease, license, permit, agreement of sale or other instrument, by the person who is liable for the payment of the sum for which the distress is made or by any other person claiming by, through or under him;

- (b) in all other cases, 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 in respect of which the distress is levied.

(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, it shall be the duty of the sheriff to execute the same by the seizure, and unless he is sooner paid, by sale of the goods and chattels seized, and every such 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 so taken shall be continued as if the lease, license, permit, agreement of sale or other instrument were in force and effect.

106.—(1) Where any property is seized under section 65 or section 99 the person making the seizure shall without delay make a report in writing to the Minister and shall hold such 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 upon being satisfied thereby that the property is liable to confiscation to His Majesty may by writing declare that any such property is so confiscated, and thereupon such property shall become the property of His Majesty and all rights of property existing therein immediately before the making of such order shall cease and determine, and cause the same to be sold in such manner and subject to such terms and conditions as he may prescribe otherwise he shall order the return of such property to the person in whose possession the same was at the time of seizure.

MISCONDUCT AT SALES.

107. If, before or at the time of a public sale of Provincial lands, any person by intimidation, combination or un-

fair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, such offender and his or their aiders and abettors shall, for every such offence, be guilty of a violation of this Act, and shall be 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.

108. *The Provincial Lands Act*, being chapter 43 of the Statutes of Alberta, 1931, is hereby repealed.

109. This Act shall come into force on the day upon which it is assented to.

FORM A.

NOTIFICATION FOR ISSUE OF CERTIFICATE OF TITLE.

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

The under named is entitled to the issue of Certificate of Title in favour for the following land:

Description
Name
Address
Occupation
Form of patent
Nature of grant
No.....
Remarks
.....

Date..... day of, 19.....

Requisition No.....

Countersigned by

.....
Director of Lands. *Deputy Minister.*

EIGHTH SESSION
EIGHTH LEGISLATURE
3 GEORGE VI
1939

BILL

An Act to Amend and Consolidate
The Provincial Lands Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TANNER.

EDMONTON:
A. Shnitka, King's Printer
1939