CHAPTER 324

The Public Lands Act

1. In this Act,

(a) "Department" means the Department of Lands and Forests;

(b) "mines and minerals" includes gold, silver, copper, lead, iron and other mines and minerals and quarries and beds of stone, marble or gypsum;

(c) "Minister" means the Minister of Lands and Forests;

(d) "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands;

(e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 309, s. 1.

PART I

DEPARTMENT OF LANDS AND FORESTS

2. The Department of Lands and Forests shall be presided over by the Minister and he shall have charge of the management, sale and disposition of the public lands and forests. R.S.O. 1950, c. 309, s. 2.

3. There shall be,

(a) A Deputy Minister of Lands and Forests who shall be appointed by the Lieutenant Governor in Council, who shall have charge of the administration of the Department and such other duties as are assigned to him by the Lieutenant Governor in Council or the Minister; and

(b) a Deputy Minister of Forestry who shall be appointed by the Lieutenant Governor in Council, who shall have charge of matters respecting reforestation, forest protection, forest research and investigation and such other duties as are assigned to him by the Lieutenant Governor in Council or the Minister. R.S.O. 1950, c. 309, s. 3.
Surveyor General

4. There shall be an officer of the Department known as the Surveyor General who shall be appointed by the Lieutenant Governor in Council, who shall perform such duties in connection with the surveying of lands, investigation of water powers, engineering, inspection, research and such other matters as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 309, s. 4.

Advisory Committee

5.—(1) There shall be a committee to be known as the Advisory Committee consisting of a chairman and such member or members as the Minister deems appropriate.

(2) Subject to the approval of the Lieutenant Governor in Council, the chairman and members of the Committee shall be appointed by the Minister for such term as the Minister deems proper.

Appointment

Sub-committees

(3) The Committee may, with the approval of the Minister, appoint such sub-committees composed of such members of the Committee and such other persons as it deems appropriate.

Remuneration, etc.

(4) The members of the Committee and any sub-committee shall be paid such remuneration and expenses as may be determined by the Lieutenant Governor in Council.

Meetings

(5) The Committee shall meet monthly or otherwise as the Minister may determine.

Duty

(6) It is the duty of the Committee to advise the Minister upon policy on such matters as the Minister may direct, regard being had to the conservation, development and utilization of the renewable natural resources of Ontario. 1959, c. 81, s. 1.

Power to make regulations

6. The Lieutenant Governor in Council may make such regulations as he deems necessary to carry out the provisions of this Act, or to meet cases for which no provision is made by this Act. R.S.O. 1950, c. 309, s. 5 (1).

Appointment of officers and agents

7. The Lieutenant Governor in Council may appoint such officers and agents to carry out this Act and the regulations as he deems necessary. R.S.O. 1950, c. 309, s. 6.

Exercise of powers

8. The powers conferred on the Minister by this Act shall be exercised subject to the regulations and they may also be exercised by the Lieutenant Governor in Council. R.S.O. 1950, c. 309, s. 7.

Annual report

9.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.
(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 309, s. 8.

10.—(1) The Minister may cause any public lands to be surveyed or subdivided and he may annul in whole or in part any survey or subdivision made under this section or a predecessor of this section.

(2) Where a plan of survey or subdivision made under subsection 1 or a predecessor of subsection 1 has been or is lodged with the proper master of titles or registrar of deeds and the Minister annuls in whole or in part the survey or subdivision, the Minister shall cause an amended plan to be lodged with such master of titles or registrar of deeds.

(3) Where letters patent have been issued for any land that is affected by an annulment under subsection 1, the Minister shall cause such patent to be cancelled and a patent containing a revised description of the land to be issued in its stead, and the patent so issued shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of such cancelled patent. 1956, c. 72, s. 1.

11.—(1) Where in any instrument, including a Crown grant, there is a description of a township lot or any part of a township lot and by reason of an error in the original survey plan of the boundaries of any lake, river or stream the whole or part of which is situate in or flows through the township or by reason of no survey of such boundaries having been made in the original survey of the township the boundaries of such lot or part do not approximate the boundaries of such lot or part as established by a resurvey of the township or any part thereof, the Minister may cause an altering and amending plan to be prepared by an Ontario land surveyor.

(2) Every altering and amending plan shall conform as nearly as may be to a plan of subdivision under section 153 of The Land Titles Act or section 86 of The Registry Act, as the case may be, except that it shall be signed by the Surveyor General or his deputy on behalf of all persons having an interest in the land shown thereon.

(3) When an altering and amending plan has been prepared, the Minister shall send a print of the plan by registered mail to each person appearing to have an interest therein, whereupon the provisions of section 48 of The Surveys Act with respect to notice, hearing and confirmation apply mutatis mutandis.
(4) An altering and amending plan, when confirmed by the Minister pursuant to subsection 3, shall be registered in the proper registry or land titles office, whereupon the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of such lots or blocks.

(5) Where an altering and amending plan has been registered in the proper land titles office, the registers for the parcels affected shall be amended accordingly.

(6) Where an altering and amending plan has been registered in the proper registry office, the registrar shall keep an index of the land described and designated by any number or letter on the plan by the name by which it is so designated and every instrument affecting the land or any part thereof, executed after the plan is registered, shall conform and refer thereto, otherwise it shall not be registered except in cases provided for by section 90 of The Registry Act.

(7) The costs and expenses of and incidental to the preparation and registration of an altering and amending plan shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 99, s. 1.

12.—(1) Where an application to purchase public lands that are open for sale but are not surveyed is received, the Surveyor General may require the applicant to have a survey made and to bear the cost thereof, or he may fix the survey fee to be paid by the applicant, and upon payment of the survey fee the Surveyor General shall cause the lands to be surveyed.

(2) The requirements of subsection 1 are additional to the payment of the sale price of the lands. 1958, c. 86, s. 2.

GRANTS, SALES, LICENCES OF OCCUPATION, ETC.

13.—(1) The Lieutenant Governor in Council may set apart and appropriate such of the public lands as he deems expedient for roads and for the sites of wharves or piers, market places, jails, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and may make free grants for such purposes, and the trusts and uses to which they are to be subject shall be expressed in the letters patent; but no grants shall be for more than 10 acres in any one case, and for any one of such purposes, except for a model or industrial farm, in which case the grant shall not be for more than 100 acres.
(2) The Lieutenant Governor in Council at any time before the issue of the letters patent may revoke any such appropriation. R.S.O. 1950, c. 309, s. 13.

14.—(1) The Lieutenant Governor in Council may set apart areas of public lands for any purpose that will benefit research in, and the management, utilization and administration of, the public lands and forests. R.S.O. 1950, c. 309, s. 14.

(2) The whole or part of any area of public lands covered with water that is set apart for the purposes of a harbour under subsection 1 shall border on public lands not covered with water and such lands or such part thereof as is deemed proper shall be set apart concurrently with the public lands covered with water. 1960, c. 94, s. 1.

15.—(1) In his management of the public lands for recreational use, the Minister may from time to time define areas on maps or plans, and he may designate such areas as zones, and he may classify any such zone as “Open”, “Deferred”, “Wilderness”, or otherwise as he deems proper.

(2) The Minister may designate areas in which the public lands are not open or designated as summer resort locations until a plan of subdivision of the lands to be disposed of is registered under The Land Titles Act or The Registry Act. 1958, c. 86, s. 3.

16.—(1) The Minister may designate any area in territory without municipal organization as a restricted area, and he may issue permits for the erection of buildings or structures or the making of improvements on lands in any such area on such terms and conditions in any case as he deems proper.

(2) Except under the authority of a permit issued under this Act, no person shall erect any building or structure or make any improvement on any lands in any area in territory without municipal organization that is designated by the Minister as a restricted area.

(3) Every person who erects a building or structure or makes any improvement on lands in an area designated by the Minister as a restricted area without a permit therefor and every person who contravenes any term or condition of a permit issued under this section is guilty of an offence and on summary conviction is liable to a fine of not more than $500.

(4) This section does not apply to the erection of buildings or structures or the making of improvements on lands for the purpose of the exploration or development of mines, minerals or mining rights. 1960, c. 94, s. 2.
17. — (1) The Lieutenant Governor in Council may make regulations prohibiting or regulating and controlling the sale of public lands to actual settlers for agricultural purposes or to purchasers of summer resort locations for private or commercial use or to purchasers of public lands for any other purpose or use and fixing the prices and terms and conditions of sale and of settlement.

(2) Any regulation made under subsection 1 may be made applicable to any part of Ontario and may for the purposes of subsection 1 define any term used therein. 1959, c. 81, s. 2 (1).

(3) The Minister may, whether or not the consideration has been fixed by the regulations, dispose of public lands by tender or by auction upon such terms and conditions as he deems proper. 1958, c. 86, s. 4; 1959, c. 81, s. 2 (2).

(4) In every sale or other disposition of public lands for summer resort locations there shall be reserved to the Crown all timber and trees standing, being or thereafter found growing thereon, and all mines and minerals thereon or thereunder, and the instrument of sale or other disposition shall so provide. 1953, c. 88, s. 4 (2).

18. Where the sale or lease of any public lands is not otherwise provided for in this or any other Act or the regulations, the Minister may direct the sale or lease of any such public lands at such price or rental and upon such terms and conditions as he deems proper, but no such sale or lease shall be made of parcels of more than ten acres, and in the case of a sale at less than $10 an acre and in the case of a lease at less than $5 an acre per annum, without the approval of the Lieutenant Governor in Council. 1956, c. 72, s. 2.

19. Where a person has been in actual possession of public lands by himself or through his predecessors for more than sixty years, the Minister may cause a quit claim to be issued to such person in respect of such lands at such price and upon such terms and conditions as he deems proper. 1956, c. 72, s. 3.

20.— (1) Letters patent for land sold or leased under this Act may contain a condition that the land is to be used in a particular manner or a condition that the land is not be used in a particular manner and every such condition shall be deemed to be annexed to the land.

(2) Where land has been or is being used in violation of a condition in the letters patent, the Minister may apply by way of originating notice of motion to the judge of the county or district court of the county or district in which the land is
situates for an order forfeiting the land to the Crown and for possession of the land, and the judge, upon proof to his satisfaction that the land has been or is being used in violation of the condition, shall make an order declaring that, upon registration of the order under subsection 4, the land is forfeit to the Crown and requiring any person in possession of the land to deliver up possession of the land to the Minister or to any person authorized by the Minister to receive possession of it.

(3) An order made under subsection 2 has the same force as a writ of possession and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

(4) A certified copy of an order made under subsection 2 shall be registered in the proper registry or land titles office and, upon registration, the land is vested in the Crown and may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario. 1959, c. 81, s. 3.

21. Where land has been sold or leased under this Act and the letters patent therefor contain a condition that the land is to be used in a particular manner or a condition that the land is not to be used in a particular manner, the Minister may, upon such terms and conditions as he thinks proper, make an order releasing the land or any part thereof from the condition or any part thereof contained in the letters patent. 1959, c. 81, s. 3.

22.—(1) The Minister may issue under his hand and seal a licence of occupation to any person who has purchased, or is permitted to occupy, or is entrusted with the care or protection of any public lands or who has received or been located on any public lands as a free grant.

(2) Such person or his assigns may take possession of and occupy the land for which the licence is issued, subject to the conditions of the licence, and may under it, unless it has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could under letters patent from the Crown.

(3) The licence of occupation is prima facie evidence of the right to possession by such person and his assigns of the land, but has no force against a licence to cut pine trees existing at the time of its issue or where the pine trees are reserved to the Crown against a licence to cut such trees then existing or thereafter issued. R.S.O. 1950, c. 309, s. 16.
23. The Minister may grant easements in or over public lands for any purpose. 1957, c. 99, s. 2.

24. The Minister has authority to determine all questions that arise as to the rights of persons claiming to be entitled to letters patent of land located or sold under this Act and his decision is final and conclusive. R.S.O. 1950, c. 309, s. 17.

25. If the Minister is satisfied that a purchaser, locatee or lessee of public lands, or any person claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, location or lease, or of the licence of occupation, he may cancel such sale, location, lease or licence, and resume the land and dispose of it as if the same had never been made, and upon such cancellation all moneys paid in respect of such sale, location or lease remain the property of the Crown and the improvements, if any, on the land are forfeited to the Crown. R.S.O. 1950, c. 309, s. 18; 1953, c. 88, s. 6.

26.—(1) Where a purchaser, locatee, lessee or other person refuses or neglects to deliver up possession of any land after the revocation or cancellation of the sale, location, lease or licence of occupation thereof, or where a person is wrongfully in possession of public lands and refuses to vacate or abandon possession of the same, the Minister may apply to a judge of the county or district court of the county or district in which the land or any part of it is situate for an order for possession, and the judge, upon proof to this satisfaction that the right or title of such purchaser, locatee, lessee or other person to hold the land has been revoked or cancelled, or that the person in possession is wrongfully in possession of the land shall make an order requiring him to deliver up the land to the Minister, or to any person authorized by him to receive possession of it, or the Minister may by his warrant require such purchaser, locatee, lessee or person to deliver up the land to the person named in the warrant.

(2) The order or warrant has the same force as a writ of possession, and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

(3) The sheriff, bailiff or other person executing the order or warrant may take with him all necessary assistance and has the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty. R.S.O. 1950, c. 309, s. 19 (1-3).

(4) Where it appears to the Minister that the presence of a person who is wrongfully or without lawful authority in
possession of or occupying any public land is dangerous to
the safety of any timber or other public property on such land
or in its vicinity, and it is expedient for that or any other
reason to remove him from such land, the Minister may by
warrant authorize any member of the Ontario Provincial
Police Force, forest ranger or other officer or person to remove
him from such land and also to remove therefrom any build-
ing, structure or tent erected or used by him. R.S.O. 1950,
c. 309, s. 19 (4), amended.

(5) If a person who has given up possession of or has been
removed from any land under the authority of this section
again returns to or enters upon it, the order or warrant is a
sufficient authority to the officer or person named in it again
to remove such person from the land, and the power of re-
moval may be exercised under such order or warrant from
time to time and as often as occasion requires.

(6) Every person who refuses to obey any such order or
warrant, or who resists, obstructs or interferes with any per-
son executing it, or who again returns to the land, is guilty of
an offence and on summary conviction is liable to a fine of not
less than $20 and not more than $100 and to imprisonment for
a term of not more than six months. R.S.O. 1950, c. 309, s. 19
(5-6).

27.—(1) Any person who enters into possession of public
lands without lawful authority and erects any building or
structure or makes any improvements thereon is liable to a
penalty of an amount equal to twice the market value of the
public land so entered as determined by the Minister.

(2) A penalty imposed under subsection 1 is recoverable
at the suit of the Minister in any court of competent juris-
diction.

(3) If a person fails to pay a penalty imposed upon him
under subsection 1 and the Minister brings an action for the
recovery of the penalty, it is the duty of the court,

(a) to determine whether such person is liable to a
penalty under subsection 1;

(b) if it is determined that the person is liable to a
penalty, to confirm or vary the amount thereof
claimed by the Minister;

(c) to give such judgment as it deems proper; and

(d) to make such order as to costs or otherwise as it
deems proper.
(4) Nothing in this section limits or in any way affects any right or remedy of the Minister or the Crown at common law or under any statute. 1960, c. 94, s. 3.

28.—(1) Except with the consent in writing of the Minister, public lands that have been purchased under this Part shall not, before the issue of letters patent, be alienated, mortgaged, or charged, either voluntarily or involuntarily, except by devise or sale under the authority of any Act of the Legislature relating to taxation or statute labour.

(2) Except by mortgage or charge thereon made in favour of the Crown, neither the land nor any interest or right therein is, before the issue of letters patent, liable for the satisfaction of any debt or liability contracted or incurred by such purchaser, his widow, heirs or devisees. R.S.O. 1950, c. 309, s. 20.

29. Where rent payable to the Crown on a lease of public lands is in arrear, the Minister or an agent or officer appointed under this Act and authorized by the Minister to act in such cases, may issue a warrant, directed to any person named in it, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last-mentioned cases; or an action may be brought in the name of the Minister for the recovery of the arrears, but a demand of the rent is not necessary in any case. R.S.O. 1950, c. 309, s. 21.

30. A grant or letters patent issued to or in the name of a person who is dead is not therefore void, but the title to the land thereby granted or intended to be granted vests in the heirs, assigns, devisees or other legal representatives of the deceased person according to the laws in force in Ontario as if the grant or letters patent had issued to or in the name of the deceased person during his lifetime. 1955, c. 66, s. 1.

31.—(1) Where letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer or a wrong description of the land intended to be granted, the Minister, if there is no adverse claim, may direct the defective patent to be cancelled and a correct one to be issued in its stead, and the corrected letters patent relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled letters patent.

(2) The powers conferred by subsection 1 may be exercised notwithstanding that the land has been registered under The Land Titles Act. R.S.O. 1950, c. 309, s. 22.
32. Where grants or letters patent for the same land inconsistent with each other have been issued through error, or where sales or appropriations of the land inconsistent with each other have been made, the Minister may, in cases of sale, cause a repayment of the purchase money, with interest to be made to the person damnified, or where the land has passed from the original purchaser, or has been improved before discovery of the error, or where the original grant or appropriation was a free grant, he may in substitution appropriate land or give a certificate entitling the person damnified to public lands, of such value and to such extent as the Minister deems just; but no claim shall be entertained unless it is made within five years from the discovery of the error. R.S.O. 1950, c. 309, s. 23.

33.—(1) Where by reason of erroneous survey or of error in the books or plans in the Department any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the letters patent therefor, the Minister may direct that the purchase money of so much land as is deficient, with interest thereon from the time of the application for a refund or if the land has passed from the original purchaser, the Minister may direct that the purchase money that the claimant, if he was ignorant of the deficiency at the time of his purchase, paid for so much of the land as is deficient, with interest thereon from the time of the application for a refund, be paid to him in land or money, as the Minister directs.

(2) In the case of a free grant, the Minister may direct a grant to be made of other land equal in value to so much of the land intended to be granted as is deficient, as a free grant.

(3) No claim shall be entertained unless it is made within five years from the date of the letters patent, or unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the land granted. R.S.O. 1950, c. 309, s. 24.

34. If letters patent for land are repealed or avoided in a judicial proceeding, the judgment shall be registered in the proper land titles or registry office. R.S.O. 1950, c. 309, s. 25.

35.—(1) The Minister may reduce the price of any public lands sold by the Crown before the 23rd day of June, 1942, where it appears that the land was sold at a price beyond its fair value, and that the price or part of it remains unpaid, but the reduction shall not exceed the amount that remains unpaid.
(2) The Minister may also make such abatement as he deems just of the arrears of interest upon the unpaid purchase money of any public lands sold by the Crown before the 23rd day of June, 1942.

(3) Before any such reduction or abatement is made, the land shall be examined and valued by an inspector appointed for that purpose by the Minister.

(4) The reduction and abatement shall be confined to cases in which the purchaser from the Crown or some person claiming under him is in occupation of the land and is an actual settler on it or on land adjacent to it.

(5) In the case of school lands, such reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of Ontario in the lands and the price thereof, and do not extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof.


36. The Minister shall in the month of February in every year transmit to the treasurer of every county and of every local municipality in territory without county organization, a list of all land in the county or local municipality patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a licence or occupation was issued during the next preceding calendar year, and the Minister shall in like manner inform every such treasurer of the cancellation of any licence of occupation, sale, lease, location, or appropriation. R.S.O. 1950, c. 309, s. 27.

37.—(1) The Provincial Secretary shall, once in every three months, furnish to the registrar of every registry division, a statement containing a list of the names of all persons to whom letters patent have been issued for land in the registry division during the next preceding three months and of all persons whose letters patent have been cancelled during that period with such general or particular descriptions of the land as the case requires.

(2) Where a list of patented lands, furnished under this section, contains any land to which section 35 of The Land Titles Act applies, it shall be stated in the list that such land is subject to that Act, and in such case and also whenever the Provincial Secretary notifies the registrar of a registry division of the issue of a patent of land to which that section applies, the registrar shall in the abstract index enter the fact that the land is subject to The Land Titles Act and shall not thereafter
receive for registration any instrument affecting the land.
R.S.O. 1950, c. 309, s. 28.

38. No person holding an office in or under the Department and no person employed in or under the Department shall, directly or indirectly, purchase any right, title or interest in any public lands either in his own name or by the interposition of any other person or in the name of any other person in trust for himself without the approval of the Lieutenant Governor in Council. 1958, c. 86, s. 5.

39. Where by law or by any deed, lease or agreement relating to any public lands any notice is required to be given, or any act to be done, by or on behalf of the Crown, the notice may be given and the act may be done by the Minister or the Deputy Minister of Lands and Forests or by a person acting under the authority of either of them. R.S.O. 1950, c. 309, s. 31.

40.—(1) Affidavits required under this Act or under the Crown Timber Act or under any other Act relating to the affairs of the Department, and affidavits intended to be used in reference to any claim, business or transaction in the Department, or in respect of which the Department is interested, or which affects the revenue of Ontario under the control of the Department, may be taken before any person having authority to administer oaths, or before the clerk of any county or district court, or before the Minister or either Deputy Minister, or before any agent of the Department under whatever Act or authority such agent may have been appointed an agent or before any person appointed for that purpose by the Minister or either Deputy Minister, or before an Ontario land surveyor appointed by the Minister or either Deputy Minister to inquire into, take evidence in or report upon any matter pending in the Department.

(2) Such affidavits, if made out of Ontario, may be taken before any person having authority under The Evidence Act to administer oaths out of Ontario. R.S.O. 1950, c. 309, s. 32.

41. A copy of any instrument made or issued under the hand of the Minister or of either Deputy Minister or of any officer or agent of the Department under the authority of this Act or of The Crown Timber Act or under the authority of the regulations made under those Acts, purporting to be certified by the Minister, either Deputy Minister, officer or agent as a true copy of such instrument, is prima facie evidence of the instrument and of its contents in all courts and before all officers and persons having by law or by the consent of parties
authority to hear, receive and examine evidence. R.S.O. 1950, c. 309, s. 33.

42. The Minister may grant a lease or issue a licence of occupation in respect of any public lands covered with water at such rent or fee and upon such terms and conditions as he deems proper or as are prescribed by the regulations, or, with the approval of the Lieutenant Governor in Council, the Minister may sell any such lands at such price and upon such terms and conditions as he deems proper. 1956, c. 72, s. 4.

43. Where any land forfeited to and vested in the Crown under The Provincial Land Tax Act has not been granted, sold, leased or otherwise disposed of, the Minister may direct the issuance of letters patent granting the land to the owner thereof at the time of such forfeiture, or to any person appearing to have had an interest therein at that time, or to the heirs, successors or assigns of such owner or person, upon such terms as the Minister deems just. 1952, c. 86, s. 1.

PART II

FREE GRANTS TO ACTUAL SETTLERS

44. Except as hereinafter and in section 13 otherwise provided, no free grant of public lands shall be made. R.S.O. 1950, c. 309, s. 35.

45. The Lieutenant Governor in Council may make regulations,

(a) providing for free grants not exceeding 160 acres of public land situated anywhere in the Province to former members of the forces;

(b) defining "former members of the forces";

(c) prescribing the terms and conditions upon which such grants may be made,

and, except as otherwise provided by the regulations, this Part applies to such grants. R.S.O. 1950, c. 309, s. 36.

46. The person to whom land is allotted or appropriated as a free grant shall be deemed to be located for the land within the meaning of this Act, and is hereinafter called the locatee. R.S.O. 1950, c. 309, s. 38.

47.—(1) The head of a family having a child or children under eighteen years of age residing with him may be located for a free grant to the extent of 160 acres in townships sur-
veyed in sections of 640 acres or in lots of 320 acres, or to the extent of 200 acres in the remainder of the free grant territory.

(2) A male of the age of eighteen years or upwards not having a child may be located for a free grant to the extent of 160 acres in townships surveyed in sections of 640 acres or in lots of 320 acres, or to the extent of 100 acres in the remainder of the free grant territory.

(3) In townships surveyed in sections of 640 acres or lots of 320 acres, in addition to being located as provided for by subsection 1, every head of a family having a child or children under eighteen years of age residing with him may purchase 80 acres, and in the remainder of the free grant territory 100 acres, adjacent to his location at 50 cents an acre, payable in cash.

(4) Where a person has made substantial improvements on two or more adjoining lots in the district of Kenora or the district of Rainy River and the lots contain more land than he is entitled to locate and purchase, the Minister may sell to him at 50 cents per acre such additional land as under the circumstances the Minister deems proper.

(5) Where it appears to the Minister that by reason of rock or swamp a lot or parcel of land containing 100 acres that he is about to allot does not contain that quantity of land that can be made available for farming purposes, he may increase the number of acres to be allotted to the locatee so that there will be allotted to him 100 acres of farming land, but the quantity allotted shall in no case exceed 200 acres.

(6) The powers conferred on the Minister by subsection 5 may also be exercised in respect of land that has been located.

(7) Where the whole or an aliquot part of a section or lot is or is to be located, it shall be deemed for the purpose of the location to contain the quantity of land that according to the original survey it was intended to contain. R.S.O. 1950, c. 309, s. 39.

48. Before a person is located he shall make an affidavit, which shall be deposited with the agent to whom the application is made, stating that he has not been located for any land under this Part, and that he is of the age of eighteen years or upwards, that he believes the land for which he desires to be located is suitable for settlement and cultivation and is not chiefly valuable for its pine trees or for its mines and minerals, and that the location is desired for his own benefit, and for the purpose of actual settlement and cultivation of the land, and not, either directly or indirectly, for the use or benefit of any other person, or for the purpose of obtaining,
possessing or disposing of any of the pine trees growing or
being on the land, or any benefit or advantage therefrom, or
mines or minerals therein, and where the applicant is the
head of a family and has a child or children under eighteen
years of age residing with him or her, that fact shall be stated
in the affidavit. R.S.O. 1950, c. 309, s. 40.

49. Any person who has obtained letters patent under
this Part may, on proving to the satisfaction of the Minister
that he has bona fide and absolutely parted with the patented
land, obtain another location. R.S.O. 1950, c. 309, s. 41.

50.—(1) Where land was located or sold under this Part
before the 23rd day of June, 1942, the Minister may direct
the issue of letters patent to the locatee, or any person claim-
ing under or through him,

(a) who has built a house on the land that is fit for
habitation and that has at least 320 square feet of
floor space;

(b) who has resided on the land for a period or periods
of at least three years in all;

(c) who has cleared and cultivated fifteen acres of the
land; and

(d) who pays the balance, if any, of the purchase price
of the land.

(2) The Minister may direct the issue of letters patent for
land located or sold under this Part before the 23rd day of
June, 1942, where the locatee or purchaser or person claiming
under or through him produces evidence satisfactory to the
Minister,

(a) that he is the registered owner of land upon which
he has resided for at least three years that is distant
not more than five miles from the land so located
or sold;

(b) that at least 30 acres of the land of which he is the
registered owner or of the land so located or sold,
or of both, have been cleared; and

(c) that the purchase price of the land so located or sold
has been paid. 1953, c. 88, s. 7.

(3) Where additional land is purchased by a locatee under
section 47, the settlement duties may be performed either on
the located or the purchased land or partly on both.

(4) Where a locatee has not been located for the full
quantity of land for which he was entitled to be located, or,
having been located for the full quantity, has afterwards become the head of a family having a child or children under eighteen years of age residing with him, he is entitled to be located in the former case for sufficient additional adjacent land to make up the full quantity for which he was entitled to be located, and in the latter case for sufficient additional adjacent land to make up the full quantity for which he would have been entitled to be located, if at the time he was located he had been the head of a family having a child or children under eighteen years of age residing with him, but it is not necessary for him to perform settlement duties on the subsequently located land if the settlement duties have been performed on the land first located.

(5) Where the settlement duties have not been performed or completely performed on the land first located, the Minister may, subject to the regulations, permit them to be performed or completed either on the land first located or the subsequently located land or partly on both. R.S.O. 1950, c. 309, s. 42 (3-5).

51. If such settlement duties are not performed, the Minister may direct that the location be forfeited, and thereupon all rights of the locatee, and of every one claiming under him, in the land ceases. R.S.O. 1950, c. 309, s. 43.

52. If a person entitled to obtain a location under this Part has, without objection by the Crown, for a period of four years or more occupied and has made the prescribed improvements upon one or more lots, not exceeding in quantity that which may be granted under this Part, before the land was opened for location as free grant land, or if the land was open for location, and has so occupied and improved the land but through inadvertence or oversight has not been located for it, the Minister, if satisfied that the land is not chiefly valuable for its pine trees, subject to the regulations, may, after location under this Part, direct the issue of the letters patent upon proof of the performance of the prescribed settlement duties and without waiting for the expiration of three years from the date of the location. R.S.O. 1950, c. 309, s. 44.

53. Where, before the 16th day of December, 1941,

(a) a person was located on land in excess of the acreage prescribed in subsection 1 or 2 of section 47 and either before or after such date completed the settlement duties in respect thereof; or

(b) a person was located on land, whether or not in excess of the acreage prescribed in subsection 1 or 2
of section 47, and either before or after such date completed the settlement duties in respect of adjacent land in excess of the acreage prescribed in subsection 3 of section 47,

a patent may issue for all of such land notwithstanding such excess acreage. R.S.O. 1950, c. 309, s. 46.

54.—(1) Neither the locatee nor any one claiming under him has power without the consent in writing of the Minister, to alienate, otherwise than by devise, or to mortgage or charge any land located as a free grant or any right or interest therein before the issue of the letters patent.

(2) Except as provided in section 55, no alienation, otherwise than by devise, and no mortgage or charge of the land, or of any right or interest therein by the locatee after the issue of the letters patent, and within twenty years from the date of the location, and during the lifetime of the wife of the locatee is valid or of any effect, unless the wife of the locatee is one of the grantors with her husband, nor unless the instrument is duly executed by her.

(3) Where the wife of a locatee,

(a) is a mental incompetent or a person of unsound mind, and confined in an institution under The Mental Hospitals Act; or

(b) has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony; or

(c) has not been heard of for seven years under such circumstances as raise a legal presumption of death, at any time after the issue of the letters patent a judge of the Supreme Court or a judge of the county or district court of the county or district in which the land or any part of it is situate, may by an order made in a summary way upon such evidence as to him seems meet, dispense with the concurrence of the wife for the purpose of conveying, mortgaging or charging the land.

(4) In the case provided for by clauses a and b of subsection 3, notice of the application shall be personally served upon the wife unless the judge otherwise directs.

(5) The order may be made subject to conditions or directions for the benefit of the children of the locatee, and, subject thereto, it operates to bar the right, title and interest of
the wife in the land to the same extent as if she being of sound mind had been one of the grantors with her husband, and had duly executed the conveyance, mortgage or charge. R.S.O. 1950, c. 309, s. 49.

55.—(1) Neither the land, nor any interest or right therein, is liable for the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issue of the letters patent.

(2) After the issue of the letters patent and while the land, or any part of it, or any interest in it, is owned by the locatee or his widow, heirs, or devisees, it is during the twenty years next after the date of the location exempt from attachment, levy under execution or sale for the payment of debts, and is not liable for the satisfaction of any debt or liability contracted or incurred before or during that period, except a debt secured by a valid mortgage or charge of the land made after the issue of the letters patent. R.S.O. 1950, c. 309, s. 50.

56. The name of the original locatee, the date of the location, and that the letters patent are issued under the authority of this Part shall be stated in the body of the letters patent. R.S.O. 1950, c. 309, s. 51.

57.—(1) On the death of the locatee, whether before or after the issue of the letters patent, all his then interest and right in the land, including the right to letters patent granting the land, descend to and become vested in his widow in lieu of dower, but the widow may elect to have her dower in the land in lieu of this provision.

(2) Where the widow of a locatee remarries, she does not thereby divest herself of any interest or right vested in her under subsection 1. R.S.O. 1950, c. 309, s. 52.

58. Nothing in this Part exempts the land from levy or sale for rates or taxes legally imposed. R.S.O. 1950, c. 309, s. 53.

59. The Minister may, by remitting any sum due to the Crown in respect of his land by such settler, place any bona fide settler in free grant territory, who settled thereon before it was opened for settlement as free grant territory and who is in the occupation of the land, in the same position as if his land had been free grant land at the time he settled on it. R.S.O. 1950, c. 309, s. 54.
Sec. 60 ((1) The Lieutenant Governor in Council may open for sale under Part I or for location and sale under Part II to actual settlers any lands that he deems suitable for agricultural purposes. 1951, c. 71, s. 2.

(2) The expression “suitable for agricultural purposes” in subsection 1 means lands that are at least 50 per cent arable and that are in a school section or within one mile of a highway or three miles of a school bus route. 1953, c. 88, s. 9.

61. (1) Where land was sold under Part I before the 23rd day of June, 1942, to actual settlers, the Minister may direct the issue of letters patent to the purchaser or any person claiming under him,

(a) who has built a house on the land that is fit for habitation and that has at least 320 square feet of floor space;

(b) who has resided on the land for a period or periods of at least three years in all;

(c) who, in respect of land in the district of Cochrane or Timiskaming, has cleared and cultivated 10 per cent of the land where the sale was made before the 30th day of September, 1925, or 15 acres of the land where the sale was made on or after such date, or who, in respect of land in Ontario, other than in the district of Cochrane or Timiskaming, has cleared and cultivated 10 per cent of the land; and

(d) who pays the balance, if any, of the purchase price of the land and the interest thereon. R.S.O. 1950, c. 309, s. 56; 1953, c. 88, s. 10 (1, 2).

(2) The Minister may direct the issue of letters patent for land sold under Part I in the territorial district of Cochrane or Timiskaming before the 30th day of September, 1925, or in any other part of Ontario before the 23rd day of June, 1942, where the purchaser or person claiming under or through him produces evidence satisfactory to the Minister,

(a) that he is the registered owner of land upon which he has resided for at least three years that is distant not more than five miles from the land so sold;

(b) that at least 10 per cent of the land so sold is cleared and cultivate; and
that the purchase price of the land so sold and the interest thereon has been paid. 1953, c. 88, s. 10 (3).

62.—(1) All trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown until the issuance of letters patent, whereupon the property in such trees passes to the patentee.

(2) During the time the trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown, the purchaser or locatee of such land, or anyone claiming under him, may cut and use all such trees as are necessary for building on and fencing such land, and he may cut and dispose of all such trees required to be removed in clearing the land for cultivation, but no trees except those necessary for such building and fencing shall be cut beyond the limit of the actual clearing without the consent in writing of an officer authorized by the Minister for the purpose.

(3) All trees cut under subsection 2 and sold or bartered are subject to the payment of the same charges as are at the time payable by the holders of licences to cut timber, unless the Minister otherwise directs in writing. 1951, c. 71, s. 3, part.

(4) Where land is disposed of under this Act for agricultural purposes and a licence to cut timber on such land is subsisting at the time the disposition is made, the licence shall be deemed to be revoked in respect of such land, and in any such case the Minister may compensate the holder of such licence by granting to him a licence to cut timber elsewhere. 1951, c. 71, s. 3, part, amended.

63.—(1) Where land is disposed of under this Act for agricultural purposes, the property in all trees thereon shall be deemed to have passed to the patentee by the letters patent, and every reservation of any class or kind of tree contained in the letters patent shall be deemed to be void. 1951, c. 71, s. 3, part.

(2) Where public lands have been disposed of by the Crown under this or any other Act and some but not all of the species of trees thereon have been reserved to the Crown and are not under timber licence, the Minister may, if the lands comprise not more than 200 acres, or, if the lands comprise more than 200 acres, the Minister may, with the approval of the Lieutenant Governor in Council, acquire any species of trees not so reserved or release any species of trees so reserved at such price and upon such terms and conditions as he deems proper. 1958, c. 86, s. 6.
(3) Any order made under subsection 2 may be registered in the proper registry or land titles office. 1951, c. 71, s. 3, part.

64. In sections 62 and 63, the expression "this Act" includes any predecessor of this Act. 1951, c. 71, s. 3, part.

65. In any letters patent issued for lands located or sold under this Act for agricultural purposes on or after the 1st day of April, 1957, the mines and minerals shall be reserved to the Crown. 1957, c. 99, s. 3.

66.—(1) In the case of land patented before the 6th day of May, 1913, the mines and minerals therein shall be deemed to have passed to the patentee by the letters patent, and every reservation thereof contained in the letters patent or by statute is void.

(2) Subsection 1 does not apply where,

(a) the mines and minerals or any of them in any land have been alienated or disposed of under The Mining Act or any predecessor of that Act;

(b) the mines or minerals or any of them have reverted or may hereafter revert to the Crown through abandonment, cancellation, forfeiture or otherwise.

(3) In the case of lands patented after the 6th day of May, 1913, mines and minerals pass to the patentee unless expressly reserved by the letters patent.

(4) The Minister of Mines or the Deputy Minister of Mines may issue a certificate as to the issue of letters patent with respect to any lands, mines or minerals affected by this section and every such certificate shall be received and recorded in the proper registry or land titles office. R.S.O. 1950, c. 309, s. 59.

(5) An applicant for a certificate under subsection 4 shall pay a fee of $5 for every such certificate. 1953, c. 88, s. 11.

67.—(1) All lands patented or otherwise disposed of under this Act after the 12th day of April, 1917, are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the patent or other form of title of such lands is void, and the lands revert to and become vested in the Crown, freed and discharged of any interest or claim of every other person.
68.—(1) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, there shall be reserved to the Crown the right to construct on the land any colonization or other road or any road in lieu of or partly deviating from an allowance for road without making compensation therefor, and such right whether or not it is expressly reserved from the sale, location, lease, licence of occupation, mining claim or other disposition of the land or by the letters patent when issued shall be deemed to be so reserved. R.S.O. 1950, c. 309, s. 61 (1).

(2) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, where the letters patent have been issued containing a reservation of any of the area for roads, wood, gravel and other materials required for the construction or improvement of any colonization or other road or of any road in lieu of or partly deviating from an allowance for road, may be taken from the land without making compensation therefor or for the injury thereby done to the land from which they are taken, and where the letters patent have been issued without a reservation being made of any of the area for roads, wood, gravel and other materials required for the purposes hereinbefore mentioned may be taken from the land, but compensation shall be paid as provided by The Public Works Act. R.S.O. 1950, c. 309, s. 61 (2); R.S.O. 1960, c. 338, 1955, c. 66, s. 2.

(3) The rights mentioned in subsections 1 and 2 may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown. R.S.O. 1950, c. 309, s. 61 (3).

(4) Where public lands over which a portage has existed or exists have been heretofore or are hereafter sold or otherwise disposed of under this or any other Act, any person travelling on waters connected by the portage has the right to pass over and along the portage with his effects without the permission of or payment to the owner of the lands, and any person who obstructs, hinders, delays or interferes with the exercise of such right of passage is guilty of an offence and on summary conviction is liable to a fine of not more than $100. 1960, c. 94, s. 4.
69.—(1) Where letters patent have issued for land that is in a municipality and the Minister is of opinion that the present and future needs of the locality as to roads are adequately provided for, he may, upon application of the owner of the land or any part thereof and upon payment of a fee of $25, make an order releasing and discharging the land or part from any reservation relating to roads mentioned in section 68 or in the letters patent. 1958, c. 86, s. 7.

(2) Any order made under subsection 1 may be registered in the proper registry or land titles office. 1953, c. 88, s. 12, part.

70. In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands, or mining lands or mining rights, the Minister may reserve from sale any water power or privilege, and such area of land in connection therewith as he deems necessary for the erection of buildings and plant and the development and utilization of the power, together with the right to lay out and use such roads as may be necessary for passage to and from such water power or privilege and land. R.S.O. 1950, c. 309, s. 62.

71. Where letters patent have issued granting summer resort lands subject to the conditions that the patentee shall within eighteen months from the date of the patent expend not less than $300 in the construction of buildings or of other improvements and that no building or other construction shall be erected unless the plan and description thereof have been approved by the Minister, such conditions shall be deemed to be void and of no effect. 1951, c. 71, s. 4.

72.—(1) The Minister may issue a certificate as to any condition, proviso or reservation that is void by statute.

(2) An applicant for a certificate under subsection 1 shall pay a fee of $15 for every such certificate. 1956, c. 72, s. 7.

73.—(1) Subject to subsection 5, where public lands that have been disposed of by the Crown under this or any other Act are surveyed and subdivided for the purpose of being sold or conveyed in lots or blocks by reference to a plan to be registered under The Land Titles Act or The Registry Act and such plan is signed within five years of the issue of the letters patent granting the land by the owner of the land shown on the plan to be registered, one-quarter in acreage of all the lots and blocks shown on the plan become the property of and are vested in the Crown upon the registration of the plan.
(2) In cases under subsection 1, the Minister may make such selection of the lots or blocks on the plan as he and the person by whom the plan is to be registered agree upon, or the Minister may first select one lot or block and such person shall then select three lots or blocks and so on in turn, the Minister selecting one and such person three until the division is made.

(3) The selection made under subsection 2 shall comprise as nearly as may be one-quarter in acreage of all the lots and blocks on the plan and, for the purpose of subsection 1, the selection so made shall be deemed to comprise one-quarter in acreage of such lots and blocks.

(4) In cases under subsection 2, there shall be endorsed on the plan a certificate of the Minister in the words or in words of like effect:

I hereby certify that, pursuant to subsection 2 of section 73 of The Public Lands Act, I have selected ................................from all the lots and blocks on this (lot or block) plan.

Dated at Toronto this........day of............19......

..............................................................

Minister of Lands and Forests

(5) The Minister, with the approval of the Lieutenant Governor in Council, may accept a money payment in lieu of one-quarter in acreage of all the lots and blocks on the plan.

(6) In cases under subsection 5, there shall be endorsed on the plan a certificate of the Minister in the words or in words of like effect:

Pursuant to subsection 5 of section 73 of The Public Lands Act, the Lieutenant Governor in Council by his Order Number........................................, dated the........day of................................., 19........, has approved the acceptance of a money payment in lieu of one-quarter in acreage of all the lots and blocks on this plan.

Dated at Toronto this........day of............19......

..............................................................

Minister of Lands and Forests

(7) No plan under this section and no instrument referring thereto shall be registered in any land titles or registry office until a certificate under subsection 4 or 6 is endorsed thereon.

(8) In cases under subsection 2, the local master of titles or the registrar, as the case may be, shall, upon registration of the plan, enter Her Majesty the Queen in right of Ontario as the owner of the lots or blocks mentioned in the certificate endorsed thereon.

(9) Nothing in this section affects any rights in mines or minerals. 1958, c. 86, s. 8.