

Bill No. 26 of 1952.

A BILL TO AMEND THE LAND TITLES ACT

NOTE.

This Bill amends *The Land Titles Act*, being chapter 205 of the Revised Statutes of Alberta, 1942.

A new section 21a is added immediately after section 21. The oil development in Alberta has resulted in a great number of historical searches particularly in mineral titles. The repeated handling of some of the older titles has resulted in their becoming torn, frayed or otherwise damaged so that it is difficult, or in some cases impossible, to read all the memoranda and indorsements on the title. The effect of the new section is to authorize the Registrar to have such titles reproduced by means of photostatic negatives. The photostatic negatives are deemed to be the certificate of title for all purposes under the Act and the particulars of all further dealings affecting the land will be recorded on the photostatic copies as though they were the certificates of title. The photostatic reproductions may be admitted in evidence and the original certificate of title will not be open to inspection except upon the order of a court or judge.

Section 61, subsection (2) is amended by adding a reference to instruments registered under section 68, subsection (2a). When land is sold at a tax sale the new certificate of title is subject to easements provided for under sections 67 and 68. Section 68, subsection (2a) provides that incumbrances may be registered against certain public utility easements. If the easement appears on the new title the incumbrance on the easement should also appear and the purpose of the amendment is to make this clear.

Section 65 is struck out and a new section is substituted in its stead. The present section deals both with transfers of land and with the grant of easements and rights-of-way. The granting of easements and rights-of-way on the ordinary transfer of land form is confusing and tends to lead to error in registration. In the section that is substituted subsection (1) deals with transfers and subsection (2) deals separately with the grant of easements and rights-of-way. A similar amendment is made in the Schedule where the transfer of land form is amended to delete references to easements and a special new Form 11a is added which deals expressly with the grant of easements and rights-of-way.

In 1951 *The Public Works Act* was repealed and the sections it contained relating to surveys and the registration of plans of subdivision were re-enacted in *The Surveys and Expropriation Act*. The portion of *The Land Titles Act* dealing with plans of subdivision and road allowances contains several references to *The Public Works Act* and to the Department of Public Works. This Bill accordingly amends these provisions by substituting references to *The Surveys and Expropriation Act* and to the Director of Surveys wherever it appears necessary. These amendments are found in sections 78, 80, 81, 83, 87, 90 and 91.

Section 78 is also amended to make it clear that changes in park reserves must be approved by the Minister of Lands and Forests who now administers provincial parks in lieu of the Minister of Public Works.

Section 80 is also amended by the addition of a new subsection (2). When the waters of lakes, rivers and streams recede the resulting accrued areas belong to the Crown. When the lands fronting on the waters of lakes, rivers and streams have been subdivided some surveys have included portions of the Crown lands within the area being subdivided and certificates of title have been issued thereby divesting the Crown of its land. The purpose of the amendment is to avoid this by providing that no such plan of subdivision shall be registered unless the plan has indorsed on it a certificate of the Director of the Technical Division of the Department of Lands and Forests stating that no part of the plan purports to subdivide land vested in Her Majesty in the right of the Province.

Section 89, subsection (2) is amended by striking out the word "purchased" and by substituting the word "acquired". Lands used for highways or public works may be purchased or may be obtained pursuant to *The Surveys and Expropriation Act* or may be otherwise acquired. The word "acquired" will cover all methods of acquisition and is accordingly more accurate.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

• (This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 26 of 1952.

An Act to amend The Land Titles Act.

(Assented to , 1952.)

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

1. *The Land Titles Act*, being chapter 205 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. The following new section 21a is added immediately after section 21:

“21a. (1) When a certificate of title in the register is torn, damaged, frayed, mutilated or is otherwise rendered unfit, in the opinion of the Registrar, for continued use the Registrar may cause a photostatic negative to be made of the face of the certificate of title and a photostatic negative to be made of the reverse side of the certificate of title.

“(2) The Registrar shall indorse and sign a memorandum on the reverse side of each photostatic negative stating the date on which the negative was made.

“(3) The Registrar may remove the certificate of title from the register and shall replace it with the two photostatic negatives which shall be deemed to constitute one folio of the book.

“(4) The certificates of title so removed shall be kept in a separate book or books which shall not be open to inspection by any person except upon the order of a court or judge.

“(5) The two negatives shall be deemed for all purposes of this Act to be the certificates of title and after the date on which they were made the Registrar shall record thereon the particulars of each instrument, dealing or other matter required to be registered or entered in the register by this Act affecting the land included in the certificate of title.

“(6) The two negatives shall be admissible in evidence in all cases and for all purposes for which the certificate of title would have been admissible, notwithstanding that the certificate of title has not been destroyed.”.

3. Section 61, subsection (2) is amended by adding immediately after the figures “68” the words “and to any instrument registered under section 68, subsection (2a)”.
Section 61 amended

Section 65
amended

4. Section 65 is struck out and the following is substituted:

Form of
transfer

"65. (1) When land for which a certificate of title has been granted is intended to be transferred, the owner may execute a transfer in Form 11 in the Schedule.

"(2) When land for which a certificate of title has been granted is intended to be made subject to any right-of-way or other easement the registered owner may execute an instrument transferring or granting the easement or right-of-way in Form 11a of the Schedule.

"(3) A transfer made pursuant to subsection (1) or an instrument made pursuant to subsection (2) shall,—

- "(a) refer to the certificate of title of the land or give such description of the land as is sufficient to identify it; and
- "(b) contain an accurate statement of the estate or interest intended to be transferred or created; and
- "(c) contain a memorandum of each lease, mortgage or other incumbrance to which the land is subject."

Section 78
amended

5. Section 78 is amended,—

- (a) by striking out the words "Department of Public Works", where they occur in subsection (2), and by substituting the words "Director of Surveys";
- (b) by striking out subsection (3) and by substituting the following:

Vesting of
title in
Crown

"(3) The registration in the Land Titles Office of a plan of subdivision of land into lots or blocks not within the limits of an incorporated city shall vest title,—

- "(a) to all streets, avenues, highways, lanes or thoroughfares shown on the plan in Her Majesty the Queen in the right of the Province of Alberta as represented by the Minister of Highways; and
- "(b) to all public works reserves shown on the plan in Her Majesty the Queen in the right of the Province of Alberta as represented by the Minister of Public Works;
- "(c) to all park reserves shown on the plan in Her Majesty the Queen in the right of the Province of Alberta as represented by the Minister of Lands and Forests.

Change or
alteration
in boundary

"(4) No change or alteration in the boundary of any such street, avenue, highway, lane or thoroughfare shall be made without the consent of the Minister of Highways.

"(5) No change or alteration in the boundary of any such public works reserve shall be made without the consent of the Minister of Public Works.

“(6) No change or alteration in the boundary of any such park reserve shall be made without the consent of the Minister of Lands and Forests.”.

6. Section 80 is amended,—

Section 80
amended

- (a) by renumbering the section as subsection (1);
- (b) by striking out the words “of the Department of Public Works”, where they occur in subsection (1), and by substituting the words “made by the Director of Surveys”;
- (c) by adding immediately after subsection (1) the following new subsection:

“(2) No plan of subdivision of land adjoining a lake, river, stream or body of water shall be registered unless the plan has indorsed thereon a certificate signed by or on behalf of the Director of the Technical Division of the Department of Lands and Forests stating that no part of the plan purports to subdivide land vested in Her Majesty in the right of the Province.”.

7. Section 81 is amended by striking out the words “Public Works” and by substituting the words “Surveys and Expropriation”.

Section 81
amended

8. Section 83 is amended by striking out the words “of the Department of Public Works” and by substituting the words “made by the Director of Surveys”.

Section 83
amended

9. Section 87 is amended,—

Section 87
amended

- (a) by striking out the words “Public Works”, where they occur in subsection (1), and by substituting the words “Surveys and Expropriation”;
- (b) by adding immediately after the word “Minister”, where it occurs in subsection (3), the words “of Highways, Minister of Public Works, or Minister of Lands and Forests, as the case may be,”.

10. Section 89, subsection (2) is amended by striking out the word “purchased” and by substituting the word “acquired”.

Section 89
amended

11. Section 90 is amended by striking out the words “*The Public Works Act*” and by substituting the words “*The Surveys and Expropriation Act*”.

Section 90
amended

12. Section 91, subsection (1) is amended by striking out the words “Public Works Department” and by substituting the words “Director of Surveys”.

Section 91
amended

13. Form 11 in the Schedule is amended by striking out the words “rights-of-way, privileges, easements,” and by substituting the word “privileges,”.

Schedule
amended

14. The following new Form 11a is added to the Schedule immediately after Form 11:

Schedule
amended

New Form
11a

"FORM 11a.

"(Section 65.)

"GRANT OR TRANSFER OF EASEMENT OR RIGHT-OF-WAY.

"I, A.B., being registered owner of an estate (state the nature of estate), subject, however, to such incumbrances, liens and interests as are notified by memorandum underwritten (or indorsed hereon) in all that certain tract of land described in Certificate of Title No. and being section township range (or other description, as the case may be) in the Province of Alberta, do hereby in consideration of the sum of dollars paid to me by E.F., the receipt of which sum I hereby acknowledge, grant, transfer or convey to the said E.F. (here describe easement, right-of-way or other privilege intended to be created or disposed of).

"In witness whereof I have hereunto subscribed by name this day of 19.....

"Signed by the said A.B. in
the presence of }
..... } (Signature)".

Coming
into force

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

No. 26.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to amend The Land Titles Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. MAYNARD.
