

No. 72

2nd Session, 13th Legislature, Alberta
4 Elizabeth II, 1956

BILL 72

A Bill to Resolve Doubts as to the Ownership of Certain
Minerals and to Validate Actions Taken with Respect
thereto

HON. MR. MANNING

EDMONTON, ALBERTA
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1956

Explanatory Note

1. General: This Act deals with three cases in which ownership of mines and minerals becomes a matter of doubt and uncertainty, namely

- (a) where a road, trail or road allowance diversion was created out of private land prior to February 12th, 1912, by filing of a plan of survey;
- (b) where upon the filing of a plan of subdivision the original title was cancelled in full prior to 1950 and the mineral title disappeared;
- (c) where under a tax recovery proceeding the original title is cancelled in full and the surface title only is carried on in subsequent transfers.

2. Subsection (2) of section 89 of The Land Titles Act which first appeared in subsection (26) of section 15 of The Statute Law Amendment Act, 1911, reads as follows:

"(2) The Crown shall not be entitled to any mines or minerals, whether solid, liquid or gaseous, which may be found to exist within, upon or under any land vested in the Crown under the provisions of this section, unless the same are expressly purchased, and the title to any such mines or minerals shall in no wise be affected by the filing of any plans of survey as provided herein."

From 1911-12 it was abundantly clear that in acquisition proceedings by way of filing a plan of survey or returns, the minerals were not acquired with the lands so acquired for road purposes. In many cases it has been assumed that the amendment of 1911-12 was an expression of the law and not new law and was often so acted upon in the land titles office.

This Bill will resolve doubts as to the status of mines and minerals underlying roads acquired by filing of a plan of survey.

Subsection (2) confirms the corrections made by the Registrars against the Crown under the aforesaid view, while subsection (3) will authorize such further corrections as may be required to obtain a consistent application of the above rule re such mines and minerals.

BILL

No. 72 of 1956

An Act to Resolve Doubts as to the Ownership of Certain Minerals and to Validate Actions Taken with Respect thereto

(Assented to _____, 1956)

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

1. This Act may be cited as "*The Mineral Titles Clarification Act 1956.*"

2. (1) For the purpose of removing doubts and uncertainties with regard to the effect of subsection (26) of section 15 of *The Statute Law Amendment Act, 1911*, being chapter 4 of the Statutes of Alberta, 1911-12, it is hereby declared that the Crown did not, unless the same were expressly purchased, acquire under any plan of survey or returns of survey filed before the sixteenth day of February, 1912, any mines or minerals, whether solid, liquid or gaseous, by reason of the acquisition and vesting of lands for purposes of a road, trail or road allowance diversion under any such plan or returns of survey.

(2) All acts heretofore done by the Registrar of Titles under *The Land Titles Act*, or by any person acting under the authority of the said Registrar, with regard to correcting certificates of titles so as to indicate that the mines and minerals underlying lands acquired as mentioned in subsection (1) were not vested in the Crown, are hereby made and declared to be lawful and are confirmed as, on and from the time of the performance of such acts and the said Registrar and the person acting under his authority are hereby freed, discharged and indemnified, as well against Her Majesty as against all persons, from all legal proceedings of any kind in respect of any such acts.

(3) Where the ownership of mines and minerals underlying any road, trail or road allowance diversion is shown

3. Subsection (4) of section 87 of The Land Titles Act reads as follows:

“(4) Upon the filing of an original or amended or substituted plan of subdivision, the title to all mines and minerals under streets, avenues, roadways, highways, lanes or thoroughfares shown on the plan shall remain vested in the owner of such mines and minerals and his assigns and shall not be vested in or transferred to His Majesty.”

This amendment will confirm corrections made in the land titles offices concerning mines and minerals in the case of plans of subdivision filed before the coming into force of subsection (4) cited above, and will authorize such further corrections as may be required to obtain a consistent application of the above rule re such mines and minerals, but the rights of *bona fide* purchasers for value are not to be affected thereby. Subsection (1) of section 87 refers generally to lands finally shown as reserved for public purposes, while subsection (4) applies to lands reserved therefor for certain particular purposes. Therefore, for consistency and to remove doubts the amendment will make subsection (4) of section 87 of The Land Titles Act apply to all such public reserves of lands on subdivisions.

as being acquired by the Crown under a plan of survey or return of survey filed before the sixteenth day of February, 1912, as mentioned in subsection (1), and the mines and minerals are not shown as having been expressly purchased by the Crown, the Registrar of Titles shall do all things necessary to correct the relevant certificates of title.

3. (1) Subsection (4) of section 87 of *The Land Titles Act*, as enacted by section 7 of chapter 35 of the Statutes of Alberta, 1950, shall be construed to have had application as well before as on and after the twenty-first day of March, 1950, and shall be deemed to have reference to all other lands finally shown as reserved for public purposes on the filing of the original, amended or substituted plan of subdivision.

(2) Subject to subsection (4) all acts heretofore done by the Registrar of Titles under *The Land Titles Act*, or by any person acting under the authority of the said Registrar, with regard to correcting or reviving certificates of title so as to indicate that mines and minerals under streets, avenues, roadways, highways, lanes or thoroughfares or other lands reserved for public purposes shown on an original, amended or substituted plan of subdivision filed before the twenty-first day of March, 1950, were vested in the owner of the mines or minerals at the date of the filing of the original, amended or substituted plan of subdivision, are hereby made and declared to be lawful and are confirmed as, on and from the time of performance of such acts, and the said Registrar and any person acting under his authority are hereby freed, discharged and indemnified, as well against Her Majesty as against all persons from all legal proceedings of any kind in respect of any such acts.

(3) Subject to subsection (4), where the ownership of mines and minerals under streets, avenues, roadways, highways, lanes or thoroughfares or other lands reserved for public purposes shown on an original, amended or substituted plan of subdivision filed before the twenty-first day of March, 1950, were shown to be vested in the Crown or were cancelled out of the title of the owner at that time of such mines and minerals, the Registrar of Titles shall, except where there has been an intervening *bona fide* purchaser or lessee for value of such mines and minerals, do all things necessary to reinstate or vest the title of such mines and minerals in the owner thereof.

(4) Nothing in this section shall be deemed to prejudice, abrogate or affect the title to any such mines and minerals as are referred to in this section of a *bona fide* purchaser thereof for value from the Crown or any person shown on the records of the land titles office at the time of the purchase as being the registered owner of such mines or minerals.

4. Self-explanatory.

4. Where under any tax recovery proceedings a title to land including any mines and minerals has been cancelled in full and the surface only of such land has been vested in the name of the taxing authority or in a *bona fide* purchaser for value from the taxing authority, the Registrar of Titles under *The Land Titles Act* is hereby authorized to reinstate the title as to the mines and minerals in the name of the owner at the time the title was cancelled in full.

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

SECOND SESSION
THIRTEENTH LEGISLATURE
4 ELIZABETH II
1956

BILL

An Act to Resolve Doubts as to the
Ownership of Certain Minerals and
to Validate Actions Taken with Res-
pect Thereto

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
