

No. 25

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 25

A Bill to Provide a Means of Compensating Persons Who
have Been Deprived of Mineral Interests in Land Solely
Through an Error of a Registrar or of Any of the Of-
ficials of the Land Titles Offices

HON. MR. MANNING

Printed by L. S. WALL, Printer to the Queen's Most Excellent Majesty
Edmonton, Alberta, 1958

Explanatory Note

General. This Bill will provide for persons who have been deprived of mineral interests solely by an error in the land titles office and who are barred from recovering the interest, a means of obtaining monetary recompense therefor from the assurance fund. The Bill makes the remedy available whenever the error occurred if the error was made no farther in the past than the creation of the Province and the assumption by the Province of the control of the land titles offices.

A claimant under this Bill will be required to obtain a judgment against the Registrar of Land Titles, as nominal defendant for the deprivation of the mineral interest. Thereupon the Provincial Treasurer will pay the amount thereof. All actions must be begun before the first day of April, 1961, that is, within a three year period beginning when this Act comes into force.

BILL

No. 25 of 1958

An Act to Provide a Means of Compensating Persons Who have Been Deprived of Mineral Interests in Land Solely Through an Error of a Registrar or of Any of the Officials of the Land Titles Offices

(Assented to _____, 1958)

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 Interests Compensation Act*".

2. In this Act,

- (a) "assurance fund" means the assurance fund established under *The Land Titles Act*;
- (b) "court" means the Supreme Court of Alberta;
- (c) "error of a Registrar" includes any omission, mistake, misfeasance or misdescription of or by a Registrar or any official or employee in the office of the Registrar;
- (d) "minerals" means any right, title, estate or interest in or to any mines or minerals, if the right, title, estate or interest is or has been registered under *The Land Titles Act*;
- (e) "Registrar" means the Registrar of the North or South Alberta Land Registration District, as the circumstances require.

3. (1) Where a person has been deprived of minerals solely by or as a result of an error of a Registrar made since the first day of September, 1906, and, because of the provisions of *The Land Titles Act* or any other Act of the Legislature, is prevented or barred from recovering the minerals by rectification of title or otherwise, that person may, if he has not obtained compensation or damages therefor from the assurance fund or any person, bring an action against the Registrar as nominal defendant for the recovery of damages for the deprivation of minerals.

(2) No action under this Act shall be brought after the thirty-first day of March, 1961.

4. At least twenty days before the commencement of an action under this Act, a notice in writing of the action

setting forth the cause thereof shall be served upon the Attorney General and the Registrar.

5. Where after the commencement of this Act a person has a cause of action under this Act against the Registrar as nominal defendant for damages for deprivation of minerals and has also a cause of action against the Registrar under *The Land Titles Act* for damages from the assurance fund for deprivation of minerals, he may obtain his remedy under this Act or *The Land Titles Act*, but not under both Acts.

6. (1) A plaintiff who is successful in an action under this Act is only entitled to damages in respect of the following:

- (a) the moneys actually paid out by the plaintiff for the minerals, or where the plaintiff was not a purchaser for value, the moneys actually paid out for the minerals by the last preceding purchaser for value of the minerals;
- (b) if the plaintiff fairly and reasonably expended moneys in the development of the mines or mineral before the loss to him of the minerals and the development enures to the benefit of the person who obtained the minerals as a result of the error of the Registrar, the moneys expended therefor and not by the plaintiff otherwise recovered or recoverable;
- (c) the fair appraised value, at the time the action was brought, of the minerals that the plaintiff was deprived of, but damages awarded under this clause shall not exceed in the aggregate the sum of one thousand dollars for each acre of minerals lost by the plaintiff.

(2) Nothing in this section shall be held to deprive the court of power to award costs against any of the parties in an action under this Act.

7. (1) When a certified copy of the final judgment against the Registrar is produced to the Provincial Treasurer, he shall, upon the certificate of approval of the Attorney General, pay from the assurance fund or the General Revenue Fund, if the assurance fund is insufficient, to the person entitled thereto the amount awarded by the judgment.

(2) Payment by the Provincial Treasurer of the amount prescribed by subsection (1) constitutes satisfaction of the judgment entered against the Registrar as nominal defendant and a memorandum of satisfaction of judgment shall be entered by the clerk of the court in the procedure book on receipt of a notice from the Provincial Treasurer that the person entitled has been paid the amount of the judgment as provided by this Act.

8. Except where inconsistent with this Act the practice and procedure relating to actions under *The Land Titles Act* against a Registrar as nominal defendant apply as adopted to the circumstances.

9. This Act comes into force on the first day of April, 1958.

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

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Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
