

BILL

No. 45 of 1911.

An Act respecting Surveys.

(Assented to 1911.)

HIS 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 Alberta Surveys Act*." Short title

INTERPRETATION.

2. In this Act, unless the context otherwise requires, the interpretation.
expression—

1. "Minister" means the Minister of Public Works for Alberta;

2. "Department" means the Department of Public Works for Alberta;

3. "Director of Surveys" means the Director of Surveys appointed under the provisions of *The Public Works Act*, being chapter 10 of the Statutes of Alberta, 1906, or any Act passed in amendment or substitution thereof;

4. "Surveyor" means a person qualified to practise as a surveyor according to the provisions of *The Alberta Land Surveyors Act*, being chapter 2 of the Statutes of Alberta, 1910 (First Session), or any Act passed in amendment or substitution thereof;

5. "Iron post" means a pointed iron tube three feet long and three quarters of an inch in diameter, weighing not less than two and one-half pounds and having the top end plugged and squared for a distance of four inches;

6. "Monument" means a post, stake, peg, mound, pit or trench, or anything else used to mark a boundary corner or line;

7. "Subdivision survey" means a survey of which it is intended to register the plan under section 124 of *The Land Titles Act*, or any Act passed in amendment or substitution thereof;

8. "Undisputed point" means a point of any original survey whose position is undisputed or can be satisfactorily established.

STANDARD OF MEASURE.

3. The measure of length used in surveys made under this Act shall be the Dominion measure of length defined by *The Weights and Measures Act*, and every Alberta land surveyor shall be in possession of a subsidiary standard thereof which he shall compare and verify on obtaining the same, and thereafter as occasion may require, with a tested subsidiary standard to be obtained and kept by the Director of Surveys, and every surveyor shall verify all tapes or chains used by him with the subsidiary standard in his possession. Standard of measure.

RIGHT OF ENTRY UPON PRIVATE LANDS.

4. A surveyor, when engaged in the performance of his duties as such, may pass over, measure along and ascertain the bearings of any line or boundary whatsoever, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

EVIDENCE.

5. Every surveyor, acting in that capacity, may examine witnesses on oath with respect to all matters relating to the survey of lands, and for better ascertaining the original corner or limits of any surveyed parcel or tract of land whatsoever, may administer such oath to every person whom he examines in relation to such matters.

6. Whenever any surveyor is in doubt as to the true corner, boundary or limit of any parcel or tract of land whatsoever which he is employed to survey and has reason to believe that any person is possessed of any important information touching such corner, boundary or limit, or of any writing, plan or document tending to establish the true position of such corner, boundary or limit, and if such person does not willingly appear before and be examined by such surveyor, or does not willingly produce to him such writing, plan or document, such surveyor may apply to any justice of the peace for an ordinary subpoena *ad testificandum*, or a subpoena *duces tecum*, as the case requires, accompanying such application by an affidavit or solemn declaration as to the facts on which the application is founded; and such justice may issue a subpoena accordingly, commanding such person to appear before the surveyor at a time and place mentioned in the subpoena, and, if the case requires it, to bring with him any writing, plan or document mentioned or referred to therein.

7. A subpoena issued as in the next preceding section set forth shall be served on the person named therein by delivering a copy thereof to him, or by leaving the copy for him with some adult person at his residence and exhibiting to him or such adult person the original; and if the person required in such subpoena to appear (his reasonable expenses having been paid or tendered to himself or to such adult person) refuses or neglects to appear before the surveyor at the place and time appointed in the subpoena, or to produce the writing, plan or document, if any, therein mentioned or referred to, or to give such evidence and information as he possesses touching the corner, boundary or limit in question, a warrant by a justice of the peace for the arrest of such person may be issued, and he shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding ninety days, or to both, in the discretion of such justice.

8. All evidence taken by a surveyor, as aforesaid, shall be reduced to writing and shall be read over to the person giving the evidence, and shall be signed by such person, or if he cannot write, shall be acknowledged by him as correct before two witnesses, who shall sign it, as shall also the surveyor; and such evidence shall be filed and kept and any document or plan prepared and sworn to as correct by any surveyor with reference to any survey by him performed may be filed and kept subject to be produced thereafter in evidence in court.

9. Every surveyor shall keep exact and regular field notes of all surveys made by him; and such field notes shall show the date on which the survey was made, the astronomic bearing or angular measurement of each line with some other line of the survey, the lineal measurements taken on each line, the nature, markings and location of each post planted by him and the nature of, and marking on, all original monuments found by him upon the ground, or, in default of such monuments being found, the information or evidence as to original boundaries taken as a basis for the survey, together with all important topographical features of the land surveyed; every surveyor shall furnish a copy of such field notes certified in form B in the schedule of this Act to the parties concerned or to the Director of Surveys when so required for which copies he may charge at the rate of \$2.00 for each hour required to make same; provided that such surveyor may charge the sum of \$2.00 for any such copy which may be made in less time than one hour.

SYSTEM OF SURVEY.

10. All surveys shall be referred to the local astronomical meridian and no person shall make use of the magnetic compass in making surveys.

11. Whenever a surveyor is employed to re-establish the position of any line surveyed under the provisions of *The Dominion Lands Surveys Act* or to survey dividing lines between any subdivisions, authorized by the said Act, smaller than those originally laid out, he shall proceed according to the provisions of the said Act, or any Act passed in amendment or substitution therefor in force at the time of such survey.

12. All surveyors shall erect, except as hereinafter otherwise specially provided, at all corners or angles of any survey, iron posts as herein defined, or wooden posts squared so as to have a face of not less than three inches across and a top bevelled so as to turn the rain; such wooden posts shall be at least 30 inches above the surface of the ground and shall be driven not less than 18 inches into the ground.

SUBDIVISION SURVEYS.

13. Whenever a surveyor is employed to make a subdivision survey he shall first re-establish and carefully survey such part of the original outlines of any section, quarter section, settlement lot or other surveyed parcel of land, necessary to properly establish the boundaries of the land to be subdivided, and shall then establish the block corners on the outlines of the land to be subdivided, or if it is intended that there be no block corners on the said outlines he shall establish those block corners adjacent thereto and shall subsequently determine the interior block corners of his survey in reference to the block corners so first established.

14. Every surveyor shall mark all corners and angles of blocks with iron posts having the number or letter designating the block marked thereon with a cold chisel; and straight lines connecting the said corners and angles in the manner shown on the plan shall constitute the boundaries of said blocks.

15. Every surveyor shall mark, in all blocks which have curvilinear boundaries, the points of beginning and end of

Field
notes.

Surveys to
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Surveys to
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Outlines to
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How block
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How cur-
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each curve having a constant radius and shall mark all four corners of each lot on said curvilinear boundary with iron posts.

16. The iron posts planted in accordance with the two next preceding sections shall, upon the registration of the plan of survey, establish for all purposes whatsoever the true and unalterable boundaries of every lot or block shown on such plan, whether or not such iron posts upon admeasurement upon the ground are found to be in the relative position shown on such plan of survey.

17. Each and every lot on a rectilinear block boundary shall have a frontage measurement proportionate to the total distance between the corners of the block in the same ratio as the frontage measurement of each lot shown on the registered plan bears to the total distance between the corners of the block shown on said plan.

18. Every surveyor employed to survey a side or rear boundary of any lot or parcel of land as shown on a plan of subdivision survey registered after the passing of this Act, where the said line is not a block boundary, shall proceed in such a manner as to give to each and every lot and lane in the block which contains the said lot, dimensions proportionate to those shown on the said registered plan.

19. Notwithstanding anything in this Act contained, plans of surveys completed on the ground prior to the passing of this Act and not made in accordance therewith, may, if there is attached thereto a certificate that the survey was so completed on the ground, and if such plans are correct in other respects, be registered by the Registrars of Land Titles at any time within one year from the passing of this Act; provided further, however, that all such surveys shall, when the plans thereof have been registered, be considered for the purposes of this Act as if made thereunder.

RE-ESTABLISHMENT OF LOST CORNERS OF SUBDIVISION SURVEYS. MADE UNDER THIS ACT.

20. When a surveyor is employed to make a survey in any subdivision of which a plan has been registered after the passing of this Act and is unable to find the original iron post planted at the corner of any block (or lot on a curvilinear block boundary) of which he is required to re-establish the boundaries, he shall obtain the best evidence possible of the original position of such post, and, if satisfied in regard to such position, re-establish the said boundaries accordingly by planting a new iron post in lieu of the lost post; but if in his opinion such evidence is inconclusive or untrustworthy he shall proceed as follows:

- (a) If such post is for a block corner at the intersection of two of the external boundaries of the original subdivision, or at the intersection of the inner limits of the streets adjoining such external boundaries, he shall join by a straight line the two nearest undisputed points which are block corners on each of said boundaries, or limits, and produce the two straight lines thus determined to an intersection and shall plant an iron post in re-establishment of the lost corner at said intersection;

- (b) If such post is for a block corner on one of the external boundaries of the subdivision, or for a block corner adjacent thereto in cases where no block corners were established on such external boundary, as the same is shown on the registered plan thereof, he shall connect by a straight line the nearest undisputed points which are block corners on, or adjacent to, such boundary which are on opposite sides of the lost corner, and shall plant an iron post in re-establishment of the lost corner on the said line in such manner as to make the distances between it and the two undisputed points proportionate to one another in the same ratio as those shown therefor on the registered plan;
- (c) In all other cases of lost block corners, he shall join by straight lines the two nearest undisputed points which are block corners, which are on opposite sides of the lost corner on each of the street lines which intersect at said corner, and shall plant an iron post in re-establishment of the lost corner at the intersection of the two said straight lines;
- (d) If such post is for a lot corner on a curvilinear block boundary, he shall re-establish said boundary as between the two nearest undisputed points thereon which are on opposite sides of the lost corner, and which are shown on the registered plan to be block corners, lot corners or points of curve, and shall re-establish the lost corner on the boundary so re-established in such a way as to make the distances between the said corner and the two undisputed points proportionate to one another in the same ratio as those shown therefor on the registered plan.

RE-ESTABLISHMENT OF LOST CORNERS OF SURVEYS MADE PRIOR
TO THIS ACT.

21. In subdivision surveys of which plans have been registered prior to the passing of this Act any original monument or post marking a corner of a block, lot, street, lane, park or other point of the survey, the original position of which can be in any way satisfactorily established, shall determine the true and unalterable position of such corner, whether upon admeasurement on the ground it is shown to agree with the measurements marked on the plan or not.

RE-ESTABLISHMENT OF LOST CORNERS OF SUBDIVISION SURVEYS
MADE PRIOR TO THIS ACT.

22. When a surveyor is employed to make a survey in a subdivision of which a plan has been registered prior to the passing of this Act, and is unable to find the original post planted at the corner of any block or lot of which he is required to re-establish the boundaries, or if its original position cannot be satisfactorily established he shall proceed as follows:

- (a) If such post is for a block corner he shall proceed in the manner prescribed in section 20 hereof;
- (b) If such post is for a lot corner he shall join by a straight line the two nearest undisputed points, if any, on the block boundary on which such corner occurs on opposite sides of the lost corner, and shall subdivide the distance found by admeasurement on the ground between said points, in such a way as to give each

lot or lane a frontage measurement proportionate to said distance in the same ratio as the frontage measurement shown on the registered plan of such lot or lane bears to the said distance as shown on the plan; if there is no undisputed point on the block boundary on either or both sides of the lost corner, the surveyor shall first re-establish the block corner or corners and then proceed in the manner above set forth.

23. Notwithstanding anything in this Act contained, in all cases where the provisions in regard to re-establishing lost corners are clearly inapplicable every surveyor shall proceed in such manner as to carry out the evident intention of the original survey as shown on the registered plan of the same.

RAILWAY SURVEYS.

24. When a surveyor is employed to make a survey of the lands required by any railroad company for right-of-way, station grounds or other railroad purposes he shall proceed as follows:

- (a) He shall make all measurements, both angular and linear on the centre line of the railway, and shall make all measurements to reference posts or to connect the right-of-way to the corners of sections, quarter sections, settlement lots or other surveyed parcels of land in reference thereto; Measurements to be referred to centre line.
- (b) He shall plant an iron post on the southerly or westerly limit of the right-of-way or station grounds at the beginning and end of every curve having a constant radius and at the intersection of said limit with the southerly or westerly boundary of each road allowance, or, where there is no road allowance, of each section, settlement lot or other surveyed parcel of land; and each such iron post shall have the initial letters of the words composing the name under which such railway company is incorporated permanently marked thereon to distinguish it from iron posts used for other land surveys; Survey to be marked with iron posts.
- (c) Wherever such centre line intersects the southerly or westerly boundary of a road allowance, or where there is no road allowance, of a section, settlement lot or other surveyed parcel of land, such surveyor shall first re-establish the true position of the two nearest monuments on said boundary, being on opposite sides of the said centre line, and shall connect the same by a straight line, and the intersection of the straight line so established and the said centre line shall be the point of intersection shown in his field notes and plan of the survey; Intersections with land boundaries.
- (d) Whenever for any reason it is not possible to post the southerly or westerly limit of a right-of-way, such surveyor shall post the northerly or easterly limit thereof; Either limit may be posted.
- (e) When the lands required by the railway company as aforesaid are parts of a block or blocks as shown on a registered plan of subdivision an iron post shall be planted at each intersection of the limits of the right-of-way or station grounds with the boundaries of the said block or blocks and the position of such posts shall be connected by a measurement with How posted in subdivisions.

the survey of the centre line of the right-of-way and with the nearest corner of the block in which they occur;

- (f) The unposted limit of any right-of-way or station grounds shall in all cases be determined on the ground by reference to the posted limit and in accordance with the measurements shown on the registered plan of such right-of-way; Posted limit to govern.
- (g) The limit of the right-of-way defined by iron posts as prescribed in this section shall, when a plan of the survey has been accepted and registered in the proper land titles office, be the true and unalterable limit of said right-of-way, whether or not upon admeasurement on the ground the said iron posts are found to be in the same relative position to one another or to the boundaries of the section, quarter section, settlement lot or other surveyed parcel of land as the same are shown on the plan. Posts to mark true boundaries.

RE-ESTABLISHMENT OF LOST POSTS.

25. Whenever a surveyor is employed to re-establish the limit of a right-of-way and one of the iron posts marking the limit of said right-of-way is lost and its original position cannot be satisfactorily established, he shall proceed as follows: Lost posts.

- (a) If such post originally marked the intersection of a limit of the said right-of-way with the boundary of a road allowance, section, quarter section, settlement lot or other surveyed parcel of land he shall re-establish the said limit between the two nearest undisputed points on the said limit, which are on opposite sides of the lost post, in accordance with the measurements shown on the registered plan of said right-of-way, and shall plant an iron post in re-establishment of the lost post at the intersection of the said limit so re-established and the said boundary;
- (b) In all other cases such surveyor shall re-establish the limit of the said right-of-way between the two nearest undisputed points on the same, on opposite sides of the lost post, in accordance with the measurements shown on the registered plan of said right-of-way, and shall plant an iron post in re-establishment of such lost iron post on said limit so re-established in such manner that it is in the same relative position in regard to the two undisputed points, as it is shown to have occupied, on the said plan. In other cases.

SURVEYS OF IRRIGATION WORKS.

26. When a surveyor is employed to make a survey of lands required for right-of-way for irrigation ditches or works he shall make and post such surveys along the southerly or westerly limits thereof to which he shall refer all measurements of the survey and in every other respect he shall proceed in accordance with the provisions of this Act, in regard to surveys of lands required by railroad companies for right-of-way, station grounds or other railroad purposes, in so far as the same may be applicable. Surveys of irrigation works.

SURVEYS OF ROADS.

27. When a surveyor is employed to make a survey of lands for right-of-way for any roads required by a municipality,

he shall mark the same on the ground by planting iron posts on one limit of the proposed road at its intersection with the southerly or westerly limit of each road allowance, or where there is no road allowance, of each section, settlement lot or other surveyed parcel of land, and at each change of direction of the said proposed road, and all measurements shall be made in reference to the posted limit of such proposed road.

(2) The posts planted in accordance with the provisions of this section shall be numbered consecutively from the point of beginning to the end of the survey and each post shall have its number together with the letter "R" permanently marked thereon.

(3) Each point marked by an iron post as provided in this section shall be further marked by digging four pits, each three feet square and eighteen inches deep and so placed that two straight lines drawn through the iron post at right angles to one another shall each pass through the centre of two of the pits and the inside edges of pits shall lie on the sides of a square whose sides are six feet long and whose centre is the iron post.

INSPECTION OF SURVEYS.

28. The director of surveys may on application of a registrar of titles or the council of the Alberta Land Surveyors Association or for any other reason he may deem sufficient make an inspection of any survey required to be made in accordance with this Act, or order such inspection to be made by such person as he may appoint.

(2) The director of surveys or any person so appointed by him shall have all the rights and powers conferred upon a surveyor under the provisions of this Act, and any person interfering or obstructing the said director of surveys, or other person making an inspection under the provisions of this section shall be deemed guilty of an offence against section 37 of this Act.

(3) The costs of said inspection shall be borne by the department.

29. The director of surveys or person appointed by him under the provisions of the next preceding section shall inspect the survey concerning which complaint has been made and shall consider any evidence that may have been presented to the surveyor who made such survey; any person employed by the director of surveys shall make a report to him in regard to such inspection and such returns of the same as said director of surveys may require; the said director of surveys may take such steps as he may consider advisable under the circumstances and shall make a report on his findings, or the findings of the person employed by him to the registrar of titles applying for such inspection or council of the Alberta land surveyors, as the case may be.

RE-SURVEYS.

30. The council of any city, town, village or rural municipality may on application of one-half of the persons registered or assessed as owners of the lands to be affected thereby, or of its own motion pass a resolution that it is desirable to re-survey and place durable monuments at the corners of any blocks, lots or other surveyed parcels of land within the limits of such city, town, village or rural municipality; upon

receipt of such resolution the Lieutenant Governor in Council may direct a re-survey to be made of such blocks, lots or other surveyed parcels of land and durable monuments to be placed at the corners thereof, and appoint a surveyor to have charge of such resurvey under the control and direction of the Minister.

(2) Before commencing any such re-survey public notice thereof shall be given in two consecutive issues of *The Alberta Gazette* and once in each week for two consecutive weeks in some newspaper published in the vicinity of the lands to be affected thereby.

(3) Any person who claims to know the position of one or more of the monuments of the original survey, or to be in possession of information whereby the position of such monument or monuments can be established, may give notice thereof by registered letter to the Director of Surveys before the commencement of the re-survey.

(4) Before re-establishing any monument with respect to which any notice has been given the surveyor appointed to make such survey shall, by registered letter, request the person who has given such notice to appear before him at a time and place specified and to show the position of said monument or to produce the evidence in his possession with regard thereto.

31. Not less than one week after the last publication of the notice as provided in the next preceding section the surveyor appointed shall proceed to make the re-survey in accordance with the provisions of this Act, and to place iron posts, or other durable monuments approved by the Minister, to mark the same and shall submit such returns of survey as the Minister may require.

32. Upon receipt of the returns of survey the Minister shall cause a notice thereof to be inserted in two consecutive issues of *The Alberta Gazette* and once each week for a period of four consecutive weeks in some newspaper published in the vicinity of the lands re-surveyed, and shall specify in the notice a day, not less than ten days from the date of the last publication of such notice, on which the returns of survey will be considered, and the parties affected thereby heard, and on the hearing the Minister may either confirm the survey or direct such amendments or corrections to be made as shall seem just, and shall confirm the survey so amended or corrected, and the monuments so established shall thereafter mark the permanent boundary lines of the lands re-surveyed to all intents and purposes of law whatsoever, and the order of the Minister confirming the said survey shall be final and conclusive upon all parties, and shall not be questioned in any court whatsoever, whether the old monuments marking the original survey, or any of them, be subsequently found or their position proved by other evidence or not.

33. All expenses in connection with any re-survey or placing of monuments under the provisions of the four next preceding sections of this Act shall be paid by the treasurer of the municipality which made the application for such re-survey on the certificates of the Minister, which certificates may be issued from time to time as the survey progresses in his discretion.

34. Whenever application for such re-survey has been made by one-half the persons registered or assessed as owners of the lands to be affected thereby as hereinbefore provided, the

Evidence
of original
survey.

Production
of evidence.

How sur-
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made.

Return of
re-survey.

Confirma-
tion of
survey.

Municipal
treasurer
to pay
costs of
survey.

council of such city, town, village or rural municipality shall cause to be laid before it an estimate of the amount requisite to defray the expenses to be incurred in making any such re-survey and placing any monuments under the provisions of section 30 and the following sections, and such amount shall be added to and form part of the taxes of the lands affected for municipal purposes in proportion to the assessed value of such lands as shown by the last revised assessment roll and such amount may be recovered by any of the modes available for the recovery of taxes:

Provided that the council may without a previous estimate levy on lands affected in the proportions aforesaid the amount of the expenses when the same shall have been incurred and ascertained and the certificates of the Minister certifying the amount of such expense as aforesaid shall be conclusive evidence of the amount thereof.

35. Where an application is made by any such council upon its own motion, such council if it deems the application to be in the public interest in assisting to determine the boundaries or limits of any such public road, or highway or the like, may pay out of the general funds of the municipality either the whole of the expense of such part thereof as the council may deem proper, and in the event of the council paying part only of the expense out of the general funds the council may order that the remainder of the expense be levied on the owners in the proportion and manner provided in the next preceding section.

PERSONAL SUPERVISION.

36. All surveys made under this Act must be made in person on the ground by the surveyor certifying to the correctness thereof and a certificate in the form A in the schedule to this Act attached to any plan of a survey shall mean that the survey represented by such plan has been actually carried out by the surveyor making the same, under his personal supervision and direction on the ground, in such a manner that he is certain of its correct execution, that the survey has been fully posted and completed on the ground and that the system of survey employed has been in all respects in accordance with all the provisions of this Act.

37. If any person or persons, in any part of this province, interrupts, molests or hinders any land surveyor, while in the discharge of his duty as a surveyor, such person or persons shall be guilty of an offence and on summary conviction thereof before a justice of the peace be liable to a fine not exceeding fifty dollars (\$50.00) or to imprisonment for a term not exceeding two months, or to both fine and imprisonment; but nothing in this section contained shall prejudice or affect any civil remedy which such surveyor or any other party may have against such offender or offenders by reason thereof.

38. Nothing herein contained shall be deemed in any way to apply to surveys of Dominion lands or any other surveys made under the authority of any department of the Government of Canada.

REMOVING OR DEFACING LAND MARKS.

See *The Criminal Code*, R.S. of C., cap. 146, secs. 531 and 532.

SCHEDULE.

FORM A.

I,, Alberta Land Surveyor,
do solemnly declare that the survey represented by this plan
has been made by me in accordance with the provisions of
The Alberta Surveys Act, and that this plan is correct and true
to the best of my knowledge and belief and is prepared in accord-
ance with the provisions of *The Land Titles Act*.

Declared before me..... }
this.....day of..... }
19.....

FORM B.

I,, Alberta Land Surveyor,
do solemnly declare that the survey represented by the fore-
going field notes has been made by me in accordance with the
provisions of *The Alberta Surveys Act*, and that the said field
notes are correct and true to the best of my knowledge and
belief.

Declared before me..... }
this.....day of..... }
19.....

No. 45

THIRD SESSION

SECOND LEGISLATURE

2 GEORGE V

1911

BILL

An Act respecting Surveys.

Received and read the

First time

Second time

Third time

HON. A. L. SIFTON

EDMONTON:

JAMES E. RICHARDS, Government Printer

A.D. 1911