

Bill No. 10 of 1941

A BILL TO AMEND THE ALBERTA EVIDENCE ACT

NOTE.

This is a Bill to amend *The Alberta Evidence Act, 1922*.

As under *The Bank Act* there is no period of limitation affecting the liability of banks to repay moneys deposited with them, they have had to keep many of their records for an indefinite period of time. The Canadian banks, most of which have been long established, are faced with the problem of finding space for the safe storage of the records of the multitude of branches. These records have to be readily accessible. Consequently, the necessity of erecting special buildings for the purpose of housing these books has arisen. By means of micro-photography these documents can be recorded. The reduction of bank records to this form would result in a tremendous saving of space and the film can readily be examined by use of a projecting machine or by enlarged pictures of particular items.

This amendment is designed to permit the banks to use such films in evidence in the court after the originals have been destroyed under proper supervision. Affidavits would be taken before a notary public identifying the film with the things photographed and proving their destruction. When subsequent proof of the contents of the documents was required, another affidavit or oral evidence would be given to identify the subsequent prints as taken from the proper film.

Section 58 dealt with proof of death of personnel lost or missing while serving with His Majesty's Forces overseas. The Department of National Defence has requested that this section be extended to apply to proof of death of the personnel of His Majesty's Forces lost or missing while serving in Canada. The amendment to this section is designed to effect this end.

W. S. GRAY,
Acting Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 10 of 1941

An Act to amend The Alberta Evidence Act.

(Assented to _____, 1941.)

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 Evidence Act Amendment Act, 1941.*"

2. *The Alberta Evidence Act*, being chapter 87 of the Revised Statutes of Alberta, 1922, is hereby amended by adding thereto immediately after section 51 the following new section:

"**51a.** A print, whether enlarged or not, from any photographic film of,—

"(a) any entry in any book or record kept by any bank and destroyed, lost or delivered to a customer after such film was taken shall in all legal proceedings be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded;

"(b) any bill of exchange, promissory note, cheque, receipt or original instrument or document held by a bank and destroyed, lost or delivered to a customer after such film was taken shall in all legal proceedings be received in evidence for all purposes for which the original would have been received,—

upon proof that while such book, record, bill of exchange, promissory note, cheque, receipt, original instrument or document was in the custody or control of the bank the photographic film was taken thereof in order to keep a permanent record thereof and that the object photographed was subsequently destroyed by or in the presence of one or more of the employees of the bank or was lost or was delivered to a customer; and all required proof may be given by any one or more of the employees of the bank having knowledge of the taking of the photographic film, of such destruction, loss, or delivery to a customer, or of the making of the print as the case may be, and may be given orally or by affidavit sworn in any part of Canada before any notary public; provided that where any person having knowledge of such destruction, loss or delivery, or of the taking of such film is not resident in the city, town

or place in which the court before which such proof is offered is sitting, or is no longer in the employ of the bank or is too ill to attend court or is dead, proof of such film having been taken and of such destruction, loss or delivery may be made by a notarial copy of an affidavit by such person sworn as above required."

3. The said Act is further amended by striking out section 58 and by substituting therefor the following:

"58. The production of a certificate in writing signed or purporting to be signed,—

"(a) by the Adjutant-General, Deputy Adjutant-General, or officer in charge of records, Militia Service, Department of National Defence, in the case of a member of His Majesty's Military Forces; or

"(b) by the Naval Secretary, Naval Service, Department of National Defence, in the case of a member of His Majesty's Naval Forces; or

"(c) by the officer in charge of records, Air Service, Department of National Defence, in the case of a member of His Majesty's Air Forces; or

"(d) by any officer of His Majesty's Naval, Military or Air Forces, authorized so to sign, in the case of a member of any of His Majesty's Forces,—

stating that the person named in the certificate was a member of any of His Majesty's Forces, and that he has been officially reported as dead or presumed to be dead, if it appears on the face of the certificate that the person signing is qualified as prescribed in paragraphs (a), (b), (c) or (d), as the case may be, shall be *prima facie* proof of the death of such person and of all facts stated in the certificate for any purpose to which the authority of the Legislature of Alberta extends, and also of the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature."

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

FIRST SESSION
NINTH LEGISLATURE
5 GEORGE VI
1941

BILL

An Act to amend The Alberta
Evidence Act.

Received and read the

First time

Second time

Third time

HON. MR. ABERHART.

EDMONTON:
A. Shnitka, King's Printer
1941