

*The Committee of Council submit for the consideration of
His Honour the Lieutenant-Governor a Bill intituled*

An Act respecting the Cancellation and
Amendment of Plans.

*and advise that the same be transmitted by Message to the
Legislative Assembly.*

Victoria, thirty-first day of October *, A.D. 1923.*

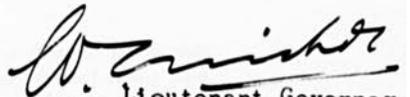
John Oliver

Presiding Member of the Executive Council.

Approved this thirty-first day of October *, A.D. 1923.*

W. W. W. W.

Lieutenant-Governor.


Lieutenant-Governor.

HON. ATTORNEY-GENERAL.

BILL.

No. 3.]

[1923.

An Act respecting the Cancellation and Amendment of Plans.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of British Columbia,
enacts as follows:—

1. This Act may be cited as the "Plans Cancellation Act." Short title.

2. In this Act, unless the context otherwise requires:— Interpretation.

"Highway," "owner," and "parcel" shall have the meanings
assigned to them respectively under the interpretation sec-
tion of the "Land Registry Act":

"Registrar" means the Registrar of the land registration dis-
trict in which the lands covered by the plan are situate.

3. A plan of subdivision registered in a Land Registry Office may
be cancelled or amended, in whole or in part, upon an application
being made to the Registrar by the owners of all the lands covered
by the plan or the part thereof proposed to be cancelled or amended,
or the owners of land representing sixty per cent. of the assessed
value of the lands covered by the plan or the part thereof proposed
to be cancelled or amended. Cancellation
of plans by
application to
Registrar.

4. (1.) The application shall be by petition addressed to and filed Petition.
with the Registrar and signed by the owners, or for them by their
respective solicitors or agents, and verified by the statutory declara-
tion of a signatory. The petition shall state briefly:—

(a.) The date of the registration of the plan in the Land
Registry Office, and its number and the description of
the lands covered thereby:

(b.) Whether the total cancellation of the plan is desired or
only a partial cancellation, and, if only a partial cancella-



tion or an amendment is desired, the description of the land covered by the part of the plan proposed to be cancelled or amended:

(c.) The name, occupation, and post-office address of, each petitioning owner and a description of the portion of lands owned by each owner, together with the assessed value thereof as shown by the last revised municipal or Provincial assessment roll:

(d.) The name, occupation, and address of each person other than the petitioners who appears on the books of the Land Registry Office in which the plan is registered as the owner of any part of the lands covered by the plan or that part of the plan proposed to be cancelled or amended, and a description of that part of the lands and the assessed value thereof as shown by the last revised municipal or Provincial assessment roll.

Sketch-plan.

(2.) Where the plan is sought to be amended, a sketch-plan of the proposed amendment shall also be filed with the petition.

Caveat.

(3.) Where the petition is not signed by the owners of all the lands covered by the plan or the part thereof proposed to be cancelled or amended, the petitioners may lodge a caveat with the Registrar to the effect that no disposition of the lands set out in the petition in pursuance of clause (d) of subsection (1) of section 4 shall be made unless the disposition is subject to any order which may be made upon the petition.

Service of petition and notice of hearing.

5. (1.) The Registrar, upon receipt of the petition, shall fix a convenient date for the hearing thereof, and may direct that notice of the hearing be given to any person whom he thinks might be interested in the proposed cancellation or amendment, and all such persons, together with all persons, other than the petitioners, who appear on the books of the Land Registry Office as the owners of any part of the lands covered by the plan or that part of the plan proposed to be cancelled or amended, shall be served personally with copies of the petition, declaration, notice of hearing, plans, and evidence intended to be used on the hearing.

(2.) The Registrar may upon satisfactory evidence direct substitutional service upon the persons interested in the petition, whenever he thinks fit, in the manner as provided in section 239 of the "Land Registry Act."

(3.) The Attorney-General and, if the lands are situate in a municipality, the municipal clerk shall also be served with copies of the petition, declaration, notice of hearing, plans, and evidence intended to be used on the hearing, at least four weeks before the day fixed for the hearing of the petition.

Posting of petition and plans.

6. If the land covered by the plan or that part of the plan proposed to be cancelled or amended is situate within a municipality,

a copy of the petition, declaration, and plans shall be posted up for four weeks in the municipal hall of the municipality, and if situate within unorganized territory, in the post-office situate nearest to the lands covered by the plan.

7. The Registrar may, for the purposes of this Act:—

Powers of Registrar.

- (a.) Administer oaths, or, in lieu of administering an oath require any person examined by him to make and subscribe a statutory declaration of the truth of the statements made by him in his examination:
- (b.) Take evidence under oath affecting title or of facts necessary to enable him to render a decision in pursuance of the petition:
- (c.) Summon any person whose evidence may be necessary or material in respect of the hearing of the petition to appear and give evidence upon oath and to produce any instrument or evidence affecting the title before him:
- (d.) Adjourn the hearing of the petition from time to time upon such terms as may seem proper:
- (e.) Hear counsel for the petitioners or any interested parties:
- (f.) Award such costs to the applicants or to any other person interested in the petition as he considers just, and order by whom the costs shall be paid.

8. If any person other than the petitioners is the owner of any lands covered by the plan or that part of the plan proposed to be cancelled and objects to the cancellation or amendment, the Registrar shall decide whether the land and rights of such owner are prejudicially affected by the proposed cancellation or amendment, and if he decides that they are he shall by order call upon the petitioners to elect between abandoning the application and exercising the right of compulsory purchase as hereinafter provided. If the petitioners elect to purchase the land of the objecting owner, the Registrar shall take evidence as to and determine the value of his title in the lands; and the Registrar may by order direct that a sum equal to double the amount of the value so determined shall within such time as he considers reasonable be tendered by the petitioners to the owner or to his agent or solicitor, or in case of inability to make the tender, or in case of the tender being refused, that forthwith a copy of the order shall be filed with and such sum paid into the Provincial Treasury at Victoria to the credit of the owner.

Procedure where rights of owners other than petitioners are adversely affected.

9. Upon proof of payment of the compensation mentioned in the last preceding section, or of the tender thereof and its refusal, or of the inability to make the tender as aforesaid and of the consequent payment into the Provincial Treasury at Victoria, the Registrar may by order vest the title of the owner in the lands or any part thereof

Vesting orders.

in the applicants, and the order shall have the effect of transferring to and vesting in the applicants the title of the owner in the lands as fully and completely as if the owner had conveyed his title to the applicants.

Power of Registrar to order cancellation or amendment of plans.

10. The Registrar shall have power by order to cancel or amend the plan or any part thereof, and may direct that a part or parts of the plan less than what is described in the petition be cancelled or amended; and to provide for the enjoyment by the owners of the subdivided lands or any part thereof free from any easement or the right of any person to keep open any highway, square, or park dedicated by the plan, and to vest in severalty the land forming any such highway, square, or park in the owners of the subdivided lands immediately adjoining thereto; and unless the Registrar for good cause connected with the dedication or creation of the highway otherwise orders, each owner shall have one-half of the highway, park, or square to the centre thereof immediately adjoining the land owned by him. Where any parcel, the boundaries of which are altered, is subject to a charge, the order may direct that the title vest in the holder of the charge to the extent necessary to support his charge and extend the same to the parcel as altered.

Cancellation of interior lines of subdivision.

11. Where all the parcels in any block of land shown on a plan are held by one person or by two or more persons as joint tenants or tenants in common, or have been acquired by the Crown, and where the parcels so owned or acquired are free from all charges or encumbrances, or the holders thereof consent and the charges are extended to cover the block as one parcel, then, upon summary application being made to the Registrar by petition setting out the facts, but of which petition or of the hearing thereof no notice or posting shall be required, the Registrar may by order amend the plan by cancelling the interior subdivision lines of the block.

Filing of orders.

12. Every order made by the Registrar under the provisions of this Act shall be signed by him, and the petitioners shall thereupon produce the order for registration and make application for the issue of new certificates of title for the parcels created or altered by the order. All certificates of title for the former parcels shall be surrendered for cancellation. If the order directs an amendment of the plan, the order shall be accompanied by a plan in duplicate showing the amendment.

Protection of rights of adjoining owners.

13. Upon the hearing of the petition, the Registrar shall, as far as possible, protect the rights of the owners of adjoining properties as to ingress and egress, and other necessary easements shall be duly considered and protected.

Effect of opposition of Attorney-General to alteration of highway or park.

14. No alteration in the boundaries and no closing or annulment of any highway, park, or public square shown on any plan deposited

under the "Land Registry Act" shall be made under this Act or otherwise if the Attorney-General opposes the application for such alteration, closing, or annulment.

15. If any person is dissatisfied with any order of the Registrar under this Act, he may appeal to a Judge of the Supreme Court in Chambers in a summary way within twenty-one days after the order has been signed by the Registrar, and the provisions of section 230 of the "Land Registry Act" shall, mutatis mutandis, apply to such appeal.

Appeal from
order of
Registrar.

16. The Lieutenant-Governor in Council may at any time cancel a plan or any portion of a plan of a registered subdivision whenever it appears to be in the public interest so to do, and by the same or any subsequent order may make such provisions as he thinks just for the protection of the rights of the purchaser of any parcel shown on the plan.

Power of Lieut.-
Governor in Council
to cancel plans in
public interest.

17. The Lieutenant-Governor in Council may from time to time, by Order, establish a scale of fees to be paid to the Registrar on all petitions, applications, hearings, and registrations under this Act, and may in like manner establish a scale of costs which shall govern Registrars in awarding costs on hearings under this Act.

Fees and costs.

18. The "Plans Cancellation Act," being chapter 179 of the "Revised Statutes of British Columbia, 1911," is repealed.

Repeal.

19. All applications and proceedings under the "Plans Cancellation Act" repealed by this Act, made or taken before the commencement of this Act, may be continued and dealt with under that Act in all respects as if this Act had not been passed.

Saving clause.

VICTORIA, B.C.:

Printed by WILLIAM H. CULLIN, Printer to the King's Most Excellent Majesty.
1923.