



CHAPTER 41

An Act to increase the powers of the Lieutenant-Governor
in Council in order to procure new lands
for colonization

[Assented to, the 12th of April, 1938]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative Assembly
of Quebec, enacts as follows:

1. Section 3 of the act 1 George VI, chapter 38, is amended ^{1 Geo. VI,} by replacing the words: "in accordance with this act", ^{c. 38, s 3, am.} in the fifth line thereof, by the words: "according to the method contemplated in sections 4 to 13 or in sections 13a to 13l".

2. Section 5 of the said act is amended by adding there- ^{Id., s. 5, am.} to, at the end thereof, the following paragraph:

"This section likewise applies in all cases of acquisitions ^{Application} contemplated by this act and amendments thereto, includ- ^{of section.} ing therein, but without restriction, such cases as acquisitions by mutual agreement or by arbitration award."

3. The said act is amended by adding thereto, after ^{1 Geo. VI,} section 13 thereof, the following sections: ^{c. 38, ss. 13a-13l, added.}

"**13a.** The order-in-council authorizing the Minister ^{Description} to expropriate, in accordance with the provisions of this ^{in order-in-} section and of sections 13b to 13l, the lands or parts of ^{council.} lands contemplated in section 2, shall describe the territory to be expropriated so that it may be properly identified, but it shall not be necessary to describe it in conformity with article 2168 of the Civil Code nor by the adjoining and abutting lands.

Publication
of order-in-
council.

"13b. Such order-in-council shall be published once in the *Quebec Official Gazette*. From and after such publication the provisions of sub-paragraphs *a* and *b* of section 5 shall apply to such lands, *mutatis mutandis*.

Determining
of indemnity
by arbitra-
tors.

"13c. Whenever the Lieutenant-Governor in Council has authorized the Minister to expropriate in the manner contemplated in sections 13*a* to 13*l*, the Government shall cause the indemnity payable to any claimant to be determined by three arbitrators, appointed in the following manner: one by the Government, a second by the claimant, and a third by the first two arbitrators or, if the latter do not agree, by the Chief Justice of the Province of Quebec, on the request of the Government or of the claimant.

Replacing of
arbitrator.

"13d. If an arbitrator dies or becomes unable to act before the rendering of the arbitration award, or if he refuses or neglects to act within a reasonable delay, which must not in any case exceed three months, he shall be replaced in the manner contemplated by section 13*c*.

Appointing of
arbitrator in
certain case.

When one of the parties fails to appoint a new arbitrator within a delay of fifteen days from the receipt of a notice to that effect, the Chief Justice of the Province of Quebec shall appoint one, upon the application of the other party.

Appointing,
etc., of se-
cretary.

"13e. The Lieutenant-Governor in Council shall appoint a person to act as secretary of the arbitrators and fix his remuneration, which shall be paid in conformity with section 19.

His duties.

The secretary must take down in writing all the deliberations of the arbitrators, which shall be signed by the latter at the close of each sitting.

Powers of
arbitrators.

"13f. The arbitrators may hear the parties and their witnesses, visit the premises and, in general, obtain all information of use to them to enable them to determine the indemnity due to the claimants.

Summoning
of witnesses,
etc.

The procedure for the summoning of witnesses and the hearing shall be the same as that in trial without jury before the Superior Court, and for such purpose the arbitrators shall have all the powers possessed by the Court and by the judge.

Signing, etc.,
of order.

The order summoning witnesses may be signed by the secretary, who may also certify any copy of such order.

Hearing.

"13g. The arbitrators shall proceed at the time and place fixed by them and whereof they have given at least fifteen days' notice to the interested parties.

Intrinsic
value only.

"13h. The arbitrators must, in fixing the indemnity to be paid, take into consideration only the intrinsic value of the lands and of the forest when trees are found thereon.

"13i. The arbitrators, after having proceeded in the manner above described, shall render their award fixing the indemnity payable for the land expropriated. Rendering of award.

"13j. No defect in form shall render the award null. Defect in form.

"13k. After the award has been pronounced, the secretary of the arbitrators must transmit to the prothonotary of the Superior Court, in the district of Kamouraska, to be deposited in the archives of such court, the full record of the proceedings with the original of the award. Transmitting of record of proceedings, etc.

"13l. Each party shall bear half of the remuneration of the arbitrators as fixed by the Lieutenant-Governor in Council, and their actual travelling expenses as approved by the Attorney-General. Who shall bear certain costs.

The costs of witnesses shall be borne respectively by each party who called them. Witnesses.

Each party shall also bear the costs of exhibits produced by him as documentary evidence and the cost of his attorney or attorneys. Exhibits, etc.

The other outlays and expenditure caused by the arbitration shall be paid by the Government. Other outlays

4. Section 14 of the said act is amended:

a. By adding thereto, after the word and number: "section 11", in the second line of the first paragraph thereof, the words: "or from the award rendered in virtue of section 13i"; 1 Geo. VI, c. 38, s. 14, am.

b. By adding thereto, after the word: "Court", in the second line of the second paragraph thereof, the words: "or from the decision of the arbitrators".

5. Section 15 of the said act is amended by adding thereto, after the word and number: "section 7", in the second line thereof, the words: "or after the publication contemplated in section 13b". Id., s. 15, am.

6. Section 16 of the said act is amended by adding thereto, after the word: "out", in the first line thereof, the words: "any award or, as the case may be,". Id., s. 16, am.

7. The said act is amended by adding thereto, after section 20 thereof, the following section: Id., s. 20a, added.

"20a. The sale made to the Government of this Province on the 3rd of March, 1938, by the secretary-treasurer of the corporation of the county of Temiscouata of a land described as follows in the notice of sale, to wit: 'A land Validation of certain sale to Government.

having an area of about 7718 acres being the unsurveyed part of ranges 5 and 6 of the cadastre of Notre-Dame du Lac, subject to the deduction of the lands on each side of the central highway', is ratified and validated for all legal purposes, and the said land is freed as from the said date of the 3rd of March, 1938, of all real rights which then affected it.

Government
declared
absolute
owner of
certain land.

From and after the said date of the 3rd of March, 1938, the Government of this Province shall be absolute and indefeasible owner of the land described in the preceding paragraph and, from and after such date, no recourse based on facts or rights prior to such sale and relating to such land may be exercised against such land, nor against the Government nor against any settler or other person who may subsequently become holder or owner thereof.

Deemed
colonization
land.

Such land is from such date a colonization land within the meaning of the Colonization Land Sales Act (Revised Statutes, 1925, chapter 77).

Fixing of
certain
indemnity.

The indemnity payable to any claimant having an interest in such land before the said sale shall be fixed in the manner contemplated in sections 4 to 13 or in that contemplated in sections 13a to 13l, as the Lieutenant-Governor in Council may decide, after such claimant has furnished him with his full titles in support of his claims.

Assimilating
of claim for
indemnity.

The claim for indemnity in such case shall be assimilated to the right of redemption and must be exercised within the twelve months following the said sale, upon the same conditions as those mentioned in the Municipal Code."

Coming into
force.

8. This act shall come into force on the day of its sanction.