



## CHAPTER 38

An Act to promote progress in colonization and the  
maintaining of farmers on the land

[Assented to, the 20th of May, 1937]

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

**1.** In this act:

Interpreta-  
tion:

- a) "court" means the Superior Court of the district "Court";  
of Kamouraska;
- b) "Minister" means the Minister of Colonization; "Minister";
- c) "claimant" means any person, firm or corporation "Claimant";  
having or claiming to have ownership or other rights  
in the lands or parts of lands expropriated under this  
act;
- d) "land" means any ground as conceded or sold "Land".  
originally or in the oldest title which can be found, and  
comprises all subdivisions of such ground made after  
such concession or sale with their buildings and other  
improvements.

**2.** The Government of this Province may acquire Acquiring of  
certain lands  
by Govern-  
ment author-  
ized.  
by mutual agreement, by exchange or otherwise, in the  
electoral district of Temiscouata, any lands or parts of  
lands which, in the opinion of the Lieutenant-Governor  
in Council, are, by their nature or position, likely to  
promote colonization, permit the extension of old  
parishes or help in the founding of new parishes.

**3.** When for any reason such lands or parts of Expropria-  
tion in cer-  
tain case.  
lands cannot, in the opinion of the Lieutenant-Governor

in Council, be acquired by mutual consent, the Lieutenant-Governor in Council may authorize the Minister to expropriate them in accordance with this act.

Signing, etc.,  
of plan of  
lands to be  
expropriated.

**4.** When the Minister has been so authorized for the purposes of section 3, he shall sign, and deposit in the office for the registration division of Temiscouata, a plan and description of the lands or parts of lands to be expropriated, with mention of the existence of buildings if any there be.

Description.

Such description may be made in accordance with article 2168 of the Civil Code or by the adjoining and the abutting lands.

After  
deposit.

**5.** After such deposit:

No recourse  
on facts, etc.,  
prior thereto.

a) No recourse based on facts or rights prior to such deposit, respecting any land or part of land expropriated under this act, may be exercised against such land or part of land or against any settler or other person who becomes holder thereof;

Land to be-  
come absolute  
property  
of Crown.

b) Such lands or parts of lands shall become the absolute property of the Crown and shall be clear from any real rights which may have affected them and shall be colonization lands governed by the Colonization Land Sales Act (Revised Statutes, 1925, chapter 77).

Mention by  
registrar.

The registrar must mention such deposit in the margin of every entry of any real right which is extinguished in virtue of this act.

Indemnity.

**6.** The Government shall cause the indemnity payable to any claimant to be determined in accordance with the rules hereinafter established.

Publication  
of notice by  
Minister.

**7.** The Minister must, as soon as possible after such deposit, publish once a week during four consecutive weeks a notice in the form contained in this section:

How publish-  
ed.

a) in the *Quebec Official Gazette*;  
b) in French and in English in a newspaper published in the judicial district of Kamouraska;  
c) in French in a newspaper published in that language in the cities of Quebec and Montreal, and in English in a newspaper published in that language in the same cities.

Publication  
to constitute  
summons to  
appear.

Such publications shall constitute a summons to every claimant to appear before the court on the date

of the filing of the proceedings and documents mentioned in section 8.

### FORM

Notice is hereby given that the Government of the Province of Quebec is expropriating for colonization purposes the following lands:

*(Description of lands according to section 4)*

A plan and description of the above lands have been deposited on the *(date of deposit)* in the office of the registration division of Temiscouata.

On the *(date fixed for filing the proceedings and documents mentioned in section 8)* a petition will be filed in the office of the Superior Court of the judicial district of Kamouraska to have the indemnity fixed which the Government must pay for the expropriation of the above described immoveables.

Every person, firm or corporation having or claiming to have rights in the said immoveables is hereby summoned to establish his or its rights before the said court in conformity with the Act to promote progress in colonization and the maintaining of farmers on the land (1 George VI, chapter 38).

*(Signed)* .....  
Minister of Colonization.

**8.** On or before the date fixed in the notice contemplated by section 7, the Minister must file in the office of the court:

a) a petition praying the court to fix the indemnity which the Government must pay for the lands or part of lands expropriated;

b) a certified copy of the order-in-council authorizing the expropriation;

c) a copy of the documents mentioned in section 4, with a certificate from the registrar of their deposit in the registry office;

d) the copies of the *Quebec Official Gazette* and of the newspapers in which the notice contemplated in section 7 was published.

Filing by  
Minister of:

Certain  
order-in-  
council;

Copy of cer-  
tain docu-  
ments;

Copies of  
*Gazette*, etc.

**When filing to take place.**      The filing of such exhibits and proceedings shall not take place prior to the expiration of the three months nor subsequent to the expiration of the four months following the last publication contemplated in section 7.

**Filing of declaration by claimant.**      **9.** Within the fifteen days after the date mentioned in the notice contemplated in section 7, every claimant must file in the court a declaration containing:

**Contents of such declaration.**      a) a description of the immoveable or immoveables in which he claims to have rights;  
    b) a statement of the facts on which he bases his claim;  
    c) mention of the amount which he claims as indemnity.

**Exhibits, etc. to be filed.**      The claimant must file, at the same time, all exhibits and evidence in writing in support of his claims and a copy of his declaration for the use of the Minister.

**Placing of cause on court roll.**      **10.** At the expiration of the twenty days next after the delay fixed in section 9, the cause must be placed on the court roll for proof and hearing, without any inscription, for the first day of the ensuing term.

**Proof, etc.**      **11.** The proof and hearing shall take place before the court.

**Rules applicable.**      Except where inconsistent with this act, the rules of the Code of Civil Procedure respecting the prosecution and hearing of cases before the Superior Court shall apply to the prosecution and hearing of the expropriation cases.

**Fixing of indemnity by court.**      The court shall fix the indemnity for each land or part of land in accordance with the Expropriation Act (1 George VI, chapter 93), less the additional compensation of fifteen per cent. It shall render its decision as to the right of each claimant upon such land or part of land and award the costs in accordance with the rules in section 13.

**Taking of depositions.**      **12.** The depositions at the trial shall be taken by stenography unless the parties agree to proceed otherwise; but in the latter event there shall be no appeal.

**Costs.**      **13.** The costs shall be borne by the Government if there be no contestation of the petition.

If there be contestation, the losing party shall bear the costs, unless, for special reasons, the court reduces them, offsets them, or otherwise orders. Nevertheless, even in such case, the cost of all proceedings had by the Government before the contestation shall be borne by it.

**14.** An appeal shall lie to the Court of King's Bench from any judgment rendered under section 11—

When appeal to lie.

1. on the right to indemnity, in every instance;
2. on the amount awarded for indemnity, when not under five hundred dollars.

In every other case, there shall be no appeal from the judgment of the Superior Court.

When there is an appeal as to the right mentioned in sub-paragraph 1, in a case where the award is under five hundred dollars, the Court of King's Bench shall decide only upon the right and cannot revise or change the amount of the judgment.

Decision upon right only.

The delays and rules of the Code of Civil Procedure respecting appeals to the Court of King's Bench shall apply to appeals brought under this section.

Rules, etc., applicable to appeals.

There shall be no appeal from the judgment of the Court of King's Bench.

No appeal.

**15.** At any time after the last of the publications contemplated in section 7, if the Government, through opposition or resistance, cannot take possession of any expropriated land or part of land, it may apply to a judge of the court for an order addressed to the sheriff or a bailiff of the judicial district of Kamouraska to be put in possession. The distraining officer shall employ the necessary assistance for such purpose.

Application for order to be put in possession in certain case.

**16.** The Government effectively carries out any final judgment fixing the indemnity and clears itself as regards any claimant by depositing in the office of the court a certificate signed by the Provincial Treasurer stating that the latter holds at the court's disposal the amount of the indemnity fixed by such judgment.

Carrying out of final judgment.

**17.** After the deposit of the certificate contemplated in section 16, the prothonotary shall prepare a report of collocation or distribution for the amount deposited.

Preparation of report by prothonotary.

Obtaining of  
certificate  
from regist-  
rar.      For such purpose, the Minister shall obtain from the registrar a certificate in accordance with article 771 of the Code of Civil Procedure, except that the real rights contemplated in the last paragraph of this section must be mentioned therein, notwithstanding the cancellation thereof made under section 5.

Provisions  
applicable to  
certain pro-  
ceedings.      The provisions of articles 772 to 777 and of articles 790 to 831 of the Code of Civil Procedure shall govern, *mutatis mutandis*, the proceedings subsequent to the deposit of the Provincial Treasurer's certificate contemplated in section 16.

Collocation,  
etc., of cer-  
tain claims.      The hypothecary and privileged claims against any expropriated land or part of land shall be retained against the amount of the indemnity fixed for such land or part of land and shall be collocated according to their respective rank in the manner prescribed in the Civil Code.

Assimilation  
of certain  
claim.      The claim of any person, firm or corporation owning, at the time of the expropriation, an expropriated land or part of land, shall be assimilated for the purposes of this section to the claim of a vendor of an immoveable.

Paying of  
indemnity.      **18.** Within the fifteen days following the final judgment rendered on the distribution or collocation report of the prothonotary of the court, the Provincial Treasurer shall pay the indemnity to the persons entitled thereto under the judgment of distribution.

Payments  
out of con-  
rev. fund.      **19.** The price of the lands or parts of lands acquired under section 2, the indemnities awarded in conformity with this act, the costs incurred on the proceedings and all other expenses occasioned by the carrying out of this act shall be paid out of the consolidated revenue fund.

Loans  
authorized.      **20.** The Lieutenant-Governor in Council, however, may order the entire or part payment of the sums contemplated in section 19 by means of loans for a period not exceeding thirty years, bearing interest at rates not exceeding four per cent per annum.

Coming into  
force.      **21.** This act shall come into force on the day of its sanction.