



CHAPTER 37

An Act for the acquiring of certain lands for colonization purposes

[Assented to, the 18th of May, 1935]

WHEREAS certain territories of greater or lesser extent exist in the Province outside the Crown domain and hinder the expansion of colonization;

Whereas such areas of land, comprised in seigniories or patented or private land, are only partially or insufficiently operated for agricultural purposes;

Whereas such lands, in many instances, are unproductive and inoperative because they require considerable drainage and drying;

Whereas such territories prevent the establishing or the completion of certain existing conterminous centres;

Whereas the public interest requires the acquisition by agreement or by expropriation of certain land for colonization purposes;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. This act may be cited as *Colonization Land Acquisition Act*. Short title.

2. Without revoking or restricting the rights and powers provided for by section 25 of the Lands and Forests Act (Revised Statutes, 1925, chapter 44), and by section 26a of the said act as enacted by the act 24 George V, chapter 20, section 1, whenever the interests of colonization may require, the Lieutenant-Governor in Council may authorize

the Minister of Colonization to acquire any territory, either by way of purchase or exchange or, failing agreement, by expropriation:

a. To develop or extend parishes or any territory where settlers are established;

b. To connect two or more territories where settlers are established and to colonize the intermediate and adjoining lands;

c. To open up any territory, near a centre or a parish, capable of immediately and advantageously serving for the establishing of the surplus population of such centre or parish;

d. To improve and drain certain uncultivable, barren lands, or unused lands of the same nature, held in common or by private title.

Making of agreements, etc., for acquisition of territory.

3. As soon as the Lieutenant-Governor in Council has, under section 2, authorized the Minister of Colonization to acquire a certain territory, the latter must apply to the owner of the territory or the persons authorized to cede it and make such agreements and arrangements as may be arrived at with such persons.

When agreements, etc., to be effective.

Such agreements or arrangements shall have effect as soon as they are approved by the Lieutenant-Governor in Council.

When land acquired by exchange.

When the acquiring of the land is effected by exchange, the Minister of Lands and Forests is authorized to grant a title in favour of the persons concerned for the territory exchanged for that obtained for colonization purposes.

Expropriating of territory in certain event.

4. If no understanding has been arrived at under section 3 within such delay as the Minister deems reasonable, the Lieutenant-Governor in Council may, after fifteen days notice to the owner, authorize the Minister to proceed with the expropriation of such territory, piece of ground or land.

Provisions applicable to expropriations.

Such expropriation shall be effected according to the formalities hereunder and, in the case of the provisions of this act not providing therefor or doing so insufficiently, the Quebec Railway Act (Revised Statutes, 1925, chapter 230) shall apply, save where inconsistent with the present act.

Notice to party.

5. Under the authority of the order-in-council provided for in the preceding section, the Minister shall cause to be served upon the party, against whom the expropriation is demanded, a notice in writing which must contain:

a. A copy of the order-in-council authorizing him to proceed with such expropriation; Contents
of notice.

b. A description of the lands demanded;

c. A description of the lands which the Crown offers as indemnity for the lands taken as well as for the expense and damage which may result from such expropriation and an estimate showing the quantity of wood on such lands;

d. A declaration that the Minister intends to submit to an arbitration board the matter in issue for the fixing of the indemnity as well as for the damages resulting from the expropriation;

e. The designation of the arbitrator, containing his surname, Christian names, occupation and address, as well as a copy of the order-in-council appointing him;

f. The notification, to the party expropriated, that he must, within a delay of fifteen days from the service upon him of such notice, inform the Minister in writing, by registered letter or by service, of the name, occupation and address of the arbitrator chosen by him;

g. A summons to the party expropriated to file, within the same delay, a claim in which he must indicate what he requires, in territory, for indemnity and damages.

6. Within ten days of the expiration of the delay mentioned in sub-paragraph *f* of the preceding section, the two arbitrators chosen by the parties must appoint a third arbitrator to complete the arbitration board. Completing
of arbitra-
tion board.

If, contrary to the provisions of this act, the party expropriated refuses or neglects to choose his arbitrator, or if the two arbitrators do not agree upon the choice of the third arbitrator, the Minister in the first case, and the one or the other party in the second case, may obtain the appointment of the said arbitrator, for all legal purposes, on a summary petition presented to a judge of the Superior Court having jurisdiction in the district in which is situated the immoveable which is the object of the expropriation. Appointing
of third ar-
bitrator in
certain case.

7. Without limiting or restricting the jurisdiction and powers of the arbitrators so appointed, the latter must hear or inquire into any evidence which may enable them to establish, as the case may be: Facts to be
established
by arbitra-
tors.

a. The value of the immoveable so expropriated, when territory forming part of a seignior or held under letters patent or otherwise is in question;

b. The quantity, as far as it is possible to determine, of wood on such land as well as the actual value of such wood;

c. The depreciation which the expropriation may cause the undertaking of the party expropriated;

d. The fair and just indemnity which must be offered in forest-capital, that is to say in timber limits or concessions, by reason of the exchange imposed upon the party expropriated, when such exchange would cause him additional operating costs, transportation costs, insurance costs and other contingent expenses and damages;

e. The additional remuneration which may be granted for a new registration of trust deeds, of radiations or of hypothecary releases and other accessory or incidental losses.

Additional offer.

8. In case the timber limits or concessions offered by the Crown as indemnity are, in the opinion of the arbitrators, insufficient or inadequate to compensate fairly the party expropriated for the loss of the immoveable demanded as well as for all damages, the arbitration board may request the Minister to offer an additional extent of territory in order to permit the arbitrators to fix the final indemnity; if the board is then of opinion that the territory offered in compensation remains insufficient it must so declare, and the authorization provided for by section 4 is then invalidated and the expropriation proceedings lapse.

Lapsing of expropriation proceedings.

Rendering of decision.

The arbitration award shall be rendered within the delay fixed by the order-in-council appointing the Government arbitrator, which delay may be extended at the request of the arbitrators.

No cash indemnity.

In no case can the arbitrators determine or order an indemnity in money.

Homologation of arbitrators' award.

9. The award of the arbitrators is homologated by the Superior Court having jurisdiction as aforesaid and it shall then be final and without appeal.

What to constitute absolute title for Crown.

10. The registration of a copy of the award bearing a certificate of service previously made upon the expropriated party shall constitute an absolute and final title for the Crown to the ownership of the territory or land expropriated.

Effect of registration of award.

11. When the extent of land or the territory which is the object of the expropriation is affected by hypothecary registration or other real rights for the payment of any claim owing by the owner or holder, resulting from certain loans or the issuance of bonds or debentures, the registration of the award shall have the effect of granting discharge

of all real rights affecting such portion of land and the registration of the same award against the new timber limit granted in exchange shall have the effect of burdening the said immoveables in favour of the same creditors according to their same rank and privilege.

12. Notwithstanding any provision of the Civil Code or of any law, every certified copy of an arbitration award attached to a deed of trust or to any title establishing a real right on any territory or land expropriated shall have the effect of changing the description of the immoveables mentioned in such title, with the same result as if the description of the immoveables covered by the award had formed part of the original title.

13. If, in the case provided for in sub-paragraph *d* of section 2 of this act, the offer of any territory or of any extent of land cannot be a possible or suitable indemnity to compensate for the expropriated territory or land and the resultant damages, the Lieutenant-Governor in Council may authorize the Minister, in accordance with the provisions of this act, to take immediate possession of any extent of land which he claims and to suspend the fixing of the indemnity for a certain period, provided that it does not exceed two years, in order to enable the Minister to perform the necessary work and to offer the said lands for sale and to indemnify the original owner by annual payments or otherwise, as the Lieutenant-Governor in Council may determine.

This provision shall not prejudice the powers already conferred upon the Minister under the authority of any other act.

14. For the carrying out of this act, the Minister or the officers of the Department of Colonization whom he may delegate for the purpose and all persons accompanying them may enter upon, pass over and inquire into any property contemplated by section 2 of this act, but the owner or owners must be indemnified when material damage has been caused to him or them thereby.

15. The Minister must report to the Lieutenant-Governor in Council every arbitration award made under the authority of this act, and all expenses incurred for the carrying out of this act shall be paid out of the consolidated revenue fund of the Province, upon the certificate of the Minister of Colonization. Such expenses shall not exceed fifty thousand dollars per annum.

Loans authorized.

16. For the purpose of paying any of the amounts which may become due in the carrying out of this act, the Lieutenant-Governor in Council may, if he deem it expedient and in such manner as he may indicate, authorize the Provincial Treasurer to contract one or more loans by means of debentures or inscribed stock issued on the credit of the Province.

Limitation of expropriation.

17. The expropriation shall in no case include the lakes and rivers and the lands bordering the rivers and lakes for a depth of three chains.

Coming into force.

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