



CHAPTER 9

An Act respecting the determining of the compensation exigible on account of the raising of the water by the dams at the *Grande Décharge* and *Petite Décharge* of Lake St. John

[Assented to, the 1st of April, 1927]

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

INTERPRETATIVE PROVISIONS

1. For the interpretation of this act, unless the context conveys a different meaning: Interpretation:

1. The expression "Superior Court" means the Superior Court for the district of Roberval; "Superior Court";

2. The word "land" comprises, as well as the land itself, the houses and dependencies, fences, bridges and other constructions thereon; "Land";

3. The word "owner" means likewise one possessing as owner, an occupant under location ticket, a lessee, as well as any person who has a right of servitude, usufruct, use or habitation upon the land contemplated by this act; "Owner";

4. The word "company" means the Duke-Price Power Company, Limited. "Company".

ORGANIZATION OF THE COMMISSION

2. The Lieutenant-Governor in Council may appoint an arbitration commission composed of five or of three members, as he may deem expedient, to be called "Lake St. John Commission". Appointment of commission. Name.

One of the members of the Commission shall be appointed president.

Removal of
commis-
sioner.

3. Any commissioner may be removed for cause by the Lieutenant-Governor in Council.

No dissolu-
tion by
vacancy.

4. The Commission shall not be dissolved by a vacancy amongst its members.

Filling of
vacancy.

5. Any vacancy in the Commission shall be filled by the Lieutenant-Governor in Council, and the person appointed to fill a vacancy may complete unfinished business begun by his predecessor.

Secretary.

6. The Lieutenant-Governor in Council shall appoint a secretary of the Commission, who shall hold office during pleasure.

Duties.

The duties of the secretary shall be determined by the Commission.

Absence.

In the absence of the secretary, the Commission may replace him temporarily.

Oath of
members.

7. Every member of the Commission, before entering office, shall take oath before a judge of the Superior Court to well and faithfully perform his duties.

Id., of secre-
tary.

The same obligation shall apply to the secretary.

Remunera-
tion.

8. The Lieutenant-Governor in Council shall fix the remuneration of each of the commissioners, and of the secretary.

Employees.

He may also appoint the other employees necessary for the proper performance of the duties of the Commission, and provide for their remuneration.

Temporary
employees.

9. Whenever the Commission appoints any person, other than one of its regular employees, to perform any service authorized by this act, such person shall be paid such sum for his services and expenses as the Lieutenant-Governor in Council may, upon recommendation of the Commission, determine.

Remunera-
tion, etc.,
paid out of
consolidated
revenue
fund.

10. The above remuneration, and all the expenses incurred by the Commission in the performance of its duties, including all reasonable travelling expenses actually incurred by the commissioners, by the secretary, and by the members of the staff required by the Commission, shall be paid out of the consolidated revenue fund of the Province.

Replace-
ment of
commis-
sioner.

11. If the Lieutenant-Governor in Council be of opinion that any member of the Commission has an interest in any matter submitted to it, or is unable to act on account of

sickness, absence or other cause, he may appoint some one to act in his place. Any person so appointed may complete any unfinished business in which he has participated even if the member of the Commission whom he replaced has returned or become capable of acting.

12. Five members or three members shall form a *quo-Quorum*. rum of the Commission, according to whether the Commission is composed of five or of three members, but the decisions may be rendered by a majority vote.

13. The powers of the Commission shall cease when it has finished the carrying out of the duties and functions attributed to it by this act, unless the Lieutenant-Governor in Council sooner terminates same. Powers of commission cease.

The commissioners shall, with as little delay as possible after their duties cease, deposit the records and minutes of the Commission in the office of the Superior Court. Records and minutes.

14. The Commission may adopt and amend, from time to time, rules for its government and the conduct of its affairs. Rules.

JURISDICTION OF THE COMMISSION

15. The Commission shall:

1. Determine the compensation to which the owners of flooded lands are entitled in cases where the company has not already acquired the right to flood them: Jurisdiction of Commission: Compensation of owners;
 - a. Through the construction, maintenance and operation of the dams built at the *Grande Décharge* and at the *Petite Décharge* of Lake St. John;
 - b. Through the damages already caused as aforesaid to crops or otherwise in every case where the owner of the land having suffered such damages has not been paid;
2. Determine the compensation to which the Government of the Province is entitled consequent upon the damages caused as aforesaid to improvements, constructions and roads belonging to it; Id., of Government;
3. Determine, in accordance with the provisions hereinafter, the compensation to which those persons are entitled, who have, in and upon the lands flooded as aforesaid, of servitude, usufruct, use or habitation, in the cases where the company has not already acquired the right to flood such lands; Id., of persons having certain rights;
4. Render all decisions requisite and necessary to the carrying out of this act. Decisions.

PROCEDURE

- 16.** The commissioners shall, as soon as they have taken oath, give notice, in the *Quebec Official Gazette* and in a newspaper of the district of Roberval, of their appointment and of the place, day and hour of their first sitting.
- Notice of appointment and first sitting. Such notice must be signed by the president or by the secretary of the Commission.
- Signature of notice. During the exercise of its functions, the Commission shall keep, in the town of Roberval, an office in charge of one of its officers appointed therefor.
- Office of Commission at Roberval.
- 17.** Any owner of flooded lands, or his legal representative if he be a person incapable of acting, may come before the Commission or forward to the office thereof a written notice to have the compensation, to which he is entitled under the above section 15, determined.
- Determination of compensation. The company must thereupon, within such delay as may seem reasonable to the Commission and upon order of the latter, produce a plan and description of the land so flooded and which it wishes to acquire.
- Plan, etc. The company may also, by a mere notice accompanied by a plan and the description of the flooded land which it wishes to acquire, served by bailiff, summon before the Commission any owner of land, or his legal representative if he be incapable of acting, who has not yet appeared.
- Summoning. If such person does not, within a delay of fifteen days from the service of the notice, declare that he accepts or declines the jurisdiction of the Commission, he is deemed to reject such jurisdiction and to hold to his recourse before the Superior Court.
- Acceptance or refusal. However, before proceedings are instituted, such person may still accept the jurisdiction of the Commission.
- Acceptance. When a person or his representative has appeared before the Commission or has been so summoned and has not declined its jurisdiction as aforesaid, the Commission shall determine the amount of the compensation.
- Amount determined. When the owner cannot be served through absence or otherwise, the company may nevertheless cause him to be summoned or called before the Commission in the manner which the latter shall determine.
- Owner absent. The above-mentioned plan and description may, at any time before the award, be amended by the company upon notice to the adverse party accompanied by a new plan and a new description; and, in such case, the Commission shall, if it deem it necessary, proceed as in the case of the plan and description originally produced, and shall be bound, if in its opinion the change causes expense to the Commission
- Amendment of plans, etc.

or to the adverse party, to fix the amount of such expense, which shall be paid without delay by the company.

18. When there are several owners interested in any land, the Commission, before proceeding to fix the compensation, shall give an order prescribing the notices to be given to such other owners as have not yet appeared or been summoned. Several owners.

The company must give the notice so prescribed to the persons mentioned in the order. Notice.

In rendering its award, the Commission shall fix the total amount of the compensation and determine the share of each owner in the compensation. Fixing of compensation.

In the event of any owner refusing to acknowledge the jurisdiction of the Commission, the latter, in fixing the amount of compensation for the whole of the land, shall refrain from taking into account the interest of such owner. Idem.

19. The Commission may adjourn from one day to another, or from one place to another, or even resume its sittings on another day and at another place when there has been no adjournment, provided that it give such notice as it may deem reasonable. Adjournment, etc.

20. The Commission must visit the places and may, by all legal means which it deems best, inquire into the matters the investigation whereof is attributed to it. Visit, etc.

21. Sections 38, 39, 40, 41 and 42 of chapter 17 of the Revised Statutes of Quebec, 1925, shall apply to the Commission. Provisions applicable.

22. When a part only of any land is flooded, the compensation must include not only the price of such part but the damage caused to the remainder. Compensation for damage to remainder.

When the owner of any land no longer has a large enough area to operate it remuneratively, the Commission may, at the owner's request made before the award, fix compensation for the whole land. Id., where area too small.

AWARD

23. The award shall fix the amount of the compensation and describe the land or the right for which it is accorded. Award.

24. Such award must be signed in triplicate by at least three commissioners, if the Commission is composed of five. Signature of award.

members, or by two commissioners, if it is composed of three members. One of the triplicates shall remain in the records of the Commission and one shall be handed to each of the interested parties.

Several proprietors. If there be several interested proprietors a duly certified copy shall be handed to each one of them.

Award final. **25.** The award shall be final and without appeal.

Compensation in lieu of land, etc. **26.** The compensation so fixed shall take the place of the land or right for which it is awarded.

Claims. **27.** Every claim or charge against any land or right is, with respect to the company, converted into a claim against the compensation.

Responsibility of co. **28.** The company shall be responsible whenever it has paid the whole or part of the compensation to any person not entitled thereto, saving its recourse against such person.

Deposit of compensation in certain cases. **29.** If the company has reason to fear claims, hypothecs or charges, or if the person entitled to claim the compensation is uncertain, unknown or cannot be found, the company may deposit the compensation in the hands of the prothonotary of the Superior Court with two months' interest, accompanied by a duly certified copy of the award.

Order to pay. Any person interested may apply, by mere petition to the Superior Court, for an order to pay or distribute the compensation according to the rights of the parties.

Compensation payable to usufructuaries, etc. **30.** When the compensation is payable to usufructuaries, institutes, tutors or curators, or to persons suffering incapacity, or to executors or other administrators, the company may proceed according to section 29, and the Superior Court shall order its reinvestment or payment, according to the rights of the parties.

Costs of proceedings **31.** The costs of proceedings to obtain the orders mentioned in sections 29 and 30 shall be paid by the company, save where there is contestation, in which case the ordinary rules, as to costs, shall apply.

Company discharged. **32.** Upon payment to the party entitled thereto or upon deposit in court, as aforesaid, of the amount of the compensation, the company shall be discharged, and the award shall constitute a complete title to the land and shall discharge same from all real rights.

Title.

Such title accompanied by the discharge or the certificate of the prothonotary attesting the deposit, as the case may be, must be registered. ^{Registration.}

33. If the company fails to pay or to make the deposit in court within a delay of thirty days from the award, any person interested may deposit such award in the office of the prothonotary of the Superior Court, and the court may, upon a summary petition, homologate the award, which shall become executory as any other judgment. ^{Homologation of award.}

During the judicial holidays or out of term, the judge of the Superior Court shall have the same jurisdiction as the Court for the purposes of this section. ^{Jurisdiction.}

MISCELLANEOUS PROVISIONS

34. No judicial tax nor officers' fees may be exacted on proceedings before the Commission, or on the deposit, in the office of the Superior Court, of the amount of the award or on the proceedings required to obtain the payment or reinvestment of the deposit. ^{No tax, etc.}

35. Every person entitled to compensation who has not come before the Commission and who has not been summoned, or who, when summoned, refused to acknowledge the jurisdiction of the Commission, as mentioned in section 17, may have the compensation fixed by action before the Superior Court. ^{Compensation fixed by Superior Court.}

36. Whenever a person summoned before the Commission refuses to acknowledge its jurisdiction and fails to bring suit before the Superior Court, the company may, by an ordinary action, summon him before the said court to have such compensation fixed. ^{Ordinary action by company.}

37. The above provisions respecting the plans, the award, the effect of such award and the compensation, as well as the payment or deposit thereof, shall apply in such actions and to the compensation fixed by the judgment, save that such judgment shall be subject to appeal according to the ordinary rules. ^{Provisions applicable.}

38. The following shall be absolutely null: any contract entered into since the twenty-sixth day of July, 1926, by the owner of any land entitled to compensation for the reasons mentioned in sub-paragraphs *a* and *b* of paragraph 1 of section 15, the effect whereof is,—

1. To make over to any other person the whole or part

over of com- of the compensation to which the owner would have been
pensation; entitled under this act; or

Granting of 2. To grant a commission to any person to obtain com-
commission; pensation from the company; or

Giving 3. To give a mandate for the recovery of such compen-
mandate; sation in consideration of a commission or other remunera-
tion; or

Constituting 4. To constitute a promise of sale or option with respect
promise of to land contemplated by this act or with respect to the com-
sale or op- pensation which may be granted to the owner of such land
tion. consequent upon the raising of the water caused by the
dams mentioned in section 15 of this act.

Certified 39. The secretary of the Commission may certify copies
copies of do- of any document, record or award; and after the delivery
cuments, of the records and minutes of the Commission to the office
etc. of the Superior Court, in accordance with section 13 of this
act, the prothonotary may certify copies of such documents
and minutes.

Rules. 40. In cases not provided for by this act, the Lieute-
nant-Governor in Council may adopt such rules of pro-
cedure or other rules as he may deem best calculated to
facilitate the realization of the object of this act.

Occupation 41. The company may, until the fixing of the compen-
of flooded sation above mentioned, occupy the flooded lands, but its
land. right to such occupation shall cease if it does not pay such
compensation when it becomes exigible under this act.

Idem. When the company has produced a plan and description,
under section 17, or under section 37, of land which would
be flooded through the raising of the water to a level under
17.5 feet above zero on the low water scale at Roberval
wharf, the right to occupy the flooded land, confirmed by
this act, shall be limited to the land so described; and the
water shall be lowered without delay and kept at such
lower level. The company shall not be allowed in such
case to subsequently raise the water to a higher level so
long as it has not proceeded under the Order-in-Council
of the 17th of December, 1926, to acquire, by expropria-
tion or otherwise, the additional land required, according
to law.

Rights con- 42. Subject to the provisions of this act, the right of
firmed. the company to maintain and operate the dams and other
works at the *Grande Décharge* and the *Petite Décharge* of
Lake St. John, as they now exist, and thereby to raise and

maintain the water at a maximum level of 17.5 feet above zero on the low water scale at Roberval wharf, is confirmed.

This section shall not however have the effect of freeing the company from any liability for compensation or damages, nor from the obligation of fulfilling each and every one of the conditions mentioned in its grants. ^{Liability not affected.}

43. All flooded land which the company acquires is and shall remain subject to taxes and assessments for municipal and school purposes, and shall be valued on a basis of the value it would have had if it had not been flooded. ^{Land remains subject to certain taxes.}

Such land shall remain subject to the payment of the taxes and assessments for the construction and repair of churches and presbyteries, and for the establishment, maintenance and enlargement of cemeteries, which were imposed at the time of the acquisition of the said land by the company. ^{Idem.}

44. This act shall not affect any subsequent recourse before the courts for damages non-apparent at the time of the fixing of the compensation by the Commission, but such damages shall not be considered by the Commission as forming part of the damage caused to the remainder of the land, payable when only a part is taken, and the award shall in such case state what the damage allotted to the remainder comprises. ^{Subsequent recourse for non-apparent damages.}

45. The Minister of Lands and Forests is charged with the carrying out of this act. ^{Carrying out of act.}

46. This act shall come into force on the day of its sanction. ^{Coming into force.}