



CHAPTER 27

An Act to amend the Quebec Mining Act

[Assented to, the 11th of March, 1926]

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 Quebec Mining Act (Revised Statutes, 1925, chapter 80) is amended by adding thereto, after paragraph 16 thereof, the following paragraphs:

"17. The words "gross value of the year's output" mean the real value of the ore and minerals at the ruling market prices at the time of their sale or of their use, and, in case of doubt, the representatives of the Department of Colonization, Mines and Fisheries may themselves make an estimate of the value of the ores or minerals sold, utilized or shipped by the operators, and such estimate shall be final to establish the gross value;

"18. The word "Commissioner" means the Mining Commissioner."

2. The French version of section 4 of the said act is amended by replacing the number: "193", in the fifth line of subsection 2 thereof, by the number: "147".

3. Section 13 of the said act is amended by replacing the second paragraph thereof (being the third, fourth, fifth, sixth, seventh and eighth lines of said section) by the following:

"From the gross value of the year's output, sold, utilized or shipped during the year, there shall be deducted the following costs of operation and expenses:"

R. S., c. 80,
s. 27, am.

4. Section 27 of the said act is amended:

a. By adding thereto, after the word: "straight", in the fifth line of the third paragraph thereof, the words: "In the case of a claim contiguous to another, the boundaries of the older claim shall have priority.";

b. By adding thereto, after the fourth paragraph thereof, the following paragraphs:

Manner of
marking
outside
lines.

"The surveyor shall mark out the outside lines on the ground by blazing the neighbouring trees on three sides, and cutting away the brush.

Planting of
posts.

He shall plant an iron post at each corner of the claim, bearing the number of such claim, marked in a permanent manner; he shall put the same inscription on a wooden post four inches square which shall be placed near each iron post."

R. S., c. 80,
s. 31a,
added.

5. The said act is amended by inserting therein, after section 31 thereof, the following section:

Approval of
subdivision
plan.

"**31a.** Every owner of a mining concession who subdivides the whole or part of his land into building lots shall, before disposing of these lots as such, have the subdivision plan approved by the Minister of Colonization, Mines and Fisheries, and pay him, in addition to the price already given for the mining concession, an additional sum of twenty-five dollars for each lot not over five thousand square feet in area, which he sells, cedes or transfers.

Additional
payment.

Nullity of
sale.

Every sale of building lots made contrary to the above provisions shall be null."

R. S., c. 80,
s. 32, am.

6. Section 32 of the said act is amended by replacing the word: "fifteen", in the fifth line of the first paragraph, by the word: "thirty".

Idem, s. 41,
am.

7. Section 41 of the said act is amended by adding thereto, after the word: "fulfilled", in the second line of the third paragraph thereof, the words: "and after the work has been inspected by the mining inspector, if the Minister deems it expedient."

Idem, ss.
45a, 45b,
added.

8. The said act is amended by inserting therein, after section 45 thereof, the following sections:

Refusal of
miner's cer-
tificate.

"**45a.** The Minister may refuse a miner's certificate to any person guilty of having violated this act.

Cancellation
of miner's
certificate.

"**45b.** The miner's certificate of any person, who obtains or attempts to obtain the acknowledgment of mining claims by fraud or false representations, may be cancelled by the Mining Commissioner, of his own initiative, or at the request of the Minister or of any other interested party."

9. Section 48 of the said act is amended by replacing the word: "Every", in the first line thereof, by the words: "On unsurveyed lands every". R. S., c. 80,
s. 48, am.

10. Section 49 of the said act is amended: Idem, s. 49,
am.

a. By adding thereto, after the word: "may", in the second line of the first paragraph thereof, the words: "by proceeding in the manner indicated in section 48,";

b. By striking out the second paragraph thereof.

11. Section 52 of the said act is amended by adding thereto, after sub-paragraph 5 of the third paragraph thereof, the following sub-paragraph: Idem, s. 52,
am.

"6. Be accompanied by a declaration under oath." Oath.

12. The said act is amended by inserting therein, after section 53 thereof, the following section: R. S., c. 80,
s. 53a,
added.

"**53a.** Whenever a claim has been admitted by error, it may, within the following sixty days, at the request of the Minister or of any interested party, be cancelled by the Mining Commissioner. Cancellation
in case
claim ad-
mitted by
error.

Whenever a claim has been admitted through fraud or false representations, it may, at any time, at the request of the Minister or of any interested party, be cancelled by the said Mining Commissioner." Idem, in
case of
fraud.

13. Section 58 of the said act is amended by replacing the words: "and March", in the sixth line of the first paragraph thereof, by the words: "March, April and December". R. S., c. 80,
s. 58, am.

14. Section 61 of the said act is amended: Idem, s. 61,
am.

a. By adding thereto, after the word: "Minister", in the third line of subsection 2 thereof, the words: "If it has been issued in error it may, within the next sixty days, at the request of the Minister or of any interested party, be cancelled by the Mining Commissioner. If it has been issued through fraud or false representations, it may, at any time, be cancelled by the said Mining Commissioner, at the request of the Minister or of any interested party.";

b. By adding thereto, after the word: "each", in the fourth line of the second paragraph of subsection 4 thereof, the words: "and on the condition that the survey was made in accordance with section 27".

15. Sections 63, 154 and 155 of the said act are repealed. Idem, ss. 63,
154 and 155,
repealed.

R. S., c. 80, s. 91, am. **16.** Section 91 of the said act is amended by replacing the first paragraph thereof by the following:

Obtaining of right of passage under certain conditions.

“91. Every petitioner, as aforesaid, may also, by applying to the Mining Commissioner and paying the compensation which the latter may deem just and reasonable to fix, obtain from neighbouring proprietors and others a right of passage with horses and vehicles over their lands, the right to construct or instal therein tramways, railways or electric lines, the right to deposit waste and tailings thereon, and the right to make the works necessary therein for conveying the water required by him for the better working of his mining lands; provided, however, that he does not apply for anything which might have the effect of turning the course of any water-course, river or stream, so as to deprive the lower riparian proprietors of the use thereof.”

Proviso.

R. S., c. 80, ss. 101a, 101b, added.

17. The said act is amended by inserting therein, after section 101 thereof, the following sections:

No injunction, etc. against smelters, etc., in Rouyn township.

“101a. No person shall prevent or hinder the operation of smelters, refineries or other works for treating ores, constructed in Rouyn township and adjacent townships, by means of an injunction or other legal proceedings. The recourse, if any, of any person prejudiced by such operations shall be confined to a claim for damages.

No damages on account of harmful gases.

“101b. No owner, tenant or occupant of land in the township of Rouyn and adjacent townships, and no holder of a permit to cut timber in such townships may claim damages on account of the harmful gases and smoke produced during the operating of a smelter, erected in the township of Rouyn, on a site chosen or approved by the Lieutenant-Governor in Council, provided however that the plans and specifications for such smelter have been previously approved by the superintendent of mines.

Proviso.

Application.

This provision shall apply to all lands already occupied, conceded or patented in such townships as mining lands.”

R. S., c. 80, s. 127, am.

18. Section 127 of the said act is amended by replacing the words: “No inspector”, in the first line thereof by the words: “No Mining Commissioner, no inspector”.

R. S., c. 80, Div. xia, added.

19. The said act is amended by inserting therein after Division xi the following division and sections:

“DIVISION XIA

“MINING COMMISSIONER

“§ 1.—*Appointment and qualifications*

“Mining Commissioner”.

“127a. 1. The Lieutenant-Governor in Council may appoint an officer to be called the “Mining Commissioner”.

2. The Mining Commissioner shall be an advocate who has practised for at least ten years at the Bar of the Province of Quebec. Qualifications.

3. The Commissioner cannot act as an advocate or counsel in any cause relating to the titles, rights, privileges or interests, conferred under the Quebec Mining Act. Prohibition to act as advocate.

4. In the event of the sickness, absence or incapacity to act of the Commissioner, the superintendent of mines or any other person designated by the Lieutenant-Governor in Council may replace the said Commissioner. Supt. of Mines, etc., to replace Commissioner.

5. The salary of the Commissioner shall be fixed by the Lieutenant-Governor in Council but shall not exceed six thousand dollars per annum. Such salary shall be payable out of the consolidated revenue fund of the Province. Salary.

“§ 2.—*Powers of the Commissioner*

“**127b.** 1. Save in the cases of accidents happening by reason of or in the course of the work, and in the cases for which there are special provisions, the Commissioner shall have, to the exclusion of every other tribunal or court, jurisdiction, power and authority to examine, hear and determine any litigation, question, claim or dispute, before or after the issue of letters patent, relating to or arising out of the rights, privileges or interests conferred under this act, and he may give all orders which he may deem necessary to render his judgments and decisions effective. Jurisdiction and powers of Commissioner.

2. Without limiting the general powers conferred upon him by subsection 1 of this section, the Commissioner shall have power and jurisdiction to determine any litigation, claim, question, or dispute relating to: Idem.

a. Any mining land, mining claim, mining license, mining concession, or any rights, titles or interests therein;

b. The existence, validity, forfeiture, or invalidity of a miner's certificate, mining claims, mining licenses, mining concessions, or to the rights, privileges or interests therein;

c. The limits, boundaries and extent of the lands affected by any mining claim, mining license or mining concession;

d. The right to take possession of mining lands, or to stake out or prospect mining claims;

e. Any right or privilege claimed under regulations made by the Lieutenant-Governor in Council under the authority of section 181;

f. Transfers, options, promises of sale or other transactions affecting mining claims, mining licenses, mining concessions before or after the issue of the letters patent, or to the rights or interests obtained under this act.

Application for reference to Superior Court. 3. Any party to proceedings instituted under this act before the Commissioner, respecting mining lands or mining rights held under letters patent, may, at any stage of the proceedings, provided that it be not less than ten days before that fixed by the Commissioner for the hearing of the case, apply to a judge, in chambers, of the Superior Court, in the district in which the immoveable property is situated, to have the case or proceedings referred to the Superior Court.

Reference of questions by Minister. “127c. The Minister may refer to the Commissioner any question, claim or dispute of which he is seized, and it shall then be the duty of the Commissioner, after such evidence as he may deem expedient to require, to render such order as in the circumstances he considers fit.

Restraining order. “127d. In any matter or proceeding which may come before him under this act, the Commissioner may make an order restraining any of the parties from doing any act which, in his opinion, ought not to be done pending the final determination of such matter or proceeding.

Limitation of powers as to letters patent. “127e. Nothing in this act shall be interpreted as giving the Commissioner power to alter or cancel letters patent issued under this act, and all suits or proceedings brought for such purpose shall be taken before the Superior Court.

Justice of peace *ex officio*. “127f. The Commissioner shall be *ex officio* a justice of the peace for the whole of the Province of Quebec.

“§ 3.—Procedure

“Quebec Mining Act” upon notices, etc. “127g. The words “*Quebec Mining Act*” shall be written or printed on all notices and documents, in every matter taken before the Commissioner.

Institution of proceeding by petition. Forwarding of petition. “127h. 1. Every case, matter or proceeding brought before the Commissioner shall be brought by a petition, setting forth concisely, distinctly and in good faith, the facts and conclusions. This petition shall be sent, by registered letter, to the Department of Colonization, Mines and Fisheries, or to the nearest mining recorder who shall forthwith send it to the Commissioner.

Order upon petition and contents. Service. 2. Upon receipt of any petition, as provided under subsection 1 of this section, the Commissioner shall issue an order setting forth briefly the nature and details of the rights and pretensions of the applicant; and a copy of such order, fixing the place and date for the hearing of the case, shall be served upon the interested parties.

Security for costs. 3. If the applicant is not domiciled in the Province of Quebec, the Commissioner may require that he furnish

security for the costs before issuing an order for the hearing of the cause.

“**127i.** In any proceedings taken before him, the Commissioner may summon the parties and witnesses. Every summons served upon the parties or upon witnesses shall be signed by the Commissioner and served in the same way as a summons before the Superior Court, unless the Commissioner decides that such service may be effected by registered mail.”

“**127j.** 1. The Commissioner may order the production of all the documents which he may deem necessary for determining the case.”

2. In fixing the place of hearing for the matters submitted to him, the Commissioner shall select the place that he may deem most convenient for the parties.

3. The hearing shall be proceeded with as promptly as possible, having regard to the interests of the parties concerned.

4. The Commissioner may take, or order the taking, by means of a rogatory commission which he himself appoints, of the evidence of any witness within or without the Province of Quebec.

5. The Commissioner may, at any place he may deem convenient, render any interlocutory judgment, and such judgment shall be final and without appeal.

“**127k.** 1. The Commissioner may obtain the assistance of engineers, surveyors, or other persons, who may, under his orders, view and examine the property in question, and in rendering his decision he may give such weight to their report or opinion as he may deem proper.”

2. The Commissioner may view and examine the property, or cause same to be viewed and examined, and give his decision upon such examination.

“**127l.** The Commissioner shall immediately proceed to hear the case upon the merits, without taking into account any informalities that may have been committed, provided that such informalities cause no actual prejudice to the parties.”

“**127m.** Where the hearing is to take place in a centre where there is a court-house, the Commissioner shall have the right to make use thereof, and where there is only a municipal hall he shall have the right to use it.”

“**127n.** Sheriffs, bailiffs, constables and other peace officers shall aid, assist and obey the Commissioner in the exercise of his powers, whenever required so to do.”

- Taking of evidence in shorthand. “**127o.** The Commissioner may, in his discretion, have the evidence taken down in shorthand and the cost thereof shall then form part of the costs of the case; but it shall not be necessary to have the shorthand notes transcribed, save in the case of an appeal, and each party shall then pay the cost of transcribing the evidence taken on his behalf.
- Transcription. “**127p.** 1. The Commissioner, in giving final decision, shall at the same time render judgment as to the costs and shall indicate the party or parties who shall pay the said costs.
- Costs. 2. The Lieutenant-Governor in Council may make, amend and repeal a tariff of disbursements and fees in matters submitted to the Commissioner.
- Tariff of disbursements and fees. 3. The fees and travelling expenses of witnesses in any case before the Commissioner shall be those established according to the tariff of the Superior Court.
- Fees and travelling expenses of witnesses. “**127q.** 1. The decision of the Commissioner shall have the authority of an order or judgment, but need not relate the circumstances and proceedings had.
- Authority of decision. 2. The orders, decisions and judgments of the Commissioner, and all other documents in the case, shall be sent to the Department of Colonization, Mines and Fisheries, and notice of the receipt thereof shall be given to the parties interested.
- Transmission of orders, etc. 3. The Commissioner shall kept a register in which notes and details of all his decisions shall be entered.
- Notice of receipt. “§ 4.—*Appeals*
- Register of decisions.

- Appeal. “**127r.** Save where otherwise specially provided, an appeal shall lie to the Court of King’s Bench from every final decision of the Commissioner, provided that such appeal be taken within thirty days from the notice given to the parties under section 127q.
- Delay. Security shall be furnished and the proceedings up to final judgment shall be conducted in accordance with the provisions of the Code of Civil Procedure.
- Security. Provisions applicable. “**127s.** No proceeding before the Commissioner shall be invalidated on account of irregularity in form or for non-compliance with the formalities prescribed in this act, if, in the opinion of the court, the proceeding has caused no real damage or injustice.”
- Proceedings not invalidated in certain cases.

- R. S., c. 80, s. 151, am. **20.** Section 151 of the said act is amended by adding thereto, after the word: “mineral”, in the sixth line of the second paragraph thereof, the words: “and even to have all

work whatever stopped immediately, and to have the mine, quarry or workshop vacated, until the necessary steps are taken to protect the workmen, to his satisfaction”.

21. Section 181 of the said act is amended by replacing s. s., c 80, sub-paragraph 7, immediately preceding the last para-s. 181, am. graph thereof, by the following sub-paragraphs:

“7. For reserving and restraining the staking out of any ^{Regulations} land which, in his opinion, may be required or necessary ^{to restrain} for the establishment and erection of smelters, mills or ^{staking of} refineries, for the construction of railways or tramways, or ^{certain} land. for the development of water-powers or for any other purpose;

“8. For determining or changing the procedure to be ^{Id., for pro-} followed before the Mining Commissioner.” ^{cedure.}

22. The provisions of this act relating to the Mining ^{Pending} Commissioner and the jurisdiction conferred upon him shall ^{cases.} not apply to pending cases.

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

