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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-FOURTH LEGISLATURE

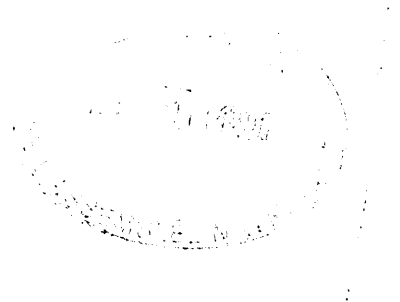
Bill 131

## **An Act to amend the Act respecting the lands in the public domain**

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### **Introduction**

**Introduced by  
Madam Lise Bacon  
Minister of Energy and Resources**



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## EXPLANATORY NOTES

*This bill amends the rules governing devolution of the so-called “three chains” reserve under the Act respecting the lands in the public domain in order to simplify the application of those rules. It does so by granting full ownership of the reserve to the holder of the letters patent or notarial deed to whom the land has been sold or transferred, or his assigns, from the date of the letters patent or notarial deed. Under the bill, private law becomes applicable to the reserve from that date.*

*However, the bill provides that this devolution is subject to certain uses or occupations which may affect the reserve. It also identifies the cases where devolution does not take place.*

*In addition, the bill introduces other amendments of a technical nature to the Act respecting the lands in the public domain, particularly concerning transfer of authority or management and gratuitous transfer of land in the public domain.*

# Bill 131

## An Act to amend the Act respecting the lands in the public domain

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 7 of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) is amended by striking out the words “under section 6” in the second line.

**2.** Section 8 of the said Act is amended by inserting the words “or management” after the word “authority” in the second line.

**3.** Section 9 of the said Act is amended by replacing the words “set out in an order under section 8” in the first and second lines by the words “for which its management was transferred”.

**4.** The said Act is amended by inserting, after section 13, the following section:

**“13.1** Sections 7 and 9 and the second paragraph of section 10 also apply to transfers of authority or management effected before 27 May 1987.”

**5.** Section 38 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“38.** At the end of a period of thirty years from the date of the letters patent, the conditions and restrictions attached to a gratuitous transfer cease to apply, and the transfer becomes irrevocable.”

**6.** Section 39 of the said Act is replaced by the following section:

**“39.** The holder of the letters patent must inform the Minister if he wishes to use the transferred land for a purpose other than that specified in the letters patent.”

**7.** Section 40 of the said Act is amended by adding, at the end, the following paragraph:

“In the case of a purpose not so prescribed, the Minister may require that the land be retroceded to him on the conditions he determines or, at the request of the holder, he may amend or waive the purpose clause on the same conditions and at the same price as those determined by regulation under section 34.”

**8.** Section 44 of the said Act is amended

(1) by adding the words “or “to the assigns of (*name of the original purchaser*)” ” at the end of the first paragraph;

(2) by inserting the words “or “assigns” ” after the word “representatives” ” in the first line of the second paragraph.

**9.** Sections 45.1, 45.2 and 45.3 of the said Act are replaced by the following sections:

**“45.1** The reserve resulting from the application of the first three paragraphs of section 45 and forming part of the public domain on 17 December 1987 shall, from the date of the letters patent or the notarial deed, devolve free of charge and in full ownership to the holder of the letters patent or notarial deed to whom the land has been sold or transferred, or to his assigns. It is deemed to form part of the private domain from that date.

The rules of private law apply from that date for establishing rights in the reserve, including prescription.

The devolution provided for in the first paragraph does not entail the transfer of ownership of the beds of non-navigable rivers and lakes or of the islands therein.

Section 30.2 of the Act respecting agricultural lands in the public domain (R.S.Q., chapter T-7.1) applies to the reserve where the letters patent or notarial deed have been issued or drawn up under the said Act.

**“45.1.1** Section 45.1 also applies

(1) where, in the letters patent or notarial deed, the reserve has been expressly withdrawn or excluded from the land which is sold or transferred;

(2) where the description of the land in the letters patent or notarial deed did not include the description of the reserve;

(3) where the reserve is the subject of an attestation of devolution issued by the Minister before (*insert here the date of coming into force of this Act*).

**“45.2** Notwithstanding section 45.1, the following lands shall remain in the public domain:

(1) all or that part of a reserve which is under the authority or management of another Minister or a public body;

(2) a forest road within the meaning of the Forest Act (R.S.Q., chapter F-4.1) or a mining road within the meaning of the Mining Act (R.S.Q., chapter M-13.1);

(3) roads used for public purposes on 17 December 1987, the ownership of which has not, under section 45.1, devolved to a department, a public body or a municipality, and which have not been the subject of a title or a transfer of authority or management granted by the Minister before (*insert here the date of coming into force of this Act*);

(4) any reserve or that part of it which has been the subject of a lease, still in force on (*insert here the date of coming into force of this Act*), granted under the Lands and Forests Act (R.S.Q., chapter T-9) or under this Act in favour of a person other than the holder of the letters patent or notarial deed, or his assigns.

In the cases contemplated in subparagraph 4 of the first paragraph, the lessee retains the right to renew the lease once, for the same term, which may not exceed ten years and he may acquire the leased land before the date of expiry of the lease, in accordance with section 34 or section 37. If he does not acquire the leased land before the date of expiry of the lease, the retroactive devolution provided for in section 45.1 applies to the land from the date of expiry of the lease.

**“45.2.1** Any reserve affecting land referred to in Schedule I. shall also remain in the public domain.

A notice containing the description of the reserve or that part of it which is retained for purposes in the public interest, made according

to law, must be registered by the Minister, not later than (*insert here the date occurring two years after the date of coming into force of this Act*), in the registry office of the registration division in which the immovable is situated. Registration is effected by deposit, free of charge. In a territory under cadastral survey, the notice is entered in the index of immovables.

From the date of registration, section 45.1 shall apply to the reserve or that part of it which is not affected by the notice. If no notice has been registered within the period prescribed in the second paragraph, section 45.1 shall apply to the whole reserve.

The Minister may also, on the same conditions, register a notice to exempt a land from the application of the first paragraph; from the date of registration, section 45.1 applies to the reserve or that part of it which is affected by the notice.

**“45.2.2** Section 45.1 does not apply

(1) to a reserve or that part of a reserve resulting from a sale, a transfer or a waiver by the Minister that occurred before (*insert here the date of coming into force of this Act*);

(2) to a reserve or that part of a reserve which, on (*insert here the date of coming into force of this Act*), is the subject of an offer of sale or transfer by the Minister in favour of a person other than the holder of the letters patent or notarial deed or his assigns, if the offer is accepted before the date on which it expires.

**“45.3** The devolution provided for in section 45.1 is subject

(1) to the right to use or occupy the reserve under a title, servitude, authorization or permit granted or issued pursuant to an Act, a decree or an order;

(2) to uses for public purposes by a department, a public body or a municipality, where such uses exist on 17 December 1987 and are still exercised on (*insert here the date of coming into force of this Act*), in cases where no title, servitude, permit, authorization or transfer of authority or management has been granted by the Minister.

No right contemplated in the first paragraph nor the exercise of such a right may in any case render the beneficiary of the devolution and his assigns liable towards the holder of the rights or towards third persons.”

**10.** Section 45.4 of the said Act is amended by replacing the words “to a pedestrian right of way, in favour of the public, over a

strip of land 10 metres in depth from the edge of the river” in the third, fourth and fifth lines of the first paragraph by the words “, without compensation, to the right of any member of the public to go on foot along the bank of a river, over a strip of land 10 metres in depth from the bank, and stop for the purpose of fishing”.

**11.** Section 45.5 of the said Act is amended by replacing the words “in the cases provided for in the second paragraph of section 45.1” in the fourth and fifth lines of the second paragraph by the words “where letters patent are issued in respect of a land pursuant to Division IV of Chapter III of the Act respecting agricultural lands in the public domain (R.S.Q., chapter T-7.1) after 17 December 1987”.

**12.** Section 45.6 of the said Act is repealed.

**13.** Section 71 of the said Act is amended by striking out the words “, any attestation issued pursuant to section 45.6” in the third and fourth lines of subparagraph 3 of the first paragraph.

**14.** Schedule I to the said Act is amended

(1) by replacing the word and figures “45.2, paragraph 3” in the heading by the figure “45.2.1”;

(2) by replacing, in the list of lands,

(a) the lines

“De Calonne	Caché IV	2 to 4 22”
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by the line

“De Calonne	IV	22”;
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(b) the lines

“Marston	VI X	22 (east bank) 7”
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by the line

“Marston	VI	22 (east bank);
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(3) by striking out the lines

“Arundel	V VI VII	21 24 23
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Forsyth	V	4
La Minerve	IX	15 and 16
Mékinac	III	20
Montigny	N. Ch. Chapleau	33
Rochon	VII	27".

**15.** Schedule II to the said Act is amended by replacing, in the list of lands, the lines

"Marston	IX	17 and 18
	X	8 and 17 to 19"

by the lines

"Marston	IX	17 and 18
	X	7, 8 and 17 to 19".

**16.** This Act comes into force on (*insert here the date of assent to this Act*).