

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 121

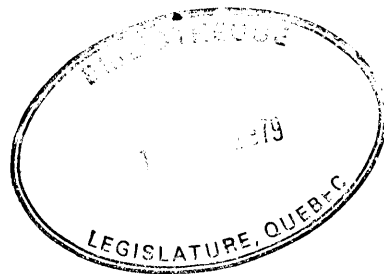
An Act to amend the Act to establish the Société
nationale de l'amiante

First reading

Second reading

Third reading

M. YVES BÉRUBÉ
Ministre des richesses naturelles



“22. Property owned by a corporation that is a subsidiary controlled corporation of Asbestos Corporation Limited within the meaning given to that expression by section 1 of the Taxation Act (1972, chapter 23) is deemed to be owned by Asbestos Corporation Limited for the purposes of sections 23 and 29 to 54.

“23. Within thirty days of service of the notice of expropriation, the Société shall send a statement indicating the amount of the indemnity to the former owner.

“24. The Société becomes the owner of such property from the service of the notice of expropriation.

The registrar of the registration division where the expropriated property is situated must make an entry of the expropriation of the property designated by the Société in the index of immoveables.

The chief registrar of claims under the Mining Act (1965, 1st session, chapter 34) is bound to register such right contemplated in section 3 of that act as may be designated by the Société.

“25. The former owner shall furnish to the Société copy of the titles relating to the expropriated property and of the books and documents required for the operation of such property.

“26. From the service of the notice of expropriation, the Société shall operate and administer the expropriated property. It is entitled to the revenues from the operation of such property and is responsible for the current operating expenditures.

“27. The Société assumes, up to the amount of the indemnity, payment of the debts pertaining to the expropriated property.

However, where a debt was contracted within twelve months preceding the service of the notice of expropriation, toward a person who, under the Taxation Act, was not dealing at arm's length with the former owner, the Société is liable for such debt only if it was contracted in the normal course of operation of the property expropriated.

“28. Subject to sections 36 to 38 of the Labour Code (Revised Statutes, 1964, chapter 141), the employees of the former owner whose services relate to the operation of the expropriated property become employees of the Société upon the service of the notice of expropriation.

“29. The Société may take up the defence of the former owner in any judicial proceeding pertaining to the expropriated property.

“30. The indemnity that the Société is to pay shall be that which the Société and the former owner agree upon. Failing an agreement, the indemnity shall be determined by a board of arbitration.

The indemnity shall be in lieu of any right or recourse of the former owner arising out of the acquisition of the expropriated property.

“§ 2.—Board of arbitration

“31. Upon the expiry of two months following the service of the notice of expropriation, either of the parties may require the formation of a board of arbitration, unless they have agreed to do so at an earlier date.

“32. The board shall be composed of three members, one of whom is appointed by the Société, another is appointed by the former owner and the third, who is the chairman of the board, is appointed by the Government on the joint recommendation of the two members already appointed; the chairman shall be chosen from among the judges of the Provincial Court sitting on the Expropriation Tribunal.

Within ninety days of the decision of either party to require the creation of the board, if there is no agreement between the members of such board as to the selection of a chairman or if one of the parties fails to appoint its arbitrator, the chief judge of the Provincial Court shall, *ex officio*, appoint the chairman or the arbitrator.

“33. Each party shall pay the salary of the arbitrator representing it.

“34. The Government shall appoint a clerk, who remains in office at least until the delay for appeal from the award of the board has expired. The Government may also appoint assistant clerks.

The Société shall pay the salary of the clerks and provide for the organization of the administrative services of the board.

“35. Arbitrators shall not have any interest in the dispute they are called upon to settle. A judge of the Provincial Court may on a motion of one of the parties dismiss an arbitrator who has such an interest. The motion is heard and decided by preference.

“36. Any vacancy among the arbitrators shall be filled in accordance with the procedure established for their appointment.

“37. The board shall hear, in first instance, to the exclusion of any other tribunal, the dispute concerning the indemnity. It shall be seized of it without other formality from the day the chairman is appointed.

It shall hear the matter diligently in accordance with the mode of proof it considers appropriate.

“38. The sittings of the board are public; the board may however, of its own initiative or at the request of one of the parties, order that a sitting be held *in camera*.

“39. The chairman has all the powers of a judge of the Superior Court for the conduct of the sittings of the board; he cannot, however, impose imprisonment.

“40. At the request of the parties or of the board, the witnesses are summoned by a written order signed by the chairman or by the clerk.

“41. A person duly summoned before the board who refuses to appear or to testify may be compelled to do so and be condemned under the Summary Convictions Act (Revised Statutes, 1964, chapter 35), as if he had been summoned under that act.

“42. The witnesses are entitled to the same taxation as witnesses before the Superior Court. That taxation is payable by the party which summoned or examined them.

“43. The chairman or the clerk may communicate or otherwise serve any order, document or proceeding emanating from the board or the parties concerned.

“§ 3.—*Indemnity*

“44. The indemnity shall be computed by the board according to the fair market value of the property established in relation to its continued operation at the time the Société became the owner thereof.

“45. In computing the indemnity, account shall not be taken of any prejudice that might result from the expropriation

nor from the rights and privileges conferred on the Société under section 3.

“46. In computing the indemnity, the fiscal situation of the former owner is appraised with regard to every act imposing taxes, dues, duties or royalties by taking into consideration only the provisions of that act that were applicable to it at the time the notice of expropriation was served.

However, for the purposes of that computation, the taxes payable pursuant to the Taxation Act and the Income Tax Act (Statutes of Canada) are deemed to be equal to the taxes that would be payable if the former owner

(a) had no revenues or losses other than those resulting from the expropriated property;

(b) was entitled, in computing his income or his taxable income, to no deduction other than those that are reasonably attributable to the expropriated property; and

(c) had earned in Québec the revenues resulting from the expropriated property.

“47. Where section 22 applies, the corporation may ask the board to apportion the indemnity between the former owners concerned.

“48. The debts assumed by the Société under section 27 shall be deducted from the indemnity computed pursuant to sections 44 to 46.

The indemnity thus reduced bears interest from the taking of possession by the Société of the expropriated property, at a rate equal to the average rates payable by banks governed by the Banks Act (Statutes of Canada) on ninety day term deposits; that rate shall be readjusted every ninety days from the taking of possession to the time the indemnity is paid.

Interest is compounded semi-annually.

“§ 4.—Award

“49. Before the award is rendered, the board may make any interim decision it considers fair and advisable.

“50. The award of the board must be substantiated and signed by the members who participated therein.

Any dissenting member may submit a separate report.

Failing unanimity or a majority, the report of the chairman constitutes the award of the board.

“51. The award of the board must be rendered within three months following the conclusion of the sittings unless, at the request of the chairman, the Government grants an additional delay.

“52. The chairman or the clerk of the board shall transmit the original of the award to the clerk of the Executive Council, and a copy to each party.

“53. The award of the board, and the interim decisions the board may render before the award, may be executed under the authority of the competent court, on proceedings instituted by one of the parties.

“§ 5.—*Appeal*

“54. One of the parties may appeal before the Court of Appeal from any interim decision of the board, as well as from the award.

“55. The appeal is heard and decided by preference.

Articles 491 to 524 of the Code of Civil Procedure apply to such appeal, *mutatis mutandis*.”

2. Divisions v and vi and sections 19 to 25 of the said act are renumbered vi and vii and 56 to 62.

3. This act comes into force on the day of its sanction.