



CHAPTER 143

An Act to Secure a More Rational and Economic use of the Forest Resources of Newfoundland and to Assure an Adequate Supply of Wood for the Establishment of a Third Mill.

WHEREAS it is advisable in the interests of the people of the province that a cohesive forest area should be provided on the east coast of Newfoundland to support a third mill and that contiguous forest areas capable of economical development should be provided for the two existing mills;

AND WHEREAS for the accomplishment of those objects it is deemed desirable to make provision for a series of exchanges under which forest areas now held by the Crown within strategic distance of the existing mills would be exchanged for similar areas on the east coast of Newfoundland now held by the operators of those mills;

AND WHEREAS it is felt that additional forest areas now under private ownership should be reserved to ensure an adequate supply of wood for a third mill.

1. This Act may be cited as The Forests (Exchange and Acquisition) Act. Short title.

2. In this Act Interpretation.

- (a) "Crown cutting rights" means the right to cut timber on Crown land allotted under Section 7 to the owner of cutting rights expropriated under this Act;

- (b) "Crown land" means all land within the jurisdiction of the Legislature of the province which has not been lawfully alienated by the Crown or lawfully set apart for any public purpose, but does not include any such land which is in the use or occupation of any Department of the Government of the province or of any officer or servant thereof;
- (c) "cutting rights" means the rights and title referred to in paragraphs (a) to (d) of subsection (1) of Section 3;
- (d) "existing mill" means a pulp or paper mill, or both, existing at the date of the enactment of this Act and having a capacity of not less than five hundred tons a day;
- (e) "existing mill operator" means a company which operates an existing mill;
- (f) "Minister" means the Minister of Mines, Agriculture and Resources for the province;
- (g) "Newfoundland" means all of the province, except Newfoundland Labrador and the Islands north of Cape Bauld;
- (h) "third mill" means a pulp or paper mill, or both, established in Newfoundland after the date of the enactment of this Act and having a capacity of not less than three hundred tons a day;
- (i) "third mill operator" means a person or company which operates a third mill or has undertaken to establish a third mill, in Newfoundland;
- (j) "third mill reserve" means the cutting rights in any area declared to be a third mill reserve within the meaning of this Act and located in that part of Newfoundland described in the Schedule; and
- (k) "timber" means wood of all types and species.

3.—(1) The Lieutenant-Governor in Council may by order authorize the Minister to acquire for the Crown all or any part of

Voluntary
exchange.

- (a) all of the right to cut timber on any land located in Newfoundland held by any person, company, partnership or association;
- (b) the right to hold possession of the land referred to in paragraph (a) for the purpose of exercising the right to cut timber referred to in that paragraph;
- (c) the title to all improvements on the land referred to in paragraph (a) reasonably necessary for the exercise of the right to cut timber referred to in that paragraph; and
- (d) the right to build and maintain all roads, erect and maintain all buildings, structures and other works and do all other things on and in the land referred to in paragraph (a) reasonably necessary for the exercise of the right to cut timber referred to in that paragraph,

whether the land or any of such rights or improvements are held under a grant, lease, licence or other title whatsoever, whether possessory or otherwise.

(2) When an order is made under subsection (1) the area affected thereby shall be described and delimited in the order.

(3) Acquisition of cutting rights pursuant to an order made under subsection (1) may be made under mutual agreements whereby the right to cut all or designated species and types of timber on Crown land anywhere in the province and to the extent approved by the Lieutenant-Governor in Council may be exchanged for the cutting rights so acquired, or the acquisition may be made for such other consideration as the Lieutenant-Governor in Council approves.

(4) An agreement made under subsection (3) shall contain such additional terms and conditions as may be approved by the Lieutenant-Governor in Council.

(5) An acquisition of cutting rights may be made under this section and shall have effect notwithstanding that the holder of the cutting rights with whom the Minister makes the exchange is prohibited by the terms of his grant, lease, licence or other title of any kind whatsoever from alienating any of his rights thereunder.

Compulsory
exchange.

4.—(1) Whenever in the opinion of the Lieutenant-Governor in Council any cutting rights or any right comprised in such cutting rights is or may be required for any of the purposes of this Act, he may by order and subject to subsection (2) direct that the cutting rights or other right be expropriated.

(2) An order made under subsection (1) shall describe the land on which the cutting rights are to be expropriated and shall indicate by a description sufficient to identify them all of the improvements on the land which are to be included in the cutting rights to be expropriated, and in order to ascertain and measure and obtain a plan and description of the land and to ascertain the improvements to be expropriated, any person duly authorized by the Minister may enter upon the land or any adjoining land for that purpose.

Certain
provisions
of The
Expropriation
Act to apply.

5. Notwithstanding anything to the contrary contained in Section 60 or in any other provision of The Expropriation Act, only Section 2, Sections 7 to 16, subsections (2), (3) and (4) of Section 17, Section 18, Sections 28 to 31, Section 35, Sections 38 to 53, Section 55 and Section 59 of that Act, apply *mutatis mutandis* and subject to Sections 6 to 9 of this Act, to the expropriation of any cutting rights pursuant to an order made under Section 4.

Application
of relevant
provisions
of The
Expropriation
Act.

6. In the application to cutting rights expropriated pursuant to an order made under Section 4 of this Act of the provisions of The Expropriation Act brought into operation by Section 5 of this Act, a board of arbitrators shall not be appointed, and the Minister shall have, may exercise and shall discharge the powers and duties conferred and imposed on the Minister of Public Works and the board by such provisions.

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7.—(1) The owner of cutting rights expropriated under this Act shall be compensated in full for the timber comprised in the cutting rights by allotting to him the right to cut designated timber on Crown land located in Newfoundland outside of the area described in the Schedule together with all rights in that Crown land reasonably necessary for the exercise of the right

Compens
to existi
mill ope

to cut the designated timber, and he shall be compensated for the improvements comprised in the cutting rights by the payment of cash, the amount of which shall be determined in accordance with this Act.

(2) The Crown cutting rights to be allotted under subsection (1) shall be equated with the expropriated cutting rights for which they are allotted, in accordance with the following rules:

- (a) The estate in the Crown cutting rights shall be similar to the estate in the cutting rights expropriated.
- (b) Values shall be equated in accordance with
 - (i) the potential productivity of the land;
 - (ii) comparative operational costs;
 - (iii) comparative costs of delivery to the mill of an existing mill operator where the Crown cutting rights are to be allotted to that operator, and in other cases to the existing mill nearer the cutting rights expropriated, but if before the cutting rights were expropriated timber was *bona fide* delivered from the land over which the cutting rights run to a person other than an existing mill operator, account shall be taken of such delivery in making a comparison of the costs of delivery;
 - (iv) species and composition of species of timber on the land; and
 - (v) standing volume of timber on the land.
- (c) Any advantage which the owner of the cutting rights expropriated may derive or be likely to derive directly

or indirectly from the establishment of a third mill shall be taken into account in reduction of the extent of Crown cutting rights to be allotted to him.

(3) The cash value of any improvement expropriated under Section 7 shall be determined by multiplying

- (a) the cost per cord computed by dividing
 - (i) the actual cost of the improvement, by
 - (ii) the cordage of timber previously serviced by the improvement plus the cordage of residual timber which considering the condition of the improvement it may be reasonably expected to service; by
- (b) the cordage of residual timber which considering the condition of the improvement it may be reasonably expected to service:

Provided that with the agreement of the owner of the improvement, any other method of determining the value of the improvement may be adopted which has been approved by the Lieutenant-Governor in Council.

Rights
expropriated
pursuant to
Sec. 4.

8. When cutting rights are expropriated pursuant to an order made under Section 4, the title to the cutting rights vests in Her Majesty in right of Newfoundland upon the expiration of the period prescribed by Section 14 of The Expropriation Act.

Injurious
affection.

9. Claims by the owners of land over which cutting rights are not expropriated pursuant to Section 4 of this Act caused by injurious affection to such land necessarily resulting from the expropriation of cutting rights on other land shall be dealt with and disposed of as if the injurious affection was caused by an expropriation made pursuant to Section 4 of this Act.

Payments by
Minister.

10. Any payment that the Minister may be required to make under this Act shall be paid out of the Consolidated Revenue Fund of the province.

11.—(1) The Lieutenant-Governor in Council may by order from time to time declare any cutting rights located in the area described in the Schedule, which are not then held by an existing mill operator, to be a third mill reserve within the meaning of this Act.

Cutting rights
may be
declared
third mill
reserve.

(2) When an order is made under subsection (1), the title to the cutting rights to which it relates shall thenceforth during the subsistence of the order be vested in the Minister for the purposes of this Act.

12.—(1) The Minister may, subject to the approval of the Lieutenant-Governor in Council, make an agreement with any third mill operator granting to him all or any part of any cutting rights declared to be a third mill reserve.

Agreement
with third
mill operator.

(2) In an agreement made under this section there shall be set forth the consideration, if any, payable to the Minister and the manner and dates of payment, and the third mill operator may be given all or any of the rights conferred on him by the agreement for any term not exceeding ninety-nine years, and in the agreement provision may be made for the renewal of all or any of such rights on the request in writing of the third mill operator, his successors in title, assigns or sub-lessees, to be made before the execution of the first term of ninety-nine years on similar terms and conditions, except the covenant for renewal.

(3) Subject to this Act, an agreement made with a third mill operator in accordance with this section shall upon its execution and delivery be valid and binding upon all persons affected thereby, and all and singular the provisions thereof shall have the force and effect of law for all purposes as if expressly enacted in this Act, and the parties to the agreement and the successors and assigns of each of them shall have full power and authority from time to time to do and perform or omit to do and perform all and singular the several acts, matters and things in and by the agreement provided to be done or not to be done, as the case may be, in the manner and with the effect and under the conditions stipulated and provided in the agreement.

(4) The Minister and the third mill operator have towards each other the same rights they would have, if the Minister was the owner of the cutting rights and the third mill operator was his tenant.

(5) Subject to the terms and conditions of the agreement made with him under this section, the third mill operator has for the period prescribed in the agreement the exclusive use of the land to which that agreement relates for the purpose of cutting the timber thereon authorized to be cut under the agreement.

(6) A third mill operator who has cutting rights under an agreement made in accordance with this section may, subject to the provisions, terms and conditions of and during the period prescribed by the agreement, cut and take away timber from that third mill reserve in accordance with the agreement and conduct all operations thereon and therein that are necessary or desirable in connection therewith, and the third mill operator has the sole ownership of all timber so cut and taken away.

Payments to
owner of
cutting rights.

13.—(1) Subject to this Act, the Minister shall, during the currency of an agreement made under Section 12, pay to the owner of the cutting rights seventy per centum (70%) of the balance of the moneys received by the Minister from the third mill operator and remaining in his hands after deducting all moneys expended by the Minister or on his behalf in the cruising or development, or both, of the cutting rights and deducting all rentals and royalties due to the Crown by the owner.

(2) The remaining thirty per centum (30%) of the balance of the moneys referred to in subsection (1) is the property of Her Majesty in right of Newfoundland and shall be paid into the Consolidated Revenue Fund.

Agreements
may be made
at any time.

14.—(1) When an order is made under Section 11 declaring any cutting rights a third mill reserve within the meaning of this Act, the Minister has subject to this Act power to make any agreement or to take any action with respect to those cutting rights, at any time thereafter and without limitation of time, unless the order is cancelled under subsection (2).

(2) An order may be made by the Lieutenant-Governor in Council cancelling any order made under Section 11, relating to

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the whole or any part of any area in respect of which there is no subsisting agreement made under Section 12, and when an order is made under this subsection, the area to which the order of cancellation relates shall thereupon cease to be a third mill reserve, and all of the rights of the owner in the area to which the order relates shall be restored forthwith, without the necessity of any assurance of title other than this subsection, but a further order or orders may be made under Section 11 with respect to that area.

15.—(1) Any cutting rights acquired under this Act by mutual agreement or expropriation shall to the extent to which the owner of the cutting rights was compensated therefor by the exchange or allotment to him of Crown cutting rights be deemed to be part of the Island timber limits, or the Labrador timber limits, as the case may be, for the purposes of the Statutory Agreement executed and delivered by and between His Honour the Lieutenant-Governor in Council and Newfoundland Pulp and Chemical Co. Limited pursuant to the Act No. 72 of 1960.

Statutory
Agreement
made
pursuant
to Act No.
of 1960
applies to
certain
cutting
rights
acquired
under this

(2) Subject to subsection (1), the Minister may sell, lease or otherwise dispose of any cutting rights acquired under this Act by mutual agreement or expropriation or any improvements or other rights included in any such cutting rights, for such consideration and upon such terms and conditions as the Lieutenant-Governor in Council approves.

SCHEDULE.

DESCRIPTION OF AREA.

All that part of Newfoundland described as follows: Beginning at the southernmost extremity of the point of land between the western shore of Beck Bay and the eastern shore of Pass Island Tickle in Hermitage Bay; thence running in a straight line to the point being the most southerly extremity of the western entrance to Little Coblin Bay in North Arm, Bay d'Espoir; thence running in a general northerly direction along the eastern shore of East Bay to the mouth of Salmon River; thence running in a general northerly direction along the eastern bank or shore of Salmon River and along the eastern bank or

Schedule.

shore of Long Pond to its most northerly angle; thence running on a bearing of north nineteen degrees east (true) thirty-three miles and thence on a bearing of north thirty-nine degrees east (true) to a point in the southerly limit of the right-of-way of the Canadian National Railways; thence running along the said southerly limit of the right-of-way of the Canadian National Railways in a general easterly direction to a point on the eastern bank or shore of Gander River; thence running along the said eastern bank or shore of Gander River in a general northeasterly direction to a point on the eastern shore of Gander Bay at highwater mark; thence running in a general northeasterly direction along the said eastern shore of Gander Bay to the northeastern entrance to the said Bay; thence running in a general easterly direction along the shorelines of Hamilton Sound, Rocky Bay, Ragged Harbour and Deadman's Bay to Cape Freels; thence running along the shorelines of Bonavista Bay in general southwesterly, southerly, and easterly directions to Cape Bonavista; thence running along the shorelines of Trinity Bay in general southerly and northerly directions to Grates Point; thence continuing along the shoreline in a general southeasterly direction to Split Point near Bay de Verde; thence running along the shorelines of Conception Bay in general southerly and northerly directions to Cape St. Francis; thence continuing along the easterly shoreline of Avalon Peninsula in a general southerly direction to Mistaken Point; thence running along the shoreline of Trepassy Bay in a general westerly direction to Shoal Point; thence running along the shoreline of St. Mary's Bay in general northerly and southerly directions to Point Lance; thence continuing along the shoreline in a general westerly direction to Cape St. Mary's; thence running along the shorelines of Placentia Bay in general northerly and southwesterly directions to Chambers Point; thence continuing along the shoreline in a general westerly direction to Point Crewe; thence running along the shorelines of Fortune Bay in general northeasterly and westerly directions to Boxey Point; thence continuing along the shoreline in a general westerly direction to the point of beginning, together with all the coastal islands lying adjacent to the shorelines heretofore described.