

Bill No. 91 of 1941.

A BILL RESPECTING THE EXPROPRIATION OF
LANDS AND OTHER PROPERTY.

NOTE.

This Bill introduces a new Act to be known as *The Expropriation Act*. The provisions of this new Act enlarge the powers of the Province with regard to expropriation although it is very similar in some respects to the provisions for expropriation contained in *The Public Works Act*. The Minister of Public Works is enabled to enter upon or use any land or to expropriate such land for any public work or purpose connected therewith or for any public purpose of the Province or for any purpose which he deems necessary in the public interest.

The procedure for expropriation is set out. The Minister deposits in the Land Titles Office a plan of the land he desires to expropriate, and the Registrar thereupon must register the same in the name of the Crown and issue a certificate of title therefor. No person can call any such plan in question other than the Crown. The Minister is required to make due compensation to the owners of any land which is used, affected or expropriated. If the amount of compensation cannot be agreed upon, the person whose land is expropriated may notify the Minister of his dissatisfaction and may serve him with a statement of the amount claimed. The Minister must consider this claim and notify the claimant of his decision. If the claimant is still dissatisfied with the decision of the Minister, he may give notice that he desires to submit the claim to arbitration, and the Minister shall thereupon submit the matter to a judge. The provisions of *The Arbitration Act*, in so far as they are applicable shall apply to the proceedings. The costs and expenses of the arbitration shall be in the discretion of the arbitrator.

The provisions of this Act with regard to expropriation do not apply to any other Act where the proceedings for expropriation are provided by that Act.

It is to remain in force for the duration of the war and one year thereafter.

W. S. GRAY,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 91 of 1941.

An Act respecting the Expropriation of Lands and
Other Property.

(Assented to _____, 1941.)

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

1. This Act may be cited as "*The Expropriation Act*".
2. In this Act, unless the context otherwise requires,—
 - (a) "Judge" means a judge of the District Court of the district in which the land in question in any proceeding under this Act or any portion thereof lies;
 - (b) "Land" means land, tenements or hereditaments, and any estate or interest therein, and includes all passages, ways, watercourses, privileges, easements, mines, minerals and quarries, and all trees and timber thereon, or thereunder, or appertaining thereto, unless any such are expected therefrom;
 - (c) "Minister" means the Minister of Public Works;
 - (d) "Owner" with reference to land, means the owner or any person who has any estate or interest therein or any lien, charge, mortgage or encumbrance thereon, and includes the heirs, executors and administrators of such owner or person;
 - (e) "Purchaser" means any person, including the Crown, empowered to enter on, take, use or expropriate land without the consent of the owner.
3. The Minister may for and in the name of the Crown, purchase or acquire, and may, without the consent of the owner thereof, enter upon, take, use and expropriate any land which he deems necessary for any public work or purpose connected therewith or any public purpose of the Province, or of any Department of the Government thereof, and may enter upon, take, use and expropriate any land which he deems necessary in the public interest to so enter upon, take, use and expropriate.
4. The Minister may enter into any contract or agreement, give any notice, make any declarations, and do any

other act or thing that is deemed necessary or advisable for the purpose of carrying out the provisions of this Act, but no deed, agreement, document or writing in respect of any matter under the control or direction of the Minister shall be binding on the Crown unless signed by the Minister.

5.—(1) Where the Minister desires to expropriate land under the powers conferred by this Act, he shall deposit in the land titles office for the land registration district in which the land is situated, a plan signed by himself or his Deputy Minister and by a surveyor, and such land shall thereupon become and be vested in the Crown, and the Registrar of Land Titles shall, upon the request of the Minister, issue a certificate of title therefor in the name of the Crown.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest shall become and be vested in the Crown.

6. In all cases, when any plan, purporting to be signed as provided in the preceding section, is so deposited, the same shall be deemed to have been deposited by the direction and authority of the Minister, and the plan shall not be called in question except by the Minister, or by some person acting for him or for the Crown.

7.—(1) The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act, due compensation for any damages necessarily resulting from the exercise of such powers, and any claim for such compensation not mutually agreed upon, shall be determined as hereinafter provided.

(2) The date with reference to which the compensation or damages is to be ascertained shall be the date on which the Minister deposits the plan of the land taken.

8.—(1) Upon the plan of any land taken or used for any of the purposes mentioned in section 3, the Minister shall cause to be served, by registered mail, upon all persons shown by the records of the Land Titles Office to be the owners of the land so taken, unless the owner has agreed upon his compensation with the Minister, a notice setting forth the compensation which he is ready to pay therefor, together with a description of the lands taken or of the powers to be exercised with regard to land described therein.

(2) If the owner of land is an infant, a mental defective or of unsound mind, so found, service shall be made upon his guardian or representative.

9.—(1) If any person so entitled and served with a notice is dissatisfied with the amount offered, he shall, within one month from the date of the notice, notify the Minister of the fact in writing, and shall in his notice name the amount which he claims and make a full statement of the facts in support of his claim.

(2) If no such notification is received by the Minister within the period mentioned, the person entitled to compensation shall be deemed to be satisfied with and shall accept the amount set out in the notice from the Minister.

10.—(1) The Minister may, in lieu of or in addition to serving the notice by registered mail, upon depositing the plan, cause to be published a notice once a week for at least three weeks in some newspaper having a general circulation in the Judicial District in which the land affected is situate, describing, by reference to the plan or otherwise, the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, the nature of the work to be done, and the date of the deposit of the plan and its registration number, and stating that every person having any claim for damages by reason of his land being injuriously affected or taken or used for any of the purposes mentioned in section 3, must file particulars of his claim in the office of the Minister within one month from the date of the notice.

(2) If a claim is not so filed within the period mentioned it shall be forever barred, unless upon application to a judge, made not later than one year from the date of the notice, upon such terms as to notice, costs or otherwise as he directs, he allows the claim or an amended claim to be made.

11. In case a claim is made for increased compensation for land taken, or for damages for land injuriously affected, the Minister shall consider the claim and shall notify the claimant of his decision in respect thereof by registered letter addressed to the claimant's last known place of abode.

12. Such claimant, if dissatisfied with the decision of the Minister, may, within sixty days after the registration of the notice of such decision, give notice in writing to the Minister, which may be by registered letter, that he desires to submit the claim to arbitration, and the claim shall thereupon be submitted by the Minister to arbitration by a judge, and the provisions of *The Arbitration Act* shall, subject to the provisions of this Act, apply to the proceedings thereon.

13. If the claimant fails, within the period of sixty days, to notify the Minister and make the deposit required by this Act, he shall be deemed to have accepted the Minister's decision and shall not thereafter question it.

14. The claimant shall with the notice of submission to arbitration, deposit with the Minister as security for the costs of the arbitration, a sum equal to ten per centum of the amount claimed by him, but not in any event less than twenty-five dollars; provided, however, that in place of a money deposit the claimant shall be entitled to deposit a bond with two sureties, satisfactory to the Minister, in double the amount required in a money deposit.

15.—(1) Subject to the provisions of subsection (3) of this section, all costs and expenses of the arbitration shall be in the discretion of the arbitrator.

(2) In case the costs and expenses are to be paid by the claimant, the Minister may deduct the costs and expenses from the moneys deposited, if any, and the surplus, if any, shall be returned to the claimant, and in case the claimant is not required to pay the Minister's costs of the arbitration, the full amount deposited or the bond, as the case may be shall be returned to him.

(3) The only costs allowable, upon an arbitration under this section shall be witness' fees, and the arbitrator's reasonable travelling and other expenses incurred in connection with the arbitration.

16. The Provincial Treasurer may pay to any person, out of the General Revenue, any sum to which, under the provisions of the Act, he is entitled as compensation, damages or costs.

17.—(1) In case the person entitled to compensation, damages or costs is a person under disability or represented by a guardian or representative, the Minister shall, and in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the Supreme Court, with interest thereon for six months at the rate of three per centum per annum.

(2) A notice in such form, for such time and in such newspaper as the court directs, shall be published, stating that the land is purchased, acquired or taken by the Crown under the provisions of this Act, and calling upon all persons entitled to the land or to any part thereof to file their claims to compensation, and all such claims shall be adjudicated upon and decided by the court.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into court, the court may direct a proportionate part of the interest to be returned to the Minister, and if it is not ob-

tained until after six months have expired, the court may order the Minister to pay interest for such further period.

18. The compensation for such land entered on, taken, used or injuriously affected, shall be paid to the owner or occupiers thereof, or to the persons suffering damage, or into court within six months after the amount of the compensation has been agreed upon, appraised or awarded.

19. The provisions of this Act shall not apply to expropriation proceedings under any Act where the proceedings for expropriation are provided by that Act.

20. This Act shall come into force on the day upon which it is assented to, and upon so coming into force shall remain in force for the duration of the war and one year thereafter.

FIRST SESSION
NINTH LEGISLATURE
5 GEORGE VI
1941

BILL

An Act respecting the Appropriation
of Lands and Other Property.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. FALLOW.

EDMONTON:
A. Shnitka, King's Printer
1941