



CHAPTER 16

An Act to assure an efficient control of transportation and communication companies

[Assented to, the 28th of April, 1939]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

DIVISION I

INTERPRETATION

1. This act may be cited as *Provincial Transportation and Communication Board Act*. Short title.

2. In this act,

1. "Board" designates the Provincial Transportation and Communication Board constituted by this act; Interpretation: "Board";

2. "owner" designates every person, partnership, or corporation other than a municipal or school corporation, and the lessee, trustee, liquidator, sequestrator or receiver thereof, operating, administering or controlling a public service as hereinafter defined; "Owner";

3. "public service" designates any service, "Public service".
a. for the transmission of telegraphic or telephonic messages;

b. for the conveyance of passengers or goods by railway, tramway or navigation;

c. for highway transport by autobus, taxi or delivery car, within the meaning of the Motor Vehicle Act (Revised Statutes, 1925, chapter 35);

d. for the hiring of pleasure motor vehicles driven or to be driven by the person hiring or his appointee, commonly known as "drive yourself";

e. for the production, transmission, distribution or sale of gas, steam, water, heat, light or power produced otherwise than by electricity;

f. for a waterworks system or a sewer system.

Application
of act.

This act shall apply and the Board's jurisdiction shall extend, respecting such public services, only to matters appertaining to the legislative authority of this Province.

Jurisdiction
over certain
municipal
corporations.

3. A municipal corporation operating wholly or partly outside of its territory a public waterworks or sewerage service shall be governed by this act as regards such service or part thereof operated outside of its territory.

DIVISION II

CONSTITUTION OF THE BOARD

Creation of
Board.

4. A body for the supervision and controlling of the various public services enumerated by section 2 is hereby created under the name of "*Provincial Transportation and Communication Board*".

Name.

Composition.

It shall be composed of five controllers one of whom shall be president and another vice-president, all to be appointed by the Lieutenant-Governor in Council who shall fix their remuneration.

Vacancy.

The Board shall not be dissolved by reason of vacancy, to any number whatsoever, among the controllers.

Chief office.

5. The Board shall have its chief office in the city of Quebec; it may have offices at any other place in the Province, designated by the Attorney-General, upon the recommendation of the president.

Holding of
meetings.

6. The controllers shall hold their meetings at any place in the Province required for the transaction of the matters within the jurisdiction of the Board.

Quorum.

Three controllers shall form a quorum. The hearing of any matter submitted to the Board shall take place before at least three controllers.

Placing of
quarters at
Board's
disposal.

7. Whenever the Board sits at the chief place of a judicial district, the sheriff of such district shall be bound to place at its disposal suitable quarters for the holding of its sittings.

In every other place where it sits, it may have free use of the court room in which the courts of the Province sit. Free use of court rooms.

8. The Board or its president may authorize a controller to report to it upon any matter within the jurisdiction of the Board or pending before it, and such controller shall have all the powers of three controllers sitting together, for the taking of evidence and the obtaining of the information necessary for the purposes of such report. Reporting to Board by controller, etc.

9. The vice-president, in the case of the absence or inability to act or vacancy in the office of the president, shall exercise the powers of the latter. Exercising of powers by vice-president.

The controllers, inclusive of the president, shall decide by a majority vote; if there be a tie, the president shall have a casting-vote. Voting.

The president's opinion shall prevail on any question of law. President's opinion.

10. The controllers must occupy themselves exclusively with the work of the Board and the duties of their office and they shall not exercise any other profession nor fulfil any other function. Prohibition as to filling other duties.

11. No controller, officer or employee of the Board may, under penalty of forfeiture of his office, have any interest whatsoever, directly or indirectly, in any public service contemplated by section 2. Prohibition as to certain interest.

However, such forfeiture shall not take place if such interest devolves by succession or gift, provided that he renounce thereto or dispose thereof immediately. Exception.

12. The Lieutenant-Governor in Council may appoint a secretary, technicians, accountants, clerks, and other necessary employees to assist the controllers, and fix their remuneration. Appointing, etc., of secretary, etc.

13. The Attorney-General may authorize the Board to retain temporarily, upon such conditions as he may determine, the services of persons other than its regular employees. Temporary employees.

DIVISION III
POWERS OF THE BOARD

14. The Board, any controller designated by the president and any person specially authorized for such purpose by the Board may make an inventory of the prop- Powers of Board.

erty of any owner of a public service and carry out investigations as to the financial structure, books, methods of accounting, rates, receipts, profits, salaries and in general all the operations of such owner.

Provisions applicable to investigations.

Sections 6, 9, 10, 11, 12, 13, 16 and 18 of the Public Inquiry Commission Act (Revised Statutes, 1925, chapter 8) shall apply, *mutatis mutandis*, to every investigation held in virtue of this section. In the case where such investigations are conducted by a person other than a controller, such person shall take the oath provided in section 3 of the aforesaid Public Inquiry Commission Act.

Powers of controller, etc., as to:

15. Any controller and any investigator acting in virtue of this act may, on any day not a holiday, between eight o'clock in the morning and six o'clock in the evening:

Access to certain place, etc.;

a. have access to any place where the public service or part of the service forming the object of an inventory or of an investigation is situated, make a full examination of the premises, work, rolling-stock and other property therein, and take cognizance of any books, plans, specifications, drawings and documents whatsoever that they may deem useful to consult;

Utilizing of equipment, etc.

b. bring and utilize upon the premises the equipment and the instruments deemed necessary by them for their investigations and make use of those found there.

Fair, etc., prices, etc.

16. The prices, rates and rentals demanded by any owner of a public service must be fair and reasonable.

Amending of prices, etc., in certain case.

17. The Board may, upon its own initiative or at the request of any interested party and after investigation, amend the prices, rates and rentals demanded for his services by any owner of a public service, in such a manner as to render them fair and reasonable.

Illegal rates.

It shall be illegal for such owner to demand or to receive prices, rates or rentals other than those fixed by the ordinance.

Claiming back of excess paid.

Any amount paid in excess of the prices fixed by the Board may be claimed back by the person who paid it or by his representatives or assigns, notwithstanding any agreement or stipulation to the contrary.

Cancelling, etc., of certain contracts, etc.

18. At the request of any interested party, the Board may cancel or alter any contract or regulation respecting a public service, if the party applying establishes that the conditions of such contract or of such regulation are abusive.

19. The Board may, in addition:

a. impose upon the owners of public services the obligation of adopting any measure or reform tending to improve their services;

Additional powers of Board.

b. regulate conditions as to health and safety in public services.

20. The Board, in matters within its authority and the limits of its powers, shall decide any question submitted to it and may issue any ordinance which it deems expedient and adjudicate at its discretion upon the costs and expenses of the investigations held by it, of the trial of the suits submitted to it and of the execution of such ordinances.

Issuing, etc., of ordinances, etc.

The decisions of the Board on any question of fact within its jurisdiction shall be final and without appeal.

No appeal.

21. Any writing or document issued from the Board signed or attested by the president or the secretary of the Board in their official capacity shall be authentic and be proof of its contents, without the necessity of proving the signature thereof.

Authenticity of writings, etc.

DIVISION IV

JURISDICTION OF THE BOARD

22. No owner shall begin the construction, operation or administration of a public service in this Province without having obtained an authorization for such purpose from the Board.

Obligation upon owners of public services.

In the case of existing services, such authorization must be obtained within four months from the coming into force of this act.

Existing services.

The authorization must state the conditions which the Board deems useful or necessary for the protection of the rights and interests of the public in general.

Contents of authorization.

The Board may at any time cancel an authorization or amend it, whenever it deems it expedient in the public interest.

Cancelling, etc., of authorization.

23. Every owner of a public service must obtain the prior authorization of the Board to cease or interrupt his operations or to extend or amend his service.

Obligatory obtaining of prior authorization.

24. The provisions of sections 22 and 23 shall not apply in the case of conveyance of,

Restriction as to application of sections 22 and 23.

a. passengers by taxi by the trip or at so much per day;

b. passengers by taxi at so much per head, when the distance travelled is less than fifteen miles, provided that no authorization has been granted over such route for an autobus public service;

c. passengers by an autobus or taxi of an hotel-keeper used solely for the conveyance of the passengers who patronize his hotel, between such hotel and a station or landing-place, within the same locality or in a neighbouring locality;

d. school children and teachers by any motor vehicle used solely for school purposes, when done under the control of the school commissioners or trustees;

e. materials for the construction or repair of public roads;

f. unmanufactured forest products.

Substitution of Board for Railway Committee of Executive Council.

25. The Board is substituted for the Railway Committee of the Executive Council mentioned in section 205 of the Quebec Railway Act (Revised Statutes, 1925, chapter 230) and shall be vested with all the powers of the latter.

Powers of engineers, etc.

Any engineer or other officer appointed by the Board for any purpose mentioned in sections 205 and following of the said Quebec Railway Act shall possess the same powers and be subject to the same obligations as any engineer or officer mentioned in the said sections.

Suspending of powers of Railway Committee of Executive Council.

The powers of the Railway Committee of the Executive Council and those of the Minister of Public Works respecting the matters mentioned in this section are in consequence suspended.

Substitution of Board for Montreal Tramways Commission.

26. The Board is substituted for the Montreal Tramways Commission for the exercising of the powers and the accomplishing of the functions and duties attributed to such commission by the act 8 George V, chapter 84, and by any other act, regulation or agreement.

Interpretation.

Wherever the words: "Montreal Tramways Commission", "Tramways Commission" or "Commission", designating the Montreal Tramways Commission are met with in such regulations, agreements or acts, they shall designate the Board.

Powers of Board.

In the exercising of such powers, the Board shall hear and decide without appeal, notwithstanding the provisions of section 41, any question which is submitted to it respecting the matters within its jurisdiction.

This section shall be in effect as from the date which the Lieutenant-Governor in Council may fix, and from such date the Montreal Tramways Commission shall cease to exist. When section to be in effect.

27. The Board is also substituted for the Minister of Public Works in the exercise of the powers conferred upon the latter by sections 125 to 129 of the Quebec Railway Act. Substitution of Board for Min. of Pub. Wks.

28. The Board shall have exclusive jurisdiction in all questions relating to the transportation of goods by tramway; and for such purpose it may authorize or require the company to carry goods on its lines for any period of time and at such prices as the Board may fix. Exclusive jurisdiction.

29. Whenever the Board decides that the owner of a public service has the right to enter a municipality for the purpose of placing therein, the rails, poles, wires, pipes, conduits or other appliances of such owner, upon, over or under any property belonging to the municipal corporation, and whenever such owner cannot come to an agreement with such municipality as to the use of said property or as to the terms or conditions of the use thereof or of the continuance of such use, the Board shall have exclusive jurisdiction to hear and decide any contestation arising with respect thereto and may permit the use or continuance of the use of such property upon such terms and conditions as it may prescribe. a Id., as to deciding certain contestations.

The same shall apply whenever the owner of a public service is authorized to extend his service into new territory and cannot come to an agreement with the municipal corporations situated therein, for the use of the properties of the said corporations, and the Board may permit him, for such purposes, upon the terms and conditions fixed by the Board, the use of such properties, notwithstanding any law or contract granting to any other person or company exclusive rights in such territories or parts of such territories. Exclusive jurisdiction as to extending of certain service.

30. The Board shall have jurisdiction to hear and decide any dispute which may arise between a municipal corporation and the owner of a public service respecting the carrying out of the terms and conditions laid down by the Board under the authority of section 29 and it may change such terms and conditions whenever it deems it expedient in the public interest. Hearing, etc., of disputes between municipal corporations and certain owners of public services.

Ordering of extension of services by Board.

31. The Board may, upon the demand of a municipal corporation or of any interested party, after investigation, order the extension of the service of an owner of a public service in the municipality in which he already carries on his service and may fix the conditions of such extension including the cost of all necessary works, which the Board may apportion between the owner and the municipality.

Deciding of certain contestations.

The Board shall, on the complaint of any interested person, partnership or corporation, decide any contestation respecting the exercise of his or its right to float timber on any river, lake or water-course, and the concurrent exercise of the same right by another person, partnership or corporation.

Determining of conditions.

After investigation, the Board determines the conditions upon which each party may float his timber.

Jurisdiction over certain contestations, etc.

32. The Board shall have jurisdiction to hear and decide any contestation or matter which an owner of a public service and a municipal corporation or other public body may agree to submit to the Board relative to the operating of a public service.

Making of ordinances as to quality, etc., of services.

33. The Board, in exercising its right of supervision over owners of public services, may make such ordinances as it may deem necessary respecting the quality of the service, equipment, apparatus, extension of works or systems, message routes, reports to be made, rules, regulations, conditions and practices respecting rates, prices, rentals and any other matter within its jurisdiction.

Id., as to protective measures.

The Board may also decree as to the measures required to protect and assure the functioning of any telephonic, telegraphic or signalling line, in the event of it crossing or paralleling another construction or line, whether or not under the control of the Board.

Id., as to public safety, etc.

It may also make such ordinances as it may deem necessary to assure public safety and advantage and the faithful performance of any contract, charter or franchise entailing the use of public property or rights.

Obligation upon owners.

34. Every owner of a public service shall be bound, in the operating and administration of his service, to observe the rules, conditions and prescriptions fixed by the Board.

35. Notwithstanding any general law or special act to the contrary, every merger, cession or sale of a public service, effected by the purchase of all or part of the capital stock or assets of another public service or otherwise, shall be subject to the approval of the Board and shall only have effect from the date fixed in the ordinance attesting such approval.

Approval required for merger, etc., of public services.

36. When an owner of a public service applies to the Board to obtain the exchange of a service with another owner of a similar service, the Board may make such ordinance as it may deem to be in the public interest respecting the connecting of the lines, transmitting of messages, right of passage for cars and other facilities, and determine the compensation and the other conditions for such exchange of services.

Ordinance in case of exchange of services.

DIVISION V

OFFENCES AND PENALTIES

37. Every owner who,—

- a. being bound to obtain the authorization of the Board to operate a public service, refuses or neglects to obtain such authorization; or
- b. having obtained such authorization, operates his public service otherwise than as prescribed by the Board; or
- c. infringes in some other manner the provisions of this act or of the regulations of the Board,—

Offence and penalty.

shall be guilty of an offence, and be liable, in addition to the payment of the costs: for the first offence to a fine of ten to twenty-five dollars; for the second offence to a fine of twenty-five to fifty dollars, and for the third or any subsequent offence to a fine of fifty to one hundred dollars, and, in the case of an owner of a motor vehicle, the cancellation of his operator's or chauffeur's license, the cancellation of the registration of the motor vehicle employed to commit the offence, and the confiscation of the registration markers of such motor vehicle; and in every case, on failure to pay the fine and costs, to imprisonment for not less than eight days nor more than one month.

DIVISION VI

PROCEDURE

38. The Board and the controllers shall hear the parties and the witnesses under oath and shall have the same powers as a judge of the Superior Court to compel witnesses to appear before them and to produce all books, documents, or writings which they may deem necessary or useful for their investigation.

Powers of Board as to hearing, etc., of witnesses.

Every official stenographer of the Superior Court shall be qualified to take and transcribe the depositions of witnesses under his oath of office.

Stenographer.

Every bailiff of the Superior Court shall be, *ex officio*, a bailiff of the Board and may make a return, under his oath of office, of any service made by him.

Bailiffs.

39. The Board may make such rules of procedure and practice as it may deem necessary or of service for expediting the business submitted to it and the enforcement of its ordinances.

Rules of procedure, etc.

40. The Board or any interested party may cause an ordinance of the Board to become executory, in accordance with the rules of the Code of Civil Procedure, by having the same homologated by the Superior Court of the district in which such ordinance was made or of the district in which the public service of the owner concerned is situated.

Homologation of ordinance.

The Superior Court homologates the ordinance of the Board upon summary petition, notice whereof must have been given in accordance with the Board's rules of practice and upon the filing of a duly certified copy of the ordinance in the office of the court.

Procedure by summary petition.

No contestation may be had on such petition for homologation.

No contestation.

After such homologation, the ordinance becomes executory as any other judgment of such court.

Ordinance executory.

During the court vacations or out of term, a judge of the Superior Court shall have the same jurisdiction as the court for the purposes of this section.

Long vacation, etc.

The decision of the Board shall become executory fifteen days after the date of its homologation.

When decision executory. No appeal from judgment, etc.

No appeal shall lie from the judgment pronouncing such homologation, but the ordinance so homologated shall be subject to appeal in such manner and in such cases as provided in sections 41 to 44 inclusively.

DIVISION VII

APPEALS

41. An appeal shall lie to the Court of King's Bench (Appeal Side) in conformity with the rules of the Code of Civil Procedure, saving the derogations contemplated by this act, from any final decision of the Board upon any question as to its jurisdiction, or upon any question of law. Appeal as to decisions.

Such appeal shall be taken by leave of a judge of the said court, given upon a petition presented to him within fifteen days from the rendering of the decision or from the homologation thereof when the same has taken place, and after notice given to the parties and to the Board. The costs of such application shall be in the discretion of the judge. How taken.

42. When the petition to appeal has been granted, the appeal shall be brought by an inscription filed in the office of the clerk of appeals within eight days after the leave to appeal has been granted. Filing of inscription.

The inscription must contain the description of the parties, the date of the ordinance, the date, hour and place when and where the security hereinafter mentioned will be given, and the description of the surety or sureties. Contents of inscription.

The inscription must be served upon the adverse party within eight days of its filing. Service.

43. At the time mentioned in the inscription, which must be within five days after the filing of the inscription, or within such further delay as a judge of the Court of King's Bench may grant, the appellant shall give security before the clerk in conformity with the rules governing security on appeals from the Superior Court to the Court of King's Bench (Appeal Side). Giving of security.

44. As soon as the security has been given, it shall be the duty of the clerk of appeals to give notice thereof to the secretary of the Board. Notice of security.

As to the rest, the rules of the Code of Civil Procedure respecting appeals to the Court of King's Bench shall apply, *mutatis mutandis*, to every appeal brought in virtue of the present Division VII. Provisions applicable as to the rest.

In the application of the said rules of the Code of Civil Procedure, every expression referring to the prothonotary of the Superior Court shall mean the secretary of the Board and every expression referring to the court which rendered the judgment appealed from shall mean the Board. Interpretation.

DIVISION VIII

PAYMENT OF EXPENSES

Payment of expenses. **45.** All expenses of the Board, including the remuneration, salaries and wages of the controllers and of the persons mentioned in sections 12 and 13, shall be paid out of the consolidated revenue fund.

Payment by Montreal Tramways Company. From the date on which the Board is substituted for the Montreal Tramways Commission in virtue of section 26, the Montreal Tramways Company must pay to the Board, at such times and in such manner as the latter may determine, a sum of forty thousand dollars per annum, as a contribution towards the expenses of the Board, instead of the sums which it has at present to pay to the Montreal Tramways Commission.

DIVISION IX

REPORTS BY THE BOARD TO THE ATTORNEY-GENERAL

Reporting to Attorney-General. **46.** The Board shall, in the month of December, every year, forward a report to the Attorney-General, for the year ending on the preceding thirtieth of June, containing summarily:

Contents of report. *a.* the applications made to the Board and the ordinances issued by it since the beginning of its functions or, as the case may be, since its last report;

Idem. *b.* the number, nature and result of the investigations made during the same period.

Supplying of other information. The Board shall, in addition, supply the Attorney-General with any other information he may require.

DIVISION X

REGULATIONS

Tariffs of fees and duties. **47.** The Lieutenant-Governor in Council may adopt the tariffs of the fees and duties payable to the Board upon the matters submitted to it and the proceedings had before it.

Transmission of fees, etc., to Provincial Treasurer. Such fees and duties, as soon as collected, shall be transmitted to the Provincial Treasurer to be paid into the consolidated revenue fund.

The tariffs of duties and fees adopted in virtue of section 36 of the Public Service Commission Act (Revised Statutes, 1925, chapter 17) shall apply to the matters submitted to the Board and to the proceedings had before it until such duties and fees shall have been replaced or amended by the tariffs adopted in virtue of the first paragraph of this section.

Application of tariffs of duties, etc.

In fixing such fees, the Lieutenant-Governor in Council may, as regards services existing at the coming into force of this act, take into account, to the extent and upon the conditions he may deem just, the fees paid by the owners of the said services to the Quebec Public Service Commission and fix accordingly the fees exigible for the obtaining of the new authorization provided under the second paragraph of section 22.

Considerations in fixing fees.

48. The powers conferred upon the Lieutenant-Governor in Council under the provisions of sub-paragraphs *b*, *c*, *d*, *e*, *f*, *g*, *n* and *p* of subsection 1 of section 68 of the Motor Vehicle Act (Revised Statutes, 1925, chapter 35), except those relating to the fixing of fees and the modifying of the maximum of speed, shall be, on and after the coming into force of this act, exercised by the Board, as well as all other powers contemplated by the said section 68 which the Lieutenant-Governor in Council may delegate to it.

Powers of the Lt. G. in C. transferred to the Board.

The Board shall exercise such powers by means of regulations adopted upon the advice of the Minister of Roads.

Exercise by regulations.

Such regulations shall be published in the *Quebec Official Gazette* and shall come into force upon the date fixed by the Board.

Publication of regulations.

The regulations adopted by the Lieutenant-Governor in Council respecting the matters hereinabove mentioned shall remain in force until they shall have been replaced or amended by the Board under the authority of this section.

Duration of regulations.

DIVISION XI

SPECIAL PROVISIONS

49. The Lieutenant-Governor in Council is substituted for the Quebec Public Service Commission for the exercising of the powers conferred upon the latter in virtue of any prior law, contract or regulation and which are not specially conferred upon the Board by this act; and he may delegate the exercising of such powers, wholly or partly, to any person, body, tribunal or authority designated by him.

Lt. G. in C. substituted for Quebec Public Service Comm.

Continuation
of the Q. P.
S. C. **50.** Notwithstanding any law to the contrary, the Public Service Commission Act (Revised Statutes, 1925, chapter 17) shall remain in force until the coming into force of the present act and shall cease to be in force and shall be repealed as from such coming into force; and the powers, attributes and jurisdiction of the said Commission and of its members shall be continued and may be exercised until the coming into force of the present act.

Retroactive
effect. The provisions of the preceding paragraph shall be in effect as from the 14th of April, 1939.

Coming into
effect. **51.** This act shall come into force on the thirty-first day after that of its sanction, except section 50 which shall come into force on the day of the said sanction.