

C H A P. 42

An Act to amend the Revised Statutes, 1909, respecting expropriation by railway companies.

[Assented to 21st December, 1912]

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

1. Article 6565 of the Revised Statutes, 1909, is amended by R. S., 6565, replacing sub-paragraph *c* of paragraph 1 by the following: am.

“ *c.* A declaration that if the opposite party do not within ten days from the service upon him of such notice, or within one month after the first publication thereof as provided by article 6566, as the case may be, notify to the company his acceptance of the sum offered by it, the company at a stated day and hour which shall not be less than three clear days after the expiration of the delays of ten days or of one month above mentioned, will apply to a judge of the Superior Court sitting in the district where the said lands are situated or said powers are intended to be exercised, to fix the compensation to be paid by the company for such lands or for the damages aforesaid.” Declaration of application to judge.

2. Article 6568 of the said statutes is replaced by the following: Id., 6568 replaced.

“ **6568.** If within the delay mentioned in article 6565 the opposite party do not notify to the company his acceptance of the sum offered, the company may present to the said judge at the date and hour mentioned in the notice, or, if such day is a non-judicial day then at the same hour on the next judicial day: Documents to be presented to judge, &c.

a. The original of the notice mentioned in article 6565 with a return of service by a bailiff of the Superior Court endorsed thereon;

b. An affidavit by some person in the employ of the company and having a knowledge of the facts, that, to the best of his knowledge and belief, the opposite party has not accepted the said offer;

c. A petition briefly stating the petitioner's demand and praying that the amount of the said compensation be fixed, by a judge of the Superior Court sitting in the said district.

Copies of the said petition and affidavit shall be left for the opposite party in the office of the prothonotary.

The judge may in his discretion adjourn the consideration of such petition to a subsequent day fixed by him, and if the op-

posite party has not appeared in person or by attorney may make such order for service upon him of the order of adjournment as he may think proper.

Declaration
of opposite
party.

The opposite party shall, before going to proof declare in writing the amount claimed by him.

Id., 6569,
replaced.

3. Article 6569 of the said statutes is replaced by the following:

Fixing day
for proof,
&c.

“**6569.** When the said petition is so presented, or on the day to which consideration of the petition has been adjourned, the judge or some other judge of the Superior Court may forthwith proceed to hear the parties and their evidence, if both parties consent thereto. If the parties do not consent, or if the opposite party does not appear, the judge shall fix a day for proof and hearing, which shall not be less than three clear days from the day on which he makes his order. If the opposite party has not appeared, the said order shall be served upon him in the ordinary manner, unless he is absent from the district or unknown, in which case a copy of the order shall be left for him at the prothonotary's office.

Proof and
hearing.

“**6569a.** Upon the day so fixed by the judge or upon some other day ordered by him, the parties, or the company if the opposite party does not appear, shall proceed to proof and hearing before a judge of the Superior Court sitting in the district, in the same manner as in causes before the Superior Court; and the judge after hearing the evidence and the parties, or after hearing the company and its evidence if the opposite party does not appear, shall award the compensation payable to the opposite party.

Appeal from
award.

The said award shall be final and conclusive, unless the amount claimed by the expropriated party exceeds one hundred dollars in which case there shall be an appeal to the Court of Review or to the Court of King's Bench, according to the rules contained in the Code of Civil Procedure.

Documents
to remain in
S. C.

The said notice, petition and affidavit, and all other documents filed in the course of such proceedings shall remain of record in the archives of the Superior Court, and a special register of the proceedings shall be kept by the prothonotary. The depositions shall be taken in writing or by stenography unless the parties agree to proceed otherwise, in which case there shall be no appeal.”

Id., 6570
replaced.

4. Article 6570 of the said Statutes is replaced by the following:

Basis of com-
pensation.

“**6570.** In deciding as the amount of the compensation to be paid, the judge shall take into consideration the increased value which would be given to any lands through or over which the railway will pass, by reason of the passage of the

railway through or over the same, or by reason of the construction of the railway, over and above the increased value common to all the lands in the same place, and shall set off the increased value that will attach to the said lands or grounds against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands or grounds as aforesaid."

5. Article 6571 of the said statutes is amended: Id., 6571,

a. By striking out the words "in any case where three arbitrators have been appointed" in the first and second lines. am.

b. By replacing the words "of the arbitration" in the third line by the words "from the time of the answer to the notice of expropriation."

6. Articles 6572 and 6573 of the said statutes are repealed. Repeals.

7. Article 6574 of the said statutes is replaced by the following: Id., 6574
replaced.

"**6574.** If the judge before whom the evidence has been taken in whole or in part, is for any reason unable to further hear the evidence or to hear and decide the case, the evidence may be continued or the parties heard before some other judge of the Superior Court sitting in the district, who may render an award as if all the evidence had been taken before him." Substitution
of judges, &c.

8. Articles 6576 and 6577 of the said statutes are repealed. Repeals.

9. Article 6582 of the said statutes is amended by replacing the word "arbitrators" in the second line of the English version by the word "judge". Id., 6582, am.

10. Article 6590 of the said statutes is amended: Id., 6590, am.

a. By replacing the word "arbitration" in the fourth line, by the words "a judge";

b. By striking out the words "if possession have been taken without his consent" at the end of the first paragraph.

c. By replacing sub-paragraph *c* of paragraph 2 by the following:

"*c.* The particulars mentioned in sub-paragraph *c* of paragraph 1 of article 6565".

11. Article 6591 of the said statutes is amended by replacing paragraph 1 by the following: Id., 6591, am.

"**6591.** 1. The proceedings taken by the proprietor in Proceedings by proprietor.

virtue of article 6590, are the same *mutatis mutandis* as those taken by the company."

Coming into force. **§12.** This act shall come into force the day of its sanction

C H A P. 43

An Act to amend article 6663 of the Revised Statutes, 1909.

[Assented to 21st December, 1912]

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

R. S. 6663, am. **1.** Article 6663 of the Revised Statutes, 1909, is amended by replacing the words "subsidized by" in the first line by the words "subject to the authority of."

Id. **2.** The said article is amended by striking out the words: "upon the report of the Railway Committee of the Executive Council" in the eight and ninth lines.

Coming into force, &c. **3.** This act shall not affect binding cases and shall come into force on the 1st day of January 1914.

C H A P. 44

An Act respecting Trust Companies.

[Assented to 21st December, 1912]

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

R. S., 7092, &c., replaced. **1.** Section twenty-fifth of chapter third of title eleventh of the Revised Statutes, 1909, is replaced by the following:

"SECTION XXV

TRUST COMPANIES

§1.—*Interpretation.*

Definitions. **"7092.** Except where the contrary is expressly declared, or is implied from the context, the following expressions,