

**13.** Articles 4764, 4765 and 4766 of the Revised Statutes R. S., 4764 to 4766, repealed. are repealed.

**14.** Nothing in this act contained shall prevent the appli- Interpreta-  
cation of articles 4754 to 4760 of the Revised Statutes to tion.  
extra-provincial corporations.

**15.** This act shall come into force on the day of its sanc- Coming into  
tion. force.

## CHAP. 35

An Act to amend the law respecting railways

*[Assented to 2nd June, 1904]*

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

**1.** Article 5125 of the Revised Statutes is amended by R. S., 5125,  
inserting after the word : "constructed," in the second line, amended.  
the words : "whether operated or to be operated by steam,  
electricity or other power."

**2.** Article 5129 of the Revised Statutes is amended by R. S., 5129,  
adding thereto the following paragraphs : amended.

"13. The expression : "working expenses" shall mean Interpreta-  
and comprise all expenses of maintenance of the railway and tion of :  
of the buildings, works and conveniences belonging thereto, "working ex-  
and of the rolling and other stock, and moveable plant used penses ;"  
in the working thereof ; all reasonable rents for property,  
or for lease of power or rolling stock ; all usual expenses  
of or incidental to the working of the railway and the traffic  
thereon, including stores and consumable articles ; rates,  
taxes, insurance and compensation for accident or losses, also  
all proper salaries and wages and office and management  
expenses ; all moneys owing by the company for any  
of the above items of expenses ; interest on mortgages  
or debenture indebtedness ; and a sum not exceeding five  
per cent. per annum of the total mortgage indebtedness of  
the company to be placed to the credit of a special account  
or a sinking fund for the purpose of extinguishing such  
indebtedness ;

"14. The "first issue of stock" shall mean all stock sub- First issue of  
scribed for and allotted prior to the first meeting of share- stock.

holders of the company for organization and election of directors and upon which at least ten per cent. has been paid."

R. S., 5132,  
amended.  
§ 6, replaced.

To survey,  
&c., railway  
with one or  
more tracks ;

Electric rail-  
way may be  
carried along  
roads, &c. ;

**3.** Article 5132 of the Revised Statutes is amended :

(a) By replacing paragraph 6 by the following :

" 6. To survey, lay out, construct, make, complete, alter and keep in repair an iron or steel railway (the gauge whereof should be four feet, eight and one-half inches) to be worked by the force and power of steam or of electricity, or of the atmosphere, or of animals, or by mechanical power, or by any combination thereof authorized by the special act, with double or single iron or steel tracks ; and the said railway or any part thereof, as far as the same may be operated by electricity, or any power other than steam, may be carried along and upon such public highways as may be authorized by the by-laws of the respective corporations having jurisdiction over the same, and subject to the restrictions and provisions therein and in this act contained, and under and subject to any agreements between the company and the councils of the said corporations and between the company and the said companies (if any) interested in such highways ; and the company may make and enter into any agreements with any municipal corporation or road company as to the terms of occupancy of any street or highway, subject to the provisions and conditions contained in this act, in the Municipal Code, in the cities and towns' act, 1903, or in the charter of the town interested therein ;

To purchase,  
&c., land  
for power-  
houses, &c. ;

" 6a. To purchase land for and erect power-houses, warehouses, elevators, docks, offices, and workshops, and to sell and convey such land as may be found superfluous for any such purpose, and to hold as part of the property of the said company as many steam or other vessels as the directors of the company may deem requisite, from time to time, to facilitate the carriage of passengers, freight and all other traffic in connection with the railway " ;

§ 7, amended.

(b) By inserting in paragraph 7, after the word : " engines", in the fourth line, the word : " motors."

§§ added after  
§ 7.

To construct,  
&c., works for  
production of  
electricity,  
&c. ;

(c) By adding the following paragraphs after paragraph 7 :

" 7a. To construct, maintain and operate works for the production of electricity for the motive power of the said railways and for lighting and heating the rolling stock and other property of the company ;

To sell, &c.,  
electricity,  
&c. ;

" 7b. To sell and lease any such electricity not required for the purposes aforesaid to any person or corporation, and to acquire and hold any property necessary for the purposes mentioned in this paragraph ;

"7c. To purchase the right to carry electricity required for the working of the railway, and lighting or heating the same over, through or under lands, other than the lands of the railway by the special act authorized to be built, and, with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such lands as may be determined by the company, and along and upon any of the public highways or across any of the waters in the Province, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and private owners of the lands affected, and between the company and any municipality in which such works or any part thereof, or of the railway may be situate, and under and subject to any by-law of the council of such municipality passed in pursuance thereof; provided such works are not so constructed as to incommode the public use of such roads or highways, or as to be a nuisance thereto, or to impede the free access to any house or other building erected in the vicinity of the same, or to endanger or injuriously affect the same, or injuriously interrupt the navigation of such waters ;"

To purchase  
right to carry  
electricity  
over lands,  
&c. ;

(d) By adding the following paragraph after paragraph 10 : § added after § 10.

"10a. To purchase, lease or acquire by donation and to sell, lease, alienate or mortgage any lands or premises intended and necessary or suitable for any park or pleasure grounds, not exceeding one hundred acres in any one municipality, and to improve and lay out such lands as parks or places of public resort, and to make and enter into any agreements with the municipal corporations of the municipalities where the same are situate or any of them, in respect thereto ; but none of the provisions of this paragraph shall be in force or have effect, unless the municipal council of the municipality wherein the lands proposed to be acquired by the company are situated has by by-law declared its assent to the company's acquiring lands under, and for the purpose mentioned in this paragraph ;"

To purchase,  
&c., lands for  
pleasure  
grounds, &c. ;

Proviso.

(e) By adding the following paragraphs after paragraph 18 : § added after § 18.

"18a. To enter into any agreement with any person or company, for leasing, hiring or using any electric motors, carriages, cars, rolling stock and other moveable property from such company or person for such time and on such terms as may be agreed on ; and also to enter into agreements with any railway company, for the use, by any contracting company, of the electric motors, carriages, cars, roll-

Agreement  
for leasing,  
&c., electric  
motors, &c. ;

ing stock and other moveable property of the other, for the running of the cars or carriages of the company over the track of any other railway company with the consent of such company, on such terms as to compensation and otherwise as may be agreed on ;

Agreements  
for supplying  
steam, &c., for  
production of  
electricity,  
&c. ;

“18b. To enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway or with any electric light or electric railway company, or any company organized for the purpose of supplying or furnishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company to construct, carry on and operate the railway ;

Price to be  
paid under  
and approval  
of agreement ;

“18c. The price to be paid by the company in virtue of any agreement as in the two preceding paragraphs mentioned shall be reasonable in amount ; but such agreement shall not be valid unless confirmed and approved by a resolution passed by the votes of shareholders holding two-thirds in value of the capital stock of the company at a general meeting specially called for the purpose of considering such agreement ;”.

R. S., 5140,  
amended.

4. Article 5140 of the Revised Statutes is amended :

(a). By inserting the word : “ motormen ” after the word : “ drivers,” in the third line of paragraph 1 ;

(b). By inserting the word : “ motormen ” after the word : “ engine drivers,” in the first line of paragraph 4.

R. S., 5148,  
replaced.

5. Article 5148 of the Revised Statutes, as amended by the act 55-56 Victoria, chapter 33, section 1, is replaced by the following :

Motors, &c ,  
to be stopped  
when about to  
pass over a  
draw-bridge,  
&c.

“5148. When a railway passes a draw-or swing-bridge, over a navigable river, canal or stream, which is subject to be opened for the purpose of navigation, the motor, car, carriage, or train shall in every case be brought to a full stop, and the conductor or other officer in charge thereof, shall ascertain from the bridge tender that the bridge is closed and in perfect order for passing.

Penalty for  
not so doing.

In default of so stopping during the full period of one minute the railway company shall, in addition to all other penalties, be subject to a fine of four hundred dollars.”

R. S., 5149,  
amended.

6. Article 5149 of the Revised Statutes is amended by inserting the words : “ or the conductors and motormen ” (as the case may be) after the word : “ engine-drivers,” in the sixth line thereof.

**7.** Article 5152 of the Revised Statutes is replaced by the following : R. S., 5152, replaced.

**"5152.** Every railway engine, motor, car or carriage shall, before it cross the track of any other railway on a level, be stopped for at least the space of one minute."  
Railway engine, &c., to stop before it crosses track of other railway.

**8.** Article 5153 of the Revised Statutes is replaced by the following : R. S., 5153, replaced.

**"5153.** No railway engine, motor, car or carriage shall pass in or through any thickly peopled portion of any city, town or village at a speed greater than six miles per hour, unless the track is properly fenced."  
Speed through thickly peopled parts of city, &c.

**9.** Article 5170 of the Revised Statutes, as amended by the act 52 Victoria, chapter 44, section 1, is further amended by adding thereto the following paragraphs : R. S., 5170, amended.

**"7.** Excepting in cities, towns and incorporated villages, the railway of any company operated by steam shall not be crossed or intersected at grade by the railways of any company operated by other motive power."  
Grade crossings.

**8.** The company, when operating any portion of its line across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires sufficient to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact or falling upon the said wires conveying such electricity.  
Guard wires in certain cases.

The company, when operating any portion of its line by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things placed underground from being damaged in consequence of the escape or discharge of electricity into the ground. Proper bonding of the rails and connecting the rails so bonded to the electric power generator with a proper and efficient system of return wires, shall be taken to be a compliance with the conditions of this clause.  
Appliances to prevent water pipes, &c., being damaged by electricity.

Any person suffering damage by reason of the non-compliance by the company with the provisions of the two preceding clauses, shall have a right of action against the company therefor."  
What to be a compliance with article.

**10.** The following articles are added after article 5170 of the Revised Statutes : Arts. added after R. S., 5170.

**"5170a.** 1. The right and authority of any electric railway company to lay out or construct its railway on, upon or along any public highway, road, street or lane, shall, in addition  
Conditions that may be imposed by municipal

council upon electric rail-ways. to any further terms and conditions the municipal council may impose, be subject to the following terms and conditions :

Rails to conform to grade of streets.  
Rails to be flush with streets.

(a) The rails of the company shall conform to the grade of the street ;

(b) In all cases where the rails are laid upon the paved or travelled portion of the street or in any part thereof, the rails shall be laid (as nearly as practicable) flush with the street, shall be so laid so as to cause the least possible impediment to the ordinary traffic of the street, and shall be so kept and maintained by the railway company ;

Streets between rails to be kept in repair by company, &c.

(c) The railway company shall also, unless otherwise determined by the municipal council, at its own expense, keep clear and in proper repair the streets, between the rails, and for eighteen inches on each side of the rails ; and, in default, the council may cause the same to be done at the expense of the company ;

Tracks may be used by ordinary vehicles.

(d) All other ordinary vehicles may use and travel on the said tracks, provided they do not interfere with or impede the running of the cars or other conveyances of the company, and in all cases any carriage or other vehicle on the track shall immediately, by leaving the track, give place to the cars or other conveyance of the company. Any person neglecting or refusing so to do, shall be liable, on summary conviction before a justice of the peace, to a fine of not more than ten dollars ;

Proviso.

Speed on highways.

(e) No cars or train of cars shall be operated on the travelled portion of any highway at a greater speed than ten miles an hour ;

Communication between conductor and motorman, &c.

(f) The cars, carriages and other vehicles shall be provided with such known apparatus to effect good and sufficient means of immediate communication between the conductor and the motorman of such cars, carriages or other vehicles while in motion, and with good and sufficient means for applying at once the brakes to the wheels of the motors, cars, carriages or other vehicles and disconnecting such motors, cars, carriages and other vehicles from each other, and also with such apparatus as will most securely place and fix the seats or chairs in the cars or carriages.

Seats, &c , in cars.

"Travelled portion" interpreted.

2. The words : "travelled portion" when used in this article as applicable to roads, streets or highways shall mean the central portion thereof between the ditches on either side ordinarily used for vehicular traffic."

**11.** Article 5171 of the Revised Statutes is amended by R. S., 5171, inserting after the word : "trains," in the third line of paragraph 3, the words : "motors, cars, carriages." amended.

**12.** Article 5172 of the Revised Statutes is amended : R. S., 5172, amended.

(a) By inserting after the word : "railway" in the second line of the second clause of paragraph 1, the words : "or on its motors, cars and carriages" ; § 1, amended.

(b) By adding, after paragraph 6, the following paragraphs : § added after § 6.

"6a. The fares to be taken by an electric railway company for each passenger shall not exceed five cents for any distance not exceeding three miles, and when the distance exceeds three miles, then not exceeding two cents per mile or portion thereof for the distance actually travelled. Children under ten years of age shall be carried for three miles for three cents, and for any additional distance for half fare, but children in arms shall in all cases be carried free. Fares to be taken by electric railway companies.

The fare or toll shall be due and payable by every passenger on entering the car or other conveyance, and any person refusing to pay the same when demanded by the conductor or motorman, and refusing to quit the car, or other conveyance upon being requested so to do, shall be liable to a fine of not more than ten dollars besides costs, recoverable before any justice of the peace, and imprisonment in default of payment not exceeding one month. When payable. Penalty for refusing to pay, &c.

"6b. The tolls and fares to be levied by any electric railway company shall, as nearly as possible, be so fixed and regulated that after paying "working expenses," the balance of the annual receipts shall not exceed ten per cent. on the total amount actually paid on the capital stock of the company ; and, if in any year the gross receipts from tolls and fares and from all other sources arising from the working, operating or carrying on of the railway and works and business authorized to be worked, operated or carried on by the company by this act or in the special act, shall be such that, deducting therefrom the "working expenses," there shall remain an amount exceeding ten per cent. of the total amount theretofore actually paid on the capital stock of the company, then all such excess shall be placed to the credit of a special account to be called the "surplus tolls account." How fares to be fixed. Surplus tolls account.

"6c. The moneys at the credit of the "surplus tolls account" may be used, from time to time, in making good any deficiency caused by the gross receipts of the company in any subsequent year being insufficient to pay the "working expenses" and a dividend of ten per cent. on the total amount already paid on the capital stock of the com- Application of surplus tolls account.

pany ; provided that, whenever the total amount to the credit of the "surplus tolls account," including any interest accrued thereon, shall equal one-fifth of the average annual gross receipts of the company computed from the actual receipts for the then preceding five years, the company shall by by-law make a sufficient proportionate reduction in the tolls and fares so that the probable net earnings thereafter shall be such as to make it necessary to resort to the moneys at the credit of the "surplus tolls account" in order to meet any such deficiency in whole or in part, but as soon as the amount at the credit of the "surplus tolls account" is exhausted, the rates and tolls may be again raised.

Proviso.

Provided that, if during the ten years immediately succeeding the incorporation of the company, the gross receipts as aforesaid shall in any year be insufficient, after paying the "working expenses," for the railway to pay a dividend of five per cent. on the total amount paid up of the capital stock of the company, the company may charge against the "surplus tolls account," an amount sufficient, after declaring any dividends earned during such year, to equal a dividend of five per cent. per annum on the total amount actually paid on the stock of the company ; and the company shall not be bound to reduce the tolls as hereinbefore provided, until the amount at the credit of the "surplus tolls account" shall equal an amount sufficient, less any dividend earned during the year, to pay the said dividend of five per cent. in every such year, during the said period of ten years, in addition to one-fifth of the average annual gross receipts of the company computed as aforesaid."

R. S., 5173,  
amended.

**13.** Article 5173 of the Revised Statutes is amended :

(a) By inserting the words : " car or carriage " after the word : " train " in the second line thereof ;

(b) By inserting the words : " cars, carriages or, " after the word : " The " in the first line of paragraph 2 ;

§ added after  
§ 10.

(c) By inserting, after paragraph 10, the following paragraphs :

Gong on car.

"10a. Every car which contains a motor or which runs at the head of a train on an electric railway shall be furnished with a gong of at least ten inches in diameter ;

When to be  
sounded.

"10b. The gong on the first or only car forming a train on an electric railway shall be sounded at the distance of at least eighty perches from every place where the railway crosses any highway, and be kept ringing or be sounded at short intervals until the car has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the company, and the company shall further be liable for all damages

Penalty for  
neglect.



sustained by any person by reason of such neglect; one-half of which penalty and damages shall be collected by the company from the motorman or other person having charge of such car and neglecting to sound the gong as aforesaid ;

Damages, &c.

"10c. Every electric railway company shall provide proper and sufficiently closed vestibules upon its cars for the protection of the motormen operating the same from exposure to cold, snow, rain and sleet during the months of November, December, January, February, March and April. under a penalty payable to the municipality of ten dollars per day for each day upon which any motor car is operated without such vestibules."

Closed vestibules for motormen.

Penalty if not provided.

14. Paragraph 1 of article 5176 of the Revised Statutes is replaced by the following :

R. S., 5176, § 1, replaced.

"5176. 1. The company may also construct an electric telegraph line and a telephone line in connection with its railway ; and for the purpose of constructing, working and protecting the said telegraph and telephone lines, the powers conferred upon telegraph companies by the law respecting telegraph companies, being section eighth of chapter third of title eleventh of the Revised Statutes, are conferred upon the company ; provided that no poles shall be erected in the construction of either of the said lines in or through any city, town or incorporated village, without the consent of the council of such city, town or village being first obtained by the company ; provided also that such telegraph and telephone lines may be used by the public generally in conformity with the rules and regulations which the company may adopt.

Electric telegraph and telephone authorized to be constructed by company. Law to apply.

Proviso as to consent of municipality as to poles, &c.

The company may enter into a contract with any person or association of persons for the construction or equipment of the railway or any part thereof, including or excluding the purchase of the land required for the road-bed ; but no such contract shall be of any force or validity till sanctioned by a resolution passed by shareholders holding two-thirds in value of the capital stock of the company at a general meeting specially called for considering the same."

Power to contract for construction of road and acquisition of road-bed by purchase, &c. Proviso.

15. The following article is inserted in the Revised Statutes after article 5183g, as enacted by the act 62 Victoria, chapter 43, section 1 :

Art. added after R. S., 5183g.

"5183h. The Railway Committee may, from time to time, make regulations respecting the terms and conditions of agreements for connections with running arrangements over, or the sale, lease or hiring of any railway, or electric railway, subject to the Legislative authority of the Province ; and every agreement for any of such purposes shall comply

Regulations which Railway Committee may make respecting agreements respecting railways, &c.

with and be subject to such regulations and shall be void in any respect in which the same shall not be complied with.

Regulations  
to be laid  
before Legis-  
lative As-  
sembly.

Every such regulation shall forthwith be laid before the Legislative Assembly if in session, and if not shall be laid before the said House within the first seven days of the then next session, and may be disapproved thereby in whole or in part, and from and after such disapproval shall cease to have effect."

Arts. added  
after R. S.,  
5206.

**16.** The following articles are added after article 5206 of the Revised Statutes :

Power of elec-  
tric railways,  
to join, &c,  
other electric  
railways, &c.

**"5206a.** 1. Every electric railway subject to the legislative authority of this Province shall have the right to join, unite and connect its line of railway at any point or points thereon with the line of any other electric railway company, and each company may grant running or other rights over its lines to the other, or allow the interchange of traffic or cars, or make operating arrangements or confer other privileges over its property, upon such terms and condition as may be agreed upon between the respective companies; provided no such agreement shall have any force or effect until the same shall have been approved by the shareholders of each company holding two-thirds of the stock thereof, present at a special general meeting held for that purpose.

Consent of  
municipality  
required.

2. No such agreement shall be acted upon in any municipality affected thereby until the consent of the municipal council of the said municipality shall have been obtained thereto, or until an order has been made by the Railway Committee pursuant to the provisions of this act after due notice to the municipality.

Proceedings  
if municipi-  
pality refuses  
consent.

3. If any municipality affected by such agreement shall refuse assent thereto, or in case such municipality had required different terms from those contained in such agreement, an application may be made by either company to the Railway Committee for leave to act upon the said agreement, or to settle the terms of a varied agreement between the parties interested notwithstanding the want of such assent; and, upon such application being made, the Railway Committee may appoint a date for the hearing of the application and notice shall be sent by registered letter addressed to the parties to the said agreement and to the said municipality.

Objections of  
municipality  
in writing.

4. The Railway Committee may require the said municipality to specify its objections to the said agreement in writing, and file a copy thereof with the secretary of the Railway Committee and to serve a copy thereof upon the parties to the said agreement.

5. The Railway Committee may appoint any person to make an inquiry and report upon any such agreement or any other matter or thing connected therewith or incident to the objections raised by the said municipality. Enquiries by order of Railway Committee.

6. The Railway Committee and any person appointed by it to make any inquiry and report may : Power at enquiry.

- (a) Enter into or inspect any places and buildings being the property of or under the control of either company, the entry or inspection of which appears to it or him required ;
- (b) Inspect any works, motors, cars, carriages or property of either company ;
- (c) Require the attendance of all such persons as it or he thinks fit to call before it or him, and examine or require answers or returns to such enquiry as it or he thinks fit to make ;
- (d) Require the production of books, papers, plans, specifications, proofs and documents relating to the matters before it or him.

7. Every witness shall be entitled to receive the same fees and allowances as if summoned to attend before the Superior Court. Witnesses' fees.

8. The Railway Committee shall have power to determine all questions arising upon the application of any electric railway company or municipality interested, including : Questions that Committee may decide.

- (a) Whether either company shall be entitled to the rights conferred by the agreement or any variation thereof, or any of them, notwithstanding the want of assent of the municipality ;
- (b) What compensation, if any, shall be paid by either or both parties to the agreement in respect of any increased servitude to which the highway of the municipality will be subjected by reason of the agreement, and by whom and in what proportions the said compensation shall be paid ;
- (c) The rate of speed and the order of precedence of the cars of either party to the agreement ;
- (d) The rights of either company upon the highways traversed by the line or lines of the other company.

“5206b. The Railway Committee shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce books, papers or things which they are required to produce as is vested in the Superior Court. Power to compel attendance of witnesses.

Jurisdiction  
of Railway  
Committee.

“**5206c.** 1. The Railway Committee shall have jurisdiction from time to time to determine :

- (a) Any dispute which may, from time to time, arise between any two or more electric railway companies subject to the legislative authority of the Province respecting the crossing by either company of the line of the other ;
- (b) Any dispute respecting an agreement between such companies for the interchange of traffic, haulage of cars, use of tracks or power ;
- (c) Any dispute between any municipality and any such company with regard to the services, rates and tolls, speed of cars or trains.

Consent of  
municipality  
required.

2. When any city or town municipality is affected by the provisions of the two preceding paragraphs the powers thereby vested in the Railway Committee shall not be exercised without the consent of such municipality.

Formalities to  
be complied  
with before  
passing of by-  
law author-  
izing con-  
struction of  
electric rail-  
way in streets  
of municipi-  
pality.

“**5206d.** Notwithstanding any provisions contained in a general or special act, no municipal council shall pass a by-law authorizing any electric railway company to lay out or construct its railway on, upon or along any public highway, road, street or lane, until written or printed notices of the intended by-law specifying the route to be taken by the railway shall have been previously posted up for one month in six of the most public places of the municipality and published weekly for at least four consecutive weeks in some newspaper in the municipality or if there be no such newspaper, in a newspaper in a neighboring municipality, and except upon a majority vote of all the members of the municipal council.

Counsel to be  
heard on be-  
half of pro-  
prietors

The council shall hear in person or by counsel anyone whose property may be prejudicially affected by such proposed electric railways who desires to be heard.”

Rights pre-  
served.

**17.** Nothing in this act contained shall be interpreted as repealing or affecting the rights or powers granted by a general or special statute to companies or corporations, or by them acquired under a contract or municipal by-law or otherwise, and exercised at the time of the coming into force of the said act.

Coming into  
force.

**18.** This act shall come into force on the day of its sanction.