

1927

c 225 Railway and Municipal Board Act

Ontario

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CHAPTER 225.

The Railway and Municipal Board Act.

1. The interpretation sections of *The Railway Act* shall apply to this Act. R.S.O. 1914, c. 186, s. 2.

Interpretation.
Rev. Stat.
c. 224.

2. In this Act,

(a) "Public Utility" shall mean and include any water-works, gasworks, including works for the production, transmission and supply of natural gas, electric heat, light and power works, and telegraph or telephone lines, or any works supplying the general public with necessities or conveniences; R.S.O. 1914, c. 186, s. 3 (a) ; 1915, c. 31, s. 1.

"Public utility."

(b) "Railway" shall include a street railway. R.S.O. 1914, c. 186, s. 3 (b).

"Railway."

3. The provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including street railways. R.S.O. 1914, c. 186, s. 4.

Application of Act.

CONSTITUTION OF THE BOARD.

4.—(1) The Lieutenant-Governor in Council may, from time to time, appoint a commission to be called "the Ontario Railway and Municipal Board."

Appointment

(2) The Board shall be composed of three members, one of whom shall be appointed by the Lieutenant-Governor in Council to be the chairman and another to be the vice-chairman, and each of them shall continue so to be while he is a member of the Board.

Members.

(3) Vacancies caused by death, resignation or otherwise may be filled by the Lieutenant-Governor in Council, but a vacancy shall not impair the power of the remaining members to act.

Vacancies.

(4) The Board shall have all the powers of a court of record and shall have an official seal which shall be judicially noticed. R.S.O. 1914, c. 186, s. 5 (1-4).

Powers of a court of record

(5) The members of the Board shall hold office during pleasure.

Tenure of office.

- (a) The chairman of the Board, if at the time of his appointment a barrister of at least ten years standing at the bar, shall not be removed at any time by the Lieutenant-Governor in Council, except upon an address of the Assembly. R.S.O. 1914, c. 186, s. 5 (5); 1926, c. 21, s. 23.

(6) Whenever,

Powers, etc.,
of Railway
Committee
transferred
to Board.

Location
of line.

- (a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;

- (b) by any Act of this Legislature the location of any line of railway or the route and course thereof, or the maps, plans, and specifications, or any part of the equipment, are subject to the approval of the Lieutenant-Governor in Council or of any of his Ministers;

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

Furnishing
informa-
tion.

- (7) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. R.S.O. 1914, c. 186, s. 5 (6, 7).

Power of
Vice-Chair-
man.

- 5.**—(1) In case of the absence of the chairman, or of his inability to act, or of a vacancy in the office, the vice-chairman shall exercise the powers of the chairman for or instead of the chairman, and in such case all regulations, orders and other documents signed by the vice-chairman shall have the like force and effect as if signed by the chairman.

Presumption
of having
duly acted.

- (2) Whenever the vice-chairman appears to have acted for and instead of the chairman, it shall be conclusively presumed that he so acted in the absence or disability of the chairman within the meaning of this section. R.S.O. 1914, c. 186, s. 6.

Quorum.

- 6.** Two members shall form a quorum and, except as provided by section 7, not less than two members shall attend at the hearing of every case, and the chairman, when present, shall preside, and his opinion upon any question of law shall prevail. R.S.O. 1914, c. 186, s. 7.

Questions
of law.

Where
applications
unopposed.

- 7.** In any case in which there is no opposing party, and no notice to be given to any interested party, any one member may act alone for the Board. R.S.O. 1914, c. 186, s. 8.

8. The Board or the chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such member shall have all the powers of two members sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper. R.S.O. 1914, c. 186, s. 9.

Reference
to a member

9. Whenever any member is interested in any matter before the Board, the Lieutenant-Governor in Council may, upon the application of such member or otherwise, appoint some disinterested person to act as a member, *pro hac vice*, and the Lieutenant-Governor in Council may also appoint a member during the sickness, absence or inability to act of any member. R.S.O. 1914, c. 186, s. 10.

Appointments
pro hac vice

10.—(1) No member or officer of the Board shall, directly or indirectly,

Prohibition
against
holding
railway
stock, etc.

(a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security, of any railway company, street railway company or public utility subject to this Act; or,

(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as a part of the equipment of railways or of street railways, or of any rolling stock to be used thereon, or of any such public utility.

Or having
interest in
appliances.

(2) If any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof, or any interest therein, shall come to or vest in any member or officer of the Board by will or succession for his own benefit he shall, within three calendar months after the same shall so come to or vest in him, absolutely sell and dispose of the same or his interest therein.

Duty to
dispose of
interest.

(3) No member or officer of the Board shall act as director or officer of any public utility company or of any company which has power to invest any portion of its funds in the securities of a railway, street railway, or public utility company. R.S.O. 1914, c. 186, s. 11.

Members of
Board not
to be officers
or directors
of certain
companies.

11.—(1) The members shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section. R.S.O. 1914, c. 186, s. 12.

Exclusive
attendance
to duties.

Member
of Board
may be
Director
of the
Bureau of
Municipal
Affairs.

(2) Provided that, notwithstanding anything enacted or implied by this or any other Act, one member of the board may be Director of the Bureau of Municipal Affairs, and in such case may be paid as director the salary voted for that office out of the appropriation for the Bureau of Municipal Affairs in addition to his salary as a member of the board. 1919, c. 25, s. 25.

Offices at
Toronto.

12. The Lieutenant-Governor in Council shall provide, within the City of Toronto, a suitable place in which the sittings of the Board may be held, and also suitable offices for the members, secretary, staff and other employees, and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same, and for the performance of the duties of the Board. R.S.O. 1914, c. 186, s. 13.

Sittings
of Board.

13.—(1) The Board shall sit at such times and places and conduct its proceedings in such manner as may seem to it most convenient for the speedy despatch of business.

Private or
public.

(2) The sittings may be either private or open to the public, but any complaint made to the Board shall, on the application of any party to the complaint, be publicly heard and determined. R.S.O. 1914, c. 186, s. 14.

Use of court
house.

14.—(1) Where sittings of the Board, or of any member thereof, are appointed to be held in any city, town or place in which a court house is situate the member presiding at any such sittings shall have, in all respects, the same authority as a judge of the Supreme Court in regard to the use of the court house and other buildings or apartments set apart in the county or district for the administration of justice.

Use of town
hall.

(2) Where sittings are appointed to be held in any municipality in which there is a hall belonging to the corporation of the municipality, but no court house, the corporation of the municipality shall allow such sittings to be held in such hall. R.S.O. 1914, c. 186, s. 15.

Secretary.

15.—(1) There shall be a secretary of the Board, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

Duties of
secretary.
Attend
sittings.
Keep
minutes.

(2) It shall be the duty of the secretary to

(a) attend all sittings of the Board;

(b) keep a record of all proceedings conducted before the Board or any member;

Custody
of records.

(c) have the custody and care of all records and documents belonging or appertaining to the Board, or filed in his office;

- (d) obey all rules and directions made or given by the Board touching his duties or his office; Obey directions.
- (e) see that every regulation and order made by the Board is drawn pursuant to the direction of the Board, properly authenticated, and filed in his office; Authentication of regulations and orders.
- (f) keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order and every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of any such regulation or order. Record books. Evidence. R.S.O. 1914, c. 186, s. 16.

16. Upon application of any person, and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any such regulation or order. Certified copies of regulations or orders. R.S.O. 1914, c. 186, s. 17.

17. In the absence of the secretary the Board may appoint from its staff a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. Acting secretary. R.S.O. 1914, c. 186, s. 18.

18.—(1) The chairman shall be paid an annual salary of \$6,000, and each of the other two members shall be paid an annual salary of \$4,000 and the secretary shall be paid an annual salary to be fixed by the Lieutenant-Governor in Council not exceeding \$2,400. Salaries.

(2) Such salaries shall be payable out of the Consolidated Revenue Fund and shall be paid *pro rata* for any period less than a year. How payable. R.S.O. 1914, c. 186, s. 19.

19.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board. Experts.

(2) There shall be attached to the Board such officers, clerks, stenographers and messengers as the Board, with the approval of the Lieutenant-Governor in Council, from time to time appoints, and the Board may, with the approval of the Lieutenant-Governor in Council, dismiss any of them. Staff of Board.

(3) The officers, clerks, stenographers and messengers attached to the Board shall receive such salaries or remuneration as may be approved by the Lieutenant-Governor in Council upon the recommendation of the Board. Salaries.

Remuneration
of appointee
to make
inquiry.

(4) Whenever the Board, by virtue of any power vested in it by this Act or any other Act, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act or such other Act, such person shall be paid such sum for services and expenses as the Lieutenant-Governor in Council may, upon the recommendation of the Board, determine.

Salaries and
expenses of
staff, etc.,
how to
be paid.

(5) The salaries or remuneration of all such officers, clerks, stenographers, messengers, and appointees, and all the expenses of the Board incidental to the carrying out of this Act or such other Act, including all actual and reasonable travelling expenses of the members, secretary, and of such appointees or persons on the staff of the Board as may be required by the Board to travel, necessarily incurred in attending to the duties of their offices, shall be paid monthly out of moneys appropriated by this Legislature for that purpose. R.S.O. 1914, c. 186, s. 20.

JURISDICTION AND GENERAL POWERS.

Jurisdiction
of Board
upon appli-
cation.

20.—(1) The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any person interested, complaining that any company, person or municipal corporation, constructing, maintaining or operating any railway, street railway, telegraph or telephone system, or any public utility, or having the control thereof, or charged with the performance of any duty or the exercise of any power in relation thereto—

Neglect of
duty under
any Act,
regulation,
order or
agreement.

(a) has failed to do any act, matter or thing required to be done by this Act or by any other general or special Act, or by any regulation, order or direction made thereunder or by any agreement entered into by the company, person or municipal corporation, or by any stipulation or condition in a municipal by-law accepted or acted upon by the company, person or municipal corporation;

Contraven-
tion of
Act, etc.

(b) has done or is doing any act, matter or thing contrary to or in contravention of this Act, or any such other Act, or any such regulation, order or direction, or any such agreement, stipulation, or condition; or

Charging
excessive
tolls.

(c) is charging tolls in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust;

Giving
orders,
directions
or approval.

and requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to give or make. R.S.O. 1914, c. 186, s. 21 (1).

General
powers.

(2) The Board may order and require any company, person or municipal corporation to do forthwith or within or at any specified time, and in any manner prescribed by the

Board, so far as is not inconsistent with this Act, any act, matter, or thing which such company, person, or municipal corporation is or may be required to do under this Act, or under any other general or special Act, or any such regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. R.S.O. 1914, c. 186, s. 21 (2); 1915, c. 31, s. 2.

(3) The Board shall, as to all matters within its jurisdiction, have authority to hear and determine all questions of law or of fact. Questions of law and fact.

(4) The Board shall, as respects the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, or otherwise for carrying this Act or any other general or special Act into effect, have all such powers, rights and privileges as are vested in the Supreme Court. Powers of amendment, etc., etc.

(5) The fact that a manager or other official of any railway, street railway or public utility, or a liquidator or receiver has been appointed by, or is managing or operating a railway, street railway or public utility under the authority of any court, shall not be a bar to the exercise by the Board of any jurisdiction conferred by this Act or by any other general or special Act; but every such liquidator, receiver, manager or official shall be bound to manage and operate such railway, street railway or public utility in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to such railway, street railway or public utility; and he, and every person acting under him, shall obey all orders of the Board in respect of such railway, street railway or public utility, and be subject to have them enforced against him by the Board, notwithstanding the fact that such manager, official, liquidator or receiver is appointed by or acts under the authority of any court. Jurisdiction where receiver, etc., acting under authority of court.

(6) The decision of the Board, as to whether any company, person or municipal corporation is or is not a party interested within the meaning of this section, shall be binding and conclusive upon all companies, persons and municipal corporations. Parties. Decision of Board final.

(7) Nothing in this section shall confer upon the Board any jurisdiction as to matters which, under *The Power Commission Act* and the amendments thereto, are within the jurisdiction of The Hydro Electric Power Commission of Ontario. R.S.O. 1914, c. 186, s. 21 (3-7). Powers of Hydro-Electric Power Commission. Rev. Stat. c. 57.

Board's
jurisdiction
exclusive.

21. The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. R.S.O. 1914, c. 186, s. 22.

When
Board may
act.

22.—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it.

Power to act
from time to
time.

(2) Any power or authority vested in the Board under this Act or any other Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S.O. 1914, c. 186, s. 23.

Appoint-
ment of
counsel.

23.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct any enquiry or hearing or to represent the Board upon the argument of any appeal to a Divisional Court.

Costs.

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. R.S.O. 1914, c. 186, s. 24.

Power to
rehear,
review, etc.

24. The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision or order made by it. R.S.O. 1914, c. 186, s. 25.

Board's
powers upon
default in
obeying
order.

25. If default is made by a company or person, or by a municipal corporation, in the doing of any act, matter or thing, which the Board has authority, under this or any other Act, general or special, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the company, person or municipal corporation in default as money paid for and at the request of such company, person, or municipal corporation, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. R.S.O. 1914, c. 186, s. 26; 1916, c. 24, s. 25 (1).

Enforcing
orders of
Board.
Rev. Stat.
c. 224.

26. The Board shall also have power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railway Act*. R.S.O. 1914, c. 186, s. 27; 1916, c. 24, s. 25 (2).

PRACTICE AND PROCEDURE.

Notices. Evidence.

27. Any notice required or authorized to be given in writing,— Notice, requisites of.

- (a) by the Board, may be signed by the chairman or secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S.O. 1914, c. 186, s. 28.

28.—(1) Any notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor,— Notices, how served.

- (a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company; Railway company.
- (b) in the case of a municipal corporation, to the head of the municipality, or to the clerk; Municipality.
- (c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office; Other companies.
- (d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and, Co-partnership.
- (e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ. Individuals.

Service by
publication.

(2) If, in any case within the jurisdiction of the Board, it is made to appear, to the satisfaction of the Board that service of any such notice cannot conveniently be made, in the manner provided in the next preceding subsection, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper; and such publication in each case shall be deemed to be equivalent to service in the manner provided in the said subsection.

Service of
other docu-
ments.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. R.S.O. 1914, c. 186, s. 29.

Duty of
company on
receipt of
notice or
order.

29. Every company and every municipal or other corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. R.S.O. 1914, c. 186, s. 30.

Duty of
sheriffs, etc.

30. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sittings of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. R.S.O. 1914, c. 186, s. 31.

Effect of
documents
issued by
company.

31. Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. R.S.O. 1914, c. 186, s. 32.

Evidence of
documents.

32.—(1) Every document purporting to be signed by the chairman and secretary, or by either of them, or by an inspecting engineer, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to the company and all parties interested, if served in the manner provided by section 28 for service of notice, that such document was duly signed and issued by the Board, or inspecting engineer, as the case may be.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence of such regulation, order, direction, decision or report, and, when served in the manner provided by section 28, shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service. R.S.O. 1914, c. 186, s. 33.

Evidence of regulations, etc., etc.

33.—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

Certified plan, etc., *prima facie* evidence.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of such regulation, order or document, without proof of the signature of the secretary. R.S.O. 1914, c. 186, s. 34.

Certified copies of documents of Board.

34. Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette*, and while the same remains in force, shall have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S.O. 1914, c. 186, s. 35.

Publication of regulations and orders.

Judicial notice.

35. Unless otherwise provided ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, but the Board may in any case direct longer or permit shorter notice of the application. R.S.O. 1914, c. 186, s. 36.

Notice of application.

Board may vary length of time.

36.—(1) When the Board is authorized to hear an application, complaint, or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice.

Procedure in urgent cases when no notice given.

When rehearing in such cases may be had.

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just. R.S.O. 1914, c. 186, s. 37.

Orders of Court.

Making decisions or orders. Orders of Court.

37.—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and shall thereupon become and be enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may be nevertheless rescinded or varied by the Board.

Board may select method of enforcing order.

(2) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. R.S.O. 1914, c. 186, s. 38.

Terms of Orders.

Contingent orders.

38.—(1) The Board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event.

Subject to terms.

Limited as to time.

Interim orders.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. R.S.O. 1914, c. 186, s. 39.

May grant partial or other relief than that applied for.

39. Upon any application to the Board the Board may make an order granting the whole, or part only, of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if such application had been for such partial, other, or further relief. R.S.O. 1914, c. 186, s. 40.

Interim *ex parte* orders.

40. The Board may, if the special circumstances of any case, in its opinion, so require, make an *interim ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application,

notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. R.S.O. 1914, c. 186, s. 41.

41. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case, in its opinion, so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. R.S.O. 1914, c. 186, s. 42.

Extension of time specified in order.

General Rules.

42. The Board may make general rules regulating its practice and procedure. R.S.O. 1914, c. 186, s. 43.

Power to make rules.

Other Provisions.

43. An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order. R.S.O. 1914, c. 186, s. 44.

Presumption of jurisdiction to make order.

44.—(1) In determining any question of fact the Board shall not be concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Effect of finding of fact in another court.

(2) The pendency of any action, prosecution or proceeding in any other court involving questions of fact shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Jurisdiction not affected.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. R.S.O. 1914, c. 186, s. 45.

Effect of finding of Board on questions of fact.

45.—(1) The Board may, at the request of the Lieutenant-Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of a Divisional Court upon any question which, in the opinion of the Board, is a question of law.

Stating case for opinion of Appellate Division.

(2) The Divisional Court shall hear and determine such special case and remit the same to the Board with the opinion of the court thereon. R.S.O. 1914, c. 186, s. 46.

Action thereon.

Power of
Lieut.-Gov-
ernor in
Council to
vary or
rescind
orders or
regulations
of the
Board.

46. The Lieutenant-Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested having been first heard, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order which the Lieutenant-Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties. R.S.O. 1914, c. 186, s. 47 (1).

APPEALS.

Appeal on
questions of
jurisdiction.

47.—(1) An appeal shall lie from the Board to a Divisional Court upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the court within one month after the making of the order or decision sought to be appealed from or within such further time as the court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

Notice of
appeal.

(2) Upon such leave being obtained the registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down; and the appeal shall be heard by such court as speedily as practicable.

Opinion of
court.

(3) On the hearing of any appeal the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

Board may
be heard by
counsel.

(4) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Rules of
court as to
cost, etc.

(5) The Supreme Court shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to a Divisional Court shall be applicable to appeals under this Act. R.S.O. 1914, c. 186, s. 48 (1-5).

Appeals to
Privy
Council in
certain
cases.

(6) When the matter in controversy exceeds the sum or value of \$4,000 or relates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or to any demand of a general or public nature affect-

ing future rights, an appeal shall lie from the Appellate Division to His Majesty in His Privy Council, but no appeal shall lie to His Majesty in His Privy Council in any other case, except by leave of His Majesty. R.S.O. 1914, c. 186, s. 48 (6), *part*.

(7) No appeal shall lie to His Majesty in His Privy Council, from any decision of the Appellate Division upon an appeal from the Board under *The Assessment Act*. 1916, c. 24, s. 26, *part*.

No appeal in certain cases.

Rev. Stat. c. 238.

(8) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section.

Members of Board not liable for costs.

(9) Save as provided in this section and in section 46,

Decisions of Board to be final.

(a) every decision or order of the Board shall be final; and,

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1914, c. 186, s. 48 (7, 8).

Not to be questioned by prohibition, etc.

48. The Lieutenant-Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a railway, street railway or public utility, subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order in Council. R.S.O. 1914, c. 186, s. 49.

Reference by Lieutenant-Governor in Council for report.

49.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Costs.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Taxation.

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S.O. 1914, c. 186, s. 50.

Scale.

50.—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what company, municipal corporation or person interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

Duty to execute works ordered by Board.

And to pay
expenses
of them.

(2) The Board may order by whom, in what proportion and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order shall be paid. R.S.O. 1914, c. 186, s. 51.

INQUIRIES.

Board may
order
inquiries.

51.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. R.S.O. 1914, c. 186, s. 52.

Powers
respecting
inquiries.

52. The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may—

Entry.

(a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;

Inspection.

(b) inspect any works, structure, rolling stock or property of the company;

Attendance
of witnesses.

(c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such enquiries as it or he thinks fit to make;

Returns.

Production
of docu-
ments, etc.

(d) require the production of all books, papers, plans, specifications, drawings and documents, relating to the matter before it or him;

Oaths.

(e) administer oaths,

Summoning
witnesses
and
enforcing
attendance.

and shall have the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things which they are required to produce, as is vested in any court in civil cases. R.S.O. 1914, c. 186, s. 53.

Witness
fees.

53. Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1914, c. 186, s. 54.

ADDITIONAL POWERS OF BOARD.

54. The Board may require any company, person or municipal corporation, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board may deem necessary or expedient for the safety of life and property. R.S.O. 1914, c. 186, s. 55.

Adoption of appliances for protection of life, etc.

ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC.

55. The Board shall, when required so to do by the Lieutenant-Governor in Council, the Assembly or any Committee thereof, make, or cause to be made under its supervision, an enquiry into any facts which the Lieutenant-Governor in Council, the Assembly or any such Committee may desire to ascertain before passing upon the propriety of any proposed change in the general railway law, or upon any proposed Bill relating to a municipal corporation or to a railway or street railway company, or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such enquiry the Board shall report its opinion thereon. R.S.O. 1914, c. 186, s. 56.

Board to enquire and report on certain matters at request of Government or Legislature.

ANNUAL REPORT OF BOARD.

56.—(1) The Board shall make an annual report, on or before the 31st day of March in each year, to the Lieutenant-Governor, which shall contain,

Annual report.

- (a) a record of its meetings and an abstract of its proceedings during the preceding calendar year;
- (b) a statement of the result of any examination or investigation conducted by it;
- (c) such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of Ontario, and such suggestions as to the general railway policy of the Province, of the amendments of its laws, or the condition, affairs or conduct of any railway or street railway as may seem to it advisable;
- (d) such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient;
- (e) a statement in detail of its disbursements;
- (f) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways, subject to this Act; and,

Contents.

(g) such matters as the Lieutenant-Governor in Council directs. R.S.O. 1914, c. 186, s. 57 (1); 1922, c. 68, s. 2.

Laying
report before
Assembly.

(2) The Lieutenant-Governor shall lay the report before the Assembly forthwith if then in session, or if not then in session within fifteen days after the commencement of the next session. R.S.O. 1914, c. 186, s. 57 (2).

Superintend-
ing accounts
of railways
and public
utilities
operated by
municipalities.

57.—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways, street railways and public utilities which are operated by or under the control of a municipal corporation or a commission appointed by a municipal corporation, and may require from any such municipal corporation or commission such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

Enquiry
and report
as to rates
charged by
public
utilities.

(2) The Board may from time to time enquire and report as to whether such railway, street railway, or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception.

(3) This section shall not apply to a municipal corporation or commission as respects a public utility for the development or distribution of electrical power or energy. R.S.O. 1914, c. 186, s. 58.

SECRECY OF PROCEEDINGS.

Publishing
information
without
leave.

58. If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he shall incur a penalty not exceeding \$500 for such offence and shall also be liable to imprisonment for any term not exceeding six months. R.S.O. 1914, c. 186, s. 59.

Penalty.

ARBITRATION BY THE BOARD IN CASES OF LABOUR DISPUTES.

May arbitrate
labour
difficulties.

59.—(1) A dispute between a railway, street railway or public utility company and its employees may be submitted to the Board for its determination and settlement.

(2) The submission shall be in writing and shall contain a statement of the matters in dispute, and also an agreement to abide by the determination of the Board and to continue in business or at work without a lockout or strike during the investigation. Submission to be in writing.

(3) Upon such submission the Board shall investigate and determine the matters in dispute and shall render its decision within ten days after the completion of the investigation. Duty of Board upon submission.

(4) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is authorized to make, but the Board may regulate the proceedings and the manner of conducting them as to the Board may seem meet. R.S.O. 1914, c. 186, s. 60. Procedure in such cases.

MEDIATION IN CASE OF STRIKE OR LOCKOUT.

60.—(1) Whenever a strike or lockout of the employees of any railway, street railway, or public utility company occurs, or is threatened, the Board shall proceed as soon as practicable to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. To mediate in case of strikes.

(2) Wherever there exists any such strike or lockout by reason of which, in the opinion of the Board, the general public is likely to suffer injury or inconvenience with respect to food, fuel, light or power, or the means of communication or transportation, or in any other respect, and the parties to such strike or lockout will not consent to submit the matters in controversy to the Board, the Board, after having first endeavoured to effect a settlement by conciliatory means and having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lockout, and shall make public its findings with such recommendations to the parties as, in its judgment, will contribute to a fair and equitable settlement of their differences, and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by section 52. R.S.O. 1914, c. 186, s. 61. Enquiry into cause of dispute and suggesting terms of settlement.

FEEs TO BE CHARGED AND COLLECTED BY THE BOARD.

61.—(1) The Board may charge and collect such fees, as it may seem proper for all copies of documents, maps or plans, and all certificates as to the same. Fees for copies, certificates, etc.

(2) All fees charged and collected by the Board shall be paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. R.S.O. 1914, c. 186, s. 62. Payment over to Province.

Fees on
orders of
Board to be
paid in
stamps.

62. There shall be paid in law stamps upon every order made by the Board such sum as it may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, and the order may be made an order of the Supreme Court. R.S.O. 1914, c. 186, s. 63.
