

or his advocate having been notified of that officer's decision, he may institute proceedings in a court of justice to enforce his claim, filing the delegate's receipt as proof of his right to do so. That action may have to be commenced in a civil or a commercial court, according to the nature of the claim, and the claimant's position, as a trader or otherwise.

14. In deciding whether to submit a rejected claim to the decision of a court of justice, the claimant must bear in mind that it is not safe to postpone his decision until near the end of the period of thirty days allowed. The petition (corresponding to the English "statement of claim") must be submitted to the competent court at one of its sittings, which are held, as a rule, every Monday and Thursday; consequently, the thirty days may in practice be reduced to twenty-seven.

15. The claim in the action at law, and the grounds upon which it is based, must be exactly the same as in the petition to the delegate. Only when they are joint owners may more persons than one be plaintiffs in the same action. The proceedings must be instituted in the court within whose jurisdiction the property is situated, and a separate action must be brought for each religious house or association, if the property, although within the same jurisdiction, was held or occupied by more than one house of association.

16. Proceedings having been properly instituted by the filing of a "statement of claim," divided into articles or clauses, as in the case of the first petition, that statement must either be supported by fresh copies of the documents originally filed, or an application may be made to the delegate for the proofs submitted to him to be forwarded to the registrar in whose office the records of the case are kept. The report of the committee and any papers other than those filed by a claimant in the first proceedings are considered to be secret, and will not be forwarded to the court.

17. Service upon the representative of the republic having been effected, he will file a statement of defence, to which the claimant will reply, and the representative will file his rejoinder. Witnesses (if any) will then be examined, their evidence being taken in writing; written pleadings may be filed, both by the claimant and on behalf of the republic; and the records will then be ready for judgment.

18. The decision will be by the votes of two judges out of three, who will be (in Portugal) the judge in whose jurisdiction the property lies (who will be chairman), and the judges of the two adjacent judicial districts. In the rest of the Portuguese dominions, it will be the judge of the judicial district, his deputy, and the local registrar of real estate. Each of the three members of the court thus constituted will receive the records for ten days, for examination, after which the chairman will fix a day, not more than thirty days later, for the court to meet and deliver its written judgment.

19. From such judgment, it appears that an appeal can be taken to the Court of "Relação"; and, if the value of the property in question warrants it, a further appeal may be taken to the Supreme Court; but the intervention of the latter will be limited to the discovery of any nullity in the proceedings.

20. In the action at law, and in the appeals arising therefrom, costs, stamp duty, and

other expenses must be defrayed by the promoters of the proceedings; but, if the State loses, it does not pay the costs of the other parties.

21. Thus it will be seen that throughout the proceedings, in all the courts, there is nothing of the nature of a hearing of the case, in open court, such as takes place in England. If oral testimony has to be taken, the witnesses are, as a rule, examined in the judge's private room, and plaintiff and defendant may be present, but, as the witnesses may only be examined upon the articles or clauses of the statement of claim, the statement of defence, and the replies thereto, no extraneous matter being allowed to be introduced, the claimants can fully instruct their advocates in writing, and their personal attendance is unnecessary.

22. In ordinary actions, plaintiffs may be notified to appear and be examined upon oath as to the truth of their allegations; but, in the cases now in question, it is unlikely that the representative of the republic will ask for the attendance of plaintiffs, at least when the latter are persons prohibited by the recent laws from residing in Portugal.

23. In cases where the claimants are representatives by succession of the interested parties, the delegate, even if he decides in their favour as regards the right of their predecessors to the property in question, may, before ordering it to be given up to them, require them to prove their right of succession by a special suit, called "justificação" or "habilitação." When judicial proceedings are taken, upon an adverse decision of the delegate, the suit just referred to will have to be commenced simultaneously with those proceedings, to which it will form an appendix.

Foreign Office, April 15, 1911.

#### ANNEX.

*Extract from the "Diario do Governo" of January 3, 1911.*

(Translation.)

#### Decree.

The Provisional Government of the Portuguese Republic make known, in the name of the republic, that the following has been decreed to have the force of law:—

#### CHAPTER I.—*Concerning the Properties in the Custody and in the Possession of the State.*

Article 1. All the real and personal properties of which an inventory has, under the law of the 8th October, 1910, been made by the judicial and administrative authorities because of their having been or being occupied, held, and used, under any title whatever, by Jesuits or by any other congregations, societies, convents, colleges, hospitals, associations, missions, and any religious houses whatsoever of all the regular orders, no matter what may have been their denomination, statutes, or rules, continue to be entrusted to the keeping, preservation, and possession of the State, or will yet come under that régime, which is merely one of tutelage.

§. Properties which may, at the date of the publication of the decree, still be occupied by