

thereby imposed, then, upon the application of the said Company, or of the other party, it shall be lawful for the Judge of the County Court of the County within which the land lies to nominate any disinterested competent person or persons, from any Township adjoining the Township in which such land shall be situate, to act as an arbitrator for the person so neglecting to name an arbitrator as aforesaid, or to act in the place of such arbitrator or arbitrators so refusing or neglecting as aforesaid, and that every arbitrator so appointed by the Judge of the County Court as aforesaid shall and he is hereby required to hear and determine the matter to be submitted to him with all convenient speed, after he shall have been so nominated as aforesaid; And any award made by a majority of the said arbitrators shall be as binding as if the three arbitrators had concurred in and made the same: Provided that no road or other such work as aforesaid shall be made so as to encroach upon any building, or to pass through or upon any pleasure ground, garden, yard or orchard, nor shall any materials be taken therefrom, nor shall any timber be taken from any enclosed land, without the consent of the owner; Provided also, that it shall not be competent for any owner or occupier of land through or along which such road is intended to pass, after a survey of such road is made, to erect any building, or to enclose any part of such surveyed land as a yard, or to plant fruit trees thereon so as to form an orchard, with a view to prevent such Company taking possession of such land.

Proviso.

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When lands are possessed by parties who cannot convey them.

**XXI.** Whenever any lands or grounds required by any such Company for the purpose of any road or other such work, or with regard to which any such power is to be exercised as aforesaid, are held or owned by any person or persons, bodies politic, corporate, or collegiate, whose residence may not be within this Province or may be unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or where such lands may be mortgaged, or when the owner or owners of such lands or grounds are unknown or unable to treat with the said Company for the sale thereof, or the exercise of any such power as aforesaid by the Company, or to appoint arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the County Court where such lands are situate, on the application of the said Company, to nominate and appoint one other disinterested competent person, from any Townships adjoining the Townships in which such lands are situate, who, together with one other person to be chosen by the persons so named, before proceeding to arbitrate, or, in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to arbitrate, shall be arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or grounds, or damages as aforesaid, and the decision of a majority of such arbitrators shall be binding, which said amount so awarded the Company shall pay or cause to be paid to the several parties entitled to the same, when demanded; And also that a record shall be made and signed by the said arbitrators, or a majority of them, specifying the amount awarded and the costs of such arbitration, which may be settled by such arbitrators, or a majority of them, which record shall be deposited in the Registry Office of the County in or along which such lands or grounds are situate, and such Company shall thereupon be fully authorized to enter upon and take