

ration; doing as little damage thereby, as the nature of the case will permit. And in case damages shall be claimed by the owner or owners of any Land entered upon for the purpose of obtaining materials as aforesaid, and the Company cannot agree with him or them, touching the extent or payment of such damages, then the amount thereof shall be ascertained and settled in the manner hereinafter prescribed.

Damages done
by Company—

To be estima-
ted by Ap-
praisers

Appraisers how
appointed

To be sworn

To return
award to Su-
preme Court
to be allowed
and confirmed
with Costs

Payment of
award to be a
bar to actions

Sup. Court
may inquire
into and set
aside award

XII. And be it further enacted, That whenever any damage, trespass, waste or injury, shall be done to any person in his lands, rights or property, by making or opening the said Canal or Water Communication, or by the erection of any of the Dams, Locks, Embankments or Works thereof, or by the flooding or overflowing any lands, or by diverting the Waters of any Stream or Lake from the person or persons legally entitled to the same, or to the use thereof, or by entering upon any Lands contiguous to such Canal, and digging, cutting, carrying away or using, any Stone, Gravel, Clay, Timber, Wood or other materials, for the purpose of the said Canal, or the Works thereof; or by any other way or means whatsoever, injuring or impeding such rights or property, it shall and may be lawful, either for the party grieved and subjected to injury, or for the said Company, to apply to any two Judges of the Supreme Court of the Province, by Petition, stating the nature and situation of the lands, rights or property injured, and praying for the appointment of appraisers to estimate the same. Whereupon the said Judges shall direct proper notices to be given to all parties interested, to attend before them, at a day and place to be appointed for the purpose, and shall, at the time so appointed, call on the Company and party injured, each to nominate one or two appraisers, as the said Judges may think necessary; and the said Judges shall name another appraiser; and shall, by an order in writing, constitute and appoint the persons so chosen and named, to act as appraisers of the damages arising from the injury complained of; and in case the said Company or party injured, shall neglect or refuse to name appraisers as aforesaid, the said Judges shall name a fit and discreet person or persons, as the case may require, to act on behalf of the said Company or person, declining to make such nomination when called on as aforesaid. And the persons so named and chosen shall, before they enter upon the duties of their appointment, severally take and subscribe an Oath before a Judge of the said Court, faithfully and impartially to perform the trust and duties so required of them, by the order of the said Judges; which Oath shall be filed with the said Petition in the office of the Prothonotary of the said Court at Halifax. And the said appraisers, or a majority of them, shall make a just and equitable estimate and appraisal of the loss and damage of the respective owner or owners, or parties interested in the lands, rights, property or premises, so entered upon, injured or pretended or alledged to be injured or impaired, by the said Company, and shall certify and return their determination and award in writing, under their hands, or the hands of the major part of them, touching all such damage, loss and injury, of whatsoever nature it be, into the office of the said Prothonotary of the Supreme Court at Halifax. Whereupon, if the said Court shall be of opinion, that the said award hath been fairly, equitably and impartially made, and if no good and sufficient cause shall be shewn, against such award and determination, the said Court shall allow and confirm the same. And thereupon, the said Company shall, within such time as the Court shall appoint, pay and satisfy into the said Court, or unto the person or persons whom the Court shall find entitled to receive the same, the amount so awarded, together with such costs and expenses as shall be adjudged against the Company in that behalf. And the payment of the amount so awarded, and costs, shall forever discharge the said Company, their Servants and all persons acting for the said Company, from, and be a bar to, all actions, suits, claims and demands whatsoever, for or in respect of such trespass, damage, loss or injury done, committed, suffered or sustained, by the means aforesaid.

XIII. And be it further enacted, That the said Judges, and also the said Supreme Court, shall have, with respect to the proceedings touching such appraisement and estimate of damages, by the means aforesaid, and with respect to the taxation and allowance of costs to or against the parties, all necessary discretion, powers and authority, and shall and may inquire into the proceedings, by the oath of witnesses, or otherwise; and shall and may also, on good cause shewn, set aside any such award and appraise-
ment,