

and works, or as being within the limits of deviation hereby allowed from the line of the said Railway, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid.

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If the party be absent or unknown.

If the opposite party be absent from the County in which the lands lie or be unknown to the said Company, then upon application to the County Judge for such County, accompanied by such Certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, such Judge shall order a notice as aforesaid (but without the certificate) to be inserted three times in the course of one calendar month in some newspaper published in the said County.

Party not accepting the Company's offer, and not appointing an Arbitrator.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company, that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then such County Judge as aforesaid shall, on the application of the said Company, appoint some sworn Surveyor for Upper Canada, to be sole Arbitrator for determining the compensation to be paid by the Company.

Opposite party appointing an Arbitrator.

Third Arbitrator.

If the opposite party shall, within the time aforesaid, notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the County Judge of the County in which the lands lie, shall, on the application of the said party or of the Company, (previous notice of at least one clear day having been given to the other party,) appoint a third Arbitrator.

Duties of Arbitrators after being sworn.

The said Arbitrators or any two of them or the sole Arbitrator, being sworn before some Justice of the Peace for the County in which the lands lie as aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided, that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed or whose appointment they shall have required.

Proviso.
Award not to be made except at proper meetings or times

Costs, how paid.

Provided always, if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the County Judge aforesaid.