

dent of the Company, or if the said two Arbitrators cannot agree upon such third Arbitrator, the Judge of the District Court holden within the District shall nominate one of the Township Councillors of one of the Townships next adjacent to that in which the land shall be situate, and which it is proposed to take as aforesaid, to be either the second or the third Arbitrator, or both, in lieu of the one so to be appointed and named, but not appointed or agreed upon by the party or by the two first-named Arbitrators as aforesaid: 5
 Provided, that no road shall be made through any garden, yard, or orchard, or materials taken therefrom, without the consent of the owner. 15

Proviso.

How Arbitration shall be appointed when the owners of the lands are absent, or unable to sell, or the lands are mortgaged, &c.

IX. And be it enacted, That whenever any lands or grounds required by any such Company, for the purposes of any road, are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or 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 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 District Court for the District in which the lands are situate, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the said Judge, before the others proceed to business, shall be Arbitrators, to award, determine, adjudge and order the respective sums of money, which the said Company shall pay 20
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