

1400 OF 100

THE
ONTARIO RAILWAY ACT
1906

— 18 —
JOHN G. FARMER, B.C.L.

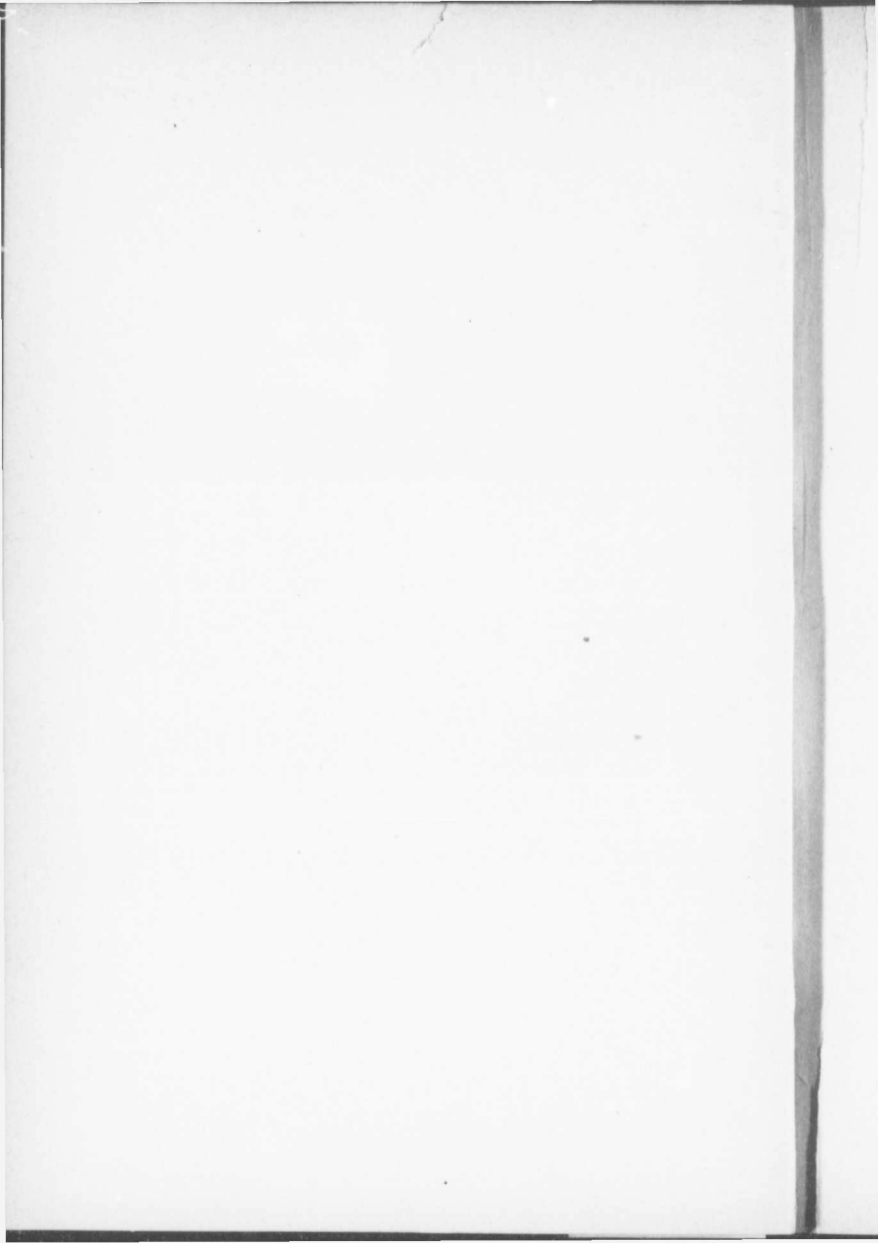
Ca

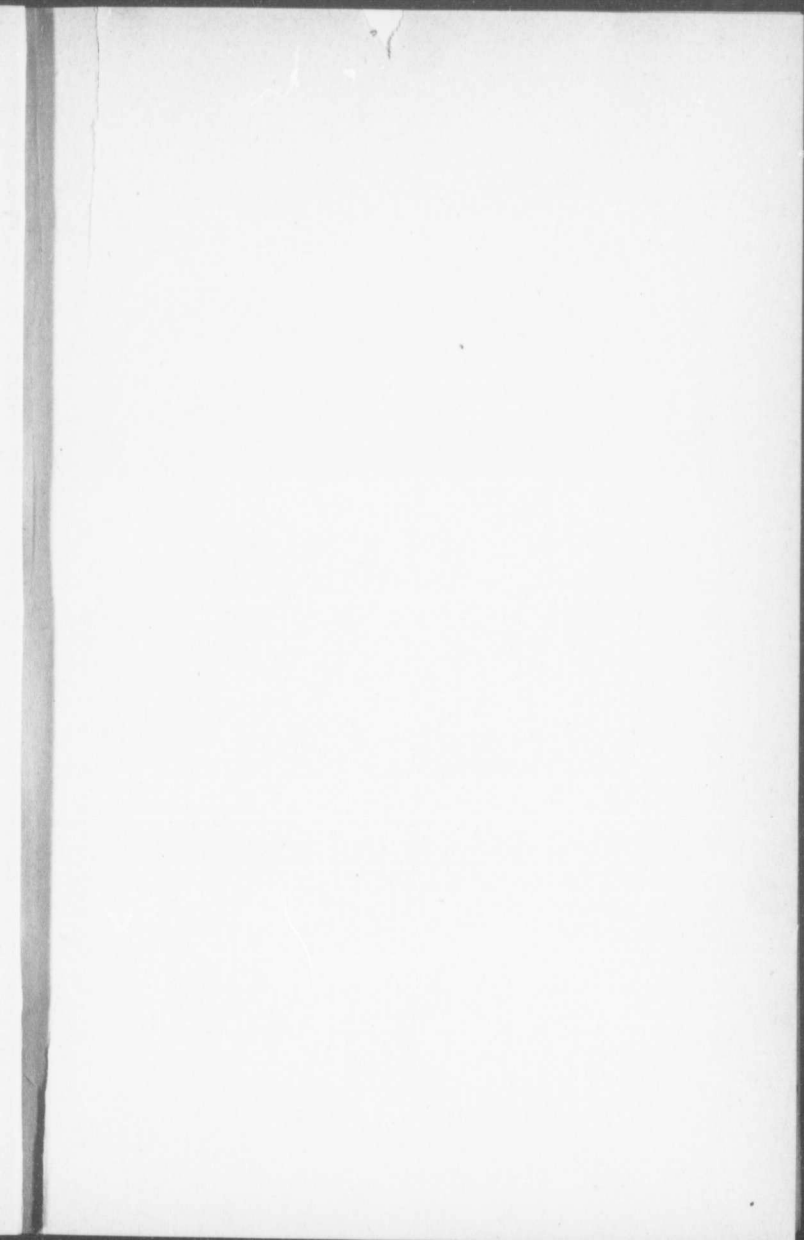
CARSWELL Co., Limited
Bookbinders.
PRINTERS,
LAW BOOKS, TORONTO
PUBLISHERS, ETC. ONT.

Can.

~~25~~

Ontario. Laws, statutes,
etc., 1901- (Edward VII).





VI

Ontario's 2nd Laws, statutes etc.

3
THE
ONTARIO RAILWAY ACT
1906

Being 6 Edward VII., Chapter 30

ANNOTATED

WITH AN APPENDIX CONTAINING

The Railway and Municipal Board Act (1906) and amendments; The Rules of Practice; Regulations and Specifications; and Forms adopted by the Board; and the Act of 1907 respecting certain railway and other corporations, etc.

BY

JOHN G. FARMER, B.C.L.

of Osgoode Hall, Barrister-at-Law

TORONTO :
THE CARSWELL COMPANY, LIMITED
LAW BOOK PUBLISHERS
30 ADELAIDE STREET EAST
1907

TABLE OF CASES.

A.

Abdon v. C. P. Ry. Co., 88.
 Aikin v. Hamilton, 74.
 Alberta, etc., Co., Chan Dy Chea v., 88.
 Allen v. Gold Reefs, 10.
 Allen v. Ont. & Ry. Co., 16.
 Algoma Ry. Co., Fraser v., 62.
 Alliance Assee. Co., Harrison v., 57.
 Anderson v. G. T. R., 46, 93, 150.
 Andrews v. Gas Meter Co., 10.
 Andreas v. C. P. R., 90.
 Ardah v. Toronto Ry. Co., 135.
 Armstrong and James Bay Ry. Co., *re*,
 50, 53.
 Arthur v. G. T. R., 46, 67.
 Arthur v. Cen. Ont. Ry. Co., 72.
 Ashworth, *re* Owen and, 15.
 Atlantic, etc., Ry. Co. v. Judah, 57.
 Atlantic, etc., Ry. Co., Benning v., 52,
 53.
 Atlantic, etc., Ry. Co., Evans v., 49.
 Atlantic, etc., Ry. Co. v. Wood, 47, 53.
 Atchison v. G. T. R., 73.
 Atty.-Gen. v. Mersey Ry. Co., 31.

B.

Bacon v. G. T. R., 72.
 Batter, C. P. R. v., 4, 48.
 Balch, Rombach v., 108.
 Bank of Montreal, Sweeney v., 20.
 Badgerow v. G. T. R., 62.
 Balfour v. Toronto Ry. Co., 135.
 Barclay, Lake Erie, etc. v., 75.
 Beaudette v. North Shore Ry. Co., 54.
 Beaven, G. T. R. v., 87.
 Begg v. Toronto Ry. Co., 136.
 Bell Tel. Co., City of Toronto v., 7.
 Bell Tel. Co., etc., Pt. Arthur v., 35.
 Bell v. Winnipeg E. St. Ry. Co., 136.
 Bell v. Cape Breton E. Co., 137.
 Benning v. Atlantic, etc., 52, 53.
 Benner v. Dickenson, 71.

Bennett v. G. T. R., 91.
 Benson v. Imperial Starch Co., 19.
 Berlin, Town of, and Berlin, etc., Ry.
 Co., *Re*, 128.
 Bretram & Sons v. H. & D. Ry. Co., 59.
 Bickford v. Chatham, 94.
 Bicknell v. G. T. R., 111.
 Birnie v. Toronto Milk Co., 16.
 Birkett v. G. T. R., 101.
 Blaine, Toronto Brewing & Malting Co.
 v., 15.
 Black v. Ont. Wheel Co., 62.
 Blain v. C. P. R., 86, 118.
 Blackley v. Toronto Ry. Co., 136.
 Blackmore v. Toronto Ry. Co., 136.
 Blue v. Red Mountain Ry. Co., 82.
 Bowen v. C. S. Ry. Co., 50, 84.
 Bond v. Toronto Ry. Co., 62.
 Boisseau, C. P. R. v., 63, 91.
 Bourassa, G. T. R. v. 62.
 Bourgouin v. Montreal, etc., Ry. Co.,
 Bradt v. Whitney, 123.
 Brant Milling Co. Case, 112.
 Branch Lines, C. P. Ry. Co., *Re*, 31.
 Brennen, Ottawa Ry. Co. v., 53.
 Breeze v. Midland Ry. Co., 114.
 Brenner v. Toronto Ry. Co., 90, 135, 136.
 Bridgwater Cheese Co. v. Murphy, 29.
 Brierly and T. H. & B. Ry. Co., *re*, 33,
 46, 49, 53.
 British v. Couper, 10.
 Brooke v. Toronto Belt Line, 47.
 Brown v. G. W. Ry. Co., 62, 91.
 Brown v. Brockville, etc., 106.
 Brown v. London St. Ry. Co., 135.
 Bruce Mines, etc., Ry. Co., Wile v., 7.
 Buffalo, etc. Ry. Co. v. Park, 18.
 Buffalo, etc., Ry. Co., Widder v., 47, 52.
 Bullion Mining Co. v. Cartwright, 9.
 Burland v. Earle, 12, 15, 24.
 Burreis v. Pere Marquette Ry. Co., 87.
 Burnt District Case, 59, 61.
 Burke, T. H. & B. Ry. Co. v., 4, 48.
 Byrne, C. P. R. and, *Re*, 44.

C.

- Canada Atlantic Ry. Co. v. Tp. of Gloucester, 3.
 Canada Atlantic Ry. Co., Henderson v., 90.
 Canada Atlantic Ry. Co. v. Ottawa, 94.
 Canadian N. Ry. Co., Royle v., 3.
 Canadian N. Ry. Co., Ruttan v., 50.
 Canadian N. Ry. Co., Phair v., 72.
 Canada Central Ry. Co., Dunlop v., 4.
 Canada Central Ry. Co., Slater v., 45.
 C. P. Ry. Co., Batter v., 4, 48.
 C. P. Ry. Co., Hollinger v., 6.
 C. P. Ry. Co. v. G. T. Ry. Co., 7.
 C. P. Ry. Co. v. The King, 32.
 C. P. Ry. Co. v. Major, 34.
 C. P. Ry. Co. v. Western, 55.
 C. P. Ry. v. Kaministiquia, etc., 36.
 C. P. Ry. Co., and Byrne, *Re*, 44.
 C. P. Ry. Co., Tolton v., 45, 46, 68.
 C. P. Ry. Co., Wicher v., 50.
 C. P. Ry. Co., and Du Cailland, *Re*, 52, 53.
 C. P. Ry. Co. v. Ste. Therese, 52.
 C. P. Ry. Co., Delaney v., 57.
 C. P. Ry. Co., Louise v., 58.
 C. P. Ry. Co. v. N. Dumfries, 58.
 C. P. Ry. Co., Fawcett v., 62.
 C. P. Ry. Co. v. Boisseau, 60, 91.
 C. P. Ry. Co. v. McBryan, 68.
 C. P. Ry. Co., LeMay v., 67, 151.
 C. P. Ry. Co., Fensom v., 70, 72.
 C. P. Ry. Co., Potvin v., 70.
 C. P. Ry. Co., Newell v., 70.
 C. P. Ry. Co., Schellenberg v., 72.
 C. P. Ry. Co., Eggleston v., 72.
 C. P. Ry. Co. v. York, 75.
 C. P. Ry. Co. v. Toronto, 75.
 C. P. Ry. Co., Farrell v., 76.
 C. P. Ry. Co. v. Vancouver, 79.
 C. P. Ry. Co., and G. T. R., *In re*, 79.
 C. P. Ry. Co., Wood v., 81.
 C. P. Ry. Co., Roy v., 82.
 C. P. Ry. Co., Hurley v., 82.
 C. P. Ry. Co. v. Ottawa Fire Ins. Co., 82.
 C. P. Ry. Co., Blain v., 86, 118.
 C. P. Ry. Co., Andreas v., 90.
 C. P. Ry. Co. v. Smith, 92.
 C. P. Ry. Co. v. Lawson, 101.
 C. S. Ry. Co. v. Jackson, 7, 90.
 C. S. Ry. Co. v. Bowen, 50, 84.
 C. S. Ry. Co., Quillinan v., 50.
 Campbell and Village of Lanark, *Re*, 11.
 Carty v. London, 135, 142.
 Cartwright, Bullion Mining Co. v., 9.
 Carson v. Weston, 75.
 Cavanagh and Can. Atl. Ry. Co., *Re*, 49, 50, 53, 61.
 Cedar Lumber Products Case, 112.
 Central Ont. Ry. Co., Jenkins v., 55.
 Central Ont. Ry. Co., Marshall v., 16.
 Central Ont. Ry. Co., Toronto Gen. T. Co. v., 15, 25, 28.
 Central Ont. Ry. Co., Arthur v. 72.
 Central Bank, *re*, 18.
 Central Vermont Ry. Co. v. Franchere, 111.
 Champaigne v. G. T. R., 89.
 Chan Dy Chea v. Alberta, etc., 88.
 Chatham, etc., Ry. Co., and C. P. R., 79.
 Chaudiere v. Can. Atl. Ry. Co., 56, 142.
 Chewett v. G. T. R., 55.
 Christopher v. Noxon, 18.
 City of Toronto v. G. T. Ry. Co., 3.
 City of Toronto v. Bell Tel. Co., 7.
 Clair v. Temiscouata Ry. Co., 142.
 Clegg v. G. T. Ry. Co., 7, 67.
 Cohen v. Hamilton St. Ry. Co., 135.
 Coll v. Toronto Ry. Co., 111.
 Collier v. M. C. Ry. Co., 90.
 Collins v. London St. Ry. Co., 136.
 Common v. McArthur, 21.
 Company of the Proprietors, etc., v. South Stoneham, etc., 2.
 Consumers Gas Co. v. Toronto Ry. Co., 123.
 Coolidge v. Toronto Ry. Co., 136.
 Cooper v. Hamilton Steel and Iron Co., 5, 67.
 Cooperage Stock Rates Case, 108.
 Cornish v. Toronto Ry. Co., 136.
 Cosh, Metropolitan, etc., *Re*, 2.
 Costa Rica Ry. Co. v. Forwood, 15.
 Couper, British v., 9.
 Crawford v. Tilden, 7, 144.
 Credit Valley Ry. Co. v. G. T. Ry. Co., 78.
 Curran v. G. T. R., 67, 151.
 D.
 Daldry v. Toronto Ry. Co., 135, 136.
 Danger v. London St. Ry. Co., 135.
 Daigle v. Temiscouata Ry. Co., 72.
 Davies and James Bay Ry. Co., *re*, 54, 55.
 Dare, etc., Rhys v., 57.
 Dawdy v. H. G. & B. Ry. Co., 136.
 Decue v. Wabash Ry. Co., 92.
 Delaney v. C. P. R., 57.
 Delahanty v. M. C. R., 86, 87, 118.

Devlin and H. & L. E. Ry. Co., *Re*, 50.
 Dewey v. Hamilton & D. Ry. Co., 136.
 Deyo v. Kingstone, etc., Ry. Co., 72,
 101.
 Dickinson, Benner v., 71.
 Dolsen, *Re*, 44.
 Dominion Oil Co., *Re*, 19.
 Donaldson, Markle v., 62.
 Douglas v. G. T. R., 71.
 Drake v. Sault St. Marie Pulp Co., 32.
 Drewitt v. H. G. & B. Ry. Co., 136.
 Dumfries, C. P. R. v., 58.
 Dunlop v. Can. Cen. Ry. Co., 4.
 Dunsford v. M. C. R., 70.
 Duthie v. G. T. R., 108.

E.

Earle v. Burland, 12, 15, 24.
 East Indian Ry. Co. v. Kalidas, 88.
 East and S. Africa Tel. Co. v. Cape-
 town, etc., 123.
 Eastern, etc., Ry. Co., Regina v., 50.
 Eddy v. Ottawa, etc., Ry. Co., 134.
 Eggleston, C. P. R. v., 72.
 English, Sutton v., 15.
 Erie & H. Ry. Co., Michie v., 9.
 Errington v. Metropolitan, etc., 2.
 Essery v. G. T. R., 56, 142.
 Evans v. Atlantic, etc., Ry. Co., 49.
 Ewing v. Toronto Ry. Co., 135.

F.

Fairman v. Montreal, 50.
 Farewell v. G. T. R., 87.
 Farmer v. Waterloo & City Ry. Co., 2.
 Farmer v. G. T. R., 62.
 Farrell v. G. T. R., 76.
 Fawcett v. C. P. R., 62, 101.
 Ferrars v. Staffordshire, etc., 51.
 Fensom v. C. P. R., 70, 72.
 Flewelling v. G. T. R., 72.
 Filhtrault v. C. P. R., 90.
 Findlay v. Hamilton E., etc., Co., 123.
 Ford v. Metropolitan, 63, 136.
 Forsythe v. C. P. R., 136, 154.
 Foster & G. W. Ry. Co., *In re*, 51.
 Forwood, Costa Rica Ry. Co. v., 15.
 Fraser v. Algoma Ry. Co., 62.
 Frankel v. G. T. R., 86

G.

Gallanger v. Toronto Ry. Co., 136.
 Gamble v. G. W. Ry. Co., 88.

Garneau v. Quebec, etc., Ry., 7.
 Gas Meter Co., Andrews v., 10.
 Gerrard and L. & N. W. Ry. Co., *In re*,
 80.
 Geiger v. G. T. R., 136.
 Gibbons, McMicking v., 57.
 Gibson, Martin v., 11, 16.
 Gill, Hext v., 79.
 Gilman v. Royle, 21.
 Gloster v. Toronto E. L. Co., 123.
 Gloucester, Tp. of, v. Can. Atl. Ry.
 Co., 3.
 Gold Reefs, Allen v., 10.
 Golden Valley Ry. Co., Pugh v., 33.
 Gore Bank, Hamilton & N. W. Ry. Co.
 v., 16.
 Gosnell v. Toronto Ry. Co., 135.
 Grand Trunk Ry. Co., City of Toronto
 v., 3.
 Grand Trunk Ry. Co., McCormack v., 4.
 Grand Trunk Ry. Co., C. P. Ry. Co.
 v., 7.
 Grand Trunk Ry. Co. v. Hamilton R.
 E. Ry. Co., 7, 33, 78.
 Grand Trunk Ry. Co., Monkhouse v.,
 7.
 Grand Trunk Ry. Co., Clegg v., 7, 67.
 Grand Trunk Ry. Co., Washington v.,
 7, 67.
 Grand Trunk Ry. Co., Whitby v., 9,
 11.
 Grand Trunk Ry. Co. v. Hendrie, 28.
 Grand Trunk Ry. Co., Vallieau v., 30.
 Grand Trunk Ry. Co. v. Lindsay, etc.,
 31, 47.
 Grand Trunk Ry. Co., *Re* Guelph, etc.,
 and, 31.
 Grand Trunk Ry. Co., Peterborough v.
 33.
 Grand Trunk Ry. Co., McDonald v.,
 37.
 Grand Trunk Ry. Co., Arthur v., 46,
 68.
 Grand Trunk Ry. Co., Knill v., 46, 50,
 68.
 Grand Trunk Ry. Co., Coupal v., 50,
 53.
 Grand Trunk Ry. Co. and Petrie, *Re*,
 53.
 Grand Trunk Ry. Co., Williams v.,
Re, 54.
 Grand Trunk Ry. Co., Chewett v., 55.
 Grand Trunk Ry. Co., Essery v., 56.
 Grand Trunk Ry. Co. and St. Cunne-
 gonde, *Re*, 6.
 Grand Trunk Ry. Co., Badgerow v.,
 62.

- Grand Trunk Ry. Co. v. Miller, 62, 64, 101.
- Grand Trunk Ry. Co. v. Bourassa, 62.
- Grand Trunk Ry. Co., Harris v., 64.
- Grand Trunk Ry. Co., Farnar v., 62.
- Grand Trunk Ry. Co., Weegar v., 62.
- Grand Trunk Ry. Co., Curran v., 67, 101.
- Grand Trunk Ry. Co., Vanhorn v., 68.
- Grand Trunk Ry. Co., Langlois v., 68.
- Grand Trunk Ry. Co. v. Perrault, 70.
- Grand Trunk Ry. Co., Plester v., 70.
- Grand Trunk Ry. Co. v. McKay, 70.
- Grand Trunk Ry. Co., Tabb v., 70.
- Grand Trunk Ry. Co., Hainer v., 70, 90.
- Grand Trunk Ry. Co., Douglas v., 71.
- Grand Trunk Ry. Co., Hilliard v., 71.
- Grand Trunk Ry. Co. v. Therrien, 71.
- Grand Trunk Ry. Co. v. James, 72.
- Grand Trunk Ry. Co., Lebu v., 72.
- Grand Trunk Ry. Co., Bacon v., 72.
- Grand Trunk Ry. Co., Yeates v., 72.
- Grand Trunk Ry. Co., Flewelling v., 72.
- Grand Trunk Ry. Co., Atcheson v., 72.
- Grand Trunk Ry. Co., Toronto v., 74, 75.
- Grand Trunk Ry. Co. v. Sibbald, 74.
- Grand Trunk Ry. Co., Hammond v., 75, 136, 154.
- Grand Trunk Ry. Co., Soule v., 76.
- Grand Trunk Ry. Co., Jones v., 86, 87.
- Grand Trunk Ry. Co. v. Beaver, 87.
- Grand Trunk Ry. Co., Taylor v., 87.
- Grand Trunk Ry. Co., Peart v., 89.
- Grand Trunk Ry. Co., Champaigne v., 89.
- Grand Trunk Ry. Co., Vallee v., 90.
- Grand Trunk Ry. Co., Sims v., 90.
- Grand Trunk Ry. Co., Wright v., 90, 91.
- Grand Trunk Ry. Co. v. Anderson, 46, 93, 159.
- Grand Trunk Ry. Co. v. Atty-Gen. of Canada, 143.
- Grand Trunk Ry. Co., Ross v., 18, 56.
- Grand Trunk Ry. Co. v. Rainville, 82.
- Grand Forks Ry. Co., Platte v., 71.
- Grand Jn. Ry. Co. v. Peterborough, 94.
- Grand Jn. Ry. Co. v. Midland, 85, 123.
- Graham v. G. W. Ry. Co., 91.
- Great N. W. Tel. Co. v. Montreal, etc., 35.
- G. W. Ry. Co. v. Brown, 62, 91.
- G. W. Ry. Co., McDowell v., 62.
- Green v. Toronto Ry. Co., 135.
- Grinsted v. Toronto Ry. Co., 136.
- Guay v. The Queen, 49.
- Guelph Jn. Ry. Co., McQuillan v., 52.
- Guelph v. Guelph, etc., Ry. Co., 79.
- Gunning v. South W. T. Co., 70, 149.
- Hackett v. Toronto Ry. Co., 135.
- Haight v. Hamilton St. Ry. Co., 135.
- Hainer, G. T. R. v., 70.
- Halton Co. of, v. G. T. R. 94.
- Halifax City Ry. Co. v. Joyce, 135.
- Halifax, etc., Co. v. Inglis, 135.
- Hamilton Steel & Iron Co., Cooper v., 5, 67.
- Hamilton R. E. Ry. Co., G. T. R. v., 7, 33.
- Hamilton & N. W. Ry. Co. v. Gore Bank, 16.
- Hamilton C. P. Co., Oldwright v., 33, 154.
- Hamilton & Dundas Ry. Co., Bertram v., 59.
- Hamilton, City of, Mitchell v., 74, 137.
- Hamilton, City of, Alkin v., 74.
- Hamilton, City of, Marsh v., 135.
- Hamilton, City of, v. Hamilton St. Ry. Co., 111, 120.
- Hamilton, G. & B. Ry. Co., Ryekman v., 111, 142.
- Hamilton, G. & B. Ry. Co., Dawdy v., 136.
- Hamilton, G. & B. Ry. Co., Drewett v., 136.
- Hamilton Street Ry. Co., Heath v., 135, 136.
- Hamilton St. Ry. Co., Haight v., 135.
- Hamilton St. Ry. Co., Furlong v., 135.
- Hammond v. G. T. R., 75, 136, 154.
- Hanly v. T. H. & B. Ry. Co., 50.
- Hanly, T. H. & B. Ry. Co. v., 70.
- Hanly v. M. C. R., 90.
- Hardy v. Pickerell, etc., 85, 123.
- Harris v. G. T. R., 64, 143.
- Harrison v. Alliance Assce. Co., 57.
- Haskell and G. T. R., *In re*, 52.
- Hatton v. M. P. & B. Ry. Co., 12, 15.
- Havistock v. Emery, 136.
- Hays, Rex v., 64, 87, 154.
- Henley v. C. P. R., 82.
- Hendrie v. G. T. R., 28.
- Hendrie v. T. H. & B. Ry. Co., 43, 75.
- Hendrie, *Re* T. H. & B. Ry. Co. and, 55.
- Henderson v. Can. Atlantic Ry. Co., 90, 91.
- Heath v. Hamilton St. Ry. Co., 135, 136.
- Hess, *Re*, 22.
- Lewson v. Ont. P. Co., 7.
- Hext v. Gill, 79.

- Hilliard v. G. T. R., 71.
 Hill v. Toronto Ry. Co., 135.
 Hodgins v. O'Hara, 9.
 Hollinger v. C. P. R., 6, 90.
 Hooper and E. & H. Ry. Co., *In re*, 52.
- I.
- Inglis, Halifax E. T. Co. v., 13a.
 Interurban Ry. Co. v. Hancock, 135.
 Inverness v. Melsaac, 50.
 Isle of Wright v. Tahourdin, 12.
- J.
- Jackson, C. S. Ry. Co. v., 4, 46, 90.
 Jackson v. G. T. R., 82.
 James Bay Ry. Co. and Worrell, *Re*, 2,
 4, 47, 54.
 James Bay Ry. Co. v. Armstrong, 53.
 James Bay Ry. Co. v. G. T. R., 79.
 James v. Ont. & Q. Ry. Co., 46, 49.
 James, G. T. R. v., 72, 149.
 James v. Dom. Express Co., 86.
 Jenkins v. Cen. Ont. Ry. Co., 55.
 Johnson v. Ont. S. & H. Ry. Co., 4, 46.
 Johnson v. S. P. Ry. Co., 62.
 Jones v. Miller, 22.
 Jones v. G. T. R., 86, 87, 93.
 Judah, Atlantic, etc., Ry. Co. v., 54.
- K.
- Kaministiquia, etc., C. P. R., etc. v., 36.
 Keachie v. City of Toronto, 74.
 Kelly v. Ottawa Ry. Co., 142.
 Kendry, Ottawa Ladies' College v., 9.
 Kerner v. T. H. & B. Ry. Co., 46, 50, 53.
 King, The, C. P. R. v., 32.
 King v. Alford, 144.
 Kingston & P. Ry. Co., Deyo v., 73, 101.
 Kingstone & P. Ry. Co., Mickle v., 29.
 Kingstone & P. Ry. Co. v. Murphy, 34,
 54, 127.
 Knill v. G. T. R., 46, 50, 68.
- L.
- Labombarde v. Chatham Gas Co., 123.
 Lanark, *Re* Campe. and Village of,
 11.
 Langlois v. G. T. R., 68.
 Lake Erie, etc., v. Barclay, 75.
 LaRose v. T. & N. O. Ry. Comm'n., 79.
 Lawson, C. P. R. v., 101.
 Lee v. Minneapolis, 71.
 Lees v. T. & N. P. Co., 47, 54.
- Lees v. Ottawa & N. Y. Ry. Co., 108.
 Lebu v. G. T. R., 72.
 Lemay v. C. P. R., 67, 151.
 Lett v. St. L. & O. Ry. Co., 90, 91.
 Lewis v. Toronto Ry. Co., 123.
 Lindsay, etc., G. T. R. v., 31, 47.
 Lincoln v. St. Catharines Ry. Co., 45.
 London, etc., Mollineux v., 15, 18.
 London, City of, v. Mayor of, 15.
 London St. Ry. Co. v. City of London,
 120.
 Livingstone v. Sydney, etc., Ry. Co.,
 135.
 Long v. Midland Ry. Co., 50.
 Louise, Municipality of, v. C. P. R.,
 58.
 Lumsden v. T. & N. O. Ry. Comm'n.,
 142.
- Mc.
- McAlpine and E. & H. Ry. Co., *In re*,
 53.
 McAlpine and L. E. Ry. Co., *re*, 53.
 McArthur, Common v., 21.
 McArthur v. Northern Ry. Co., 32.
 McArthur v. N. & P. Jn. Ry. Co., 142.
 McBryan, C. P. R. v., 68.
 McCaffrey v. C. P. R., 88.
 McCarthy, Metropolitan v., 50.
 McCormack v. Toronto Ry. Co., 136.
 McCormack v. Sydney, etc., 136, 143.
 McCormack v. G. T. R., 4.
 McDonald v. Riorden, 15.
 McDonald v. T. H. & B. Ry. Co., 33, 50.
 McDonald v. G. T. R., 37.
 McDowell v. G. T. Ry. Co., 62.
 McIntyre v. McCracken, 22.
 Melsaac, Inverness v., 50.
 McKay v. G. T. R., 70.
 McKenzie v. Struthers, 29.
 McMicking v. Gibbons, 57.
 McNeils Case, *re* Wiarton, etc., 18, 22.
 McShane v. T. H. & B. Ry. Co., 70.
 McQuesten v. T. H. & B. Ry. Co., 33.
 McQuillan v. Guelph Jn. Ry. Co., 52.
- M.
- Madden v. Nelson, etc., Ry. Co., 71.
 Madden v. Halifax E. T. Co., 137.
 Macrae v. C. P. R., 106.
 Major, C. P. R. v., 34.
 Manufacturer's Coal Rates Case, 112.
 Makins v. Pigott, 70.
 Markle v. Donaldson, 52.
 Martin v. Gibson, 11, 16.
 Marsh v. City of Hamilton, 135, 136.
 Marshall v. Central Ont. Ry. Co., 16.

- Mason v. South Norfolk Ry. Co., 50.
 Maycock v. Wabash, 101.
 Medler and Toronto, *Re*, 33, 50.
 Meaford, Todd v., 49, 50.
 Mersey Ry. Co., Atty.-Gen. v., 31, 86, 119.
 Merchants Despatch Co. v. Hatley, 86.
 Metropolitan District Ry. Co., and Cosh, *Re*, 2.
 Metropolitan District Ry. Co., Errington v., 2.
 Metropolitan v. McCarthy, 50.
 Metropolitan Ry. Co., Ford v., 63, 136.
 Metropolitan Ry. Co., Toronto v., 79.
 Midland Ry. Co. v. Wright, 2.
 Midland Ry. Co., Long v., 50.
 Midland Ry. Co. v. Young, 4, 45, 55.
 Midland Ry. Co. v. Chickley, 79.
 Midland Ry. Co. v. Haunchwood, 79.
 M. C. Ry. Co., Schwoob v., 63.
 M. C. Ry. Co., Wright v., 70.
 M. C. Ry. Co., Dunsford v., 70.
 M. C. Ry. Co., Palmer v., 76.
 M. C. Ry. Co., Windsor, etc., Ry. Co. v., 79.
 M. C. Ry. Co., Oatman v., 82.
 M. C. Ry. Co., Delahanty v., 86, 87, 118.
 M. C. Ry. Co., Collier v., 90.
 M. C. Ry. Co., Misener v., 67.
 Michie v. Erie & H. Ry. Co., 9.
 Miller v. G. T. R., 62, 64, 101, 143.
 Miller, Jones v., 22.
 Milwaukee, Fritz v., 71.
 Minneapolis, Lee v., 71.
 Misener v. M. C. R., 67.
 Misener v. Wabash Ry. Co., 90.
 Mitchell v. City of Hamilton, 74, 137.
 Mitchell v. Toronto Ry. Co., 136.
 Moenie v. Tillsonburg, etc., 62.
 Molineaux v. London, etc., 15, 18.
 Monckhouse v. G. T. R., 7.
 Montreal Park, etc., v. Wynness, 52.
 Montreal Park, etc., Shannon v., 52.
 Montreal Park, etc., v. Chateauguay, etc., Ry. Co., 85.
 Montreal & O. Ry. Co., and Ogilvie, *In re*, 53.
 Montreal, etc., Ry. Co., Bourgouin v., 54.
 Montreal T. Co., Great N. W. T. Co. v., 35.
 Montreal, Fairman v., 50.
 Montreal St. Ry. Co. v. Montreal T. Ry. Co., 120.
 Montreal St. Ry. Co. v. Walker, 136.
 Montreal P. & B. Ry. Co., Hatton v., 12, 15.
 Moir v. C. P. R., 90.
 Moyer v. G. T. R., 90.
 Moran v. Hamilton St. Ry. Co., 135, 136.
 Mulvaney, Toronto Ry. Co. v., 64, 135.
 Muma v. C. P. R., 101.
 Murphy, Bridgewater Cheese Co. v., 29.
 Murphy, Kingstone, etc., Ry. Co. v., 34, 54, 127.
 Murray, Welton v., 68.
 Myers v. Brantford St. Ry. Co., 136.
- N.
- National Bank, *re*, 24.
 Neelon v. Thoroid, 22.
 Nelson, etc., Ry. Co., Madden v., 71.
 Newell v. C. P. R., 70.
 Newhaven v. Newhaven, 15.
 Niagara Ry. Co. v. G. T. R., 79.
 Mickle v. Kingstone, etc., Ry. Co., 29.
 Nightingale v. Union Colliery Co., 111.
 Nixon v. G. T. R., 149.
 Norris, St. Catharines Ry. Co. v., 49, 50.
 North Shore Ry. Co., Beaudette v., 54.
 Northern Ry. Co., McArthur v., 32.
 Nott v. Nott, 54.
 Noxon, Christopher v., 18.
- O.
- Oatman v. M. C. R., 82.
 O'Hara Hodgins v., 85, 123.
 O'Hern v. Port Arthur, 135.
 Ontario Express Co., *re*, 11.
 Oldwright v. Hamilton, etc., Power Co., 33, 154.
 Oliver and Bay of Q. Ry. Co., *Re*, 51.
 Ontario Ladies' College v. Kendry, 9.
 Ontario Loan & D. Co., Purdom v., 5.
 Ontario Farmers' Supply Co., *re*, 55.
 Ontario S. & H. Ry. Co., Johnson v., 4, 46.
 Ontario Wheel Co., Black v., 62.
 Ontario Power Co., Hewson v., 7.
 Ontario, etc., Ry., Co., Allen v., 16.
 Ontario, etc., Ry. Co. v. C. P. R., 85.
 Ontario Ry. Co. v. Taylor, 32.
 Ontario & Q. Ry. Co., James v., 46, 49.
 Ontario & Q. Ry. Co. and Taylor, *In re*, 49.
 Osler v. Toronto Ry. Co., 28.
 Ostrom v. Sills, 68.

Ottawa & N. Y. Ry. Co., *Stewart v.*, 44.
 Ottawa E. Co. v. Brennen, 53.
 Ottawa E. Co. v. Ottawa, 75.
 Ottawa E. Co., *Taylor v.*, 135.
 Ottawa E. Co., *Randall v.*, 123.
 Ottawa Fire Ins. Co., C. P. R. v., 82.
 Ottawa v. Can. Atlantic Ry. Co., 75, 94.
 Ottawa v. Ottawa E. Ry. Co., 120.
 Ottawa, etc., Ry. Co., *Wallingford v.*,
 90, 135, 136.
 Owen and Ashworth, *Re*, 15.

P.

Paint v. The Queen, 49, 50
Palmer v. M. C. R., 76.
 Panton and Cramp Steel Co., *Re*, 19.
 Parke, Buffalo & G. Ry. Co. v., 18.
 Parkdale v. West, 54, 74, 75.
 Peart v. G. T. R., 89
 Pellatt's Case, *Re*, 19.
 Pere Marquette, Burns v., 89.
 Perrault, G. T. R. v., 70.
 Peterborough v. G. T. R., 32, 50.
 Philips v. St. Catharines & N. C. Ry.
 Co., 2.
 Philbrick and Ontario & Q. Ry. Co.,
Re, 55.
 Pickerell, etc., Hardy, etc., v., 85, 123.
 Phair v. Can. Nor. Ry. Co., 72.
 Pigott, Makins v., 70.
 Plath v. Grand Forks Ry. Co., 71.
 Plester v. G. T. R., 70.
 Pontiac, etc., Ry. Co. v. Sisters of
 Charity, 53.
 Pontiac, etc., Ry. Co. v. Hull, etc., 46.
 Port Arthur, etc., v. Bell Tel. Co., 35.
 Potter and Can. Nor. Ry. Co., *re*, 53.
 Potvin v. C. P. R., 70.
 Powell v. T. H. & B. Ry. Co., 33, 46, 50.
 Preston, etc., Ry. Co. v. G. T. R. 79.
 Preston v. Toronto Ry. Co., 135, 136.
 Prittie, Scottish Am. Ins. Co. v., 45, 55.
 Pugh v. Golden Valley Ry. Co., 33.
 Pullman Car Co., Stern v., 92.
 Purdon v. Ont. L. Co., 5.

Q.

The Queen, Guay v., 49.
 The Queen, Paint v., 49, 50.
 The Queen, Veniza v., 58.
 Quebec & Lake St. John Ry. Co., Gar-
 rneau v., 7.
 Quillinan v. C. S. Ry. Co., 50.

R.

Randall v. Ottawa E. Co., 123.
 Rainville, G. T. R. v., 81, 82.
 Railway Amendment Act, *In re*, 143.
 Railway Act, *In re*, 15.
 Regina v. Eastern, etc., Ry. Co., 50.
 Regina v. Hughes, 117.
 Regina v. Toronto Ry. Co., 64.
 Regina v. Toronto Ry. Co., 143.
 Renwick v. Galt, etc., Ry. Co., 136.
 Rex v. Hays, 64, 87, 154.
 Reid and Can. Atlantic Ry. Co., *In re*,
 75.
 Rhys v. Dare, etc., 57.
 Riorden, McDonald v., 15.
 Ritchie, Weddell v., 528.
 Robinson v. Toronto Ry. Co., 136.
 Robertson and G. T. Ry. Co., *Re*, 63, 86.
 Rombach v. Balch, 108, 136.
 Ross v. G. T. R., 18, 56, 142.
 Rousseaux and T. H. & B. Ry. Co., *Re*,
 45.
 Rowan v. Toronto Ry. Co., 135.
 Roy, C. P. R. v., 82.
 Royle v. Can. N. Ry. Co., 90.
 Royal Electric Co. v. Hevi, 123.
 Royal, Gilman v., 21.
 Ruttan v. Can. N. Ry. Co., 50.
 Ryckman v. H. G. & B. Ry. Co., 111,
 142.

S.

Sault St. Marie Pulp Co., Drake v., 32.
 Savage and C. P. Ry. Co., *Re*, 146.
 Schellenberg v. C. P. R., 72.
 Schwoob v. M. C. Ry. Co., 63.
 Scott v. Midland Ry. Co., 108.
 Scott v. Tillsonburg, 11.
 Scottish Am. Ins. Co. v. Prittie, 45, 55.
 Schibley and Napanee Ry. Co., *Re*, 55.
 Shannon v. Montreal Park, etc., 52.
 Sibbald, G. T. R. v., 74.
 Schoebrick v. Can. Atlantic Ry. Co., 90.
 Shore Line Ry. Co., *Re*, 7.
 Sills, Ostrom v. 68.
 Simpson v. Toronto and York R. R.
 Co., 136.
 Sims v. G. T. R., 90.
 Sisters of Charity, Pontiac, etc., v., 53.
 Slater v. Can. C. Ry. Co., 45.
 Smith v. Can. Express Co., 86.
 Smith v. Niagara & St. Catharines Ry.
 Co., 90.
 Smith v. Spencer, 9.
 Soule v. G. T. R., 76.

- South Western T. Co., Gunning v., 70, 149.
- South Stoneham, etc., v. Company of Proprietors, etc., 2.
- South Norfolk Ry. Co., Mason v., 50.
- Southern Pacific Ry. Co., Johnson v., 62.
- Spencer, Smith v., 9.
- St. Mary's Creamery Co. v. G. T. R., 86.
- St. Catharines Ry. Co., Lincoln v., 45.
- St. Catharines Ry. Co. v. Norris, 49, 50.
- St. Louis, etc., v. Shaw, 49.
- St. Therese, C. P. R. v., 52.
- St. Catharines & N. C. Ry. Co., Philips v., 2.
- Stern v. Pullman Car Co., 92.
- The Stella, 111.
- Stitt v. Port Arthur, 136.
- Stewart v. Ottawa & N. Y. Ry. Co., 44.
- Stephenson v. Vokes, 16.
- Struthers v. McKenzie, 29.
- Stratford v. T. H. & B. Ry. Co., 82.
- Stuart v. Metropolitan Ry. Co., 135.
- Sutton v. English, 15.
- Sweeney v. Bank of Montreal, 20.
- T.
- Tabb v. G. T. R., 70.
- Tahourdin, Isle of Wight v., 12.
- Taylor v. G. T. Ry. Co., 87.
- Taylor, Ont. Ry. Co. v., 32.
- Taylor and Ont. & Q. Ry. Co., *Re*, 55.
- Taylor v. Ottawa E. Co., 135.
- Temiscouata Ry. Co., Dingle v., 72.
- Thorold, Neelon v., 22.
- Therrien, G. T. R. v., 71.
- Tilden, Crawford v., 7, 144.
- Tillsonburg, etc., Ry. Co., Moenie v., 62.
- Tillsonburg, Scott v., 11.
- Todd v. Meaford, 49, 50.
- Tolton v. C. P. R., 45, 46, 68.
- Toronto Brewing & Malting Co v. Blake, 15.
- Toronto Gen. T. Co. v. Cen. Ont. Ry. Co., 15, 25, 28.
- Trusts & G. Co., Ont. Ry. Co. v., 28.
- Toronto & N. P. Co., Walker v., 42.
- Toronto & N. P. Co. v. Lees, 47, 54.
- Toronto Belt Line, Broo.e v., 47, 54.
- Toronto Milk Co., Birnie v., 16.
- Toronto, Hamilton & Buffalo Ry. Co., and Burke, *Re*, 4, 48.
- Toronto, Hamilton & Buffalo Ry. Co., *Re* Birely and, 33, 46, 49, 53.
- Toronto, Hamilton & Buffalo Ry. Co., Powell v., 33, 46, 50.
- Toronto, Hamilton & Buffalo Ry. Co., Stratford v., 82.
- Toronto, Hamilton & Buffalo Ry. Co., Hendrie v., 43, 75.
- Toronto, Hamilton & Buffalo Ry. Co., and Hendrie, *Re*, 55.
- Toronto, Hamilton & Buffalo Ry. Co., Hanley v., 50.
- Toronto, Hamilton & Buffalo Ry. Co., v. Hanley, 70.
- Toronto, Hamilton & Buffalo Ry. Co., Kerner v., 46, 5., 53.
- Toronto, Hamilton & Buffalo Ry. Co., McShane v., 70.
- Toronto, Hamilton & Buffalo Ry. Co., McDonald v., 33, 50.
- Toronto, Hamilton & Buffalo Ry. Co., McQuestin v., 33.
- Toronto, Hamilton & Buffalo Ry. Co., *Re* Ronssenau and, 45.
- Toronto v. Metropolitan Ry. Co., 79.
- Toronto E. & L. Co. Gloster v., 123.
- Toronto v. G. T. R., 74, 75.
- Toronto and Toronto St. Ry. Co., *Re*, 74.
- Toronto, Keachie v., 74.
- Toronto Ry. Co., Ardah v., 135.
- Toronto Ry. Co., Brenner v., 90, 135, 136.
- Toronto Ry. Co., Consumers' Gas Co. v., 123.
- Toronto Ry. Co., Bond v., 62.
- Toronto Ry. Co., Balfour v., 135.
- Toronto Ry. Co., Begg v., 136.
- Toronto Ry. Co. Blackley v., 136.
- Toronto Ry. Co., Blackmore v., 136.
- Toronto Ry. Co., Coll v., 111.
- Toronto Ry. Co., Coolidge v., 136.
- Toronto Ry. Co., Cornish v., 136.
- Toronto Ry. Co., Daldry v., 135, 136.
- Toronto Ry. Co., Ewing v., 135.
- Toronto Ry. Co., Gallinger v., 135.
- Toronto Ry. Co., Green v., 135.
- Toronto Ry. Co., Gosnell v., 135.
- Toronto Ry. Co. v. Gristed, 136.
- Toronto Ry. Co., Hackett v., 135.
- Toronto Ry. Co., Hill v., 135.
- Toronto Ry. Co., Mitchell v., 136.
- Toronto Ry. Co., McCormack v., 136.
- Toronto Ry. Co. v. Mulvaney, 64, 135.
- Toronto Ry. Co., Osler v., 28.
- Toronto Ry. Co., Preston v., 135, 136.
- Toronto Ry. Co., Regina v., 64.
- Toronto Ry. Co., *Re* Toronto and, 74.
- Toronto Ry. Co. v. Toronto, 120, 131, 137, 143.
- Toronto Ry. Co., Rowan v., 135.

- Toronto Ry. Co., Small v., 135, 136.
 Township of Gloucester v. Canada Atlantic Ry. Co., 3.
 Tower Oiled Clothing Case, 112.
 T. & N. O. Ry. Commission, LaRose v., 79.
 T. & N. O. Ry. Commission, Lumsden v., 142.
 Tucker, Young v., 68.
- U.
- United Factories v. G. T. R., 108.
- V.
- Vallee v. G. T. R., 90.
 Vallieu v. G. T. R., 30.
 Van Cleaf v. Hamilton St. Ry. Co., 134, 135.
 Vancouver, C. P. R. v., 79.
 Vancouver, etc., Ry. Co., Yale Hotel Co. v., 85.
 Vanhorn v. G. T. R., 68.
 Veniza v. The Queen, 58.
 Vickers Express Co. v. C. P. R., 114.
 Village of Lanark, *Re* Campbell and, 11.
 Villeneuve v. C. P. R., 151.
 Vokes, Stephenson v., 16.
- W.
- Wabash Ry. Co., Decue v., 92.
 Wabash Ry. Co., Misener v., 90.
- Wallingford v. Ottawa, etc., Ry. Co., 90, 135, 136.
 Wallman v. C. P. R. Co., 135.
 Walker v. Toronto & N. P. Co., 42.
 Walters v. C. P. R., 142.
 Washington v. G. T. Ry. Co., 7, 67.
 Waterloo & City Ry. Co. v. Farmer, 2.
 Weddell v. Ritchie, 5, 28.
 Weegar, G. T. R. v., 62.
 Welton v. Murray, 68.
 West, Parkdale v., 54, 74, 75.
 Weston, Carson v., 75.
 Weston v. C. P. R., 35.
 Whitby v. G. T. R., 9, 11, 94.
 Wiarton, etc., *Re* McNell's Case, 18, 22.
 Wicher v. C. P. R., 50.
 Widder v. Buffalo, etc., Ry. Co., 47, 52.
 Wile v. Bruce Mines Ry. Co., 7.
 Williams v. G. T. Ry. Co., *Re*, 54.
 Windsor, etc., Ry. Co. v. M. C. R., 79.
 Wood, Atlantic, etc., v., 47, 53.
 Wood v. C. P. R., 81.
 Worrell, *Re* James Bay Ry. Co. and, 2, 4, 47, 54.
 Wright, Midland Ry. Co. v., 2.
 Wright v. M. C. Ry. Co., 70.
 Wright v. G. T. Ry. Co., 90, 91.
 Wynness, Montreal Park, etc., v., 52.
- Y.
- Yale Hotel Co. v. Vancouver, etc., Ry. Co., 85.
 Yeates v. G. T. R., 72.
 Young, Midland Ry. Co. v., 4, 45, 55.
 Young v. Tucker, 68.



THE
ONTARIO RAILWAY ACT
1906

6 EDWARD VII.

CHAPTER 30.

(And amendments thereto.)

An Act respecting Steam, Electric, and Street
Railways.

[Assented to 14th May, 1906.]

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of On-
tario, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Ontario Railway Act, 1906.*"

This Act does not apply to T. & N. O. Ry., nor binding upon the T. & N. O. Railway Commission, except as provided by sec. 16 of 7 Edw. VII. cap. 18 (1907).

INTERPRETATION.

2. Where the words following occur in this Act, and in the special Act incorporating any Railway or Street Railway Company, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

(1) "The Special Act," shall be construed to mean any Act authorizing the construction of or otherwise specially

relating to a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated; and in all cases where this Act is made applicable to street railways or street railway companies the words "the special Act" shall include a charter of incorporation of a street railway company under the Great Seal of the Province of Ontario; or supplementary letters patent relating to such a company.

(2) "Prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same is prescribed or provided for in the special Act; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used;

(3) "The Lands" shall mean the lands which by the special Act are authorized to be taken or used for the purposes thereof;

Does not include an easement: *Re James Bay Ry. Co. and Worrell*, 6 O. W. R. 512; *Re Metropolitan District Railway Company and Cosh*, 13 Ch. D. 607, considered *Midland Ry. Co. v. Wright*, (1901) 1 Ch. 738.

Under English Act also includes minerals: *Errington v. Metropolitan District R. W. Co.*, 19 Ch. D. 559; and sub-soil: *Farmer v. Waterloo and City Ry. Co.*, (1895) 1 Ch. 527; *The Company of Proprietors of the Northern Bridge v. The South Stoneham Rural Council*, 23 T. L. R. 476.

Company not entitled under this Act to minerals unless expressly purchased: *Sec. 100. See ss. 99-104.*

(4) "The Undertaking" shall mean the railway and works of whatever description, by the special Act authorized to be executed.

Phelps v. St. Catharines and Niagara Central Ry. Co., 18 O. R. 581, 19 O. R. 501.

(5) "Board" shall mean "The Ontario Railway and Municipal Board."

(6) "By-law," when referring to the act of the company shall include a resolution;

Includes the power to alter or revoke from time to time and make others: Sub-sec. 38 of sec. 8 of Interpretation Act, R. S. O. 1897, cap. 1.

As to By-laws, Rules and Regulations, see secs. 150-161, *infra*; and as to Tolls, 169. See also sec. 17.

(7) "Costs" shall include fees, counsel fees, and expenses;

See sub-secs. 10, 25 and 29 of sec. 68, *infra*.

(8) "Land" or "lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure;

See "The Lands," *supra*.

(9) "Lease" shall include any agreement for a lease;

(10) "Toll" shall include any rate or charge or other payment payable under this Act or the special Act for any passenger, animal, carriage, goods, merchandise, articles, matters or things conveyed on the railway;

(11) "County" shall include any union of counties, and any provisional judicial district;

(12) "County Court Judge" shall include a Judge of a District Court;

(13) "Highways" shall mean any public road, street, lane, and other public way or communication;

Includes an unopened road allowance: Township of Gloucester v. Canada Atlantic Ry. Co., 3 O. L. R. 85, 1 Can. Ry. Cases 327.

Does not include a road merely shown on a plan registered by a private owner and not opened up or adopted by the municipality: City of Toronto v. G. T. Ry. Co., 2 O. W. R. 3; nor a "trail" or way not a public highway as of right: Royle v. Can. N. Ry. Co., 14 Man. L. R. 275, 3 Can. Ry. Cases 4.

See 1 Can. Ry. Cases 349, where subject is discussed.

(14) "Street" shall include any highway;

(15) "Sheriff" shall include the Deputy Sheriff; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace" shall.

in such case, be construed to mean the Sheriff or Clerk of the Peace of the district, county, city, or place where such lands are situate; and if the lands in question, being the property of one and the same person, are situate not wholly in one district, county, city, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such district, county, city, or place where any part of such lands is situate;

(16) "Goods" shall include personal property of every description that may be conveyed upon the railway, or upon steam vessels, or other vessels connected with the railway;

Includes dogs: *McCormack v. G. T. Ry. Co.*, 6 O. L. R. 577, 3 Can. Ry. Cases 185.

(17) A "Justice" shall mean Justice of the Peace or Stipendiary or Police Magistrate acting for the district, county, city, or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter; and where the matter arises in respect of lands being the property of the same person, situate not wholly in any one district, county, city or place, the word "Justice" shall mean a Justice or Stipendiary or Police Magistrate acting for the district, county, city or place where any part of such lands is situate, and who is not interested in such matter;

(18) "Owner" (where, under the provisions of this Act or the special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of any such owner) shall be understood to mean any corporation or person who, under the provisions of this Act or the special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the company;

All parties interested in the lands treated as the owners for purposes of compensation: *Midland Ry. Co. v. Young*, 22 S. C. R. 190; *Re Toronto, Hamilton and Buffalo Ry. Co.*, and *Burke*, 27 O. R. 690; *Re C. P. R. and Batten*, 13 Man. L. R. 200, 1 Can. Ry. Cases 457, and at pp. 484, 485 and 486.

Tenant for life: *Dunlop v. Can. Central Ry. Co.*, 45 U. C. R. 74.

Tenant for years: *Johnson v. Ontario, Simcoe and Huron Ry. Co.*, 11 U. C. R. 246.

Cestui que trust and not bare trustee alone: *Re James Bay Ry. Co.* and *Worrell*, 6 O. W. R. 473.

(19) "The company" shall mean the company or person authorized by the special Act to construct the railway or street railway (if the section of the Act in which the words occur is applicable by its terms to street railways), and shall include all persons or corporations leasing or operating any railway;

(20) "The railway" shall mean the railway and works by the special Act authorized to be constructed;

Private owners operating a railway on their own property within the term: *Cooper v. Hamilton Steel and Iron Co.*, 8 O. L. R. 353.

(21) "Street railway" shall mean a railway constructed or operated along a highway under or by virtue of an agreement with or by-law of a city or town, and shall include all portions of such railway within such city or town and for one and a half miles beyond the limits thereof. Although such one and a half miles may be constructed under a by-law of, or agreement with a municipality, other than such city or town.

(22) "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the shareholder.

Generally speaking, each shareholder has only one vote: *Weddell v. Ritchie*, 10 O. L. R. 5, *McLaren, J.A.*, at 14, 14. See also *Purdum v. Ontario Loan and Debenture Co.* (1892), 22 O. R. 597. But under sub-sec. 2 of sec. 12 of this Act, the number of votes shall be in proportion to the number of shares held on which all calls due have been paid.

(23) "Inspecting engineer" shall mean an engineer who is directed by the Board to examine any railway or works, and shall include two or more engineers when two or more are so directed;

(24) "Working expenses" shall mean and include all expenses of maintenance of the railway, and all such tolls, rents or annual sums as are paid in respect of property leased to or held by the company, apart from the rent of any leased line, or in respect of the hire of rolling stock, let to the company; also all rent charges or interest on the purchase money of lands belonging to the company purchased but not

paid for or not fully paid for; and also expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company; also rates, taxes, and insurance; also, all salaries and wages of persons employed in and about the working of the railway and traffic; and all office and management expenses, including directors' fees, agency, legal and other like expenses; also all costs and expenses of and incidental to the compliance by the company with any order of the Board under this Act; and generally all such charges, if any, not above otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account;

(25) "Traffic" shall include passengers, goods and rolling stock.

(26) "Train" shall include any engine, motor car or other rolling stock;

Hollinger v. C. P. Ry. Co., 20 A. R. 244.

(27) "Rolling stock" shall mean and include any locomotive, engine, motor, car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement, on its wheels, over or upon the rails or tracks of the company;

(28) "Secretary" shall mean the Secretary of the Board.

APPLICATION OF ACT.

3.—(1) This Act shall, unless otherwise expressed, apply to all persons, companies, railways (other than Government railways) and (when so expressed) to street railways within the legislative authority of the Legislature of Ontario, and whether such railways are operated by steam, electricity or other motive power, and whether constructed and operated on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be incorporated and construed, as one Act, with the special Act, subject as herein provided.

(2) No section of this Act shall apply to street railways unless it is so expressed and provided.

See secs. 5, 6 and 8 of the Railway Act (Dom.), R. S. C. 1906 cap. 37; also *C. P. Ry. Co. v. G. T. Ry. Co.*, 12 O. L. R. 329; *Garneau v. Quebec and Lake St. John Ry. Co.*, Q. R. 12 K. B. 205; *City of Toronto v. Bell Tel. Co.*, 1905, A. C. 52; *Hewson v. Ontario Power Co.*, 36 S. C. R. 596; *G. T. Ry. Co. v. Hamilton Radial Electric Ry. Co.*, 39 O. R. 123, 2 Can. Ry. Cases 265, *et seq.*; *In re Shore Line Ry.*, 3 Can. Ry. Cases 277.

Would not affect a Dominion railway: *Monkhouse v. G. T. Ry. Co.*, 8 A. R. 637; *Clegg v. G. T. Ry. Co.*, 10 O. R. 708; *Washington v. G. T. Ry. Co.*, 24 A. R. 183, 28 S. C. R. 184, (1899) A. C. 275.

In the *Washington* case the Court of Appeal held that sec. 5 of the *Workmen's Compensation for Injuries Act*, R. S. O. 1897, cap. 160, requiring that railway frogs should be packed during certain months of the year, do not apply to Dominion railways; but in *C. S. Ry. Co. v. Jackson*, 17 S. C. R. 316, the Court held that sec. 10 of the same Act did apply to Dominion railways.

The *Mechanics' Lien Act*, R. S. O. 1897 cap. 153, held not to apply to a Dominion railway: *Crawford v. Tilden*, 13 O. L. R. 169, 9 O. W. R. 781, 6 Can. Ry. Cases 390.

Affirmed by the Court of Appeal, April 22nd, 1907.

See also 7 Edw. VII. (1907), cap. 37, known as the *Hendrie Act*, the object of which is to retain control by the Province over provincial corporations. (See appendix).

4. Any section of this Act may, by any special Act passed by the Legislature, be excepted from incorporation therewith, or may thereby be extended, limited or qualified. It shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely.

A provincial Court has jurisdiction to appoint receiver of a railway under federal legislative jurisdiction situated in the province, in the absence of federal legislation providing otherwise: *Wile v. Bruce Mines and Algoma Ry. Co.*, 7 O. W. R. 157, 11 O. L. R. 209, 5 Can. Ry. Cases 415.

5. If in any special Act heretofore passed by the Legislature it is enacted that any provision of *The Railway Act of Ontario* or of *The Electric Railway Act*, or of *The Street Railway Act* in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified, in like manner; and unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any public Act of this Province, and the sections expressly

made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act.

It would appear rather difficult to reconcile with the last clause of this section, sec. 171, wherein it provides that, notwithstanding any provision contained in any special Act to the contrary, the rate of fares therein stated shall prevail.

ORGANIZATION OF THE COMPANY.

Offices.

6. The head office of the company shall be in the place designated in the Special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice thereof to be given to the Secretary of the Board who shall keep a register for the purpose.

Provisional Directors.

7.—(1) The persons mentioned by name as such in the Special Act are hereby constituted provisional directors of the company, and of such provisional directors a majority shall be a quorum, and the said provisional directors shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions of stock for the undertaking, and receive payments on account of stock subscribed and make calls upon subscribers in respect of their stock, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking, and enter into any agreement authorized by this Act or by the Special Act with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof, and cause plans and surveys to be made, and deposit in any chartered bank of Canada having an office in Ontario moneys received by them on account of stock subscribed, which moneys shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company for any cause whatsoever.

(2) The said provisional directors shall have power to add to their number, or to substitute for any member of the said Board of provisional directors (whether named in the Special Act, or by the said provisional directors) who may desire to resign or withdraw from his position as a provisional director of the said company, any other person as a provisional director thereof; and all such persons as shall, from time to time, be provisional directors of the said company, pursuant to the provisions of this Act, shall constitute the board of provisional directors thereof.

Powers of provisional directors: See *Michie v. Erie and Huron Ry. Co.*, 26 U. C. C. P. 596; *Whitby v. Grand Trunk Ry. Co.*, 1 O. L. R. 480.

(3) If more than the whole stock has been subscribed, the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking; and in such allocation the said directors may in their discretion exclude any one or more of the said subscribers, if in their judgment such exclusion will best secure the building of the said railway; and all meetings of the provisional board of directors shall be held at the head office of the company or at such other place in the Province of Ontario as may in the opinion of the provisional directors best suit the interests of the company.

(4) No subscription for stock in the capital stock of the company shall be binding on the company unless it shall be approved by resolution of the provisional directors or of the directors, nor unless ten per centum of the amount subscribed has been actually paid within one month after subscription.

Hodgins v. O'Hara, 22 Oec. N. 29, 133; *Ontario Ladies College v. Kendry*, 10 O. L. R. 324; *Bullion Mining Co. v. Cartwright*, 10 O. L. R. 438.

Subscription to a stock book sufficient evidence without issue of script: *Smith v. Spencer*, 12 U. C. C. P. 277.

Capital.

8.—(1) The capital stock of the company, the amount of which shall be stated in the special Act, shall be divided into shares of one hundred dollars each; and the money so raised shall be applied in the first place, to the payment of all

fees, expenses and disbursements for procuring the passing of the Special Act, and for making the surveys, plans and estimates of the works authorized by the Special Act; and all the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway, and other purposes of the undertaking.

(2) So soon as twenty-five per centum of the capital stock is subscribed and ten per centum paid thereon into some chartered bank of the Dominion having an office in the Province of Ontario, to the credit of the company, and which shall on no account be withdrawn therefrom unless for the lawful purposes of the company, the said provisional directors or a majority of them shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice of such meeting by advertisement in the *Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the said meeting.

(3) If the provisional directors neglect to call such meeting for three months after twenty-five per centum of the capital stock shall have been subscribed and ten per centum thereof paid up, the same may be called by any five of the subscribers who have so paid up ten per centum and who collectively have subscribed for not less than twenty-five shares of the capital stock in the company and who have paid up all calls thereon.

(4) At such general meeting the shareholders present either in person or by proxy, who shall at the opening of such meeting have paid up ten per centum on the stock subscribed by them, shall elect directors of the company in manner and qualified as hereinafter mentioned, who shall constitute a board of directors and shall hold office until the next general annual meeting, and a majority of the directors shall form a quorum of the board, and may pass such rules, regulations and by-laws as may be deemed expedient and are not inconsistent with this Act; and the said board may employ and pay one of their number as managing director.

Preference shares: See *British v. Couper* (1894), A. C. 399; *Andrews v. Gas Meter Co.*, 1897, 1 Ch. 361; *Allen v. Gold Reefs* (1900), 1 Ch. 656.

9. The original capital stock of the company may, with the approval of the Board, be increased, from time to time, to any amount, if such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose by a notice in writing to each shareholder, delivered to him personally, or properly directed to him and deposited in the post office at least twenty days previously to such meeting, stating the time, place and object of such meeting, and the amount of the proposed increase; and the proceedings of such meeting shall be entered in the minutes of the proceedings of the company, and thereupon the capital stock may, with such approval, be increased to the amount sanctioned by such vote.

Martin v. Gibson, 10 O. W. R. 66; *Re Massey Mfg. Co.*, 13 A. R. 446; *Re Ontario Express Co.*, 24 S. C. R. 716.

When empowered by provincial laws municipalities may subscribe for stock in railways operating under Federal Charter, sec. 99 of the Railway Act: See *Whitby v. Grand Trunk Ry. Co.*, 2 Canadian Ry. Cases at p. 273; *Scott v. Tilsonburg*, 13 A. R. 233; *Re Campbell and Village of Lanark*, 20 A. R. 372.

The rights of all the shareholders must be regarded in the issue and allotment of new stock: *Martin v. Gibson*, 10 O. W. R. 66.

General Meetings.

10.—(1) A general meeting of the shareholders for the election of directors and for the transaction of other business connected with or incident to the undertaking, to be called "the annual meeting," shall be held annually on the day mentioned in the special Act, or on such day as may be fixed for that purpose by the by-laws of the company, and other general meetings, to be called "special meetings," may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene such special meeting, for twenty-one days thereafter fail to call such meeting.

(2) The annual meetings shall be held at the head office of the company.

(3) Special general meetings of the shareholders of the company may be held at such places in the Province of Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company, upon such notice as is provided in section 11 of this Act.

Calling—Mandamus: *Hutton v. M. P. & B. Ry. Co.*, M. L. R. 1 S. C. 69.

Judicial control: *Earle v. Burland*, (1902) A. C. 83; *Isle of Wight Ry. Co. v. Tahourdin*, 25 Ch. D. 320.

Under the Ontario Companies Act, sec. 44, meetings may, if specially authorized, be held out of Ontario.

Under provincial Acts meetings are sometimes authorized to be held outside of the province: Vide 7 Edw. VII. cap 111, sec. 5 (*The Thurlow Railway Company*).

11. Two weeks' public notice of any meeting of the shareholders shall be given by advertisement, in at least one newspaper published in the place where the head office is situate—in which notice shall be specified the place and the day and the hour of meeting; all such notices shall be published weekly, and a copy of the newspaper containing such notice shall, on production thereof, be evidence of the sufficiency of such notice.

12.—(1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as by this Act is required to be transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice upon which it is convened.

(2) The number of votes to which each shareholder shall be entitled on every occasion when the votes of the shareholders are to be given, shall be in proportion to the number of shares held by him, and on which all calls due have been paid.

(3) Every shareholder, whether resident in Canada or elsewhere, may vote by proxy, if he sees fit, and if such proxy produces from his constituent an appointment in writing, in the words or to the effect following, that is to say:

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____ of _____, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the

undertaking of the said _____ that is mentioned or proposed
 at any meeting of the shareholders of the said company, in such
 manner as he the said _____ thinks proper.

In witness whereof, I have hereunto set my hand and seal, the
 day of _____ in the year _____

(4) Any vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder in the company, and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the company, and be deemed the decisions and acts of the company.

13.—(1) Copies of the minutes of proceedings and resolutions of the shareholders of the company, at any annual or special meeting, and of the minutes of proceedings and resolutions of the directors, at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be true copies extracted from such minute books, and when sealed with the company's seal shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions in any court.

(2) All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company.

President and Directors.

14.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting; and if such election is not held on the day appointed therefor, the directors shall cause such election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed.

(2) On the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had

the election been held on the day when it ought to have been held.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws.

(4) No person shall be a director unless he is a shareholder, owning at least ten shares of stock absolutely in his own right, and qualified to vote for directors at the election at which he is chosen.

(5) The directors appointed at the last election or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors.

(6) In case of the death, absence or resignation of any of the directors, others may be appointed in their stead by the remaining directors; but if such appointment is not made such death, absence or resignation shall not invalidate the acts of the remaining directors.

(7) The directors shall, at their first or at some other meeting after the election, elect one of their number to be the president of the company, who shall, always, when present, be the chairman of and preside at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead; and they may in like manner elect a vice-president, who shall act as chairman in the absence of the president.

(8) The directors at any meeting at which not less than a quorum are present, shall be competent to use and exercise all and any of the powers vested in the directors.

(9) The act of a majority of a quorum of the directors present at any meeting regularly held, shall be deemed the act of the directors.

(10) No director shall have more than one vote at any meeting, except the chairman, who shall, in case of a division, of equal numbers, have the casting vote.

Toronto Brewing and Malting Co. v. Blake, 2 O. R. 175.

Liable for untrue statements in prospectus: Section 102 of the Ontario Companies Act, 7 Edw. VII. cap. 34.

Annual meeting: Hatton v. Montreal, P. & B. Ry. Co., M. L. R. 1 S. C. 69.

Salary of President: Earle v. Burland, (1902) A. C. 83; Fayne v. Langley, 31 O. R. 254.

Disqualification: Molineaux v. London, etc., (1902) 2 K. B. 589; Sutton v. English, (1902) 2 Ch. 502; McDonald v. Riorden, 30 S. C. 619; In re Railway Act, 36 S. C. 136.

Quorum: Newhaven v. Newhaven, (1885) 30 Ch. D. 350; Toronto Gen. Trusts Co. v. Central Ontario Ry. Co., 2 Can. Ry. Cases 274 at p. 282; Re Owen v. Ashworth, (1901) 1 Ch. 115.

15. The directors shall be subject to the control of the shareholders at their annual meetings, and to all by-laws of the company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the special Act.

16. No person concerned or interested in any contract under or with the company, or being a surety for any contractor, shall be capable of being chosen a director, or of holding or continuing in the office of director or provisional director, nor shall any person being a director or provisional director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company; and in the event of any such contract being made by or on behalf of any director or provisional director or promoter, an action shall lie in any court of competent jurisdiction against such director or provisional director or promoter at the suit of any shareholder of the company or of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract so made or fulfilled.

Costa Rica Ry. Co. v. Forwood, (1900) 1 Ch. 756; City of London, etc., v. Mayor, etc., of London, 1901, 1 Ch. 602, (1903) A. C. 434.

17. The directors may make by-laws for the management and disposition of the stock, property, business and affairs

of the company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and for prescribing their respective duties and salaries.

See *Martin v. Gibson*, 10 O. W. R. 66. Includes the power to alter or revoke from time to time and make others: Sub-section 38 of sec. 8 of Interpretation Act, R. S. O. 1897 cap. 1.

As to directors' right to appeal: *Stephenson v. Vokes*, 27 O. R. 691.

Salary, services, etc.: See *Allen v. Ontario, etc., Ry. Co.*, 29 O. R. 510; *Birnie v. Toronto Milk Co.*, 5 O. L. R. 1.

Drunkenness a good ground for dismissal: *Marshall v. Central Ontario Ry. Co.*, 28 O. R. 241.

18. The directors may from time to time appoint such officers as they deem requisite, and shall take sufficient security, by one or more penal bonds, or otherwise, from the manager and officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the special Act, and for the faithful execution of their offices, as the directors think proper.

As to powers of officers: See *Hamilton and N. W. Ry. Co. v. Gore Bank*, 20 Gr. 190.

19. The directors may by by-law or resolution provide for the retirement of such of the company's officers and servants, on such terms as to an annual allowance or otherwise, as in each case the directors, in the interest of the company's service and under the circumstances, consider just and reasonable.

20. The directors may be paid such reasonable remuneration for their services as may be sanctioned by the shareholders by resolution passed at the annual general meeting to be held for the purpose of electing the successors of such directors.

21. In case of the absence or illness of the president, the vice-president, and in case of the absence or illness of the president and vice-president, a director appointed for that purpose shall have all the rights and powers of the president, and may sign all debentures, and other instruments, and per-

form all acts which by the regulations and by-laws of the company or by this Act are required to be signed, performed and done by the president.

22. The directors may at any meeting require the secretary to enter such absence or illness among the proceedings of such meeting, and a certificate thereof signed by the secretary shall be delivered to any person or persons requiring the same on payment to the treasurer of \$1, and such certificate shall be taken and considered as *prima facie* evidence of such absence or illness at and during the period in the said certificate mentioned in all proceedings in courts of justice or otherwise.

23. The directors shall cause to be kept, and annually on the 31st day of December, shall cause to be made up and balanced, a true, exact and particular account of all moneys collected and received by the company, or by the directors or manager thereof, or otherwise, for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company.

The nature of the returns and accounts required is specified in sec. 228, *infra*.

Calls.

24.—(1) The directors may from time to time make such calls of money not exceeding ten per centum of the amount subscribed upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act, but nothing herein contained shall prevent the directors from making more than one call by one resolution of the board: Provided, that the intervals between such calls, the notices

of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given.

Buffalo and Goderich Ry. Co. v. Parke, 12 U. C. R. 607; Christopher v. Noxon, 4 O. R. 672.

(2) All notices of calls upon the shareholders of the company shall be published weekly in the *Ontario Gazette*.

(3) Every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the company or the directors.

Molineux v. London, (1902) 2 K. B. 589; Re Central Bank, 18 A. R. 209.

(4) If, before or on the day appointed for payment any shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the legal rate for the time being, from the day appointed for the payment thereof to the time of the actual payment.

(5) If at the time appointed for the payment of a call, a shareholder fails to pay the amount of the call, he may be sued for the same in any court of competent jurisdiction, and the same may be recovered, with lawful interest from the day on which the call became payable.

Set-off: Pellatt's Case, L. R. 2 Ch. 527; Re Warton, etc., Neil's Case, 10 O. L. R. 219.

Limitation of action on, 20 years: Ross v. G. T. R., 10 O. R. 447 at p. 454.

(6) In an action to recover money due upon a call, it shall not be necessary to set forth the special matter, but it shall be sufficient to state that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more, upon one share or more, stating the number and amount of each of such calls, whereby an action has accrued to the company by virtue of the special Act.

Shares and their Transfer.

25.—(1) Shares in the company may, by the holders thereof, be sold and transferred by instrument in writing, made in duplicate—one part of which shall be delivered to the directors, to be filed and kept for the use of the company, and an entry whereof shall be made in a book to be kept for that purpose, and no interest or dividend on the shares transferred shall be paid to the purchaser until such duplicate is so delivered, filed and entered.

(2) Transfers may be in the form following, varying the same, as the case may require:—

I, *A. B.*, in consideration of the sum of _____ paid to me by *C. D.*, hereby do sell and transfer to him _____ share (or shares) of stock of the _____, to hold to him the said *C. D.*, his executors, administrators and assigns, subject to the same rules, and orders, and on the same conditions that I held the same immediately before the execution hereof. And I the said *C. D.*, do hereby agree to accept the said _____ share (or shares) subject to the same rules, orders and conditions.

Witness our hands this _____ day of _____ in the year 19 _____.

26. The stock of the company shall be personal estate, but no shares shall be transferable until all previous calls thereon have been fully paid in, or the said shares have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid.

Refusal to register: *Re Pantou and Cramp Steel Co. and National Trust Co.*, 9 O. L. R. 3.

Re Benson and Imperial Starch Co., 10 O. L. R. 22; 5 O. W. R. 591.

Re Dominion Oil Co., 2 O. W. R. 826.

27. If any share in the company is transmitted by the death, bankruptcy, or last will, donation or testament, or by the intestacy, of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such share is so transmitted shall deposit in the office of the company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or

proof as may be necessary; without which such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof.

28. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the name of more persons than one, the receipt of one of the persons named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company have had notice of the trust; and the company shall not be bound to see to the application of the money paid upon such receipt.

Assignee of shares held "in trust" put on inquiry as to power of assignor to sell: *Sweeny v. Bank of Montreal*, 12 S. C. R. 661; 12 A. C. 617.

29.—(1) The certificate of proprietorship of a share shall be admitted in all Courts as *prima facie* evidence of the title of any person, his executors, administrators, successors or assigns, to the share therein specified.

(2) The want of such certificate shall not prevent the holder of any share from disposing thereof.

(3) Shareholders neglecting or refusing to pay a ratable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking and all the profit and benefit thereof; all which forfeitures shall go to the company for the benefit thereof.

(4) No advantage shall be taken of the forfeiture unless the same is declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture occurred.

(5) Every such forfeiture shall be an indemnification to and for every shareholder so forfeiting, against all actions or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such shareholder and the other shareholders with regard to carrying on the undertaking.

Forfeiture must be in the interests of the company only: *Common v. McArthur*, 29 S. C. R. 239.

30. The directors may sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor having been first given by the shareholders either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting.

Gilman v. Royal M. L. R., 1 S. C. 1.

31. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter.

32. If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share shall revert to the person to whom it belonged before such forfeiture, in such manner as if such calls had been duly paid.

33. A certificate of the treasurer of the company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and if the certificate so states, of their purchase by the purchaser; and such certificate, with the receipt of the treasurer for the price of such shares, shall constitute a good title to the shares; and the certificate shall be, by the said treasurer, registered in the name and with the place

of abode and occupation of the purchaser, and shall be entered in the books to be kept by the company; and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money—and his title to such shares shall not be affected by any irregularity in the proceedings in reference to such sale; and any shareholder may purchase any share so sold.

34. Any shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares, beyond the sums actually called for, may pay the same to the company,—and upon the principal moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the company may pay such interest, at the lawful rate of interest for the time being, as the shareholders, who pay such sum in advance, and the company agree upon; but such interest shall not be paid out of the capital subscribed.

Shareholders.

35. Each shareholder shall be individually liable to the creditors of the company to an amount equal to the amount unpaid on the stock held by him, for the debts and liabilities of the company, and until the whole amount of his stock has been paid up in cash; but shall not be liable to an action therefor before an execution against the company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such shareholder.

McIntyre v. McCracken, 1 A. R. 1, 1 S. C. R. 479.

Jones v. Miller, 24 O. R. 268.

Re Hess, 23 S. C. R. 644.

Neelon v. Thorold, 22 S. C. R. 390.

Set off: Re Warton Beet Root Sugar Co., McNeil's Case, 10 O. L. R. 219.

36. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled

to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being, and such account shall be open to the inspection of the shareholders.

37. Aliens, and companies incorporated abroad as well as British subjects and corporations, may be shareholders in the said company, and all such shareholders, whether resident in this Province or elsewhere, shall be entitled to vote on their shares equally with British subjects, and, corporations excepted, shall also be eligible to office as directors in the company.

Preference Stock.

38.—(1) The directors may make a by-law for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

(3) No such by-law shall have any force or effect whatever until after it has been unanimously sanctioned by a vote of the shareholders present in person or by proxy, at a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company; provided, however, that if the by-law be sanctioned by three-fourths in value of the shareholders of the company the company may petition the Board for an order approving the said by-law, and the Board may approve thereof and from the date of such approval the by-law shall be valid and may be acted upon.

(4) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the lia-

bilities of shareholders within the meaning of this Act, provided, however, that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law.

(5) Nothing in this section contained or done in pursuance thereof shall affect or impair the rights of creditors of the company.

Dividends and Interest.

39.—(1) The directors may, at a general meeting, declare a dividend to be paid out of the net profits of the undertaking.

(2) Such dividends shall be divisible among the shareholders in proportion to the amounts paid up in cash upon the shares held by them respectively.

40. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund, to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval; and the directors may invest the sum so set apart as a reserve fund in such securities as they select, not however inconsistent with this or the special Act.

Burland v. Earle, (1902) A. C. 83.

41. No dividend shall be declared whereby the capital of the company is in any degree reduced or impaired, or be paid out of such capital, nor shall any dividend be paid, in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call has been paid; but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest at any rate not exceeding five per centum per annum, on all sums actually paid in cash in respect of the shares, from the respective days on which the same have been paid;

and such interest shall accrue and be paid at such times and places as the directors appoint for that purpose.

Re National Bank (1901) A. C. 477.

42. The directors may deduct, from any dividend payable to any shareholder, all or any such sum or sums of money as are due from him to the company on account of any call or otherwise.

Bonds, Mortgages, and Borrowing Powers.

43.—(1) The directors of the company, under the authority of the shareholders, to them given at any special meeting, called for the purpose in the manner provided by this Act, or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company, and who have paid all calls due thereon, are present in person or represented by proxy, may, subject to the provisions in this Act and the special Act contained, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved; and such securities may be made payable at such times and in such manner, and at such place or places in Canada or elsewhere, and may bear such rate of interest, not exceeding five per cent. per annum, as the directors think proper.

Bonds good for 20 years: Toronto G. T. Co. v. Central Ont. Ry. Co., 3 Can. Ry. Cases 339; 4 Can. Ry. Cases 70.

(2) Such bonds, debentures or other securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed.

(3) The directors may issue and sell or pledge all or any of the said bonds, debentures, or other securities, at the best

price and upon the best terms and conditions which at the time they may be able to obtain, for the purpose of raising money for prosecuting the said undertaking.

(4) No such bond, debenture or other security shall be for a less sum than one hundred dollars.

(5) The power of issuing bonds conferred upon the company hereby or under the special Act shall not be construed as being exhausted by such issue; but such power may be exercised from time to time upon the bonds constituting such issue being withdrawn or paid off and duly cancelled; but the limit to the amount of bonds, debentures or other securities fixed in the special Act shall not be exceeded.

44.—(1) The company may secure such bonds, debentures, or other securities, by a mortgage deed creating such mortgages, charges and incumbrances upon the whole of such property, assets, rents and revenues of the company, present or future or both, as are described in the said deed; but such rents and revenues shall be subject in the first instance to the payment of any penalty imposed for non-compliance with the requirements of this Act respecting returns to be made under this Act and next to the payment of the working expenditure of the railway.

(2) By the said deed the company may grant to the holders of such bonds, debentures or other securities, or the trustees named in such deed, all and every the powers, rights and remedies granted by this Act in respect of the said bonds, debentures, or other securities, and all other powers, rights and remedies not inconsistent with this Act, or may restrict the said holders in the exercise of any power, privileges or remedy granted by this Act, as the case may be; and all the powers, rights and remedies so provided for in such mortgage deed shall be valid and binding and available to the said holders in manner and form as therein provided.

(3) The company may except from the operation of any such mortgage deed any assets, property, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections

or portions of the railway or property of the company, but where any such exception is made, the company shall in such mortgage deed expressly specify and describe, with sufficient particularity to identify the same, the assets, property, rents or revenue of the company, or the section or portions of the railway, not intended to be included therein or conveyed thereby.

(4) Every such mortgage deed and every assignment thereof or other instrument in any way affecting such mortgage or security shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in the *Ontario Gazette*. Such mortgage deed or other instrument need not be registered under the provisions of any law respecting registration of instruments affecting real or personal property.

(5) A copy of any such deed or instrument so deposited, certified to be a true copy by the Secretary, shall be received as *prima facie* evidence of the original in all courts, without proof of the signature of such official.

45. The bonds, debentures, or other securities, hereby authorized to be issued, shall be taken and considered to be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired, save and except as hereinbefore provided.

46. Each holder of the said bonds, debentures or other securities, shall be deemed to be a mortgagee or incumbrancer upon the said securities *pro rata* with all the other holders, and no proceedings authorized by law or by this Act shall be taken to enforce payment of the said bonds, debentures or other securities or of the interest thereon except through the trustee or trustees appointed by or under such mortgage deed.

47.—(1) If the company makes default in paying the principal or interest on any of the bonds, debentures or other securities hereby authorized, at the time when the same, by the terms of the bond, debenture or other security, becomes due and payable, then at the next annual general

meeting of the company, and at all subsequent meetings, all holders of bonds, debentures or other securities so being and remaining in default shall, in respect thereof, have and possess the same rights and privileges and qualifications for being elected directors and for voting at general meetings, as would attach to them as shareholders if they held fully paid up shares of the company to a corresponding amount.

(2) Each such holder of bonds, debentures or other securities shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation, to the amount of such bonds, debentures or other securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder, but no person who is not himself a bondholder or shareholder in the company shall be qualified to be appointed a proxy.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the mortgage deed, nor unless the bond, debenture or other security, in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered at least ten days before he attempts to exercise the right of voting thereon; and the company shall be bound on demand to register such bonds, debentures or other securities, and thereafter any transfers thereof, in the same manner as shares or transfers of shares.

(4) The exercise of the rights given by this section shall not take away, limit or restrain any other of the rights or remedies to which the holders of the said bonds, debentures or other securities are entitled under the provisions of such mortgage deed.

See *Toronto General Trusts Corporation v. Central Ontario Ry. Co.*, 3 Ont. Ry. Cases 344; 7 O. L. R. 660; 4 Ont. Ry. Cases 328, 359; 10 O. L. R. 347.

Ont. Ry. Co. v. Trusts and Guarantee Co., 21 T. L. R. 732; 4 Can. Ry. Cases 340; 8 O. L. R. 342.

Weddell v. Ritchie, 4 Can. Ry. Cases 347; 10 O. L. R. 5.

Osler v. Toronto Ry. Co., 8 P. R. 506; *Hendrie v. Grand Trunk Ry. Co.*, 2 O. R. 441.

48. All bonds, debentures or other securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers, registered in the same manner as in the case of the transfer of shares.

49. The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, warehouse receipt, bill of exchange or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange; and every such note or bill made, drawn, accepted or endorsed, by the president or vice-president of the company, or other officer authorized by the by-laws of the company, and countersigned by the secretary of the company, shall be binding on the company; and every such note or bill of exchange so made, drawn, accepted or endorsed shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown; and in no case shall it be necessary to have the seal of the company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer of the company so authorized be individually responsible for the same, unless such promissory note or bill of exchange has been issued without proper authority; but nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank.

Bridgewater Cheese Co. v. Murphy, 23 A. R. 96; 26 S. C. R. 443.

Struthers v. MacKenzie, 28 O. R. 381.

Nickle v. Kingston & Pembroke Ry. Co., 6 O. W. R. 51; 8 O. W. R. 158; 12 O. L. R. 346.

50. The sections relating to "Organization of the company," being sections numbers 6 to 49 inclusive, shall apply to street railway companies.

POWERS.

51. Subject to the provisions of this Act and the special Act the company shall have power and authority—

(1) To survey, lay out, construct, complete, equip and maintain a railway to be operated by steam, or a railway or street railway to be operated by electricity, with double or single tracks;

(2) To receive, take and hold all voluntary grants and donations of land or other property, or any bonus of money or debenture or other benefit of any sort made to it, to aid in the construction, maintenance and accommodation of the railway, but the same shall be held and used for the purpose of such grants or donations only;

1 Can. Ry. Cases, pp. 289 to 297.

(3) To purchase, take and hold of any person any land or other property necessary for the construction, maintenance, accommodation and use of the railway, and also to alienate, sell or dispose of the same so soon as, for any reason, it has become not necessary for the purposes of the company.

Valleir v. G. T. R., 7 O. L. R. 364; 3 Can. Ry. Cases 399.

(4) To construct, maintain and work the railway across, along or upon any stream of water, watercourse, canal or highway which it intersects or touches; but the stream, water course, highway, canal or railway so intersecting or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness; but this shall not authorize the obstruction of the navigation of any navigable water;

As to bridges, tunnels, &c.: see sections 88 and 89.

As to highway crossings, sees. 90 to 97.

(5) To purchase land for and erect power-houses, ware-houses, elevators, docks, stations, workshops, and offices, and to sell and convey such land as may be found superfluous for any such purpose, and to purchase and acquire stationary or locomotive engines, motors, carriages, waggons and other machinery and contrivances necessary for the working of the railway and the accommodation and use of the passengers, freight and business of the railway; and to hold as part of the property of the said company as many steam or other vessels as the directors of the company may

deem requisite from time to time to facilitate the carriage of passengers, freight and other traffic in connection with the railway;

As to stations: see sec. 128.

(6) To make branch railways, if required and provided for by the special Act, and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the railway;

As to regulations of Board: see p. 12 of their Rules of Practice, &c., published July 14, 1906.

In re Branch Lines, C. P. Ry. Co., 36 S. C. R. 42.

(7) To take, transport, carry and convey persons and goods on the railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation;

As to conditions governing carriage of passengers and goods: see, 114 to 127.

For provisions as to tolls: see secs. 169 to 172.

As to running omnibus business: See Att.-Gen. v. Mersey Ry. Co., 23 T. L. R. 684.

(8) To enter into and upon the lands of any corporation or person whatsoever lying in the intended route or line of the railway; and, with the consent of the Lieutenant-Governor in Council in that behalf, into and upon any lands of His Majesty the property of this Province;

Lands of other companies, notice, description: G. T. Ry. v. Lindsay B. P. Ry. Co., 3 Can. Ry. Cases 174.

In re Guelph and Goderich Ry. Co. and G. T. Ry. Co., 6 Can. Ry. Cases 138.

(9) To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the railway, and to set out and ascertain such parts of the lands as are necessary and proper for the railway;

See ss. 60 to 70: as to taking lands without the consent of the owners.

(10) To fell or remove any trees standing in any woods, lands or forests, where the railway passes, to the distance

of six rods from either side thereof. The company shall make full compensation to the owner of any tree so cut down and the amount of such compensation shall on the application of the owner be determined by the Board;

See *Ontario Ry. Co. v. Taylor*, 6 O. R. 338, and *McArthur v. Northern Ry. Co.*, 17 A. R. 86.

(11) To make or construct upon, across, under or over any railway, tramway, river, stream, watercourse, canal, or highway, which it intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences:

As to crossing any stream, watercourse, canal, or highway: See sub-sec. 4 ante.

As to crossing railways: see sec. 98.

As to drainage: see, 84; fences, 87; bridges, &c., 88 and 89.

Diversion of stream: substituted bridge; liability to repair: *Peterboro' v. G. T. R.*, 1 O. L. R. 144.

Cost of construction; maintenance: *C. P. Ry. Co. v. The King (Trent Bridge Case)*, 38 S. C. R. 211.

(12) To divert, or alter, as well temporarily as permanently, the course of any such river, stream, watercourse, or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway;

Drake v. Sault Ste. Marie Pulp Co., 25 A. R. 251.

(13) To make drains or conduits into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

(14) With consent of the Board after notice to any person interested, to divert or alter the position of any water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone, or electric lines, wires or poles;

(15) With consent of the Board after notice to any person interested, from time to time to alter, repair or discontinue the before-mentioned works, or any of them, and substitute others in their stead;

(16) To cross, intersect, join and unite the railway with any other railway at any point on its route, and upon the lands of such other railway, with the necessary conveniences for the purposes of such connection; and the owners of both railways may unite in forming such intersection, and grant the facilities therefor; and the amount of compensation to be made therefor, the point and manner of such crossing and connection, shall be determined by the Board as provided by this Act;

See sec. 52 post; and sec. 8 of The Railway Act (Dom.), *G. T. R. v. Hamilton, &c.*, 29 O. R. 143.

(17) To do all other acts necessary for the construction, maintenance and operation of the railway in pursuance of and according to the meaning and intent of this Act, and of the special Act.

Pugh v. Golden Valley Ry. Co., 12 Ch. D. 274; 15 Ch. D. 330.

As to authority of officer to bind company; see *Oldwright v. Hamilton Cataract Power Co.*, 3 O. W. R. 16, 397.

52. The provisions for the ascertainment of compensation contained in sub-section 16 of section 51 of this Act shall not extend or apply to any railway incorporated under an Act of the Legislature of Ontario, in any case in which it is proposed that such railway shall cross, intersect, join or unite with, or be crossed, intersected, joined or united with a railway under the legislative control of Canada.

53. The company shall, in the exercise of the powers by this or the Special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein or in the Special Act provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Re Brierly and T. H. and B. Ry. Co., 28 O. R. 468; 25 A. R. 28.

Powell v. T. H. & B. Ry. Co., 25 A. R. 209; *Re Medler and Toronto*, 4 Can. Ry. Cases 13.

McDonald v. T. H. & B. Ry. Co., 2 O. W. R. 723.

McQueen v. T. H. & B. Ry. Co., 2 O. W. R. 721.

54.—(1) The railway company shall not take possession of, use or occupy any lands belonging to the Province, with-

out the consent of the Lieutenant-Governor in Council; but with such consent such company may take and appropriate for the use of their railway and works, but not alienate, so much of the wild lands of the Province lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using their said railways and works;

(2) The extent of the public beach or of the land covered with water of any river or lake in the Province of Ontario taken for the railway shall not exceed the quantity limited in section 60 of this Act.

55. A company which desires at any time to change the location of its line of railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of railway, or for any other purpose of public advantage, may, with the leave of the Board, make such change; and all the clauses of this Act shall refer as fully to the part of any such line of railway so at any time changed or proposed to be changed as to the original line; but no railway company shall have any right to extend its line of railway beyond the termini mentioned in the special Act.

Kingston, Pembroke Ry. Co. v. Murphy, 17 S. C. R. 582.
C. P. R. Co. v. Major, 13 S. C. R. 233.

Telegraph and Telephone Lines.

56.—(1) Except as provided in subsections 3 and 4 of this section, the company may construct and operate an electric telegraph line and telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the said railway or branches, and for the purpose of constructing, working and protecting the said telegraph and telephone lines, the powers conferred upon telegraph companies by *The Act respecting Telegraph Companies*, being chapter 192 of the Revised Statutes of Ontario, 1897, are hereby conferred upon the company; provided that no

poles shall be erected in the construction of either of the said lines in or through any city, town or incorporated village, without an agreement with the council of such city, town or village being first obtained by the company; provided, also, that such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company. Provided also that in case the parties are unable to agree, the terms and conditions upon which such poles may be erected shall be determined by the Board.

See also R. S. O. cap. 208, sec. 18; R. S. C. cap. 126,

C. P. R. v. Western, 17 S. C. R. 151.

Great N. W. T. Co. v. Montreal T. Co., 20 S. C. R. 170.

(2) Whenever any municipal corporation or person has authority to construct, operate and maintain a telephonic system in any district, and is desirous of obtaining telephonic connection or communication with or within any station or premises of the company, in such district, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board for leave therefor, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just and expedient, and may order and direct how, when, where, by whom and upon what terms and conditions such telephonic connection or communication shall be constructed, operated and maintained.

Towns of Port Arthur and Fort William v. The Bell Tel. Co. and the C. P. R. Ry. Co., 4 Can. Ry. Cases 279.

(3) No lines or wires for the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across the railway without leave of the Board.

(4) Upon any application for such leave, the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected showing the proposed location of such lines and wires and the works contemplated in connection therewith; and the Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed; and upon such

order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

As to requirements of application to Board under this sub-section, see p. 14 of their Rules of Practice, &c.

(5) As soon as practicable after its organization, the Board shall promulgate rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no lines of such wires shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board first obtained, provided the Board may, from time to time, amend or change as to it may seem fit such rules, regulations and standard plans and specifications, but such rules, regulations, plans and specifications and amendments or changes thereto and thereof shall not affect crossings made before their adoption by the Board; provided, further, that in special cases on the application of any person or corporation to be affected by such crossing, the Board may order that such crossing shall be made in some other manner than that prescribed by the standard plans and specifications, and by whom and how and when and on what terms and conditions and under what supervision such work shall be executed, and upon such order being made such lines and wires may be erected, placed and maintained across the railway, subject to and in accordance with such order.

As to the Regulations and Specifications prescribed by the Board: see p. 18 of the Board's Rules of Practice, &c., published July 14, 1906. See *C. P. & C. N. Ry. Cos. v. Kaminiistiquia Power Co.*, 6 Can. Ry. Cases, 160.

Interchange of Traffic.

57.—(1) The directors of any railway company may at any time, and from time to time, make and enter into any agreement or arrangement with any other company, either in this Province or elsewhere, for the regulation and interchange of traffic passing to and from the railways of the said companies, and for the working of the traffic over the said railways respectively, or for either of those objects separately, and for the division and apportion-

ment of tolls, rates and charges in respect of such traffic, and generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a joint committee or committees for the better carrying into effect such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two-thirds of the shareholders, voting in person or by proxy.

McDonald v. G. T. R. 31; O. R. 663.

(2) Every railway company shall, according to their respective powers, afford all reasonable facilities to any other railway company for the receiving and forwarding and delivering of traffic upon and from the several railways belonging to or worked by such companies respectively, and for the return of carriages, trucks, and other vehicles; and no such company shall give or continue any preference or advantage to or in favour of any particular company, or any particular description of traffic, in any respect whatsoever, nor shall such company subject any particular company or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; and every railway company having or working a railway which forms part of a continuous line of railway, or which intersects any other railway, or which has a terminus, station or wharf of the one near a terminus, station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by the one of such railways, all the traffic arriving by the other, without any unreasonable delay and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered in the using of such railway as a continuous line of communication, and so that all reasonable accommodation may at all times, by the means aforesaid, be mutually afforded by and to the said several railway companies.

(3) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any

station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined, any passenger, goods or things brought, conveyed or delivered to him or to such company, for conveyance over or along the railway from that of any other company, intersecting or coming near to such first mentioned railway, or in any way wilfully contravenes the provisions of the next preceding sub-section—such first-mentioned railway company, or such officer, servant or agent, personally, shall, for every such neglect or refusal, incur a penalty not exceeding \$50 over and above the actual damages sustained.

(4) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board.

(5) All complaints made under this section shall be heard and determined by the Board.

(6) This section shall apply to such street railways as may from time to time be determined by the Board.

See sec. 317 of The Railway Act (Dom.)

Amalgamation and Running Arrangements with other Companies.

58.—(1) The company shall have the power to agree for connection and making running arrangements with any other railway company, the lines of which are approached or crossed by the line or lines of the company, if lawfully empowered to enter into any such agreement, upon terms to be authorized by two-thirds in value of the shareholders at a special general meeting to be held for that purpose, and it shall also be lawful for the company to enter into any agreement or agreements with any such company if lawfully authorized to enter into such an agreement, for the sale or leasing or hiring of the whole or any portion of the railway or the use thereof or for the sale or leasing or hiring any engines, locomotives, motors, carriages, or cars or any of them or of any part thereof or touching any

service to be rendered by one company to the other and the compensation therefor, if the arrangements and agreements shall be so authorized by two-thirds in value of the shareholders voting in person or by proxy at a special general meeting to be called for that purpose, and every such agreement shall be valid and binding according to the terms and tenor thereof subject to sub-section 3 of this section, and the company purchasing, leasing or entering into such agreement for using the said railway may and is hereby authorized to work the said railway in the same manner as if incorporated with its own line.

(2) The company may contract and agree with any other railway company the lines of which are approached or crossed by the line or lines of the company, if lawfully authorized to enter into such arrangements, for amalgamation with any or either of them, provided that no such contract shall be of any force or validity unless first authorized by resolution passed by vote of the shareholders in person or by proxy representing two-thirds in value of the subscribed capital stock, and on which no call is in default and unpaid at a general meeting specially called for that purpose.

(3) No such agreement for amalgamation, connections, running arrangements, sale, leasing or hiring of the railway or any portion thereof shall be of any force or effect until approved by resolution of the Board, and every such agreement shall be subject to such terms, conditions and regulations, general or special, as the Board may from time to time order.

(4) This section shall apply to such street railways as may from time to time be determined by the Board.

There must be express statutory authority to enter into the agreements referred to in this section: *Hodges on Railways*, 7th ed., 54 *et seq.*

PLANS AND SURVEYS.

59. Plans and surveys and books of reference shall be made and corrected as follows:

(1) Surveys and levels shall be taken and made of the lands through which the railway is to pass, together with a map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a book of reference for the railway, in which shall be set forth—

- (a) A general description of the said lands;
- (b) The names of the owners and occupiers thereof, so far as they can be ascertained; and
- (c) Everything necessary for the right understanding of such map or plan.

(2) The map or plan and book of reference shall be examined and if in all respects satisfying the provisions of this Act and the special Act, shall be certified by the Board, who shall keep one copy thereof on file in the office of the Board.

(3) The company shall also deposit copies thereof, or copies by the Secretary, in the registry offices of such districts or counties respectively.

(4) Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the Secretary, or to the Registrar, at the rate of ten cents for every hundred words so extracted or copied. Any person feeling aggrieved by the proposed location of the line of railway may within ten days after the deposit of the map or plan and book of reference aforesaid in the registry office of the district or county where the lands are situated, the location through which is complained of, apply to the Board, setting forth his objections to the location of the proposed line, and the Board shall if it considers sufficient cause therefor exists, appoint a disinterested engineer, who shall examine the said proposed line, and after hearing the parties he shall confirm or alter the same as may be consistent with the just rights of all parties and of the public. The determination of the engineer approved by the Board shall, within ten days after his appointment, be made and certi-

fied, and such certificates shall be filed in the office of the Registrar for the district or county where the lands are situated.

(5) The said engineer shall be entitled to reasonable fees for each day employed in connection with the said examination and work, together with his actual expenses incurred therein, and the amount shall in the first instance be paid by the person applying for his appointment, but if the proposed route is altered or changed by the engineer, the railway company shall refund to the applicant the amount so paid.

(6) Any omission, misstatement or erroneous description of such lands or of the owners or occupiers thereof, in a map or plan or book of reference, may on application by any party interested and after giving ten days' notice to the owner of the lands, be corrected by the Board on application made to them for that purpose, and if it appears to them that the omission, misstatement or erroneous description arose from mistake the Board shall certify the same accordingly.

(7) The certificate shall state the particulars of such omission, and the manner thereof, and shall be deposited in the registry office of the district or county respectively in which such lands are situate and kept in such registry office along with the other documents to which they relate; and thereupon the map or plan or book of reference shall be deemed to be corrected according to such certificate; and the company may construct and lay out the railway in accordance with the certificate.

(8) If any alterations from the original plan or survey are intended to be made in the line or course of the railway, a plan and section in triplicate of such alterations as have been approved of by the Board, on the same scale and containing the same particulars as the original plan and survey, shall be deposited in the same manner as the original plan, and copies or extracts of the plan and section, so far as they relate to the several districts or counties in or through which the alterations have been authorized to be

made, shall be deposited in the registry offices of such districts or counties.

Walker et al v. Toronto and Niagara Power Co. 5 Can. Ry. Cases 190.

(9) All plans, profiles and books of reference required by law to be deposited by the company with the Board, shall be drawn to such scale, with such detail, upon such materials, and of such character, as the Board may, either by general regulation, or, in any case, require or sanction, and shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company; and any book of reference, required to be so deposited, shall be prepared to the satisfaction of the Board. Unless and until such plan, profile and book of reference is so made satisfactory to the Board, the Board may refuse to sanction the same, or to allow the same to be deposited with the Board within the meaning of this Act.

(10) In addition to such plans, profiles and books of reference, the company shall, with all reasonable expedition, prepare and deposit with the Board, any other, or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require.

(11) The Registrar of Deeds shall receive and retain the copies of the original plans and surveys and books of reference and copies of the plans and sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under penalty for default of \$4.

(12) A copy of the said maps, plans, profiles and books of reference or portions thereof certified by the Registrar of Deeds or the Secretary shall in all courts be evidence that such original document was so deposited at the time stated and certified, and shall be *prima facie* proof of the original so deposited, and that the same was signed, certified, attested, or otherwise executed, by the persons, by whom, and in the manner in which, the same purports to be signed,

certified, attested or executed, as shewn or appearing by such certified copy, and in the case of a plan, that such plan is prepared according to a scale, and in manner and form, sanctioned by the Board.

(13) No deviation of more than one mile from the line of the railway or from the places assigned thereto in the said map or plan and book of reference or plans or sections, shall be made into, through, across, under or over any part of the lands not shewn in such map or plan and book of reference, or plans or sections, or within one mile of the said line and place, save in such instances as are provided for in the special Act.

(14) The railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the book of reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands.

(15) A map and profile of the completed railway and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Board and like maps of the parts thereof located in different counties shall be filed in the registry offices for the registry divisions in which such parts are respectively situate.

Sections of the Act of 1888 (Dom.), under the headings "Plans and Surveys," "Lands and their Valuation," apply to lands injuriously affected, as well as to lands taken; *Hendrie v. T. H. & B. Ry. Co.*, 26 O. R. 667, 27 O. R. 46.

As to Regulations of Board under this section: see pp. 11 and 12 of their Rules of Practice, &c., published July 14, 1906.

TAKING OF LANDS WITHOUT THE CONSENT OF THE OWNERS.

60. The lands which may be taken without the consent of the owner:—

For the right of way shall not exceed one hundred feet in breadth except in places where the rail level is, or is pro-

posed to be, more than five feet above or below the surface of the adjacent lands, when such additional width may be taken as shall suffice to accommodate the slope and side ditches;

For stations, depots and yards, with the freight sheds, warehouses, wharves, elevators and other structures for the accommodation of traffic incidental thereto, shall not exceed one mile in length by five hundred feet in breadth, including the width of the right of way.

Except under sec. 74 the company cannot exceed limit given by this section, and land must be taken as a whole and not in detached parcels: *Stewart v. Ottawa and N. Y. Ry. Co.*, 30 O. R. 599.

As to exception of minerals: see sec. 100.

As to expropriation by public utility companies, see sec. 163 of The Ontario Companies Act (1907).

61.—(1) All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes covert*, or other persons, seised, possessed of or interested in any lands, may contract for, sell and convey unto the company all or any part thereof.

(2) The powers by the preceding sub-section conferred upon rectors in possession of glebe lands, ecclesiastical and other corporations, trustees of land for church and school purposes or either, shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of the company.

Applies to tenant for life with remainder to children: *Re Dolsen*, 13 P. R. 84.

Re C. P. Ry. and Byrne, 10 O. W. R. 278; compare sees. 183, 184 and 185, of Dom. Act. R. S. C. 1906 cap. 37.

Costs of proceedings under latter Act should be paid by the company, see above cases.

62. Any contract, agreement, sale, conveyance and assurance made under the preceding section shall be valid and effectual in law to all intents and purposes whatsoever, and shall vest in the company receiving the same, the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limitations whatsoever, and

the corporation or person so conveying is hereby indemnified for what it or he respectively does by virtue of or in pursuance of this Act.

63. The company shall not be responsible for the disposition of any purchase money for lands taken by it for its purposes, if paid to the owner of the land or into Court.

Company liable to reversions when purchase money paid to life tenant: *Young v. Midland Ry. Co.*, 16 O. R. 738, 19 A. R. 265, 22 S. C. R. 190.

Scottish Am. Ins. Co. v. Prittie, 20 A. R. 398.

As to rights of life tenant: see *Slater v. Can. Central Ry. Co.*, 25 Gr. 363.

Lands liable by way of vendor's lien for unpaid purchase money: *Lincoln v. St. Catharines Ry. Co.*, 19 O. R. 106.

64. Any contract or agreement for the sale to the company of any lands made by any person authorized by this Act to convey lands, and made before the deposit of the map or plan and book of reference, and before the setting out and ascertaining of the lands required for the railway, shall if duly registered in the proper Registry Office be binding upon subsequent purchasers of such lands at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the meantime, have become the property of a third party; and possession of the land may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an award of arbitrators as hereinafter provided, and the agreement shall be in the place of an award.

See *Tolton v. C. P. R.*, 22 O. R. 204.

Re *Rosseaux and T. H. & B. Ry. Co.*, 3 O. W. R. 824.

65. All corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be

paid for the purchase of any lands or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the railway and the tolls thereon shall be liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the registry office of the proper registration district.

66. After ten days from the deposit of the map or plan and book of reference, and from notice thereof in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway, and thereupon, agreements and contracts may be made with such owners touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them shall be settled as in section 68 mentioned.

Compare sec. 491 of Dominion Act. The latter includes "persons empowered to convey lands or interested in lands," and which would include a tenant for years: *Johnson v. Ontario, Simcoe and Huron Ry. Co.*, 11 U. C. R. 246.

Obstruction or deviation of watercourses: *Anderson v. G. T. R.*, 11 U. C. Q. B. 126; *Arthur v. G. T. R.*, 25 O. R. 37, 22 A. R. 89; *Tolton v. C. P. R.*, 22 O. R. 204; *Knill v. G. T. R.*, 8 O. W. R. 870.

Injury to lands not taken: *Re Birely v. T. H. & B. Ry. Co.*, 28 O. R. 468.

Personal inconvenience: *Powell v. T. H. & B. Ry. Co.*, 25 A. R. 299; *In re T. H. & B. Ry. Co. and Kerner*, 28 O. R. 14.

See notes to sec. 68.

67. The deposit of a map or plan and book of reference, and the notice of the deposit, shall be deemed a general notice to all such persons as aforesaid of the lands which will be required for the railway and works.

James v. Ontario and Q. Ry. Co., 15 A. R. 1.

Arthur v. G. T. R., 22 A. R. 89.

Provincial and federal rival companies—Precedence: *Pontiac Pacific Ry. Co. v. Hull E. Ry. Co.*, Q. R. 11 S. C. 140.

68.—(1) A notice shall be served upon the owner which shall contain:—

- (a) A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them);
- (b) A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages; and
- (c) The name of a person to be appointed as the arbitrator of the company, if the offer be not accepted.

Must be cash offer not coupled with privileges: *Brooke v. Toronto Belt Line Ry. Co.*, 21 O. R. 401.

Must be definite as to interest in property intended to be acquired: *Toronto and N. P. Co. v. Lees*, 12 O. L. R. 505; 6 Can. Ry. Cases 128; 8 O. W. R. 294.

Must not include lands—company not authorized to take: *G. T. R. v. Lindsay, &c., Ry. Co.*, 3 O. W. R. 54; or not intended to be taken: *Wood v. Atlantic, &c., Ry. Co.*, Q. R. 2 Q. B. 335.

As to easement: see *Re James Bay Ry. Co. and Worrell*, 6 O. W. R. 512; see also *Widder v. Buffalo and L. H. Ry. Co.*, 24 U. C. Q. B. 529.

If defective, notice of desistment should be given under sub-sec. 17, and a fresh notice served, describing accurately lands authorized to be taken by the company.

(2) The notice shall be accompanied by the certificate of an Ontario Land Surveyor, disinterested in the matter and not being the arbitrator named in the notice to the following effect:—

- (a) That the land (if the notice relates to the taking of land,) shewn on the map or plan, is required for the railway (or is within the limits of deviation by this Act allowed);
- (b) That he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) That the sum so offered is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

(3) If the owner is absent from the district or county in which the lands lie, or is unknown, then upon application to a Judge of the County Court of the County in which the land lies, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the company that such

owner is so absent, or that, after diligent inquiry, the owner on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without such certificate, to be inserted three times in the course of one month in some newspaper published in the said county.

(4) Where a Judge of a County Court is interested in lands taken or required within the county in which he is a Judge, by any company, for railway purposes, a Judge of the High Court shall, on application of the company, exercise in such case all the powers given to a Judge of a County Court by the provisions of this section in cases in which such Judge of a County Court is not interested.

(5) If within ten days after the service of the notice, or within one month after the first publication thereof as aforesaid, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the Judge shall, on the application of the company, appoint an Ontario Land Surveyor, to be sole arbitrator for determining the compensation to be paid as aforesaid.

(6) If the opposite party within the time aforesaid, notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the Judge shall, on the application of the party or of the company (previous notice of at least one clear day having been given to the other party), appoint a third arbitrator.

Opposite party includes both mortgagor and mortgagee: *C. P. R. v. Batter*, 1 Can. Ry. Cases 457; *Re T. H. & B. Ry. Co. v. Burk*, 27 O. R. 620.

As to sale pending expropriation: *C. P. R. v. Batter*, *supra*.

(7) If lands have been entered on and taken by the company with or without the license of the person in possession thereof, and without any agreement as to the compensation to be paid therefor, or if the lands, though not taken, are injuriously affected by or through the construction of the railway, any owner or person interested in

such lands shall have the right to commence proceedings to ascertain the compensation to which he is entitled in respect of the lands so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the lands taken or injuriously affected, and the amount of compensation or damages claimed by him, and thereupon like proceedings shall be taken to ascertain such compensation as are prescribed in cases where the company commences proceedings.

(8) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner or for damages.

See notes to next sub-section.

(9) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a Justice of the Peace or commissioner empowered to take affidavits, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they or he, or a majority of them, deem best; but no award shall be made or any official act be done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present, had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

As to method of valuation: see *James v. Ont. and Quebec Ry. Co.*, 15 A. R. 1; 12 O. R. 624.

Future damages included: *Evans v. Atlantic and N. W. Ry. Co.*, M. L. R. 6 S. C. 493.

Effect of severance: *Paint v. The Queen*, 18 S. C. R. 718; *In re Ont. and Q. Ry. Co. and Taylor*, 6 O. R. 338.

Depreciation: *Guay v. The Queen*, 17 S. C. R. 30.

Loss of profits: *St. Catharines Ry. Co. v. Norris*, 17 O. R. 667; *Todd v. Town of Meaford*, 6 O. L. R. 469; 2 O. W. R. 12, 779.

Re Cavanagh and Canada Atlantic Ry. Co., 9 O. W. R. 842.

Injury to lands not taken: *Re Birely v. T. H. & B. Ry. Co.*, 28 O. R. 468.

O.R.A.—4.

Personal inconvenience: Powell v. T. H. & B. Ry. Co., 25 A. R. 209; St. Louis S. F. & T. Ry. Co. v. Shaw, 6 L. R. A. (U.S.) 245.

Injurious affected: In re T. H. & B. Ry. Co. and Kerner, 28 O. R. 14; Regina v. Eastern Counties Ry. Co., 2 Q. B. 347; Metropolitan v. McCarthy, L. R. 7 H. L. 243.

Deviation and closing street: In re Medler and Arnott and Toronto, 4 Can. Ry. Cases 13.

Alteration in street, access, smoke: Re Macdonald and T. H. & B. Ry. Co., 2 O. W. R. 721, 723.

Proceeding on wrong principle: G. T. Ry. Co. v. Coupal, 28 S. C. R. 531; Fairman v. Montreal, 31 S. C. R. 210.

Insufficient compensation: In re Armstrong and James Bay Ry. Co., 12 O. L. R. 137.

Single Court, July 8, 1907, Falconbridge, C.J., in Re Toisma and Canada Southern R. W. Co. On appeal by Charles L. Toisma from the award of two arbitrators (one arbitrator dissenting) as to the value of lands taken for the railway, on the ground of insufficiency of amount, held, that though larger compensation might, in the evidence, have been awarded, the court ought not, having regard to all the authorities on the subject, to interfere.

Under sec. 198 of the Railway Act (Dom.), the increased value of the remaining lands by reason of the railway must be considered: see Paint v. The Queen, *supra*.

The damage to which a party is entitled is only damage to land or an interest in land, and the Birely case, *supra*, would appear to be overruled by the Powell case; see also St. Catharines Ry. Co. v. Norris, 17 O. R. 667, and Bowen v. C. S. Ry. Co., 14 A. R. 1; but see Long v. Midland Ry. Co. (1902), 2 K. B. 574.

Access to waterway, &c., cut off: Quillinan v. C. S. Ry. Co., 6 O. R. 567; Mason v. South Norfolk Ry. Co., 19 O. R. 132; Knill v. G. T. R., 8 O. W. R. 870.

Damage not to be in respect to any particular use to which property is put to: Re Devlin and Hamilton and Lake Erie Ry. Co., 40 C. C. R. 160.

No action lies when arbitration proceedings proper remedy: Todd v. Town of Menford, 6 O. L. R. 469; 2 O. W. R. 12 77; Peterborough v. G. T. R. Co., 32 O. R. 154, 1 O. L. R. 144; but see Hauley v. T. H. & B. Ry. Co., 11 O. L. R. 91; 6 O. W. R. 841, 5 Can. Ry. Cases 25; and Inverness, &c., Ry. Co. v. McIsaac, 37 S. C. R. 134, 6 Can. Ry. Cases 421; Wicher v. C. P. Ry. Co., 6 Can. Ry. Cases 181.

Business losses: The Burnt District Case, 4 Can. Ry. Cases 290; Liquor license—good will: Re Cavanah and Canada Atlantic Ry. Co., 9 O. W. R. 842.

Interest on amount awarded: *Ib.*

As to fixtures placed on land by company before filing plan: see Ruttan and Dreifus v. Canadian Northern Ry. Co., 7 O. W. R. 568; 12 O. L. R. 187.

(10) In any arbitration under this Act, the costs of the arbitration shall be in the discretion of the arbitrator or arbitrators, and if they are to be borne by the opposite party to the company, may be deducted from the compensation

awarded, and in any case they may, if not agreed upon, be fixed by the arbitrator or arbitrators, or taxed by one of the taxing officers of the Supreme Court of Judicature.

Compare sec. 199 of Dominion Act where fixed rule governs: see *Re Oliver and Bay of Quinte Ry. Co.*, 7 O. L. R. 567, 3 Can. Ry. Cases 368.

Company's remedy to recover: *In re Foster and G. W. Ry. Co.*, 32 U. C. Q. B. 503.

Owner not entitled to lien on the land for costs of the arbitration: *Ferrars v. Staffordshire, &c., Ry. Co.*, L. R. 13 Eq. 524.

"Costs" includes fees, counsel fees and expenses: sub-section 7 of sec. 2.

(11) The arbitrators, or a majority of them, or the sole arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as appear before him or them, and may administer such oath or affirmation.

(12) Any party to an arbitration under this Act may, without leave or order, obtain and issue out of the High Court upon *præcipe*, setting forth the names of the witnesses to be subpoenaed, the names of the arbitrators, and the place and time of meeting, a subpoena commanding the attendance for examination of any witness, and also the production of any document to or before the arbitrator or arbitrators, and at the time and place mentioned in such subpoena; and the disobedience of such subpoena shall be deemed a contempt of court, and shall be punishable in the same manner and to the like extent as in the case of subpoenas issued in a civil case.

(13) The like fees shall be payable for such subpoenas as in the case of subpoenas issued in civil cases, and the witnesses shall be entitled to the like conduct money.

(14) The evidence shall be taken down in writing, and after making their award the arbitrators shall forthwith deliver or transmit by registered letter, at the request of either party in writing the depositions, together with the exhibits referred to therein, and all papers connected with the reference, except the award, to the central office of the High Court of Justice, with the proper stamps (which shall be furnished by the party making the request) to be filed with the Records of the Court.

(15) The Judge by whom a third arbitrator or sole arbitrator is appointed, shall, at the same time, fix a day on or before which the award shall be made.

See as to enlargement: Montreal Park and Island Ry. Co. v. Wynnes, Q. R. 9 Q. B. 483.

Re C. P. R. and Du Cailland, 3 O. W. R. 33.

(16) If the arbitrator appointed by the Judge, or if any arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, or refuses or neglects to make his award within the time fixed, then, in the case of the arbitrator appointed by the Judge, upon the application of either party, such Judge, being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, may appoint another arbitrator in his place, and the company and party respectively may each appoint an arbitrator in the place of his arbitrator deceased or not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case, provided that the proceedings may be commenced *de novo* if the majority of the arbitrators so order.

Shannon v. Montreal Park and Island Ry. Co., 28 S. C. R. 374; see sec. 208 of Dominion Act as to disqualification, and Re McQuillan v. Guelph Junction Ry. Co., 12 P. R. 294; Widder v. Buffalo and L. H. Ry. Co., 24 Q. B. 520; Benning v. Atlantic, &c., M. L. R. 6 Q. B. 385.

(17) Any notice given or proceedings commenced may prior to the making of the award be abandoned and new notice given, with regard to the same or other lands, to the same or any other party, but in such case, the liability to the party first notified for all damages or costs by him incurred in consequence of the giving of the first notice shall continue; provided, however, that the right to abandon proceedings shall not be exercised more than once.

Must be before lands are taken: C. P. R. Co. v. Ste. Therese, 16 S. C. R. 606; In re Haskell and G. T. Ry. Co., 7 O. L. R. 429, 3 O. W. R. 377.

Third notice: In re Hooper and E. and H. Ry. Co., 12 Ont. P. R. 408.

(18) No award made as aforesaid shall be invalidated by reason of any want of form or other technical objection,

if the requirements of this Act have been complied with, and if the award states clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the person or persons to whom the sum is to be paid be named in the award.

In re McAlpine and Lake Erie and D. R. Ry. Co., 3 O. L. R. 230.

(19) Any party to the arbitration may, within one month, after receiving a written notice from one of the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to a Judge of the High Court, and upon the hearing of the appeal the Judge shall, if the same is a question of fact, decide the same upon the evidence, as in a case of original jurisdiction.

When no damages awarded, no appeal by landowner: Re T. H. & B. Ry. Co., and Kerner, 28 O. R. 14.

Appeal should be to single Judge: In re Montreal and Ottawa Ry. Co. and Ogilvie, 18 P. R. 120.

Notice to be given within one month: Re Potter and Central Canada Ry. Co., 16 P. R. 16.

If appeal taken to High Court no further appeal to Court of Appeal: Birely v. T. H. and B. Ry. Co., 25 A. R. 88; nor to Supreme Court: Ottawa Electric Co. v. Brennen, 31 S. C. R. 311; James Bay Ry. Co. v. Armstrong, 38 S. C. R. 511; 6 Can. Ry. Cases, 196 and note; but see G. T. R. v. Coupel, 28 S. C. R. 531; Atlantic and N. W. Ry. Co. v. Wood (1895) A. C. 257.

If arbitrators state grounds of award, evidence of the arbitrators as to such grounds is admissible on an appeal, and no objection that arbitrator is a barrister: Re Cavanagh and Canada Atlantic Ry. Co., 9 O. W. R. 842.

"As in a case of original jurisdiction": meaning of *Ib.* at p. 844: Costs of appeal: *Ib.*

New evidence: Pontiac and Pacific Ry. Co. v. Sisters of Charity, Q. R. 20 S. C. 257.

No power to refer back to arbitrators: Re McAlpine and L. E. Ry. Co., 3 O. L. R. 230; Re G. T. R. and Petrie, 2 O. L. R. 284.

Inadequacy of compensation as a ground for setting aside: see Benning v. Atlantic and N. W. Ry. Co., M. L. R. 5 S. C. 136; 6 Q. R. 385; Re Armstrong and James Bay Ry. Co., 12 O. L. R. 137; 38 S. C. R. 511.

As to correction of errors: see Re Brennen and Ottawa E. Ry. Co., 21 Occ. N. 208. See also Re C. P. R. and Du Cailland, 3 O. W. R. 33.

(20) Upon such appeal the practice and proceedings shall be, as nearly as may be, the same as upon an appeal from

an Official Referee under *The Arbitration Act*, subject to any General Rules or Orders to be from time to time made under *The Judicature Act*.

(21) The right of appeal hereby given shall not affect the existing law or practice as to setting aside awards.

Beaudette v. North Shore Ry. Co., 15 S. C. R. 44.

Nott v. Nott, 5 O. R. 283; *Bourgoin v. Montreal, &c., Ry. Co.*, 5 A. C. 381.

(22) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the person entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition is made by any person to their so doing, the Judge of the county in which the lands lie, or any Judge of the High Court of Justice may, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the district or county, as he may deem most suitable, to put the company in possession, and to put down such resistance or opposition, which the sheriff, taking with him sufficient assistance, shall accordingly do.

Parkdale v. West, 12 A. C. 602.

(23) The warrant may also be granted by such Judge without the award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Kingston and Pembroke Ry. v. Murphy, 11 P. R. 304.

Re Davies and James Bay Ry. Co., 6 O. W. R. 388.

Re James Bay Ry. Co. and Worrell, 6 O. W. R. 473, 10 O. L. R. 740.

Re Williams v. G. T. Ry. Co., 8 O. W. R. 870, 6 Can. Ry. Cases 200.

As to sufficiency of notice, see *Toronto & Niagara Power Co. v. Lees*, 12 O. L. R. 505; 6 Can. Ry. Cases 128; 8 O. W. R. 294.

(24) The Judge shall not grant any warrant under the next preceding subsection, unless ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land or interested in the land sought to be taken, or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company; and unless the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and cost of the arbitration, and not less than double the amount mentioned in the notice served under subsection (1) of this section.

Re Ontario Tanners' Supply Co., &c., 12 P. R. 563.

Jenkins v. Central Ont. Ry. Co., 4 O. R. 593.

Re Davies and James Bay Ry. Co., 6 O. W. R. 388.

(25) The costs of any such application to, and of any such hearing before, the Judge, shall be in the discretion of the Judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or party, without an order from the Judge, which he may make in accordance with the terms of the award.

Re Shibley and the Napanee, &c., Ry. Co., 13 P. R. 237.

No appeal lies from order of Judge for payment out: Re T. H. & B. Ry. Co. and Hendrie, 17 P. R. 199.

As to interest: see Re Taylor and Ont. and Q. Ry. Co., 11 P. R. 371; Re Philbrick and Ont. and Q. Ry. Co., 11 P. R. 373.

(26) The compensation for any lands which may be taken without the consent of the owner shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof, and it shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a party not entitled to receive the same, saving always its recourse against such party.

Young v. Midland Ry. Co., 16 O. R. 740.

Scottish Am. Ins. Co. v. Prittie, 20 A. R. 398.

Chewett v. G. T. Ry. Co., 26 U. C. C. P. 118.

Limitation of action for 20 years: *Ross v. G. T. R. Co.*, 10 O. R. 447; *Essery v. G. T. R. Co.*, 21 O. R. 224.

Damages for construction of embankment, 6 years: *Chaudiere, &c., Co. v. Canada Atlantic Ry. Co.* 33 S. C. R. 11.

(27) If the company has reason to fear any claim or incumbrance, or if any person to whom compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the person entitled to claim the same cannot be found, or is unknown to the company, or if for any other reason the company deems it advisable, the company may, by leave of a Judge of the High Court of Justice, pay the compensation into the office of the Accountant of the Supreme Court of Judicature, together with interest thereon for six months, and with such further sum if such Judge so directs as may, in the opinion of such Judge, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into Court, and may deliver to the said Accountant an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

(28) A notice, in such form and for such time as a Judge of the High Court may order, shall be inserted in some newspaper if there is any published in the county in which the lands are situated, which shall state that the title of the company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof, or representing any persons so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudicated upon by the Court, and the said proceedings shall forever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages and encumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as may be proper.

(29) The costs of such proceedings shall be paid by such party as the Court may order.

(30) If such order of distribution as aforesaid is obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the company; and if from any error, fault or neglect of the company, is not obtained until after the six months have expired, the Court shall order the company to pay to the proper claimants the interest for such further period as may be right.

As to interest: see *Rhys v. Dare Valley Ry. Co.*, 19 Eq. 93.

McMicking v. Gibbons, 24 A. R. 586, overruling *Delaney v. C. P. R.*, 21 O. R. 11; *Atlantic, &c. v. Judah*, 23 S. C. R. 231.

Costs: *Harrison v. Alliance Assee. Co.* (1903), 1 K. B. 188.

Gravel Pits, etc.

69.—(1) When stone, gravel, earth, sand or water is or are required for the construction or maintenance of the railway or any part thereof, the company may in case it cannot agree with the owner of the lands on which the same are situate for the purchase thereof, cause an Ontario land surveyor to make a map and description of the property so required, and it shall serve a copy thereof, with its notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of compensation shall have the same effect as in case of arbitration for the roadway, and all the provisions of this Act, as to the service of the said notice, arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom the land may be taken, or who may sell, shall apply to the subject matter of this section, as to the obtaining materials as aforesaid, and such proceedings may be had by the company either for the right to the fee simple in the land from which said materials shall be taken, or for the right to take materials for any time it shall think necessary, the notice of arbitration, in case arbitration is resorted to, to state the interest required.

(2) When said gravel, stone, earth, sand or water shall be taken under the preceding subsection of this section at a distance from the line of the railway, the company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on

which said materials shall be found, whatever the distance may be; and all the provisions of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated, and such right may be so acquired for a term of years or permanently as the company may think proper, and the powers in this and the preceding section may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the said railway.

Method of valuation, farm lands: *Vezina v. The Queen*, 17 S. C. R. 1.

Property in on highways: *Municipality of Louise v. C. P. R.*, 3 Can. Ry. Cases 65, 14 Man. L. R. 1.

See *C. P. Ry. Co. v. Township of North Dumfries*, 6 Can. Ry. Cases 147.

Switches and Sidings to Industries.

70.—(1) In case the council of a municipality by by-law declares that it is desirable and expedient that an elevator or manufactory or other industry or business should have a siding or switch from any railway to the premises of such elevator, manufactory, industry or business, and that the company should have powers of expropriation for the purpose of securing, within the limits of the municipality, the necessary right of way for that purpose as set forth in the by-law, and if the Board certifies that the building of the proposed siding or switch across the lands as set forth in the by-law will be for the advantage or convenience of the public, the company, upon the registration by the council of the by-law and certificate in the proper Registry Office, shall in respect of the said lands, possess the powers of expropriation conferred by this Act. Provided, however, that no such by-law shall be passed by the council of any municipality until all owners of lands, across which the proposed siding or switch is to run, have had at least one week's previous notice in writing of the time when such by-law is to be considered by the said council.

(2) The tracks of the sidings or switches constructed or laid by the company under this section shall not be used for

any purpose other than for the purposes mentioned, except by leave of the Board and subject to such terms and conditions as the Board sees fit to impose.

The Dominion Board has no power to make an order for the construction of a siding by a provincial railway: *Bertram & Sons v. The Hamilton and Dundas Street Ry. Co.*, 6 Can. Ry. Cases 158.

Purchase of More Land than Necessary.

71. Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms, than it could obtain the portion thereof which it may take from him without his consent, it may purchase such larger quantity, and upon such purchase may sell and dispose of any part thereof which may be unnecessary for the undertaking.

See sec. 61, sub-sec. 2.

Snow Fences, etc.

72. Every company may, on and after the first day of November, in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as are thereafter established, in the manner provided by this Act, to have been actually suffered; but every snow fence so erected shall be removed on or before the first day of April then next following.

Use of Adjacent Lands During Construction.

73. The company, either for the purpose of constructing or repairing its railway or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy the said land as long as is necessary for the purposes aforesaid; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so

required; but before entering upon any land for the purposes aforesaid, the company shall, in case the consent of the owner is not obtained, pay into Court, such sum, with interest thereon for six months, as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of the High Court. Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may upon order of a judge of such court, be paid out of such person in satisfaction *pro tanto* of such award; the surplus, if any, thereafter remaining shall by order of the judge be repaid to the company, and any deficiency therein to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award.

Proceedings where More Ample Space is Required.

74.—(1) Should the company require, at any point on the railway, more ample space than it then possesses or may take under this Act, for the convenient accommodation of the public, or the traffic on its railway, or for protection against snowdrifts, it may apply to the Board for authority to take the same, for such purposes, without the consent of the owner.

*

(2) The company shall give ten days' notice of such application to the owner or possessor of such lands, and shall furnish copies of such notices, with affidavits of the service thereof, to the Board upon such application.

(3) The company, upon such application, shall also furnish to the Board, in duplicate,—

(a) A plan, profile and book of reference of the portion of the railway affected, showing the additional lands required, and certified as provided in section 59 of this Act.

(b) An application, in writing, for authority to take such lands, certified and signed by any of the officers mentioned in sub-section 9 of section 59 of this Act, referring to the plan, profile and book of reference, specifying definitely

and in detail the purposes for which each portion of the lands are required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights.

(4) After the time stated in the aforementioned notices, and the hearing of such parties interested as may appear, the Board may, in its discretion, and upon such terms and conditions as the Board deems expedient, authorize in writing the taking, for the said purposes, of the whole or any portion of the lands applied for. Such authority shall be executed in duplicate, one to be filed with the plan, profile, book of reference, application and notices with the Board, and the other, with the duplicate plan, profile, book of reference and application, to be delivered to the company.

(5) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the Secretary, shall be deposited with the registrars of deeds of the districts or counties, respectively, in which such lands are situate.

(6) All the provisions of this Act applicable to the taking of lands for the right of way, or main line, of the railway without the consent of the owner of such lands, shall apply to the lands authorized to be taken under this section.

Re Cavanagh and Canada Atlantic Ry. Co., 9 O. W. R. 842.

As to requirements of application to Board under this section: see p. 12 of Rules, &c., published July 14, 1906 (appendix).

Municipal land may be taken: In re G. T. R. Co. and St. Cune-gonde, 4 Can. Ry. Cases 277.

Compensation: The Burnt District Case, 4 Can. Ry. Cases 290.

CONSTRUCTION OF THE RAILWAY.

Gauge.

75. The tracks of every railway and street railway, the construction of which railway or street railway shall be commenced after the coming into force of this Act, shall be of the standard gauge of four feet eight and one-half inches, unless the Board upon the application of the railway or

street railway company about to commence construction as aforesaid shall otherwise order.

Trains, Cars and Appliances.

76.—(1) In all trains there shall be an apparatus or appliance to provide immediate communication between the conductor while in any car of any passenger train, and the engine driver or motor man.

(2) All brakes shall be of such design and construction as to check at will the speed of the train, and bring the same safely to a standstill, as expeditiously as possible, and on all the trains carrying passengers the system of brakes shall comply with the following requirements:—

(a) The brakes shall be continuous and must be instantaneous in action, and capable of being applied at will by the motor man, engine driver, conductor or brakeman;

(b) The brake must be self-applying in the event of any failure in the continuity of its action;

Great Western Ry. Co. v. Brown, 3 S. C. R. 159; *Badgerow v. G. T. R.*, 19 O. R. 191.

Fawcett v. C. P. R. Co., 32 S. C. R. 721; *McDowell v. G. W. Ry. Co.* (1903), 2 K. B. 331; *G. T. R. v. Miller*, 34 S. C. R. 45 (1906); *A. C.* 187.

Moenic v. Tilsonburg, &c., Ry. Co., 5 O. W. R. 69.

G. T. R. v. Bourassa, Q. R. 4 Q. B. 255.

As to principles applicable: see *Black v. Ont. Wheel Co.*, 19 O. R. 578; *Markle v. Donaldson*, 7 O. L. R. 376.

(3) All couplers shall be such as to securely couple and connect the cars composing the train, and to attach the engine or locomotive to such train, automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars;

Farmer v. G. T. R., 21 O. R. 290; *Weegar v. G. T. R.*, 23 S. C. R. 422; *Bond v. Toronto Ry. Co.*, 24 S. C. R. 715; *Fraser v. Algoma Ry. Co.*, 3 O. W. R. 104; *Johnson v. Southern Pacific Ry. Co.*, 25 Sup. Ct. Reporter 158.

(4) All box freight cars of the company built after the passing of this Act, shall be equipped with the following attachments for the security of railway employees:—

(a) Outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of the ladder below the frame, the ladders being placed close to the ends and sides to which they are attached;

(b) Hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladder.

(5) All cars built prior to the passing of this Act shall be fitted with such attachment before the first day of January, 1907, provided that, if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands, then the Board may require any of such cars not already fitted with the side attachments first mentioned, to be fitted with the said improved attachment.

(6) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines in accordance with any standard from time to time adopted by competent railway authorities.

(7) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in this Province, in which heating apparatus may be placed, shall be provided with such safeguards against fire as the Board in writing shall from time to time approve.

(8) Every company shall provide and cause to be used on all trains such modern and efficient locomotives, motors, cars and carriages, apparatus, appliances and means as may be required or ordered by the Board, and the company shall alter such locomotives, motors, cars and carriages, apparatus, appliances and means or renew the same from time to time, as the Board may order.

Schwob v. M. C. Ry. Co., 5 O. W. R. 157; 10 O. L. R. 647; 5 Can. Ry. Cases 58; 13 O. L. R. 548; 6 Can. Ry. Cases 287; *C. P. R. v. Boisseau*, 2 Can. Ry. Cases 335; *Ford v. Metropolitan Ry. Co.*, 2 Can. Ry. Cases 187; 4 O. L. R. 29; 1 O. W. R. 318.

Re Robertson and G. T. R. Co., 9 O. W. R. 630.

(9) Every company which fails to comply with any of the provisions of this section, shall forfeit to His Majesty, a sum not exceeding two hundred dollars, for every day during which such default continues, and shall, as well, be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to, notwithstanding any agreement to the contrary with regard to any such person: Provided however that no proceedings shall be instituted to enforce or recover any forfeiture to His Majesty hereunder without the consent of the Board first obtained.

As to validity of agreements with railways under Federal jurisdiction contracting out of liability: see 4 Ed. VII. cap. 31 (Dom.).

In re Railway Amendment Act, 36 S. C. R. 136; Grand Trunk Ry. Co., of Canada v. Attorney-General of Canada, (1907) A. C. 65.

Miller v. G. T. R., 34 S. C. R. 45 (1906), A. C. 187; 3 Can. Ry. Cases 147.

Harris v. G. T. R., 3 Can. Ry. Cases 172, 3 O. W. R. 211.

41 C. L. J. 465.

See also Rex v. Hays, 9 O. W. R. 488, and see, 224 and notes.

77. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight, or with a steam, or air whistle.

See notes to sec. 123, *infra*.

78. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle.

Sounding gong: The Toronto Ry. Co. v. Mulvaney, 38 S. C. R. 327; notes to sec. 217.

79.—(1) All cars in use for the transportation of passengers in November, December, January, February, March and April in each year, which, while in motion, require the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have their platforms so enclosed as to protect the motormen from exposure to wind and weather in such manner as the Board shall approve.

Regina v. Toronto Ry. Co., 21 Oec. N. 120.

(2) All companies operating their cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars, so far as is consistent with the proper performance of their duties during the said period.

(3) Every motor car built after the passing of this Act designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty, and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

(4) Any company offending against the provisions of this section shall be liable to a penalty of one hundred dollars for each offence, and any person offending against the provisions of this section is liable on summary conviction to a fine of not less than two dollars nor more than fifty dollars, or imprisonment for not more than one month, with or without hard labour, or both.

(5) This section shall only apply to railways operated by electricity, and street railways.

80. The Board may by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of sections 76 to 79 hereof.

81. Railways operated by electricity shall stop at such places in addition to those fixed by the by-laws or regulations of the company, as the Board may from time to time by resolution direct and order.

82.—(1) Open or summer cars, constructed after the first day of January, 1907, for use upon a railway operated by electricity or upon a street railway, shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car.

(2) The side steps on such cars shall be so constructed, if practicable, that passengers will be prevented from standing upon the same while the car is in motion.

Riding as a passenger, accident insurance, on step: *Powis v. Ontario Accident Ins. Co.*, 1 O. L. R. 54.

(3) This section shall apply only to railways and street railways not yet constructed and to railways and street railways already constructed, where the space between the tracks commonly called the devil strip is, in the opinion of the Board, sufficiently wide to allow the cars to be constructed as provided in subsection 1 of this section.

(4) In all cases of dispute between a railway or street railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars, or as to any other matter or thing referred to in this section, the Board shall be the final Judge, and any order made by the Board as to any such matter shall be carried out and fulfilled by the company and the municipal corporation, or either or both of them, according to the terms of such order.

(5) No passenger shall stand upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same, and any person offending against the provisions of this subsection shall incur a penalty of not less than \$2 or more than \$10, besides costs, to be recovered on summary conviction.

THE ROAD BED AND ADJACENT LANDS.

Frogs, Packing, etc.

83.—(1) In this section the expression "packing" means a packing of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and which, where by this section any space is required to be filled in, shall extend to within one and a half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

(2) The spaces behind and in front of every railway frog or crossing, and between the fixed rails or every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail.

(3) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches; such packing not to reach higher than to the under side of the head of the rail; provided, however, that the Board may allow the filling and packing mentioned in this section to be left out, from the month of December to the month of April in each year, both months included, or between any such dates as the Board by regulation, or in any particular case, determines.

G. T. R. Co. v. Washington, (1899) A. C. 275, was decided on construction of former Dominion Act, which has since been changed; see sec. 5 of Workmen's Compensation for Injuries Act, R. S. O. 1897 cap. 160, which was held in that case not to apply to railways under Federal jurisdiction; this case would therefore no longer be an authority even under the Railway Act, R. S. C. 1907, cap. 37, sec. 288.

See Clegg v. G. T. R., 10 O. R. 708; Misener v. M. C. Ry. Co., 24 O. R. 411; LeMay v. C. P. R., 17 A. R. 293.

This section would apply to a private company operating a short piece of track on its own premises: Cooper v. Hamilton Steel and Iron Co., 3 O. W. R. 898, 8 O. L. R. 353.

Person injured through breach of this section entitled to full damages under sec. 243 *infra*, and not limited by Workmen's Compensation for Injuries Act: Curran v. G. T. R., 25 A. R. 407.

(4) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any steam railway, shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves.

Drainage.

84.—(1) The company shall in constructing the railway make and maintain suitable ditches and drains along each side of, and across and under the railway, to connect with ditches, drains, drainage works and watercourses upon the lands through which the railway runs, so as to afford suffi-

cient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the said lands shall not be obstructed or impeded by the railway.

Should be read with sec. 51, sub-secs. (11), (12), (13), (14) and (15); Arthur v. G. T. R., 22 A. R. 89; Vanhorn v. G. T. R., 9 U. C. P. 264; Tolton v. C. P. R., 22 O. R. 204; Knill v. G. T. R., S. O. W. R. 879; Langlois v. G. T. R., Q. R. 26 S. C. 511.

As to what constitutes a watercourse: see Arthur v. G. T. R., *supra*; Welton v. Murray, 12 Man. L. R. 35; Ostrom v. Sills, 28 S. C. R. 485; Young v. Tucker, 26 A. R. 162; C. P. R. v. McBryan, 29 S. C. R. 359.

(2) Whenever any lands are injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such lands, or whenever any municipality or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across or under the railway or any works or lands of the company, the Board may, upon the application or complaint of the municipality or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect the locality in question and, if expedient, there hold an inquiry as to the necessity of requirements for such drainage or pipes, and to make a full report thereon to the Board; the Board may upon such report, or in its discretion, order how, where, when, by whom, and upon what terms and conditions, such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests.

85.—(1) Whenever by virtue of any Act of the Province of Ontario proceedings may be had or taken by any municipality or landowner for any drainage, or drainage works, or for the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner in the Province, proceedings may be had or taken under such Act by such municipality or landowner for the construction, enlargement, improvement or extension of the ditch or watercourse upon and across the railway and lands of the company, at the option of such

municipality or landowner, in the place of the proceedings before the Board as in the next preceding section provided, and thereupon such Act shall apply to the lands of the company upon or across which such drainage or other work is required, to the same extent as to the lands of any landowner, subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same lands, and provided that the company shall have the option of constructing the portion of any drain or drainage work, or ditch or watercourse, required to be constructed upon, along, under or across its railway or lands, and in the event of the company not exercising such option, and completing such work within a reasonable time, without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under the provisions of such Act; provided always that no drainage works or ditch or watercourse shall be constructed or reconstructed upon, along, under or across the railway or lands of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board.

(2) The proportion of the cost of the drain or drainage works, or of such ditch or watercourse, across or upon the railway to be borne by the company shall in all such cases be based upon the increase of cost of such work caused by the construction and operation of the railway.

Sec. 251 Dominion Railway Act.

As to cost: see also secs. 9 and 10 of The Ditches and Watercourses Act, R. S. O., 1897 cap. 286.

Farm Crossings.

86.—(1) Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes. In crossing with live stock, such live stock shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents.

(2) The Board may, upon the application of any landowner, order the company to provide and construct a suit-

able farm crossing across the railway, wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest; and may order and direct how, when, where, by whom, and upon what terms and conditions, such farm crossing shall be constructed and maintained.

Wright v. M. C. Ry. Co., 6 Can. Ry. Cases 133; G. T. R. v. Perault, 36 S. C. R. 671; Plester v. G. T. Ry. Co., 32 O. R. 55, 1 Can. Ry. Cases 27; Dunsford v. M. C. Ry. Co., 20 A. R. 577.

Right of way: T. H. & B. Ry. Co. v. Hanley, 6 O. W. R. 921, 6 Can. Ry. Cases 321.

Fences, Gates and Cattle-guards.

87.—(1) The company shall erect and maintain upon the railway, fences, gates and cattle-guards, as follows:—

(a) On each side of all that portion of the railway which is not passing along or across a public highway fences shall be erected and maintained of the height and strength of an ordinary division fence.

Duty to fence: no common law liability to fence; "passing along" means "on," not "alongside": Gunning v. South Western Traction Co., 10 O. W. R. 285.

(b) Swing gates in such fences, of the height of the fence, with proper hinges and fastenings, at farm crossings; provided that sliding or hurdle gates, constructed prior to the passing of this Act, may be maintained.

(c) Cattle-guards, on each side of the highway, at every highway crossing at rail-level by the railway. The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway. This provision shall not apply where a railway is being operated along a public highway.

G. T. R. Co. v. McKay, 34 S. C. R. 81.

Fensom v. C. P. Ry. Co., 4 Can. Ry. Cases 76.

Infant on unfenced premises: Tabb v. G. T. Ry. Co., 8 O. L. R. 203; 4 Can. Ry. Cases 1; Potvin v. C. P. Ry. Co., 4 Can. Ry. Cases 8; Newell v. C. P. R., 12 O. L. R. 21, 7 O. W. R. 771.

See also as to injury from explosives: McShane v. T. H. & B. Ry. Co., 31 O. R. 185; Makins v. Pigott, 29 S. C. R. 188.

Applies to all public road crossings: G. T. R. v. Hainer, 36 S. C. R. 180.

(2) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway.

Fence must be sufficient to turn all kinds of live stock, not merely cattle and horses: *Lee v. Minneapolis Ry. Co.*, 66 Iowa 131; *Fritz v. Milwaukee Ry. Co.*, 34 Iowa 337; *Douglas v. G. T. Ry. Co.*, 5 A. R. 585.

In construction barbed wire fence not negligence: *Hillyard v. G. T. Ry. Co.*, 8 O. R. 583; *Plath v. Grand Forks Ry. Co.*, 3 Can. Ry. Cases 331.

Animal killed in fence, contractor: *Benner v. Dickinson*, 8 O. W. R. 752.

(3) Until such fences, gates and cattle-guards are duly made, the company shall be liable for all damages which may be done by their motors, cars, carriages or trains to cattle, horses or other animals on that part of the railway hereby required to be fenced.

(4) Whenever the railway passes through any locality in which the lands on either side of the railway are not improved or settled, and enclosed, the company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs.

See 6 Can. Ry. Cases, at p. 50.

A railway company within the jurisdiction of the Parliament of Canada is not bound to comply with provincial legislation requiring the erection of fences: *Madden v. Nelson, &c., Ry Co.*, 5 B. C. R. 541 (1899), A. C. 626.

See also *G. T. Ry. Co. v. Therrien*, 30 S. C. R. 485.

(5) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use; and no person, any of whose cattle, horses or other animals are killed or injured by any train, owing to the non-observance of this section, shall have any right of action against any company in respect to the same being so killed or injured.

(6) Every person who wilfully leaves any such gate open without some person being at or near it to prevent animals from passing through it on the railway, or who takes down any part of a railway fence, or turns any horses, cattle or other animals, upon or within the enclosure of such railway, except for the purpose of, and while, taking the same across

the railway in the manner provided by this Act, or who, except as authorized by this Act, rides, leads or drives any horses, cattle or other animal, or suffers any such horses, cattle or animals to enter upon such railway and within the fences and guards, is liable on summary conviction, to a penalty of twenty dollars for each offence, and is also liable to the railway company for any damage to the property of the company or for which the company may be responsible by reason of such gate being so left open, or by reason of such fence being so taken down, or by the turning, riding, leading, driving or suffering to enter, upon or within the inclosure of such railway in violation of this section of any horse, cattle or other animals, and no person, any of whose horses, cattle or other animals are killed or injured by any train owing to the non-observance of this section shall have any right of action against any company in respect to the same being so killed or injured. Every person violating the provisions of this section shall in addition to the penalty herein provided be liable to pay any person injured by reason of such violation all damages sustained thereby.

Cattle at large killed on track: G. T. Ry. Co. v. James, 31 S.C.R. 420; Arthur v. Central Ontario Ry. Co., 11 O. L. R. 537, 7 O. W. R. 527, 5 Can. Ry. Cases 318; Lebu v. G. T. Ry. Co., 12 O. L. R. 590, 8 O. W. R. 418, 5 Can. Ry. Cases 329; Bacon v. G. T. Ry. Co., 7 O. W. R. 753, 12 O. L. R. 196, 5 Can. Ry. Cases 325; Yates v. G. T. Ry. Co., 9 O. W. R. 423, 14 O. L. R. 63; Phair v. Can. Northern Ry. Co., 6 O. W. R. 137; Flewelling v. G. T. Ry. Co., 6 Can. Ry. Cases 47; Daigle v. Temiscouata Ry. Co., 6 Can. Ry. Cases 33; Schellenberg v. Canadian Pacific Ry. Co., 6 Can. Ry. Cases 29, and see notes at p. 50.

C. P. Ry. Co. v. Eggleston, 36 S. C. R. 641.

Fensom v. C. P. Ry. Co., 4 Can. Ry. Cases 76, 8 O. L. R. 688, 4 O. W. R. 373.

Bridges, Tunnels and other Structures.

88.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway, now or hereafter, passes, shall be so constructed, and, if need be, re-constructed or altered within such time as the Board may order, and shall hereafter be so maintained, as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space

liable to be traversed by such car in passing thereunder; but in no case shall the space between the rail-level and such beams, members or portions of any such structure, hereafter constructed, be less than twenty-two feet six inches, unless by leave of the Board;

Devo v. Kingston and Pembroke Ry. Co., 8 O. W. R. 588, 4 Can. Ry. Cases 42; *Atcheson v. G. T. Ry. Co.*, 1 O. L. R. 168, 1 Can. Ry. Cases 490.

(2) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

(3) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains are run, except trains operated by electricity and except such as are equipped with air brakes.

(4) Every company or owner shall incur a penalty not exceeding fifty dollars for each day of wilful neglect, omission or refusal to obey the provisions of this section.

89.—(1) With respect to all bridges, tunnels, viaducts, trestles, or other structures, through, over, or under which the company's trains are to pass, the span, or proposed span or spans or length of which exceeds eighteen feet, the company shall not commence the construction, or reconstruction, of, or any material alteration in, any such bridge, tunnel, viaduct, trestle, or other structure, until leave therefor has been obtained from the Board; unless such construction, reconstruction, or alteration is made in accordance with standard specifications and plans approved by the Board.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles, drawings and specifications of any such work proposed to be

constructed, and such other plans, profiles, drawings and specifications as the Board may in any case or by regulations, require.

Highway Crossings.

90.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, the railway may be carried along or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter provided.

(2) No obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, restoring the highway to as good condition, as nearly as possible, as it was originally.

(3) Every company which violates the provisions of this section shall incur a penalty of not less than forty dollars for each such violation.

Toronto v. G. T. Ry. Co., 4 O. W. R. 491; Parkdale v. West, 12 A. C. 602; Re Toronto and Toronto Street Ry. Co., 22 O. R. 374; Toronto v. Toronto Ry. Co., 24 S. C. R. 589; Mitchell v. Hamilton, 2 O. L. R. 58; Keachie v. Toronto, 22 A. R. 371; Atkin v. Hamilton, 24 A. R. 389.

91. Whenever the railway crosses any highway at rail-level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction, unless otherwise directed by the Board.

G. T. Ry. Co. v. Sibbald, 20 S. C. R. 259.

92.(1) Upon any application for leave to construct the railway across an existing highway, or to construct a highway across an existing railway, the applicant shall submit a plan and profile of such crossing, showing the portion of railway or highway affected, to the Board. The Board may by order grant such application upon such terms and conditions

as to protection, safety and convenience of the public, as it may deem expedient, or may order that the highway be carried over or under the railway, or be temporarily or permanently diverted, and that such works be executed, watchmen or other persons employed, gates erected or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger of obstruction arising or likely to arise therefrom.

G. T. Ry Co. v. Toronto, 1 Can. Ry. Cases 82; *Parkdale v. West*, 12 A. C. 602; *Hendrie v. T. H. & B. Ry. Co.*, 27 O. R. 46.

Hammond v. G. T. Ry. Co., 4 O. W. R. 530, 9 O. L. R. 564; *Lake Erie and D. R. Ry. v. Barclay*, 30 S. C. R. 360; *Ottawa Electric Co. v. Ottawa*, 37 S. C. 354.

In re Reid and Canada Atlantic Ry. Co., 4 Can. Ry. Cases 272.

Cost of maintaining protection: *C. P. Ry. Co. v. York*, 1 Can. Ry. Cases 36 and 47; *C. P. Ry. Co. v. City of Toronto*, 8 O. W. R. 348; *City of Ottawa v. Canada Atlantic Ry. Co.*, 5 Can. Ry. Cases 126.

Level Crossings Case. July 15, 1907. The Privy Council heard the arguments in the level crossings case and reserved judgment. This is the case in which the city of Toronto is seeking to have it decided that the railways shall pay all the cost of protecting level crossings on such streets as were laid out before the railways were constructed.

(2) The highway at any overhead railway crossing shall not at any time be narrowed by means of an abutment or structure to an extent less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure constructed after the passing of this Act, be less than fourteen feet, unless otherwise directed or permitted by the Board.

Company not responsible for change in level of highway: *Carson v. Village of Weston*, 1 O. L. R. 15; 1 Can. Ry. Cases 487.

93. Where any railway is already constructed across any highway, the Board may order the company within a specified time to submit to the Board a plan and profile of such portion of the railway, and may, upon such submission, make any order in respect thereto that may to the Board seem proper.

94. Every structure, by which any highway is carried over or under any railway, shall be so constructed, and, at all times, be so maintained, as to afford safe and adequate facilities.

ties for all traffic passing over, under or through such structure.

As to liability of municipality: see 3 Edw. VII. cap. 19, sec. 611; *Holden v. Yarmouth*, 3 Can. Ry. Cases 74.

Bridge being repaired: *Farrell v. G. T. Ry. Co.*, 2 Can. Ry. Cases 249.

Private crossing: *Palmer v. M. C. Ry. Co.*, 3 Can. Ry. Cases 194.

95. The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach, unless the Board directs otherwise; and a good and sufficient fence shall be made on each side of such approach, and of the structure connected with it, which fence shall be at least four feet six inches in height from the surface of the approach or structure.

96. Signboards at least twelve feet in height at every highway crossed at rail level by any railway, shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side of the sign board, in letters at least six inches in length, and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding ten dollars.

Soule v. G. T. Ry. Co., 21 U. C. C. P. 308.

97.—(1) Where a level crossing on any railway is out of repair, the warden, mayor, or reeve of the municipality within whose jurisdiction the crossing is situate, may serve a notice upon the company in the usual manner, requiring the repair to be forthwith made; and if the company does not forthwith make the same, such head of the municipality may transmit a copy of the notice so served to the Board; and thereupon the Board may order an inspection to be made and may appoint an Inspector for that purpose who shall with all possible despatch, appoint a day when he will examine into the matter; and he shall, by mail, give notice to the warden, mayor, or reeve, and to the company, of the day he so fixes; and upon the day so named, he shall examine the crossing;

and a certificate under his hand shall be final on the subject so in dispute between the parties; and if the said Inspector determines that any repairs are required, he shall specify the nature thereof in his said certificate, and direct the company to make the same; and the company shall thereupon, with all possible despatch, comply with the requirements of the certificate; and in case of default, the municipality within whose jurisdiction the said crossing is situate, may make such repairs, and may recover all costs, expenses and outlays in the premises by action against the company in any Court of competent jurisdiction, as money paid to the company's use.

(2) The Inspector shall be entitled to be paid the sum of \$10 and actual travelling expenses while engaged on such inspection, and in case he finds that any repairs are required he shall be paid by the company, but if he finds that no repairs are required he shall be paid by the municipality whose chief officer served the said notice.

(3) Neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such company in the premises.

Crossings and Junctions.

98.—(1) The railway lines or tracks of any company shall not be crossed or joined by or with the railway lines or tracks of any other company until leave therefor has been obtained from the Board as hereinafter provided.

(2) Upon any application for such leave the applicant company shall submit to the Board a plan and profile of such crossing or junction and such other plans, drawings and specifications as the Board may in any case, or by regulation, require.

(3) The Board may by order grant such application on such terms as to protection and safety as it may deem expedient, may change the plan and profile, drawings and specifications, so submitted, and fix the place and mode of crossing or junction, and may direct that the lines and tracks of one

company be carried over or under the lines and tracks of the other, and that such works, structures, equipment, appliances and materials be constructed, provided, installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage, and may determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works.

(4) The Board may give directions as to supervision of the construction of the works, and order that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

(5) No trains shall be operated on the lines or tracks of the applicant company over, upon or through such crossing or junction until the Board grants an order authorizing such operation, but the Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.

(6) The Board may order any company to adopt and put in use at any such crossing or junction, at rail level, such interlocking switch, derailing device, signal system, equipments, appliances and materials, as in the opinion of the Board renders it safe for engines and trains to pass over such crossing or junction without being brought to a stop.

(7) This section shall apply to street railway companies and street railways.

See secs. 123, 124, 125 and 126 *infra*, as to provisions relating to precautions to be taken at crossings and regulating rate of speed on approaching them.

As to regulations of Ontario Railway and Municipal Board: see p. 15 of their Rules of Practice, &c. (See appendix).

As to provincial railway crossing one under Dominion jurisdiction, act of 1888: see *G. T. Ry. Co. v. Hamilton R. E. Ry. Co.*, 29 O. R. 143, but see sec. 8 of the Railway Act, R. S. C. 1906 cap. 37.

Credit Valley Ry. Co. v. G. W. Ry. Co., 25 Gr. 507.

Under track of another railway: James Bay Ry. Co. v. G. T. Ry. Co., 37 S. C. R. 372.

See also *City of Toronto v. Metropolitan Ry. Co.*, 31 O. R. 367; *Niagara, &c., Ry. Co. v. G. T. Ry. Co.*, 3 Can. Ry. Cases 256, 1b, 263; *C. P. R. v. Vancouver, &c.*, 10 B. C. R. 228, 3 Can. Ry. Cases 273; *Preston & Berlin St. Ry. Co. v. G. T. Ry. Co.*, 6 Can. Ry. Cases 142; *Windsor, &c., Ry. Co. v. M. C. Ry. Co.*, 6 Can. Ry. Cases 152; *In re C. P. Ry. Co. and G. T. Ry. Co.*, 6 Can. Ry. Cases 77; *Chatham, &c., Ry. Co. and C. P. Ry. Co.*, 5 Can. Ry. Cases 175; *Guelph, &c., Ry. Co. v. Guelph Radial Ry. Co.*, 5 Can. Ry. Cases 180; *C. P. Ry. Co. v. G. T. Ry. Co.*, 12 O. L. R. 326.

Mines and Minerals.

99. No company shall, without the authority of the Board, locate the line of its proposed railway, or construct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, or the access or adit to any mine then open, or for opening which preparations are, at the time of such location, being lawfully and openly made.

100. The company shall not be entitled to any mines, ores, metals, coal, slate, mineral oils or other minerals in or under any lands purchased by it, or taken by it under any compulsory powers given it by this Act, unless the same have been expressly purchased; and all such mines and minerals, except as aforesaid, shall be deemed to be excepted from the conveyance of such lands, unless they have been expressly named therein and conveyed thereby.

As to what above reservation includes: see *Hext v. Gill*, L. R. 7 Ch. App. 699; *Midland Ry. v. Cherkley*, L. R. 4 Eq. 19; *Midland Ry. v. Haunchwood Brick and Tile Co.*, L. R. 20 Ch. Div. 552; *Midland Ry. Co. v. Robinson*, 15 A. C. 19.

Reservation by the Crown of railway right of way: *La Rose Mining Co. v. T. & N. O. Ry. Commission*, 9 O. W. R. 513.

101.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been first obtained from the Board.

(2) Upon any application to the Board for leave to work any such mine or minerals, the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant proposed to be con-

structed or operated, affecting the railway, giving all reasonable and necessary information and details as to the extent and character of the same.

(3) The Board may grant such application upon such terms and conditions, as to protection and safety of the public, as to the Board may seem expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising, or likely to arise, from such mining operations.

102. The company shall, from time to time, pay to the owner, lessee, or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee, or occupier for and on account of any severance of the lands lying over such mines by the railway, or of the working of such mines being prevented, stopped or interrupted, or of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway.

In re Gerrard and L. & N. W. Ry. Co. (1895), 1 Q. B. 459.

103. If necessary in order to ascertain whether any such mines are being worked, or have been worked, so as to damage the railway or works or in such manner as to be detrimental to the safety of the public using the railway or of the tracks and trains of the company, it shall be lawful for the company with the written permission and authorization of the Board, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked.

104. If the owner, lessee, or occupier of any such mine refuses to allow any person appointed by the company for

that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100.

Weeds on Company's Land.

105.—(1) Every company shall cause all cleared land or ground adjoining the railway and belonging to the company to be covered with grass or turf, if not already so covered, and shall cause all thistles and noxious weeds growing on the right of way and over land of the company adjoining the railway to be cut down or to be rooted out and destroyed each year before the plants have sufficiently matured to seed.

Wood v. C. P. Ry. Co., 30 S. C. R. 110; G. T. Ry. Co. v. Rainville, 29 S. C. R. 201.

(2) Every company which fails to comply with this section shall incur a penalty of ten dollars for every day during which such company neglects to do anything which it is so required to do.

(3) The mayor, reeve or other head of the municipality in which the land or ground lies may cause all things to be done which the said company is so required to do, and for that purpose may enter, by himself and his assistant or workmen, upon such lands, and the municipality may recover the expenses and charges incurred in so doing, and the said penalty, with costs, in any Court of competent jurisdiction, and such expenses, penalty and costs shall be paid to the proper officer of the municipality.

Prevention of, and Liability for Fires.

106.—(1) The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary combustible matter.

(2) Whenever damage is caused to crops, lands, fences, plantations, standing or growing timber or trees or buildings and their contents, by a fire, started by a railway locomotive,

the company making use of such locomotive, whether guilty of negligence or not, shall be liable for such damage and may be sued for the recovery of the amount of such damage in any Court of competent jurisdiction; Provided that if it be shown that the company has used modern and efficient appliances and has not otherwise been guilty of any negligence, the total amount of compensation recoverable under this section, in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed five thousand dollars, and it shall be apportioned amongst the parties who suffered the loss as the Court may determine.

(3) The company shall have an insurable interest in all such property upon or along its route, for which it may be so held liable, and may procure insurances thereon in its own behalf.

G. T. Ry. Co. v. Rainville, 29 S. C. R. 201; 1 Can. Ry. Cases 113; Oatman v. M. C. Ry. Co., 1 O. L. R. 145, 1 Can. Ry. Cases 129; 7 O. W. R. 81; Jackson v. G. T. Ry. Co., 32 S. C. R. 245; 1 Can. Ry. Cases 141; Blue v. Red Mountain Ry. Co., 6 Can. Ry. Cases 219.

C. P. Ry. Co. v. Roy (1902), A. C. 220, Henley v. C. P. Ry. Co., 21 Occ. N. 394; 1 Can. Ry. Cases 176.

Credit for insurance moneys: Stratford v. Toronto H. & B. Ry. Co., 6 O. W. R. 698.

Insurance beyond powers of assuring—Company—Return of premiums—Standing timber: C. P. R. v. Ottawa Fire Ins. Co., 11 O. L. R. 465.

(Now standing for judgment in Supreme Court, July 16, 1907).

Construction of Road by Sections.

107. The company is hereby authorized and empowered to take and make the surveys and levels of the lands through which the said railway is to pass, together with the map or plan and book of reference thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and to deposit the same as required by the clauses of this Act with respect to plans and surveys, by sections or portions less than the length of the whole railway authorized, of such length as the company may from time to time see fit, so that no one of such sections or portions shall be less than five miles in length,

and upon such deposit as aforesaid of the map or plan and book of reference of any and each of such sections or portions of the said railway, all and every of the clauses of this Act shall apply and extend to any and each of such sections or portions of the said railway as fully and effectually as if the surveys and levels had been taken and made of the lands through which the whole of the said railway is to pass, together with the map or plan and book of reference of the whole thereof, and of its whole course and direction, and of the lands intended to be passed over and taken, and the statement of the whole of the said railway had been taken, made, examined, certified and deposited according to the said clauses of this Act. The construction of the railway in sections may be commenced at such point on the line of railway as the directors may determine, but the said work of construction shall be carried on from such point by sections continuing therefrom so as to form at all times one continuous line of railway; provided, however, that the Board may sanction and approve of the construction by sections at different points, and not continuously, along the said line of railway.

See next section.

108. Whenever any section of the said railway of not less than five miles has been completed, the company may take the steps authorized by section 163 of this Act to be taken before a railway or a portion thereof is opened for the carriage of traffic, and, with the permission of the Board as set forth in the said section, the company may open and operate such section as if it were a completed road, and all the sections of this Act applicable thereto shall thereupon apply to the said section as if it were a completed road, and to its operation.

Commencement of Construction.

109. The company shall not commence the construction of the railway, or any section or portion thereof, until the provisions of this Act as to plans and surveys are fully complied with; and shall not make any change, alteration or deviation in the railway, or any portion thereof, until the

provisions of subsection 13 of section 59 as to deviations are fully complied with.

See sec. 111.

Compensation to Owners of Lands Adjacent to Highways.

110.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge or underneath a highway or railway or street railway crossing by means of a sub-way or tunnel, and in the construction of the approaches to such bridge or tunnel, raises or depresses part of a highway, the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the said bridge or sub-way or tunnel or approaches thereto are constructed shall, if by reason of such construction his land or the business carried on upon such land is thereby injured or in any way depreciated in value, be entitled to receive compensation therefor from the company.

(2) The proceedings to obtain such compensation and to determine the amount thereof shall so far as applicable be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner.

(3) Compensation for injury to or depreciation of the value of any such business or land may be awarded by the arbitrators if in their judgment any such injury or depreciation is caused by the existence of the railway, notwithstanding that the grade of the highway may not have been changed or altered.

(4) Not more than one award of damages shall be made under this section in respect of the same land or business.

(5) This section shall not apply to such portions of any railway as are constructed at the time of the coming into force of this Act, or which may be constructed under agreements existing at the time of the coming into force of this Act.

Limitation of Time for Construction.

111. If the construction of the railway or street railway is not commenced and fifteen per cent. of the amount of the capital stock is not expended thereon within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of such Act, the powers granted by such Act or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

Montreal Park and Island Ry. Co. v. Chateauguay Nor. Ry. Co., 2 Q. R. 13 K. B. 256; 35 S. C. R. 48, 4 Can. Ry. Cases 83.

Grand Junction Ry. Co. v. Midland, 7 A. R. 681; Ont. &c. Ry. Co. v. C. P. Ry. Co., 14 O. R. 432.

Yale Hotel Co. v. Vancouver, &c., Ry. Co., 3 Can. Ry. Cases 108.

Effect of forfeiture: Hardy v. Pickrel, &c., and Co., 29 S. C. R. 216; Hodgins v. O'Hara, 38 C. L. J. 81; Grand Ju. Ry. Co. v. Midland, *supra*.

Use of Steam During Construction.

112. A company while constructing a line of railway to be operated by electricity on a right of way owned by the company shall have power to use steam as a motive power during such construction and at other times for construction purposes.

Contracts for Construction.

113.—(1) The directors may enter into a contract or contracts with any individual, corporation or association of individuals for the construction or equipment of the railway or any part thereof, including or excluding the purchase of right of way, and may pay therefor either in part or in whole either in cash or bonds, or in paid-up stock, and may pay or agree to pay in paid-up stock or in bonds of the said company such sums as they may deem expedient to engineers, or for the right of way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting the directors and furthering the undertaking, or for the purchase of right of way, material, plant or rolling stock.

provided that no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders in person or by proxy representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid in cash.

(2) This section shall apply to street railway companies and street railways.

Regulations Governing the Running of Trains.

114. The trains or cars shall start and run at regular hours or at regular intervals to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other railways, and at usual stopping places, established for receiving and discharging way-passengers and goods from the train or car.

Protection of passengers: *Blain v. C. P. Ry. Co.*, 3 Can. Ry. Cases 143, 2 O. W. R. 76, 34 S. C. R. 75; *Delahanty v. M. C. Ry. Co.*, 3 Can. Ry. Cases 311; 6 O. W. R. 252, 10 O. L. R. 388; *Jones v. G. T. Ry. Co.*, 5 O. W. R. 611, 9 O. L. R. 723.

Carriage of goods: *Merchants Despatch v. Hately*, 14 S. C. R. 572.

Contract limiting liability: *St. Mary's Creamery Co. v. G. T. R. Co.*, 3 Can. Ry. Cases 447, 4 O. W. R. 472, 8 O. L. R. 1.

See also *Frankel v. G. T. Ry. Co.*, 2 Can. Ry. Cases 155.

James v. Dom. Express Co., 9 O. W. R. 93, 13 O. L. R. 211, 6 Can. Ry. Cases 309.

Smith v. Canadian Express Co., 7 O. W. R. 403, 12 O. L. R. 84.

Re Robertson & G. T. Ry. Co., 43 C. L. J. 534, 9 O. W. R. 630.

As to running omnibus business: see *Attr.-Gen. v. Mersey Ry. Co.*, 23 T. L. R. 684, see also sec. 51, sub-sec. 7, ante.

115. Every employee of the company employed in a passenger train or car or at a passenger station, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not, without such badge, be entitled to demand

or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

Farewell v. G. T. Ry. Co., 15 U. C. C. P. 427.

116.—(1) The fare or toll shall be due and payable by every passenger on entering the car, or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be expelled from and put out of the car, with his baggage, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force.

(2) This section shall apply to street railways.

G. T. Ry. Co. v. Beaver, 22 S. C. R. 498; *Taylor v. G. T. R. Co.*, 2 Can. Ry. Cases 99, 2 O. W. R. 447, 4 O. L. R. 357; *Jones v. G. T. Ry. Co.*, 5 O. W. R. 611, 9 O. L. R. 723; *Delahanty v. M. C. Ry. Co.*, 3 Can. Ry. Cases 311, 6 O. W. R. 252, 10 O. L. R. 388; *Rex v. Hays*, 9 O. W. R. 488.

117. No person injured while on the platform of a car, or on any baggage, or freight car, in violation of the printed regulations posted up at the time, shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time.

Burriss v. Pere Marquette Ry. Co., 4 O. W. R. 510, 9 O. L. R. 259; *Cornish v. Toronto Ry. Co.*, 23 C. P. 355.

118.—(1) Except by permission of the Board, no passenger train upon a steam railway shall have any freight, merchandise or lumber car in the rear of any passenger car in which any passenger is carried.

(2) Every officer or employee of any company, who directs, or knowingly permits, any freight, merchandise or lumber car, to be so placed, shall be liable on summary conviction to a penalty not exceeding ten dollars.

119.—(1) A check shall be affixed by the company to every parcel of baggage, having a handle, loop or suitable means

for attaching a check thereupon, delivered by a passenger to the company for transport, and a duplicate of such check shall be given to the passenger delivering the same.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act.

(3) If such check is improperly refused on demand, the company shall be liable to such passenger for the sum of eight dollars, which shall be recoverable in a civil action; provided that this section shall not apply to any train or car operated by electricity unless the Board so orders.

Gamble v. G. W. Ry. Co., 24 T. C. R. 407, 3 Error and Appeal 163; *Abdon v. C. P. Ry. Co.*, 4 Can. Ry. Cases 56; *McCaffrey v. C. P. Ry. Co.*, 1 Man. L. R. 350; *Chan Dy Chea v. Alberta Ry. and Irrigation Co. (N. W. T.)*, 1 W. L. R. 371.

120. No passenger shall carry, nor shall the company be required to carry upon its railway, gunpowder, dynamite, nitro-glycerine, or any other goods which are of a dangerous or explosive nature; and every person who sends by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the station agent or employee of the company whose duty it is to receive such goods, and to whom the same are delivered, or who carries or takes upon any train any such goods for the purpose of carriage shall forfeit to the company the sum of five hundred dollars for every such offence.

East Indian Ry. Co. v. Kalidas (1901), A. C. 396.

121. The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact; and the company shall not carry any such goods of a dangerous nature, except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "dangerous explosives," and for each neglect to comply with the provisions of this section, the company shall incur a penalty of five hundred dollars.

122.—(1) When any railway passes over any navigable water, or canal, by means of a draw or swing bridge which is subject to be opened for navigation, every train shall, before coming on or crossing over such bridge, be brought to a full stop, and shall not proceed until a proper signal has been given for that purpose, and in default the company shall be liable to a penalty not exceeding four hundred dollars. Any employee failing to comply with the rules of the company as to compliance with the provisions of this subsection shall be liable to the like penalty, or to six months' imprisonment, or to both.

(2) Wherever there is adopted or in use on any railway at any such bridge, an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop, the Board may, by order, permit engines and trains to pass over such bridge without stopping, under such regulations, as to speed and other matters, as the Board deems proper.

(3) This section shall apply to street railways.

As to regulations of Board: See p. 17 of Rules, &c. (appendix).

123. When any train is approaching a highway crossing at rail-level (except within the limits of cities or towns where the municipal authority may pass by-laws prohibiting the same), the engine whistle shall be sounded at least eighty rods before reaching such crossing, and then the bell shall be rung continuously until the engine has crossed such highway, or in the case of a car or locomotive operating by electricity, an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing, and the company shall, for each neglect to comply with the provisions of this section, incur a penalty of eight dollars, and shall also be liable for all damage sustained by any person by reason of such neglect; and every employee of the company who neglects to comply with this section shall for each offence be subject to a like penalty.

Bell failure to give warning: Peart v. G. T. Ry. Co., 10 O. L. R. 753; Champaigne v. G. T. Ry. Co., 5 O. W. R. 218, 9 O. L. R.

589; *Smith v. Niagara and St. Catharines Ry. Co.*, 9 O. L. R. 158; 4 O. L. R. 526; *Royle v. Can. N. Ry. Co.*, 14 Man. L. R. 275; *Moir v. C. P. Ry. Co.*, 9 O. W. R. 22 (reversed by Court of Appeal, June 29th, 1907).

Look and listen: *Vallee v. G. T. Ry. Co.*, 1 O. L. R. 224; *Sims v. G. T. Ry. Co.*, 7 O. W. R. 648, 12 O. L. R. 39; *Wright v. G. T. Ry. Co.*, 7 O. W. R. 636, 12 O. L. R. 114; *G. T. Ry. Co. v. Hainer*, 36 S. C. R. 180; *Andreas v. C. P. Ry. Co.*, 37 S. C. R. 1.

Misener v. Wabash Ry. Co., 7 O. W. R. 651, 12 O. L. R. 71, 28 S. C. R. 94, 6 Can. Ry. Cases 70.

Hanley v. M. C. Ry. Co., 13 O. L. R. 560; 40 C. L. J. (1904) p. 840.

Starting signal within 80 rods of crossing: *Hollinger v. C. P. Ry. Co.*, 20 A. R. 244.

Street car: *Brenner v. Toronto Ry. Co.*, 13 O. L. R. 423, 9 O. W. R. 198; *Wallingford v. Ottawa E. Ry. Co.*, 9 O. W. R. 495.

Actual collision: *Henderson v. Canada Atlantic Ry. Co.*, 29 S. C. R. 632.

Shunting in company's yard: *Collier v. M. C. Ry. Co.*, 27 A. R. 630.

Dangerous crossing—special precautions: *Moyer v. G. T. Ry. Co.*, 3 Can. Ry. Cases 1.

Private property: *Shoebrink v. Canada Atlantic Ry. Co.*, 16 O. R. 515.

Train reversed: *Lett v. St. L. & O. Ry. Co.*, 1 O. R. 545.

Injury to employee: *C. S. Ry. Co. v. Jackson*, 17 S. C. R. 316.

As to excessive speed, see sec. 275 of Dom. Act: *Andreas v. C. P. Ry. Co.*, 37 S. C. R. 1; *Filiatrault v. C. P. Ry. Co.*, Q. R. 18 S. C. 491, and notes to secs. 87, 123, 192 and 217.

124.—(1) No train, engine or motor car shall pass over any crossing where two main lines of railway cross each other at rail-level, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person or watchman in charge of such crossing that the way is clear; provided always, that in the case of an electric street railway car crossing any railway track not properly protected, it shall be the duty of the conductor, before crossing, to go forward and see that the track to be crossed is clear, before giving the signal to the motorman, that the way is clear and to proceed.

(2) Every main track of a branch line is a main line within the meaning of this section, which shall apply, whether the said lines be owned by different companies or by the same company.

(3) Every train shall, before it passes over any such crossing as in this section mentioned, be brought to a full

stop; but whenever there is in use, at any such crossing, an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains or electric cars to pass over such crossing without being brought to a stop, the Board may, by order, permit such engines and trains and cars to pass over such crossing without stopping, under such regulations as to speed and other matters as the Board deems proper.

(4) Nothing in this section shall apply to a case in which the Dominion Railway Commission has jurisdiction to make an order, and has made an order for the protection of such crossing.

Graham v. G. W. Ry. Co., 41 U. C. Q. B. 324; *Brown v. G. W. Ry. Co.*, 3 S. C. R. 159.

125. Whenever in any city, town or village, any train is passing over or along a highway at rail-level, and is not headed by an engine or motor car moving forward in the ordinary manner, the company shall station on the then foremost part of the train, a person who shall warn persons standing on, or crossing, or about to cross, the track of such railway; and for every violation of any of the provisions of this section, or of either of the two sections next preceding, the company shall incur a penalty of one hundred dollars.

Lett v. St. L. & O. Ry. Co., 1 O. R. 545; *C. P. Ry. Co. v. Boisseau*, 32 S. C. R. 424; *Hollinger v. C. P. Ry. Co.*, 20 A. R. 244; *Bennett v. G. T. Ry. Co.*, 3 O. R. 446; *Wright v. G. T. Ry. Co.*, 12 O. L. R. 114; 7 O. W. R. 636.

126.—(1) Whenever any railway crosses any highway at rail-level, the company shall not, nor shall its officers, agents, or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway, for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time.

(2) In every case of a violation of this section, every such officer, agent, or employee who has directly under or subject to his control, management or direction, any engine, tender or car which, or any portion of which, is allowed

to stand on such highway, longer than the time specified in this section, is liable on summary conviction to a penalty not exceeding fifty dollars, and the company is also liable for each such violation, to a like penalty; provided always that if such alleged violation is in the opinion of the court excusable, the action for the penalty may be dismissed; and the costs shall be in the discretion of the Court.

Sleeping and Parlor Cars.

127. The company may contract with any person for the hauling by the special or regular trains of the company, of the parlor, drawing-room or sleeping car or cars of such person, in which extra accommodations shall be furnished, for which such person furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board, for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company. But the company so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the travelling public.

Stern v. Pullman Car Co., 8 O. R. 171; *Abbott on Railways*, 357, *et seq.*

Joint liability: Decue v. Wabash Ry. Co., 3 O. W. R. 102.

Injury to traveller thrown from sleeping berth: C. P. R. v. Smith, 31 S. C. R. 367.

Stations.

128.—(1) The company shall, according to its powers, furnish, at the place of starting and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway, — and shall furnish adequate and suitable accommodation for the carrying, unloading and delivering of all such traffic, — and shall, without delay, and with due care and diligence, receive, carry and

deliver all such traffic, and shall furnish and use all proper appliances, accommodation and means necessary therefor.

(2) Such traffic shall be taken, carried to and from, and delivered at such places, on the due payment of the toll lawfully payable therefor.

(3) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants.

(4) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests.

(5) No station established by any railway company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board first had and obtained.

(6) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company, the Board shall forthwith investigate the complaint. If upon such investigation it is found that such violation exists, the Board shall issue an order to the company setting forth the nature of the improvements required, and shall direct that the same shall be completed within such time as the Board may think proper.

G. T. Ry. Co. v. Anderson, 24 A. R. 672; Jones v. G. T. Ry. Co., 18 S. C. R. 696.

Blackboards Shewing whether Trains on Time.

129.—(1) Every company, upon whose railway there is a telegraph or telephone line in operation, shall have a

blackboard put upon the outside of the station house, over the platform of the station, in some conspicuous place at each station of such company at which there is a telegraph or telephone office; and when any passenger train or car is overdue at any such station, according to the time table of such company, the station agent or person in charge at such station, shall write, or cause to be written, with white chalk on such blackboard, a notice stating, to the best of his knowledge and belief, the time when such overdue train or car may be expected to reach such station; and if there is any further change in the expected time of arrival, the station agent or person in charge of the station shall write, or cause to be written on the blackboard in like manner, a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train or car may then be expected to reach such station.

(2) Every such company, station agent or person in charge at any such station, is, on summary conviction, liable to a penalty not exceeding five dollars for every wilful neglect, omission or refusal to obey the provisions of this section.

MUNICIPAL BONUSES AND LOANS.

130. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the railway, or through any part of which or near which the railway or works of the company shall pass or be situate, may aid the company by giving money or debentures, by way of bonus, gift or loan, or by the guarantee of the municipal corporation, under and subject to the provisions hereinafter contained; provided always, that such aid shall not be given except after the passing of a by-law for the purpose and the adoption of such by-law by the qualified ratepayers of the municipality or portion of the municipality (as the case may be) in accordance with and as provided by law in respect to granting aid by way of bonuses to railways.

Town of Whirby v. G. T. Ry. Co., 32 O. R. 99. 1 Can. Ry. Cases 265, 269, 276; *Canada Atlantic Ry. Co. v. Ottawa*, 12 S. C. R. 365; *County of Halton v. G. T. Ry. Co.*, 21 S. C. R. 716; *Bickford v. Chatham*, 16 S. C. R. 235; *Grand Junction Ry. Co. v. Peterborough*, 8 S. C. R. 76, 13 A. C. 136.

131. Such by-law shall be submitted by the municipal council to a vote of the ratepayers in manner following, namely:

(1) The proper petition shall first be presented to the council expressing the desire to aid the railway, and stating in what way and for what amount; and the council shall within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for, and submit the same to the approval of the qualified voters.

(2) In the case of a county municipality, the petition shall be that of a majority of the members of the county council or of fifty resident freeholders in each of the minor municipalities of the county who are qualified voters under the *The Consolidated Municipal Act, 1903*, and the amendments thereto.

(3) In the case of other municipalities the petition shall be that of a majority of the council thereof, or fifty resident freeholders, being duly qualified voters under *The Consolidated Municipal Act, 1903*, and amendments thereto as aforesaid.

(4) In the case of a section of a township municipality the petition is to be presented to the council defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

132. Such by-law shall in each instance provide:

(a) For raising the amount petitioned for in the municipality or portion of the township municipality (as the case may be), mentioned in the petition, by the issue of debentures of the county or minor municipality, respectively, and shall also provide for the delivery of the said debentures, or the application of the amount to be raised thereby, as may be expressed in the said by-law.

(b) For assessing and levying upon all rateable property lying within the municipality or portion of the township municipality defined in the said by-law (as the case may be), an annual special rate, sufficient to include a sinking fund for the repayment of the said debentures within twenty years with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, wardens, mayors, Reeves and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

133. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law, upon the ground that certain minor municipalities or portions thereof, comprised in the said by-law, would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners, with the treasurer of the county, of a sum sufficient to defray the expenses of such reference, the said council shall forthwith refer the said petition to the Board, who shall have power to confirm or amend the said by-law by excluding any minor municipality, or any section thereof, therefrom, and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters, and in case the by-law is confirmed by the Board the expenses of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county, or in such proportions between the company and the county as the Board may order.

134. The term "minor municipality" shall be construed to mean any town not separated from the municipal county, township or incorporated village situate in the county municipality.

135. Before any such by-law is submitted, the railway company shall, if required, deposit with the treasurer of the municipality, a sum sufficient to pay the expenses to be incurred in submitting the said by-law.

136. In case the by-law submitted be approved of and carried, in accordance with the provisions of the law in that behalf, then within four weeks after the date of such voting it shall be the duty of the municipal council which submitted the same to read the said by-law a third time and pass the same.

137. Unless otherwise provided in the by-law, the said council and the mayor, warden, reeve or other officers thereof, within one month after the passing of such by-law, shall issue or dispose of the debentures provided for by the by-law, and deliver the same, duly executed, to the trustees appointed, or to be appointed under this Act.

138. In case any such loan, guarantee or bonus be so granted by a portion of a township municipality, the rate to be levied for payment of the debentures issued therefor, and the interest thereon, shall be assessed and levied upon such portion only of such municipality.

139. The provisions of *The Consolidated Municipal Act, 1903*, and the amendments thereto, so far as the same are not inconsistent with this Act, shall apply to any by-law so passed by or for a portion of a township municipality, to the same extent as if the same had been passed by or for the whole municipality.

140. The councils for all corporations that may grant aid by way of bonus to the company may, by resolution or by-law, extend the time for the commencement of the work beyond that stipulated for in the by-law or by-laws granting such aid, from time to time: provided that no such extension shall be for a longer period than one year.

141. The council of any municipality that may grant aid by way of bonus, to the company, may, by resolution or by-law, extend the time for the completion of the works (on the completion of which the company would be entitled to such bonus), from time to time, provided that no such extension shall be for a longer period than one year at a time.

142. Any municipality, or portion of a township municipality, interested in the construction of the railway of the company may grant aid by way of bonus to the company towards the construction of such railway, notwithstanding that such aid may increase the municipal taxation of such municipality, or portion thereof, beyond what is allowed by law; provided that such aid shall not require the levying of a greater aggregate annual rate for all purposes exclusive of school rates, than three cents in the dollar upon the value of the ratable property therein.

143. Any municipality through which the railway may pass or in which the railway or part of it is situate, is empowered to grant, by way of gift to the company, any lands belonging to some municipality, or over which it may have control, which may be required for right of way, station grounds or other purposes connected with the running or traffic of the railway, and the railway company shall have power to accept gifts of land from any government, or any person or body, corporate or politic, and shall have power, when the same are no longer required or necessary for the purposes of the company, to sell or otherwise dispose of the same for the benefit of the company.

144. Whenever any municipality or portion of a township municipality shall grant aid by way of bonus or gift to the company, the debentures therefor shall within six months after the passing of the by-law authorizing the same, be delivered to three trustees to be named, one by the Board, one by the said company, and one by the majority of the heads of the municipalities which have granted bonuses, all of the trustees to be residents of the Province of Ontario; provided that if the said heads of the municipalities shall refuse or neglect to name such trustee within one month after notice in writing of the appointment of the company's trustee, or if the Board shall omit to name such trustee within one month after notice in writing to the Board of the appointment of the other trustees, then in either case the company shall be at liberty to name such other trustee or other trustees; any of the said trustees may be removed and a new trustee appointed in his place at any time by the Board, and in case

any trustee dies or resigns his trust, or goes to live out of the Province of Ontario or otherwise becomes incapable of acting, his trusteeship shall become vacant and a new trustee may be appointed by the Board.

145. The said trustees shall receive the said debentures or bonds in trust, firstly, under the directions of the company, but subject to the conditions of the by-law in relation thereto as to time or manner, to convert the same into money or otherwise dispose of them; secondly, to deposit the debentures or amount realized from the sale in some chartered bank having an office in the Province of Ontario in the name of "The _____ Railway Municipal Trust Account," and to pay the same out to the company from time to time as the company becomes entitled thereto, under the conditions of the by-law granting the said bonus, and on the certificate of the chief engineer of the said railway for the time being, in the form set out in Schedule "A" hereto, or to the like effect, which certificate shall set forth that the conditions of the by-law have been complied with, and is to be attached to the cheque or order drawn by the said trustees for such payment or delivery of debentures and such engineer shall not wrongfully grant any such certificate under a penalty of \$500, recoverable in any court of competent jurisdiction by any person who may sue therefor.

146. The trustees shall be entitled to their reasonable fees and charges from the said trust fund, and the act of any two of such trustees shall be as valid and binding as if the three had agreed.

147. The mayor, warden, reeve, or other chief officer of such municipal corporation granting a bonus or gift to the company to the amount of \$20,000, or upwards, shall be *ex officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company.

148. The sections respecting municipal bonuses and loans, being sections 130 to 147 inclusive, shall apply to street railway companies.

EXEMPTIONS FROM TAXATION.

149.—(1) The council of any municipality through any part of which the railway passes, or in which it is situate, may by by-law especially passed for that purpose, exempt the company and its property within such municipality, either in whole or in part from municipal taxation, but not including taxation for school purposes, or fix a certain sum per annum, or otherwise, by way of commutation, or in lieu of all or any municipal rates or taxes, and for such term of years not exceeding twenty-one years as such municipal council may deem expedient, and no such by-law shall be repealed unless in conformity with a condition contained therein.

(2) This section shall apply to street railway companies.

BY-LAWS, RULES AND REGULATIONS.

150. The company may, subject to the provisions and restrictions in this and in the Special Act, contained, make by-laws, rules or regulations respecting—

(a) The mode by which, and the speed at which, any rolling stock used on the railway is to be moved;

(b) The hours of the arrival and departure of trains;

(c) The loading or unloading of cars, and the weights which they are respectively to carry;

(d) The receipt and delivery of traffic;

(e) The smoking tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company;

(f) The travelling upon, or the using or working of, the railway;

(g) The employment and conduct of the officers and employees of the company;

(h) The due management of the affairs of the company; and

(i) The number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class or car to be occupied by them.

Disobedience of rules: *C. P. Ry. Co. v. Lawson*, S. C. Dig. 1217; *G. T. Ry. Co. v. Miller*, 32 S. C. R. 454; *Fawcett v. C. P. Ry. Co.*, 32 S. C. R. 721; *Birkett v. G. T. Ry. Co.*, 35 S. C. R. 296; *Deyo v. Kingstone and Pembroke Ry. Co.*, S. O. L. R. 588, 4 O. W. R. 182; *Maycock v. Wabash Ry. Co.*, 9 O. W. R. 546, 10 O. W. R. 127; *Muma v. C. P. Ry. Co.*, 9 O. W. R. 475.

151. The company may, for the better enforcing the observance of any such by-law, rule or regulation affecting the officers or employees of the company, prescribe in such by-law a penalty not exceeding forty dollars for any violation thereof.

152. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company.

153. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally, shall be submitted to the Board for approval. The Board may sanction them or any of them, or any part thereof, and may, from time to time, rescind the sanction of any such by-law, rule or regulation, or any part thereof. Except when so sanctioned no such by-law, rule or regulation shall have any force or effect.

154. A printed copy of so much of any by-law, rule or regulation, as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed, and kept affixed, to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

155. A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company, shall be given to every officer and employee of the company thereby affected.

156. Such by-laws, rules and regulations when so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder.

157. If the violation or non-observance of any by-law, rule or regulation, is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect thereof.

158. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any Court.

159. All by-laws, rules and regulations of a company operating its railway by electricity partially or wholly on a highway or of a street railway company, shall be subject to any agreement that may have been made by such company and the municipal corporation owning or maintaining such highway.

NOTICES OF BY-LAWS, ETC.

160. Notice of any by-law or of any order or notice of the company affecting any officer or employee thereof, may be proved by proving the delivery of a copy thereof to such officer or employee, or that such officer or employee signed a copy thereof, or that a copy thereof was posted in some one place where his work or his duties, or some of them, were to be performed.

161. The sections relating to "By-laws, Rules and Regulations," being sections 150 to 160 inclusive, shall apply to street railways and street railway companies.

INSPECTION OF RAILWAYS.

Inspecting Engineers.

162.—(1) Inspecting engineer may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council.

(2) It shall be the duty of every such inspecting engineer, upon being directed by the Board, to inspect any railway, or any branch line, siding or portion thereof, whether constructed, or in the course of construction, to examine the stations, rolling stock, rails, road bed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates, and cattle-guards, telegraph, telephone, or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board.

(3) Every such inspecting engineer shall be vested with all the powers in regard to any such inspection as are provided in section 49 of "*The Ontario Railway and Municipal Board Act, 1906.*"

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power, in all matters inquired into by him, and shall submit to such inspecting engineer all plans, specifications, drawings and documents relating to the construction, repair, or state of repair, of the railway, or any portion thereof.

(5) Every such inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph wires and machinery in the offices of, or under the control of, any such company.

(6) The operators, or officers, employed in the telegraph offices of, or under the control of, the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer who neglects or refuses so to do, shall, for every such offence, be liable, on summary conviction, to a penalty of forty dollars.

(7) The production of his appointment in writing, signed by the Chairman of the Board, or the Secretary, shall be sufficient evidence of the authority of such inspecting engineer.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty, is liable, on summary conviction, to a penalty not exceeding forty dollars; and in default of payment thereof forthwith, or within such time as the convicting justices or justices of the peace appoint, to imprisonment with or without hard labour for any term not exceeding three months.

Inspection of Line.

163.—(1) No railway, or any portion thereof, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board, as hereinafter provided.

(2) When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, alleging that the railway, or portion thereof, desired to be so opened is in his opinion sufficiently completed for the safe carriage of traffic, and ready for inspection, and requesting the Board to authorize the same to be opened for such purpose.

(3) Before granting such application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened, and if the inspecting

engineer reports to the Board, after making such examination, that in his opinion the opening of the same for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

(4) But if such inspecting engineer, after the inspection of the railway, or the portion thereof, shall report to the Board that in his opinion the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway or portion thereof, he shall state in his report the reasons for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report and reasons, and the Board may refuse such application, in whole or in part, or may direct a further or other inspection and report to be made.

(5) If thereafter upon such further or other inspection, or upon a new application under this section, the inspecting engineer reports that such railway or portion thereof may be opened without danger to the public, the Board may make the like order as provided in subsection 3 of this section, and thereupon the railway, or such portion thereof, as is authorized by the Board, may be opened for traffic in accordance therewith.

(6) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

(7) If any railway, or portion thereof, is opened contrary to the provisions of this section, the company, or person to whom such railway belongs, shall forfeit to His Majesty

the sum of two hundred dollars for each day on which the same is or continues open until such order is obtained.

Company not subject to liabilities of common carriers until railway declared open for public traffic: *Macrae v. C. P. Ry. Co.*, Mont. L. R. 4 Q. B. 191; *Browne v. Brockville & Ottawa Ry. Co.*, 20 U. C. R. 202.

164.—(1) Whenever the Board receives information that any railway, or any portion thereof, is dangerous to the public using the same, from want of renewal or repair, or insufficient or faulty construction, equipment, or from any other cause, the Board may direct an inspecting engineer to examine the railway, or any portion thereof; and upon the report of the inspecting engineer may order any repairs, renewal, reconstruction, alteration or new works, materials or equipment to be made, done, or furnished by the company or municipality upon, in addition to, or substitution for, any portion of the railway, which may, from such report, appear to the Board necessary or proper to avoid such danger, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction, no such portion of the railway in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose. And the Board may by such order, condemn, and thereby forbid further use of, any rolling stock which, from such report, it may consider unfit to repair or use further.

(2) If, after notice of any such order made by the Board, the company shall use any rolling stock, after the same has been so condemned by the Board, or shall disobey or fail to comply with any order of the Board made under this section, the company shall, for each day on which such order is disobeyed, forfeit to His Majesty the sum of five hundred dollars; and any person wilfully and knowingly aiding or abetting any such violation shall be guilty of an offence, and on summary conviction thereof shall be liable to a penalty of not less than twenty dollars nor more than two hundred dollars.

(3) This section shall apply to street railways.

165.—(1) If in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, the said engineer may, by notice forthwith, either forbid the running of any train over such railway or portion of railway, or require that the same be run only at such times, under such conditions, and with such precautions, as he, by notice, specifies, and he may forbid the running or using of any such rolling stock by serving upon the company owning, running or using such railway, or any officer having the management or control of the running of trains on such railway, a notice in writing to that effect, with his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every act or non-compliance therewith such company shall forfeit to His Majesty the sum of two thousand dollars.

(2) The inspecting engineer shall forthwith report the same to the Board, which may either confirm, modify or disallow the act or order of such engineer; and notice of such confirmation, modification or disallowance, shall be duly given to the company.

166. The company shall, as soon as possible after the receipt of any order or notice of the Board affecting any of the officers or employees of the railway or any of the duties of such officers or employees, give cognizance thereof to each of its officers and employees, in one or more of the ways mentioned in section 160 of this Act.

167. All orders of the Board shall be considered as made known to the company by a notice thereof signed by the chairman or secretary thereof, and delivered to the president, vice-president, managing director, secretary or superintendent of the said company, or at the office of the company.

Inspection not to Relieve from Liability.

168. No inspection had under this Act, and nothing in this Act contained, and nothing done or ordered or omitted

to be done or ordered, under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such company under the laws in force in this Province.

Want of lock at switch: *Rombach v. Balch*, 27 A. R. 32.

TOLLS.

By-Laws as to.

169.—(1) The company or the directors of the company, by by-law, or any such officer or officers of the company as are thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged, as hereinafter provided, for all traffic carried by the company upon the railway, or in its vessels, and may specify the persons to whom, the place where, and the manner in which, such tolls shall be paid.

(2) All such by-laws shall be submitted to and approved by the Board.

(3) The Board may approve such by-laws in whole or in part, or may change, alter or vary any of the provisions therein.

(4) No tolls shall be charged by the company until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor shall the company charge, levy or collect any money for any services as a common carrier, except under the provisions of this Act.

Lees v. Ottawa and New York Ry. Co., 31 O. R. 567; *Scott v. Midland Ry. Co.*, 33 U. C. R. 580; *Duthie v. G. T. Ry. Co.*, 4 Can. Ry. Cases 304; *Cooperage Stock Rates Case*, 3 Can. Ry. Cases 421; *United Factories v. G. T. Ry. Co.*, 3 Can. Ry. Cases 424.

Collection of Tolls.

170.—(1) The company shall have the power to collect and receive all charges subject to which goods or commodities may come into their possession, and on payment of such charges by the company without any formal transfer, the company shall have the same lien for the amount thereof upon such goods or commodities as the person to whom such charges were originally due, and shall be subrogated by such payments to all the rights and remedies of such persons for such charges.

(2) In case of refusal or neglect of payment on demand of any such tolls, or any part thereof, to such persons, the same may be sued for and recovered in any court of competent jurisdiction, or the agents or servants of the company may seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof.

(3) If the tolls are not paid within six weeks, and where the goods are perishable goods, if the tolls are not paid upon demand or if such goods are liable to be destroyed while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale, and shall deliver the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto.

(4) If any goods remain in the possession of the company unclaimed for the space of twelve months, the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Ontario Gazette*, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds.

if any, shall be kept by the company for a further period of three months, to be paid over to any person entitled thereto.

(5) In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Provincial Treasurer to be applied to the general purposes of the Province, unless claimed by the person entitled thereto, within six years of the date of such payment.

Passenger Fares on Electric Roads.

171.—(1) Notwithstanding anything contained in any agreement with any municipal or other corporation or person, or any provision contained in any special Act to the contrary, the fares to be taken by the company on a railway operated by electricity for each passenger shall not exceed five cents for any distance not exceeding three miles, and where the distance exceeds three miles then not exceeding two cents per mile or fraction thereof for the distance actually travelled. Children under ten years of age shall be carried for three miles or less for three cents and for any additional distance for half fare, but children in arms shall, in all cases, be carried free.

(2) Pupils under seventeen years of age actually attending school shall be entitled to purchase at any office of the company where tickets are sold, on a certificate from their principal teacher that they are *bona fide* pupils attending school, eight tickets for twenty-five cents, such tickets to be used only between the hours of eight o'clock and half-past nine in the forenoon, and between half-past three and five o'clock in the afternoon, then only for the purpose of attending and returning from school, provided that no such tickets shall entitle any pupil to ride a greater distance than five miles.

(3) This section shall not be construed to alter or vary any agreement by which the company is bound to charge a lesser rate of fares for passengers than those mentioned in this section, or to supply a greater number of tickets to

pupils attending school or to pupils of a lesser age or at different hours or for a greater distance than mentioned in this section.

(4) This section shall apply to street railways.

(5) This section shall not apply to a company whose tariff for passenger fares is subject to the approval of any commissioners in whom are vested any park or lands owned by the Crown for the use of the public of the Province of Ontario.

City of Hamilton v. Hamilton St. Ry. Co., 10 O. L. R. 594, 6 O. W. R. 207.

BOARD AND MEMBERS OF LEGISLATURE TO BE CARRIED FREE.

172. The company shall furnish free transportation upon any of its trains, for members of the Legislature with the baggage, and also for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul, free of charge, any car provided for the use of the Board.

As to company's liability for injuries to gratuitous passenger: See *Bicknell v. G. T. Ry. Co.*, 23 A. R. 431; *Central Vermont Ry. Co. v. Franchère*, 35 S. C. R. 68; *Ryckman v. H. G. & B. Electric Ry. Co.*, 6 O. W. R. 271, 10 O. L. R. 419; *Nightingale v. Union Colliery, Ac.*, 35 S. C. R. 65; *Coll v. Toronto Ry. Co.*, 25 A. R. 55; *The Stella*, (1900) P. 161.

DISCRIMINATION.

173.—(1) Such tolls may be either for the whole or for any particular portions of the railway; but all such tolls shall always, under substantially similar circumstances and conditions, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise, in respect of all traffic of the same description and carried in or upon a like kind of cars, passing over the same portion of the line of railway; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

(2) The tolls for larger quantities, greater numbers, or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons.

(3) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities.

(4) No toll shall be charged which unjustly discriminates between different localities. The Board shall not approve or allow any toll, which for the like description of goods or for passengers, carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, the shorter being included in the longer distance, unless the Board is satisfied that owing to competition, it is expedient to allow such toll. The Board may declare that any places are competitive points within the meaning of this Act.

Manufacturers' Coal Rates Case, 3 Can. Ry. Cases 438; Cedar Lumber Products Case, 3 Can. Ry. Cases 412; Brant Milling Co. Case, 4 Can. Ry. Cases 259; Tower Oiled Clothing Co. Case, 3 Can. Ry. Cases 417.

(5) No company shall, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, nor divide its earnings or any portion thereof with any other railway company or common carrier, nor enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result, without leave therefor having been obtained from the Board.

174. All companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock; and no company shall make or give any undue or unreasonable preference or ad-

vantage to, or in favour of, any particular person, or company, or any particular description of traffic, in any respect whatsoever, nor shall any company by any unreasonable delay or otherwise howsoever, make any difference in treatment in the receiving, loading, forwarding, unloading, or delivery of the goods of a similar character in favour of or against any particular person, or company, nor subject any particular person, or company, or any particular description of traffic, to any undue, or unreasonable, prejudice or disadvantage, in any respect whatsoever; nor shall any company so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects; and every company which has or works a railway forming part of a continuous line of railway with, or which intersects, any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf; and any agreement made between any two or more companies contrary to this section shall be unlawful and null and void.

175. The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of this and the last preceding section; and may by regulation declare what shall constitute substantially similar

circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of this and the last preceding section.

176.—(1) Whenever it is shewn that any company charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than they charge to other persons, companies, or class of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination, shall lie on the company.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to any undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail.

177. Every company which grants any facilities for the carriage of goods by express to any express company or person, shall grant equal facilities, on equal terms and conditions, to any other express company which demands the same.

178. Nothing in this Act shall be construed to prevent the carriage, storage, or handling of traffic free or at reduced rates for the Dominion, or any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation, nor to prevent the issuance of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates, of immigrants or settlers, and their goods and effects, or any member of any organized association of commercial travellers with his baggage, nor to prevent railways from giving free carriage or reduced rates to their own officers and employees, or their families, or for their goods and effects, or to members of the press, or to such other persons as the Board may approve or permit, nor to prevent the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees and their families, or their goods and effects; provided that the carriage of traffic by the company under this section may, in any particular case or by general regulation, be extended, restricted, limited or qualified by the Board.

APPOINTMENT OF RAILWAY CONSTABLES.

179.—(1) The Justices of the Peace for any county assembled at any General Sessions of the Peace, on the application of the board of directors of the company whose railway or any part thereof passes within the local jurisdiction of such Justices of the Peace, or on the application of any clerk or agent of the company thereto authorized by such board, may, in their discretion appoint any persons recommended to them for that purpose by such board of directors, clerk or agent, to act as constables on and along such railway; and every person so appointed shall take an oath or make a solemn declaration in the form or to the effect following, that is to say:

"I, A. B., having been appointed a Constable to act upon and along (here name the Railway), under the provisions of The Ontario Railway Act, 1906, do swear that I will well and truly serve

"our Sovereign Lord the King, in the said office of Constable, without favour or affection, malice or ill-will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law: So help me God."

(2) Such oath or declaration shall be administered by any one such Justice or by the Clerk of the Peace for such county.

(3) Such appointment shall be made in writing signed by the Clerk of the Peace, and the fact that the person appointed thereby has taken such oath or declaration shall be endorsed thereon by the person administering such oath or declaration.

180. Every constable so appointed, and having taken such oath or made such declaration as aforesaid, shall have full power to act as a constable for the preservation of the peace and for the security of persons and property against felonies and other unlawful acts on such railway, and on any of the works belonging thereto, and on and about any trains, roads, wharves, quays, landing-places, warehouses, lands, and premises belonging to the company, whether the same be in the county, city, district or other local jurisdiction within which he was appointed, or in any other place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such railway company, and in all places not more than one quarter of a mile distant from the railway; and shall have all the powers, protections and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, possessed by any constable duly appointed.

181. It shall be lawful for any such constable to take such persons as may be punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts or by-laws affecting any such railway, before any Justice or Justices appointed for any county, city, district or other local jurisdiction within which such railway passes; and every such Justice shall have authority to

deal with all such cases, as though the offence had been committed and the person taken within the limits of his own local jurisdiction.

Conviction quashed where offender summoned not arrested: *Regina v. Hughes*, 26 O. R. 468.

182. The Judge of the County Court of the county in which the constable resides, may dismiss any such constable, and the board of directors of the company or any manager or superintendent thereof may dismiss any such constable who may be acting on the railway; and upon such dismissal, all powers, protection and privileges belonging to any such person, by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as a constable for such railway without the consent of the authority by which he was dismissed.

183. The company shall cause to be recorded in the office of the Clerk of the Peace, for every county wherein such railway passes, the name and designation of every constable so appointed at its instance, the date of his appointment, and the authority making it, with such appointment or a certified copy thereof, and also the fact of every dismissal of any such constable, the date thereof, and the authority making the same, within one week after the date of such appointment or dismissal, as the case may be; and such Clerk of the Peace shall keep a record of all such facts in a book which shall be open to public inspection, and shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. Such record shall, in all Courts, be *prima facie* evidence of the due appointment of such constable and of his jurisdiction to act as such, without further proof than the mere production of such record.

184. Every such constable who is guilty of any neglect or breach of duty in his office of constable, shall be liable, on summary conviction thereof, within any county, city or district wherein such railway passes, to a penalty not exceeding eighty dollars, or to imprisonment, with or without hard labour, for a term not exceeding two months. Such

penalty may be deducted from any salary due to such offender, if such constable is in receipt of a salary from the company.

PASSENGER CONDUCTORS TO HAVE THE POWER AND AUTHORITY OF CONSTABLES.

185.—(1) The conductor of every train carrying passengers within this Province and the conductor of the car or cars of every railway carrying passengers within this Province, is hereby invested with all the powers of a constable, while on duty on his train or on said car and cars, and said conductor may wear a badge or other distinguishing mark of a special constable.

(2) When a passenger is guilty of disorderly conduct, or uses any blasphemous or obscene language, or plays any game of cards or chance for money or any other thing of value, upon any passenger train or upon the car or cars of any railway carrying passengers within this Province, the conductor of such train or car or cars of such railway may stop his train or said car or cars at the place where such offence is committed, or at the next stopping place of such train or of such car or cars, and eject such passenger from the train or from said car or cars, using only such force as may be necessary to accomplish such removal; and the conductor may command the assistance of the employees of the company, and of the passengers on such train or on such car or cars, to assist in such removal; but before doing so he shall render to such passenger such proportion of the fare he has paid as the distance he then is from the place to which he has paid fare bears to the whole distance for which his fare is paid.

Blain v. C. P. Ry. Co., 3 Can. Ry. Cases 143, 2 O. W. R. 76, 64 S. C. R. 75; *Delahanty v. M. C. Ry. Co.*, 3 Can. Ry. Cases 311, 6 O. W. R. 252, 10 O. L. R. 388.

186. When a passenger is guilty of any offence upon a passenger train or upon the car or cars of any railway carrying passengers within this Province, the conductor of such train or of such car or cars may arrest him and take him before any Justice having cognizance of such offence

in any county or district in this Province in which such train or car or cars runs, and lay an information before such Justice, charging him with such offence; but in no case shall the liability of the company for damages caused by the conduct of its conductor be affected by the provisions of this and the next preceding section.

187. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables.

188. A conductor exercising the powers of a constable under this Act shall be entitled to the protection accorded by law to constables engaged in the performance of their duties as such.

STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS.

General Provisions.

189. Unless otherwise provided, sections 190 to 221 inclusive, shall apply only to street railways and companies incorporated for the purpose of constructing, maintaining and operating street railways as defined in the interpretation clauses of this Act, and to other railways incorporated for the purpose of operating partially or wholly along highways by electricity.

190. Every such company shall, subject to any provisions contained in the special Act or in any agreement made between the company and a municipality, have authority to construct, maintain, complete, and operate and from time to time to remove and change as required, a double or single track railway, with the necessary switches, side tracks and turn-outs, for the passage of cars, carriages and other vehicles adapted to the same, upon and along such of the highways in any municipality to which the special Act extends, as the council of the municipality may by by-law authorize, and over and upon lands purchased or leased by the company for that purpose, and to take, transport and carry passengers upon the same, by the force or power of

electricity, and to construct and maintain all necessary works, buildings, appliances and conveniences connected therewith.

As to running of omnibuses: see *Atty.-Gen. v. Mersey Ry. Co.*, 23 T. L. R. 684.

191. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway, unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board.

192. Subject to the provisions of section 217 of this Act, the company and the council of any municipality in which a railway or part of a railway is laid may, amongst other things, enter into any agreements they think advisable, relating to the construction of the railway; the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion; the paving, macadamizing, repairing, grading, and cleaning of the streets upon which the railway is laid; the construction, opening and repairing of drains and sewers; the laying, repairing or taking up of gas and water pipes in the streets; the location of the railway, and the particular streets along which the same may be laid; the pattern of rails; the time and speed of running the cars, sleighs and other conveyances; the fares to be charged within the maximum hereinafter mentioned, and the amount of compensation (if any) to be paid by the company annually or otherwise.

Montreal St. Ry. Co. v. Montreal Terminal Ry. Co., 36 S. C. R. 399.

Workman's tickets: Right of action, necessary parties, Attorney-General; specific performance: *City of Hamilton v. Hamilton Street Ry. Co.*, 10 O. L. R. 594, 6 O. W. R. 297.

Gross receipts, extension of line: *City of Hamilton v. Hamilton St. Ry. Co.*, 10 O. L. R. 575, 3 O. W. R. 296, 38 S. C. R. 106; *City of Toronto v. Toronto Ry. Co.*, 6 O. W. R. 677, 10 O. L. R. 657; *City of Montreal v. Montreal St. Ry. Co.*, (1906) A. C. 482; *City of Ottawa v. Ottawa Electric Ry. Co.*, 1 O. L. R. 377, 2 O. W. R. 719; *City of Toronto v. Toronto Ry. Co.*, 6 O. W. R. 871, 11 O. L. R. 103; *London St. Ry. Co. v. City of London*, 3 O. W. R. 123, 9 O. L. R. 439; *Montreal St. Ry. Co. v. City of Montreal*, (1906) A. C. 100; *City of Toronto v. Toronto Ry. Co.*, 23 T. L. R. 480.

Sunday Cars.

193.—(1) No company or municipal corporation operating a street railway, tramway or electric railway, shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

(2) Notwithstanding anything in this Act or in the special Act or in any agreement contained, companies which have before the first day of April, 1897, regularly run cars on Sunday, may hereafter do so, but the foregoing subsection shall not confer any rights so to run cars on Sunday not now possessed by such companies, nor shall it affect or apply to any company which has by its charter or by any special Act the right or authority to run cars on Sunday, nor shall it affect the right (if any) of the Toronto Railway Company to run cars on Sunday; nor shall it affect the right of any railway company to run cars or trains as provided in subsection 2 of section 136 of chapter 209 of the Revised Statutes of Ontario, 1897, which right shall be continued as though such statute stood unrepealed.

(3) For every train or car run or operated in violation of this section, the company shall forfeit and pay the sum of \$400, to be recovered in any court having jurisdiction in civil cases, for the amount, by any person suing for the same under this section and for the purpose thereof. The action for the recovery of the said sum shall be brought before a Court having jurisdiction as aforesaid in the place from which such train or car started, or through which it passed, or at which it stopped in the course of such operation.

(4) All moneys recovered under the provisions of this section shall be appropriated as follows: One moiety thereof to the plaintiff, and the other moiety to the local municipality from which the train or car started; but if the train or car is operated by the municipality from within whose limits the same started, the plaintiff shall receive the whole amount so recovered.

(5) The conductor or other person in charge of any train or car run or operated in violation of the provisions of this section, shall be liable for every such offence to a penalty not exceeding \$40 nor less than \$1, besides costs, and the same shall be recoverable on summary conviction.

(6) This section shall apply to all railways operated by electricity, and street railways, whether they are operated on a highway or on a right of way owned by the company.

See the Lord's Day Act (Dominion), 6 Edw. VII. (1906), cap. 27. Exceptions as to railways: Section 3, sub-secs. (g), (h), (i), (j) and (k).

Under sec. 9 of the Railway Act, R. S. C. 1907 cap. 37, this section with certain exceptions would apply to Dominion railways. See sub-sec. 4 of sec. 197.

194.—(1) The company, when operating any portion of its line across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may be reasonably possible, sufficient to prevent telegraph, telephone or other wires now or hereafter strung across or along the highway from coming into contact with or falling upon the said wires conveying such electricity.

(2) The company, when operating any portion of its line by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things now or hereafter placed underground from being damaged in consequence of the escape or discharge of electricity into the ground. Unless otherwise ordered by the Board, proper bonding of the rails, and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires, shall be taken to be a compliance with the conditions of this section.

(3) The Board shall have power to make such order or orders as to it may seem proper to compel the proper observance of this section.

195. Any person suffering damage by reason of the non-compliance by the company with the provisions of the pre-

ceding section, shall have a right of action against the company therefor.

Royal Electric Co. v. Hevi, 21 Oec. N. 442; Randall v. Ottawa Electric Co., 6 O. W. R. 913; Laboumarde v. Chatham Gas Co., 5 O. W. R. 534, 10 O. L. R. 446; Lewis v. Toronto Ry. Co., 6 O. W. R. 1029; Bradd v. Whitney, 9 O. W. R. 656; Findlay v. Hamilton E. L. & C. P. Co., 9 O. W. R. 434, 773; Gloster v. Toronto Electric Light Co., 38 S. C. R. 27; East & S. Africa Tel. Co. v. Capetown Tramway Co. 1902 (A. C.), 381; Consumers Gas Co. v. Toronto Ry. Co., 10 O. W. R. 106.

Forfeiture for Non-user.

196.—(1) In case the company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon its being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, together with the rails, poles, and wires thereof, and the company shall, in addition, indemnify the municipality in respect of all costs incurred in taking up the rails and putting the highways in proper repair.

(2) The municipality shall have a lien upon the rails, poles, wires, rolling stock, and other property of the company until the expense of taking up the rails and putting the highways in proper repair is paid.

Effect of forfeiture: Hardy v. Pickersel, & Co., 29 S. C. R. 216; Hodgins v. O'Hara, 38 C. L. J. 81; Grand Junction Ry. Co. v. Midland, 7 A. R. 681.

Additional Powers of Electric and Street Railways.

197. Railway companies operating by electricity and street railway companies shall also have power:

(1) To construct, maintain and operate works for the production of electricity for the motive power of the said railways, and for the lighting and heating the rolling stock and other property of the company.

(2) To acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary plant for the purpose

of generating electricity for lighting, heating and power in operating the said railway.

(3) To enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway, or with any electric light or electric railway company, or any company organized for the purpose of supplying or furnishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company to construct, carry on or operate the railway.

(4) To purchase, lease or acquire by voluntary donation and to hold for any estate in the same, and to sell, lease, alienate or mortgage any lands or premises intended and necessary or suitable for park or pleasure grounds, and to improve and lay out such lands as parks or places of public resort, and to make and enter into any agreement or arrangements with the municipal corporations of the municipalities wherein the same are situate, or any of them, in respect thereto, subject, however, to the power of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds; but none of the provisions of this clause shall be in force or have effect unless and until the municipal council or councils of the municipality or municipalities wherein the lands proposed to be acquired by the company are situate, has or have by by-law declared its or their assent to the company's acquiring lands under and for the purpose mentioned in this clause. No such park or pleasure grounds shall be used for games, pic-nics, concerts, excursions or other public entertainments on Sunday.

(5) To purchase the right to convey electricity required for the working of the railway, and lighting or heating the same over, through or under lands other than the lands of the railway by the special Act authorized to be built, and with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such lands as may be determined by

the company, and along and upon any of the public highways, or across any of the waters in this Province, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and any private owners of the lands affected, and between the company and any municipality in which such works or any part thereof or of the railway may be situate, and under and subject to any by-law or by-laws of the council of such municipality passed in pursuance thereof, provided such works are not so constructed as to incommode the public use of such roads or highways, or as to be a nuisance thereto, or to impede the free access to any house or other building erected in the vicinity of the same, or to endanger or injuriously affect the same, or injuriously to interrupt the navigation of such waters. The rights conferred upon the company shall not be exercised within the limits of any park vested in the Crown for the use of the public of the Province of Ontario, or any land vested in any commissioners for any such park, without the consent of the commissioners and the approval of the Lieutenant-Governor in Council.

(6) Subject to the provisions of sections 202 to 208, inclusive, and of section 218 of this Act, no railway or street railway shall be constructed or operated along any street, highway or public place of any municipality until first authorized by an agreement in respect thereto, made between the company and such municipality, and under and subject to the terms of such agreement and of section 217 of this Act, and of any by-law or by-laws of the council of said municipality to be passed in pursuance thereof; and in all such cases any and every work, matter or thing in connection with the motive power, and the application and using thereof in so constructing, operating and working such railway, or the cars, carriages, engines, motors or machines thereof, shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such street, highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with

the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such an improved manufacture, and so placed as to avoid so far as possible any danger to buildings or other property.

198.—(1) No municipal council, notwithstanding anything contained in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway, until written or printed notices of the intended by-law, specifying the route to be taken by the railway, shall have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in some newspaper published in the municipality, or, if there be no such newspaper, in a newspaper published in a neighbouring municipality, or, if there be no such newspaper, then in a newspaper published in the county town.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

(3) If after hearing such objections as may be made, the council shall pass a by-law authorizing the construction of a railway or street railway on, upon or along any highway, any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such petition, after hearing all parties interested, the Board shall have power to amend such by-law in such manner as to the Board may seem proper or to quash the same.

(4) The costs of such proceeding shall be in the discretion of the Board, and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court of Judicature.

(5) This section shall not apply to extensions within the limits of a city or town of a street railway already constructed.

199. The company may, at any point or points where its railway may run along the highway, deviate from such highway to a right of way owned by the company, provided that no obstruction of such highway shall be made by such deviation; but if the rails on such deviation do not rise above or sink below the surface of the road more than one inch, they shall not be deemed an obstruction; provided that the right by this section conferred shall not be exercised by the company without the consent of the Board; and the Board may, upon such terms as seem just, on application of the company, order that the said company may make such deviation.

Kingston & Pembroke Ry. Co. v. Murphy, 17 S. C. R. 582.

200. Notwithstanding anything contained in this Act, or in any statute of the Province, no municipality shall have the power to grant to any railway or street railway any exclusive rights, privileges, or franchise, as to the transmission of electrical energy for power, light and heat over or across any public highway or street in the said municipality.

Expropriation by Street Railway Companies.

201.—(1) In case the council of a municipality, by resolution, declares that the council is of opinion that a company incorporated with power to construct a street railway in the municipality, should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the resolution, and situated within the municipality, the company, upon registering the resolution in the proper registry office, shall, in respect of lands lying between the points named, possess the powers conferred upon railway companies under the sections of this Act relating to the taking of lands without the consent of the owner.

(2) Such powers shall be exercised within two years from the passing of the resolution, and not afterwards, and the lands to be taken hereunder shall not exceed one chain in width.

(3) The provisions of this section shall not apply to the tract of country extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara.

See notes to sections 60-68.

Duration of Street Railway Franchises.

202.—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years, but at the expiration of twenty-five years from the time of passing the first by-law which is acted upon, conferring the right of laying rails upon any highway, or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof, on payment of the actual value thereof, to be determined by the Board. In ascertaining the actual value of such street railway and real and personal property, the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

Re Town of Berlin and Berlin & Waterloo St. Ry. Co., 9 O. W. R. 412.

(2) In case the corporation fails to exercise the right of assuming the ownership of the street railway, at the expiration of the said period, the corporation may exercise such right at the expiration of any fifth year thereafter, upon giving one year's notice to the company, and the privileges of the company shall continue until the ownership is assumed by the municipal council.

203. If a street railway is situated in two or more municipalities, the city or town municipality shall have the right to exercise the power of purchase herein conferred, unless the municipal councils agree otherwise between themselves; and the corporation purchasing shall thereafter possess all the powers and authority and be subject to all the conditions and restrictions theretofore enjoyed and suffered by the com-

pany, and shall, as to other municipalities into which the railway runs, be subject to the like liabilities; and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway.

204.—(1) The council of a municipality into which a street railway runs may at any time after the right of assuming the ownership of the street railway accrue to such municipality, or to any other municipality, require that the terms upon which the street railway shall be operated in such municipality be determined, and the terms, unless the parties in the meantime agree, shall be determined by the Board, and such arrangement shall remain in force for ten years.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the street railway at the expiration of any fifth year.

205. The municipal corporation purchasing may, at any time, transfer its rights to its street railway lines or any of them, and the whole or any part of the plant of the railway to any person or company authorized to operate a street railway; subject to such terms and conditions as may be agreed upon by such street railway company and the municipal corporation.

206. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects the provisions of the next preceding section, stand in the same position as the municipal corporation from which it received such transfer.

207. Any municipal corporation assuming the ownership of a street railway and operating the same shall be deemed to be a street railway company for all the purposes of this Act.

Duration of Privileges to Operate Electric Railways along Highways.

208.—(1) No municipal council shall grant to any railway company operating by electricity any privilege to operate along a highway for a longer period than twenty-five years.

(2) At the expiration of the said period of twenty-five years, the council of any municipality, along the highways of which such railway or any portion thereof is operated, may agree to extend such privilege for a further term of years not exceeding twenty-five years, upon such terms and conditions as may be agreed by the municipality and the company, or with the consent of the Board such municipality may assume the ownership of that portion of the railway operating along the highways of such municipality within its limits, upon payment of the actual value thereof, to be determined by the Board. In determining such actual value, the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

See note to sec. 202.

(3) The ownership of such portion of such railway shall not in any case be assumed by such municipality unless notice of the intention of such municipality to assume such ownership has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipality assume such ownership without the written consent of the Board.

(4) This section shall only apply to electric railways that are not street railways.

Fenders, Brakes, etc.

209. The company, when operating any portion of its line by means of electricity along a highway, shall from time to time adopt and use in front of each motor car a fender or guard, and shall from time to time adopt and use a brake and such other life saving appliances as shall be of a design approved from time to time by the Board as

suitable for use by the company, having regard to the efficiency of such fender, guard, brake and other life saving appliances for life saving purposes, and to the location of the company's line, and the speed at which the company's cars may be run.

See Notes to sec. 217.

210. The fender, guard, brake, or other life saving appliance so approved of by the Board, shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending the said time; provided that where the cars of a company are equipped with fenders of a class so approved by the Board, the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city, or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement.

211. The company shall pay to the corporation of the municipality in which such road is operated, the sum of ten dollars for each day in which any motor car is operated within such municipality without having such a fender, guard, brake, or other life saving appliances thereon, except in cases of accident or unavoidable necessity; such sum or sums to be recovered from such company in a civil action.

Fender in front of car moving reversely: *City of Toronto v. Toronto Ry. Co.*, 6 O. W. R. 574, 10 O. L. R. 730.

212. If the Board shall so order, the company shall allow tests to be made on any of its motors or cars, of any fender, guard, brake or other life saving appliance that the Board may consider it advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed.

Lavatories, etc.

213.—(1) All street railway companies shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the

company operating its cars. Such urinals and other conveniences may be located upon land owned or provided by the said company and reasonably accessible to each of the various lines of railway operated by the said company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the said company shall be allowed reasonable opportunity of access thereto.

(2) The company shall be liable to a penalty of ten dollars per day for each day it shall neglect to provide each or any of the said urinals or other conveniences.

(3) The cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both in such proportions, in case the parties are unable to agree, as may be determined by the Board.

(4) The Board may, in its discretion, order the city or town to provide the site for the company upon such terms as to cost and otherwise as the Board may determine.

(5) When so ordered by the Board, such urinals and conveniences shall be open to the public as well as the employees of the company, and when so open to the public the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as to it may seem proper.

214.—(1) The Board may order the company to provide sanitary conveniences for the use of passengers on all passenger cars.

(2) This section shall only apply to electric railways that are not street railways, and to steam railways.

Unclaimed Property.

215. It shall be the duty of every street railway company which shall have unclaimed property left in its cars, to ascertain, if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into

its possession. Every such company which shall have such property not perishable in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or town in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left may be sold by any such street railway company without notice, as soon as it can be, upon the best terms that can be obtained.

Transfer in Ownership of Highways.

216. In case any railway operated by electricity upon a highway or a portion of which is so operated has been heretofore, or shall hereafter be, constructed in any municipality under any agreement with the council thereof, or with the council having the control of the highway therein, and the territory, or any part of the territory in which such railway has been, or shall be constructed, is subsequently to the making of such agreement, removed from one municipality to another, or the highway along which such railway has been or shall be constructed, has ceased to be owned or controlled by one municipality, or the council thereof, or by any council having the control of such highway, and has become vested in or has been placed under the control of another municipality, or the council thereof, then so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal of such snow and ice upon the highway or elsewhere, the corporation of such last mentioned municipality and any officer or person appointed for such purpose, shall be substituted for, and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement, and any officer or person named therein and charged with the performance of any duty in respect to the matters aforesaid thereunder.

AGREEMENTS WITH MUNICIPALITIES FOR OPERATING ALONG
HIGHWAYS.

217. Any agreement made after the passing of this Act between a municipal corporation and a company under which agreement the company obtains a right or franchise to operate along a highway shall (unless such provisions or any of them are expressly excluded from such agreement), be deemed to contain the clauses set forth in the following subsections hereof, viz.:

(a) The rails of the company shall conform to the grade of the street.

(b) In all cases where the rails are laid upon the paved or travelled portion of the street, or on any part thereof, the rails shall be laid (as nearly as practicable) flush with the street, and shall be laid so as to cause the least possible impediment to the ordinary traffic of the street, and shall be so kept and maintained by the railway company.

Eddy v. Ottawa City Passenger Ry. Co., 31 U. C. R. 569; *Hali-fax City Ry. Co. v. Joyce*, 22 S. C. R. 258; *Van Cleef v. Hamilton St. Ry. Co.*, 7 O. W. R. 278, 628.

(c) The company so long as it shall continue to use any of its tracks on the travelled portion of the highway, shall keep in repair the whole space used on its track allowances, crossings, switches and turnouts, and eighteen inches of the highway outside of its tracks.

(d) If the company neglect to keep in repair its track allowances and crossings, switches and turnouts, or to have the necessary repairs according to the agreements made thereon, the council of the municipality may give notice to the company requiring such repairs to be forthwith made, and the certificate of the engineer appointed by the council for the time being as to the necessity for such repairs, shall be binding and conclusive upon the company, and if after the giving of such notice, the company do not within one week begin, and thereafter, with all reasonable diligence, carry such work of repairing to completion, the municipal council shall have the right to cause such

repairs to be made, and the company shall pay to the treasurer of the municipality the expenditure incurred in making or completing such repairs.

As to liability of municipality in case of accident caused by non-repair of street due to operation of street railway company: See *Carty v. City of London*, 18 O. R. 122; *Van Cleaf v. Hamilton Street Ry. Co.*, 7 O. W. R. 278, 628; *Stuart v. Metropolitan Ry. Co.*, 6 O. W. R. 255; *Marsh v. City of Hamilton*, 3 O. W. R. 525.

(e) The payment of such amount shall not relieve the company from any penalty provided for the omission to repair by the agreement between the municipal corporation and the company.

(f) No car or train of cars shall be operated on the travelled portion of any highway at a greater speed than fifteen miles an hour unless authorized by the Board, and shall operate at a lesser rate of speed if ordered and directed by the Board.

Liability of Company—Excessive speed: *Ewing v. Toronto Ry. Co.*, 24 O. R. 694; *Gosnell v. Toronto Ry. Co.*, 24 S. C. R. 582; *Halifax Electric Tramway Co. v. Inglis*, 30 S. C. R. 256; *Toronto Ry. Co. v. Mulvaney*, 38 S. C. R. 327; *Green v. Toronto Ry. Co.*, 26 O. R. 319; *Haight v. Hamilton St. Ry. Co.*, 29 O. R. 279; *Furlong v. Hamilton St. Ry. Co.*, 2 O. W. R. 1007; *Marsh v. City of Hamilton*, 3 O. W. R. 525; *Hill v. Toronto Ry. Co.*, 9 O. W. R. 988; *Brenner v. Toronto Ry. Co.*, 9 O. W. R. 198; 13 O. L. R. 423; *Wallingford v. Ottawa E. Ry. Co.*, 9 O. W. R. 495.

Other cases—Injury to person crossing track: *Gosnell v. Toronto Ry. Co.*, 4 O. W. R. 213; *Furlong v. Hamilton St. Ry. Co.*, 2 O. W. R. 1007; *Gallinger v. Toronto Ry. Co.*, 4 O. W. R. 213; *Taylor v. Ottawa Electric Co.*, 5 O. W. R. 564; *Daldry v. Toronto Ry. Co.*, 6 O. W. R. 62; *Brown v. London Street Ry. Co.*, 2 O. L. R. 53; *Livingstone v. Sydney & Glass Bay Ry. Co.*, 37 N. S. Reps. 336; *Hackett v. Toronto Ry. Co.*, 10 O. W. R. 26.

To person walking on track: *Small v. Toronto Ry. Co.*, 6 O. W. R. 77.

To person working on line of track: *Moran v. Hamilton St. Ry. Co.*, 24 S. C. R. 717; *Wallman v. C. P. Ry. Co.*, 6 Can. Ry. Cases 229.

Contributory negligence—Proximate cause: *Danger v. London St. Ry. Co.*, 30 O. R. 593; *Rowan v. Toronto Ry. Co.*, 29 S. C. R. 717; *Brenner v. Toronto Ry. Co.*, 13 O. L. R. 423, 9 O. W. R. 198; 6 Can. Ry. Cases 261. (Stands for judgment in the Court of Appeal, argued May 29th, 1907). *Preston v. Toronto Ry. Co.*, 13 O. L. R. 369, 6 O. W. R. 786; *Cohen v. Hamilton St. Ry. Co.*, 4 O. W. R. 19; *O'Hern v. Port Arthur*, 4 O. L. R. 209, 1 O. W. R. 373; *Marsh v. City of Hamilton*, 3 O. W. R. 525; *Ardah v. Toronto Ry. Co.*, 6 O. W. R. 940.

Car running backwards: *Balfour v. Toronto Ry. Co.*, 2 O. W. R. 671, 5 O. L. R. 735.

Car running in unusual direction: *Heath v. Hamilton St. Ry. Co.*, 8 O. W. R. 937.

Injury to bicyclist: Preston v. Toronto Ry. Co., 6 O. W. R. 786, 11 O. L. R. 56, 13 O. L. R. 369; S O. W. R. 504, 753; Heath v. Hamilton St. Ry. Co., 8 O. W. R. 937; Havistock v. Emery, 8 O. W. R. 528.

Failure of motorman to look—failure to give warning: Hamilton St. Ry. Co. v. Moran, 24 S. C. R. 717; Mitchell v. Toronto Ry. Co., 5 O. W. R. 128; Small v. Toronto Ry. Co., 6 O. W. R. 97; Daldry v. Toronto Ry. Co., 6 O. W. R. 62; Marsh v. City of Hamilton, 3 O. W. R. 525.

Injury to passenger: Bell v. Winnipeg Electric St. Ry. Co., 24 Oec. N. 121; Begg v. Toronto Ry. Co., 3 O. W. R. 517; Collins v. London St. Ry. Co., 3 O. W. R. 212, 553; Stitt v. Port Arthur, 3 O. W. R. 126; Simpson v. Toronto & York Radial Ry. Co., 10 O. W. R. 33; Ford v. Metropolitan Ry. Co., 4 O. L. R. 29, 1 O. W. R. 387.

Conductor assisting passenger to get on: Dawdy v. H. G. & B. Ry. Co., 1 O. W. R. 364, 781, 2 O. W. R. 789.

Injury to passenger alighting from car: Wallingford v. Ottawa E. Ry. Co., 9 O. W. R. 495; Coolidge v. Toronto Ry. Co., 9 O. W. R. 222, 623.

Projecting body beyond car: Simpson v. Toronto and York Radial Ry. Co., 10 O. W. R. 33; Blackley v. Toronto Ry. Co. (not reported), referred to, 27 A. R. p. 44, note n—Blackley was leaning out and struck by passing car: Interurban Ry. Co. v. Hancock, 6 L. R. A. (N.S.) 997.

Absence of step: Blackmore v. Toronto St. Ry. Co., 38 U. C. R. 172.

Standing on platform: Cornish v. Toronto Ry. Co., 23 C. P. 355.

Dangerous condition of steps: McCormack v. Sydney & Glace Bay Ry. Co., 37 N. S. Rep. 254.

Frightening horses: Myers v. Brantford St. Ry. Co., 27 A. R. 513; Robinson v. Toronto Ry. Co., 2 O. L. R. 18; Drewitt v. H. G. & B. Ry. Co., 9 O. W. R. 427.

Measure of damages for death of child: Renwick v. Galt, Preston and Hespeler Ry. Co., 12 O. L. R. 35, 7 O. W. R. 673. See also Rombach v. Balsh, 27 A. R. 32.

For death of aged person: Dewey v. Hamilton & Dundas St. Ry. Co., 9 O. W. R. 511.

Claim for death of master's horse not assignable: McCormack v. Toronto Ry. Co., 13 O. L. R. 656, 9 O. W. R. 600.

Damages for mental shock where no actual impact: Geiger v. G. T. Ry. Co., 6 O. W. R. 482, 10 O. L. R. 511; Montreal St. Ry. Co. v. Walker, Q. R. 13 K. B. 324.

Injury from chill after being expelled from car: Toronto Ry. Co. v. Grimsted, 24 S. C. R. 570.

Negligence of servant, scope of employment: Hammond v. G. T. Ry. Co., 4 O. W. R. 539; 9 O. L. R. 64; Forsythe v. C. P. Ry. Co., 6 O. W. R. 242, 10 O. L. R. 74.

Crossing, meaning of: Brenner v. Toronto Ry. Co. and Wallingford v. Ottawa Ry. Co., supra.

(g) At the intersection of the company's railway and cross streets or highways crossing or intersecting the highway upon which the railway is operated, the company shall construct and keep in repair crossings of a similar character to those adopted by the municipality, and shall construct underneath its track allowance such culverts and

waterways as are in the opinion of the council of the municipality or its engineer or other officer appointed for that purpose necessary for drainage purposes, and shall at the entrance to private properties abutting upon the company's railway, construct such approaches as may be directed by the council or such officer or by the Board.

(h) When the company's tracks are built over any existing culvert, the company shall, when so directed by the council or such engineer, or other officer or the Board, extend such culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the company's nearest tracks and the end of the culvert upon the side of the road opposite to such track.

(i) The company shall remove the snow from, and within its tracks and switches, but any snow put upon the graded part of the road by the company shall be evenly spread thereon in a manner to be approved by the council or its engineer or other officer.

Toronto Ry. Co. v. City of Toronto, 24 S. C. R. 589; Mitchell v. City of Hamilton, 2 O. L. R. 58; Bell v. Cape Breton Electric Co., 37 N. S. Rep. 208; Madden v. Halifax Electric Tramway Co., 37 S. C. R. 94.

(j) The municipal council may at any time, after giving to the company 20 days' notice of its intention so to do, take up any part of the highway along which the company's railway is constructed, for the purpose of altering the street or road grade, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the province and privileges of a municipal corporation, without being liable for any compensation or damage that may be occasioned to the working of the railway or the works connected therewith. When and so often as it may be necessary for the municipal corporation to open the road or street for the purpose of repairing such street or road, sewer, drains, culverts, gas or water pipes, or underground wires, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be un-

necessarily delayed, but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof.

(k) All work done under the authority of the agreement shall be done in the most substantial manner and according to the best modern practice, under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose, with a right of appeal to the Board.

(l) The alignment of the company's tracks, the location of switches and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer.

(m) The company shall repay to the municipality all sums paid by it to such officer or engineer for services performed by him in connection with the company's work.

(n) All persons using the said highway shall be at liberty to travel upon any portion of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description are to be allowed upon such portions of the highway, it being provided, however, that the company's cars shall have the first right of way over the said railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass—and any person refusing or neglecting so to do shall be liable on summary conviction to a fine of not more than ten dollars and costs.

(o) The words "travelled portion" where used in this section as applicable to roads, streets or highways shall be deemed to mean that central portion of roads, streets or highways between the ditches or drains on either side thereof and ordinarily used for vehicular traffic.

Radial Lines.

218.—(1) Notwithstanding anything in this Act contained, the railway shall not be constructed along any highway

within the limits of any city or town except upon and subject to such terms and conditions as may be agreed upon between the company and the street railway or electric railway, if any, already operating in such city or town, and the council of the corporation of such city or town. Provided always that if there is an existing agreement between such city or town and the street railway or electric railway already operating in such city or town, then the railway shall not be constructed along any such highway, except upon and subject to the terms of such existing agreement; provided also, that where no provision is contained in any agreement between any street railway or electric railway company and the city or town for the admission of other electric or street railways, then if the council of such city or town shall by by-law or resolution request the street railway company or electric railway company already operating in such city or town, to allow its tracks or any of the streets to be used for the entrance of such other railway, or if such street railway company or electric railway company or such other railway shall by by-law or resolution request the city or town to permit the entrance of the railway into such city or town, the company so operating in the city shall permit its tracks or any streets to be so used to some central point in the said city or town, and the said city or town shall permit such other railway to enter within the limits of such city or town, upon such terms and conditions as to compensation, location of central point, and otherwise as may be mutually agreed upon between such other railway, the council and such street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the said two companies are unable to agree upon the same.

(2) The Board shall not (without the consent of the city or town) grant to any company desiring to operate within any such city or town any right or privilege to so operate for a longer period than the unexpired term of the franchise or privilege held or enjoyed by any company which at the date of the application to the Board under this section is operating a railway or street railway within the limits of such city or town.

(3) At the expiration of such term a new agreement may be made as to a renewal of the same for a further period not exceeding twenty-five years, and in the event of the parties being unable to agree, the Board may in its discretion order a renewal thereof upon such terms and conditions as shall be determined by the Board.

(4) This section shall not be construed to confer upon the Board the power to vary or annul any provision, contained in the agreement between the parties or in the order of the Board, allowing the entrance of such other railway, which grants to the corporation of the city or town interested the right to take over and assume the ownership of such other railway within the limits of such city or town on the expiration of any such term.

219. Any railway company operating in cities or towns shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by law of the city or town, be subject as to that portion of the railway within the limits of such city or town to the provisions of this Act respecting the construction and operation of street railways.

220. This Act shall not, except where the same is so expressed, be construed to vary or rescind, or to confer upon the Board power to vary or rescind any agreement lawfully entered into between a municipal corporation and a railway or street railway company, or between two or more railway or street railway companies prior to the passing of this Act.

Examination of Motormen.

221.—(1) No applicant for a position as a motorman on any railway or street railway operated by electricity shall be appointed to such position until he has been subjected to a thorough examination by an examiner or examiners to be approved by the Board as to his habits, physical ability and intelligence. He shall then be placed on a car with an instructor, and when the said examiner is satisfied as to the applicant's capability for the position of

motorman, he shall so certify to the Board, and, if appointed, the applicant shall, so far as reasonably possible, first serve on the lines of least travel.

(2) The company shall pay for the services of such examiner.

EXAMINATION FOR COLOUR BLINDNESS.

222.—(1) No company shall hereafter employ any person in a position which requires him to distinguish form or colour signals unless such person, within two years next preceding his appointment, has been examined for colour blindness on the distinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by some competent person to be employed for the purpose by the company, and has received a certificate that he is not disqualified for such position by colour blindness, or otherwise in respect of his eyesight, in the colours and forms used on such railway or on railways crossing or connecting with it.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

(3) Nothing in this section contained shall prevent the company from continuing in its employment any employee having defective sight in cases where the same can be fully remedied by the use of glasses, or by other means satisfactory to the person making the examination.

(4) For violation of the provisions of this section the company shall for each offence be liable to a penalty of one hundred dollars.

(5) This section shall apply to street railways.

ACTIONS FOR DAMAGES.

223.—(1) All actions or suits for any damages or injury sustained by reason of the construction or operation of

the railway shall be commenced within one year next after the time when such supposed damage is sustained, or if there is continuation of damage within one year next after the doing or committing of such damage ceases, and not afterwards.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, as to or upon any breach of duty in the carriage of any traffic, nor to any action against the company for damages under any section of this Act respecting tolls.

(3) This section shall apply to street railway companies.

Carty v. City of London, 18 O. R. 122; *Kelly v. Ottawa Ry. Co.*, 3 A. R. 616.

By reason of the railway: *Ryckman v. H. G. & B. Ry. Co.*, 6 O. W. R. 271, 10 O. L. R. 419.

Cutting timber: *Lumsden v. T. & N. O. Ry. Co.*, 10 O. W. R. 115; *McArthur v. Nor. & Pac. Junc. Ry. Co.*, 17 A. R. 86.

Warehousing: *Walters v. C. P. Ry. Co.*, 1 N. W. T. Rep. 88.

Right of compensation, 20 years: *Ross v. G. T. Ry. Co.*, 10 O. R. 447; *Essery v. G. T. Ry. Co.*, 21 O. R. 224.

Construction of embankment, 6 years: *Chaudiere, &c., v. Canada Atlantic Ry. Co.*, 33 S. C. R. 11, distinguished; *Clair v. Temiscouata Ry. Co.*, 6 Can. Ry. Cases 171.

AGREEMENTS WAIVING RIGHT TO DAMAGES FOR DEFECTIVE MACHINERY VOID.

224.—(1) No company owning or operating a railway or street railway in whole or in part in this province shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect. And no such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter, or in the employ of the company, whereby such person agrees to sur-

render or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void.

(2) Every company violating or aiding in the violation of this section shall for each offence be liable to a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction by any person suing therefor.

See 4 Edw. VII. cap. 31 (Dom.) in force April 1st, 1907, Can. Gazette, 12 Jan. 1907, p. 1581; In re Railway Amendment Act, 36 S. C. R. 136; G. T. Ry. Co. v. Atty.-Gen. of Canada (1907), A. C. 65; Miller v. G. T. R., 34 S. C. R. 45 (1906), A. C. 187, 3 Can. Ry. Cases, 147; Harris v. G. T. R., 3 Can. Ry. Cases, 172, 3 O. W. R. 211, see article 41 C. L. J. 465.

(3) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective.

Operating without proper vestibule: Regina v. Toronto Ry. Co., 21 O. C. N. 120.

Fender at "front" of car moving reversely: City of Toronto v. Toronto Ry. Co., 6 O. W. R. 574, 10 O. L. R. 730.

Dangerous condition of steps: McCormack v. Sydney and Glace Bay Ry. Co., 37 N. S. Rep. 254. See notes to sub-sec. 8 of sec. 76, ante.

(4) This section shall apply to street railways and street railway companies.

WAGES OF LABOURERS.

225. In every case in which the Legislature has granted or shall grant financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district, then a fair and reasonable rate; and in the event of a dispute arising as to what is the current rate in such district, or a fair and reasonable rate, it shall be determined by the Board, whose decision shall be final.

LIEN FOR WAGES.

226.—(1) Every mechanic, labourer or other person who performs labour for wages upon the construction or maintenance of the railway or the works connected therewith, shall have upon the said railway and other property of the company a lien for such wages not exceeding the wages for thirty days, or a balance equal to his wages for thirty days, and the said lien may be enforced in the manner provided for enforcing liens for wages by *The Mechanics' and Wage Earners' Lien Act*.

(2) This section shall apply to street railways.

Crawford v. Tilden, 8 O. W. R. 548, 13 O. L. R. 169 (affirmed by Court of Appeal, April 22, 1907, 9 O. W. R. 781; *Breeze v. Midland Ry. Co.*, 26 Gr. 225; *King v. Alford*, 9 O. R. 643; as to registration, see 7 Edw. VII. (Ont.) cap. 29, sec. 3.

HOURS OF LABOUR.

227. No company operating a line of railway of twenty miles in length or over, shall permit or require a conductor, engineer, motorman, fireman, trainman, despatcher or signal man who has worked in any capacity for sixteen consecutive hours, to go again on duty to perform any kind of work, unless he has had at least six hours' rest.

RETURNS.

228.—(1) Every company shall annually prepare in accordance with forms which shall from time to time be provided and supplied to the companies by the Board, returns of its capital, traffic and working expenses, and of all information required, as indicated in such forms to be filed with the Board; and such returns shall be dated and signed by, and attested upon the oath of the secretary of the company, and of the president, or in his absence, of the vice-president or manager of the company.

(2) Such returns shall be made for the period included from the date to which the then last yearly returns made by the company extended, or from the commencement of

the operation of the railway, if no such returns have been previously made, and, in either case, down to the last day of December in the preceding year.

(3) Such returns, dated, signed and attested in manner aforesaid shall be forwarded by such company to the Board within three months after the thirty-first day of December in each year.

(4) The company shall also, in addition to the information required to be furnished to the Board, as indicated in sub-section 1 hereof, furnish such other information and returns as are, from time to time, required by the Board or as shall hereafter be ordered by the Legislature.

(5) The Board shall transmit the returns so made to the Lieutenant-Governor in Council, who shall lay the same before the Legislature, within twenty-one days from the commencement of each session thereof.

229. The company shall, within ten days after the first days of January and July, in each and every year, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties (whether to persons or property) which have occurred on the railway of the company during the half year next preceding each of the said periods respectively setting forth:—

1. The causes and nature of such accidents and casualties;

2. The points at which they occurred, and whether by night or by day;

3. The full extent thereof, and all particulars of the same; and shall also at the same time return a true copy of the existing by-laws of the company, and of their rules and regulations for the management of the company and of the railway.

230. The Board may order and direct, from time to time, the form in which such returns shall be made.

231. All such returns relating to accidents made in pursuance of the provisions of this Act shall be privileged communications, and shall not be evidence in any court whatsoever except to enforce the penalties for failure or neglect to furnish such returns as required by this Act.

See Savage v. C. P. Ry. Co., 41 C. L. J. 670; Orr v. Toronto Ry. Co., 9 O. W. R. 36.

232. The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires, the assets and liabilities of the company—the amount of its stock issued and outstanding—the date at which any such stock was so issued—the amount and nature of the consideration received by the company for such issue, and, in case the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued—the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made—the amount and nature of any bonus, gift, or subsidy, received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given—the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed—the amount and nature of the consideration received by the company for the issue of such bonds—the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created—the cost of construction of the company's railway or of any part thereof.—the amount and nature of the consideration paid

or given by the company for any property acquired by it,—the particulars of any lease, contract or arrangement entered into between the company and any other company or person,—and generally, the extent, nature, value, and particulars of the property, earnings, and business of the company.

233. The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any enquiry which the Board deems it expedient to make in connection with any of the matters in the last preceding section mentioned, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person.

234. If any company or officer, servant, or agent thereof wilfully or negligently refuses to make the returns required by this Act or by the Board under the authority thereof when, and as thereunto required by the Board, or fails to make any such return to the utmost of its, or his knowledge or means of knowledge, the company, and every such officer, servant, or agent, so in default, shall severally be liable to a penalty not exceeding twenty dollars.

235. If the company, or any officer, servant, or agent thereof, wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant, or agent, shall be severally liable to a penalty not exceeding five hundred dollars, and such officer, servant, or agent, shall also, on summary conviction, be liable to imprisonment for any period not exceeding six months in the common jail of the county where such conviction is had.

236. The sections relating to "Returns," being sections 228 to 235, inclusive, of this Act, shall apply to street railway companies.

INVESTIGATION OF ACCIDENTS.

237.—(1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident, give notice thereof, with full particulars, to the Board; and every company which wilfully and negligently omits to give such notice shall forfeit to His Majesty the sum of two hundred dollars for every day during which the omission to give the same continues.

(2) The Board may by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which the next preceding subsection shall apply, and may declare any such information so given to be privileged, and the Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

See sec. 231.

(3) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

(4) The Board shall include in their annual report to the Lieutenant-Governor in Council, the result of any such enquiry with such recommendations as to it may seem proper.

(5) This section shall apply to street railway companies.

ANIMALS AT LARGE.

238.—(1) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway, within half a mile of the intersection of such highway with any railway at rail level, unless such cattle are in charge of some com-

petent person or persons, to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

(2) All cattle found at large contrary to the provisions of this section may, by any person who finds the same at large, be impounded in the pound nearest to the place where the same are so found, and the pound-keeper with whom the same are impounded shall detain the same in the like manner, and subject to like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property.

(3) If the cattle of any person, which are at large contrary to the provisions of this section, are killed or injured by any train, at such point of intersection, he shall not have any right of action against any company in respect of the same being so killed or injured.

(4) This section shall apply only to railways where operating either by steam or electricity upon a right of way owned by the company.

Gunning v. South Western Traction Co., 10 O. W. R. 285; *G. T. Ry. Co. v. James*, 31 S. C. R. 429; *Nixon v. G. T. Ry. Co.*, 23 O. R. 124. See notes to sec. 87.

OFFENCES AND PENALTIES.

239.—(1) No company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock or in the acquisition of any shares, bonds or other securities issued by any other railway company in Canada; but this shall not affect the powers or rights, if any, which any company in Ontario now has or possesses by virtue of any special Act to acquire, have or hold shares, bonds or other securities of any railway company in Canada or the United States.

(2) Every director of a railway company, who knowingly permits the funds of any such company to be applied in violation of this section, shall incur a penalty of one thousand dollars for each such violation, which penalty shall be re-

coverable on information filed in the name of the Attorney-General of Ontario; and a moiety thereof shall belong to His Majesty, and the other moiety thereof shall belong to the informer, and the acquisition of each share, bond, or other security, or interest, as aforesaid, shall be deemed a separate violation of the provisions aforesaid.

240.—(1) Every person not connected with the railway, or employed by the company, who walks along the track thereof, except where the same is laid across or along a highway, is liable on summary conviction to a penalty not exceeding ten dollars.

Trespasser cannot maintain action: *G. T. Ry. Co. v. Anderson*, 28 S. C. R. 541.

(2) Every person who wilfully breaks down, injures, weakens, or destroys any gate, fence, erection, building, or structure of a company, or removes, obliterates, defaces, or destroys any printed or written notice, direction, order, by-law, or regulation of a company, or any section of, or extract from this Act or any other Act of the Legislature, which a company or any of its officers or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building, or erection of the company, or any car upon any railway, shall be liable on summary conviction to a penalty not exceeding fifty dollars, or, in default of payment, to imprisonment for a term not exceeding two months.

(3) Every person who enters upon any railway train with intent fraudulently to be carried upon the said railway train without paying fare thereon, or who wilfully obstructs or impedes any officer or agent of the company in the execution of his duty upon any train, railway, or upon any of the premises of the company, or who wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes, shall be liable to the like penalty or imprisonment, and shall be liable to be proceeded against and dealt with in like manner, as mentioned in sub-section 2 of this section in regard to the offences therein mentioned.

241.—(1) If the Board orders any company to erect, at or near, or in lieu of, any highway crossing at rail level, a

foot bridge, or foot bridges, over its railway, for the purpose of enabling persons, passing on foot along such highway, to cross the railway by means of such bridge or bridges, from and after the completion of such foot bridge or foot bridges so required to be erected, and while the company keeps the same in good and sufficient repair, such crossing shall not be used by foot passengers on the said highway, except during the time when the same is used for the passage of carriages, carts, horses, or cattle, along the said road.

(2) Every person who offends against the provisions of this section is liable, on summary conviction, to a penalty not exceeding ten dollars.

242. Every company which shall erect, operate, or maintain any bridge, approach, tunnel, viaduct, trestle, or any building, erection, or structure, in violation of this Act, or of any order or regulation of the Board, shall, for each offence, incur a penalty of fifty dollars.

See *Villeneuve v. C. P. Ry. Co.*, 10 O. W. R. 287.

243. The company, or any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by the company, doing, causing, or permitting to be done, any matter, act, or thing contrary to the provisions of this or the special Act, or to the orders or directions of the Board made hereunder, or omitting to do any matter, act, or thing required to be done on the part of any such company, or person, is liable to any person injured thereby for the full amount of damages sustained by such act or omission; and if no other penalty is, in this or the special Act, provided for any such act or omission, is liable, for each offence, to a penalty of not less than twenty dollars, and not more than five thousand dollars, in the discretion of the Court before which the same is recoverable.

Liability under this section is not governed by the Workmen's Compensation for Injuries Act: *Curran v. G. T. Ry. Co.*, 25 A. R. 407.

Employee a "person injured": *LeMay v. C. P. Ry. Co.*, 17 A. R. 293. See sec. 83 and notes.

244. Every person who sells, gives or barter any spirituous or intoxicating liquors to or with any servant or emp

ployee of any company, while actually employed in the course of his duty on a train or car or while in uniform or in connection with the operation of a train or car, is liable on summary conviction to a penalty not exceeding twenty-five dollars, or to imprisonment with or without hard labour for a period not exceeding one month, or to both.

Marshall v. Central Ont. Ry. Co., 28 A. R. 241.

245. Every person who is intoxicated while he is in charge of a locomotive engine, or electric motor, or acting as the conductor of a car or train of cars, shall be liable on summary conviction to a penalty of \$200 or imprisonment for one year or both.

246. Every officer or servant of, and every person employed by the company, who wilfully or negligently violates any by-law, rule or regulation of the company or its directors lawfully made and in force, or any order or notice of the Board, or of an inspecting engineer, of which a copy has been delivered to him, or which has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, if such violation causes injury to any person or to any property, or exposes any person or any property to the risk of such injury, or renders such risk greater than it would have been without such violation, although no actual injury occurs, is liable on summary conviction to a penalty of not less than \$5 and not more than \$50 or to imprisonment with or without hard labour for not more than three months, or to both.

247. Every person who wilfully or negligently violates any lawful by-law, rule, or regulation of the company, is liable, on summary conviction, for each offence, to a penalty not exceeding the amount therein prescribed, or if no amount is so prescribed, to a penalty not exceeding twenty dollars; but no such person shall be convicted of any offence, unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in some conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train.

248. Every person who unlawfully and maliciously,

(a) Bores, pierces, cuts, opens or otherwise injures any cask, box, or package, which contains wine, spirits, or other liquors, or any case, box, sack, wrapper, package or roll of goods, in, or about any car, waggon, boat, warehouse, station house, wharf, quay, or premises of, or which belong to any company, or;—

(b) Drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof,—

Is liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so taken or destroyed, or to imprisonment, with or without hard labour, for a term not exceeding one month, or to both.

(c) Any person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric railway company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections, or structures, with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the said wires, or without authority climbs any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law, or regulation of the Lieutenant-Governor in Council or of any commission appointed by him, or of a company or of a municipal corporation, or any section or extract from this Act or any other Act of the Legislature, pasted, attached, or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall be liable on summary conviction to a penalty not exceeding \$100 and not less than \$15, or in default of payment to imprisonment for a term not exceeding six months.

See also Criminal Code, R. S. C. 1906, cap 146, secs. 517-521.

249. When the violation of, or failure to comply with, any provisions of this Act, or any regulation or order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty, by this Act, or by any regulation made under this Act, each day's continuance of such violation, or failure, to comply, shall constitute a new and distinct offence.

250. For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the company, acting within the scope of his employment, shall in every case be also deemed to be the act, omission or failure of such company as well as that of the person; and anything done or omitted to be done by the company, which, if done or omitted to be done by any director, or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons.

See *Rex v. Hays*, 9 O. W. R. 488.

As to civil liability of company for act of servant acting "within the scope of his employment." See *Hammond v. G. T. Ry. Co.*, 4 O. W. R. 530, 9 O. L. R. 564; *Forsythe v. C. P. Ry. Co.*, 6 O. W. R. 242, 10 O. L. R. 74; *Oldwright v. Hamilton, &c.*, 3 O. W. R. 16, 397.

251. No punishment for a contravention of this Act or of the special Act, by the company, shall exempt the company from the forfeiture of the privileges or franchise conferred on it by the said Acts or by any agreement made between the company and any municipal corporation, if by the provisions thereof, or by law, the same be forfeited by such contravention.

252. The sections of this Act relating to offences and penalties, being sections 239 to 251 inclusive, shall so far as applicable apply to street railways and street railway companies.

See sec. 8 of the Railway Act, R. S. C. (1906) cap. 37.

RECOVERY AND PAYMENT OF PENALTIES.

253. The company may in all cases under this Act pay the amount of any penalty and costs imposed upon an officer, servant, or person in the employ of the company, and recover the same from the offender or deduct it from his salary or pay.

254. All penalties incurred under any of the sections of this Act, unless otherwise provided, may be recovered in the name of His Majesty, by His Majesty's Attorney-General for Ontario, in any Court of competent jurisdiction; and all penalties recovered under this Act shall, unless otherwise herein expressly provided, be paid to the Treasurer of the Province to the credit of "The Consolidated Revenue Fund."

255. The last preceding two sections shall apply to street railway companies.

TRANSMISSION OF POWER ON RIGHT OF WAY.

256. The Board, upon receiving instructions in that behalf from the Lieutenant-Governor in Council, and the officers, agents, and servants of the Board, may at all times enter upon the right of way of the company, and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in the Province of Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality; provided that the track and traffic, wires, and poles of the company shall not be injured, removed, or otherwise dealt with in the exercise of the powers hereby conferred, except under and subject to any agreement which may be entered into between the Lieutenant-Governor in Council and the company.

USE OF RAILWAY BY DOMINION GOVERNMENT.

257.—(1) His Majesty's Mail, His Majesty's Naval or Military Forces or Militia, and all artillery, ammunition,

provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service, shall, at all times, when thereunto required by His Majesty's Postmaster-General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the company if required, be carried on the railway, on such terms and conditions, and under such regulations as may be made by the Governor-General in Council or Lieutenant-Governor in Council, as the case requires.

(2) The Governor-General or Lieutenant-Governor, as the case may be, or any person thereunto authorized by them, may require the company to place any electric telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service.

(3) This section shall apply to street railway companies.

CONVEYANCES OF LAND.

258.—(1) Conveyances of land to the company, for the purposes of and powers given by this Act, made in the form set forth in Schedule "B." to this Act, or to the like effect, shall be sufficient conveyance to such company, its successors and assigns, of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same; and such conveyances shall be registered in the same manner, and upon such proof of execution, as is required under the registry laws of Ontario; and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and the certificates indorsed on the duplicates thereof.

(2) This section shall apply to street railway companies.

REPEAL OF ACTS.

259. The following Acts of the Legislative Assembly are hereby repealed:—

Chapter 207 of the Revised Statutes of Ontario, "*The Railway Act of Ontario*"—the whole.

Chapter 208 of the Revised Statutes of Ontario, "*The Street Railway Act*"—the whole.

Chapter 209 of the Revised Statutes of Ontario, "*The Electric Railway Act*"—the whole.

Chapter 11 of 62 Victoria, 2nd session—section 23.

Chapter 25 of 62 Victoria, 2nd session—the whole.

Chapter 31 of 63 Victoria—the whole.

Chapter 25 of 1 Edward VII.—the whole.

Chapter 26 of 2 Edward VII.—the whole.

Chapter 27 of 2 Edward VII.—the whole.

Chapter 17 of 3 Edward VII.—the whole.

Chapter 10 of 4 Edward VII.—section 19.

260. This Act shall come into force on the first day of June, 1906.

SCHEDULE "A."

(Section 145.)

CITY ENGINEER'S CERTIFICATE.

The _____ Railway Company's Office, No. _____
A.D. 190 _____.

ENGINEER'S DEPARTMENT.

Certificates to be attached to cheques drawn on The _____
Railway Company Municipal Trust Account given
under section 145 of *The Ontario Railway Act, 1906*.

I, _____ chief engineer of The _____
Railway Company do hereby certify that the said
company has fulfilled the terms and conditions necessary to be ful-
filled under the said By-law No. _____ of the _____ of _____
for under the agreement dated the _____ day of _____ 19 _____,
between the corporation of _____ (and the company)
to entitle the said company to receive from the said trust company
the sum of _____ (here set out the terms and conditions,
if any, which have been fulfilled).

SCHEDULE "B."

(Section 258.)

Know all men by these presents that I (or we) (insert the name
or names of the vendor or vendors) in consideration of _____
dollars paid to me (or us) by The _____ Railway
Company, the receipt whereof is hereby acknowledged, do grant

and convey unto the said company, and I (or we) (*insert the name of any other party or parties*) in consideration of dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (*or those certain parcels, as the case may be*) of land (*describe the land*) the same having been selected and laid out by the said company for the purposes of its railway, to hold with the appurtenances unto the said The _____ Railway Company, their successors and assigns forever (*here insert any other tenants, covenants and conditions required*), and I (or we) the wife (*or wives*) of the said _____ do hereby bar my (*or our*) dower in the said lands.

As witness my (*or our*) hand and seal (*or hands and seals*), this _____ day of _____ one thousand nine hundred and _____

Signed, sealed and delivered
in the presence of _____

[L.S.]

APPENDICES.

-
- I. An Act for the appointment of a Railway and Municipal Board (1906).
 - II. An Act to amend the Ontario Railway and Municipal Board Act, 1906 (1907).
 - III. An Act respecting certain Railway and other Corporations (1907).
 - IV. Rules of Practice and Procedure; Regulations and Specifications; and Forms adopted by the Ontario Railway and Municipal Board (July 14, 1906).
 - V. General form of Act of incorporation of Railway Company.

6 EDWARD VII. (1906).

CHAPTER 31.

An Act for the Appointment of a Railway and Municipal Board.

[Assented to 14th May, 1906.]

SHORT TITLE, s. 1.	Stating case for Court of Appeal, s. 42.
INTERPRETATION, ss. 2, 3.	APPEALS, s. 43.
APPLICATION OF ACT, s. 3.	REFERENCE OF MATTERS TO BOARD OF GOVERNMENT, s. 44.
CONSTITUTION, OFFICES, SITTINGS, ss. 4-12.	COSTS, s. 45.
SECRETARY, s. 13.	EXPENSE OF WORKS ORDERED BY BOARD, s. 46.
SALARIES AND STAFF, ss. 14, 15.	PROCEEDINGS INSTITUTED BY ATTORNEY-GENERAL, s. 47.
GENERAL JURISDICTION OF POWERS, ss. 16-25.	BOARD MAY ORDER ENQUIRIES, ss. 48, 49.
May act upon its own initiative, s. 18.	WITNESS FEES, s. 50.
Rules and Regulations, ss. 19-21.	ADDITIONAL POWERS, ss. 51-54.
Notices, how given, s. 23.	Assessment Appeals, ss. 51, 52.
Duty of Company on receipt of order, s. 24.	Municipal matters, ss. 53-57.
Sheriffs, etc., to obey orders of Board, s. 25.	Regulating electrical companies, s. 54.
PRACTICE AND PROCEDURE, EVIDENCE, ss. 26-42.	ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC., s. 55.
Existing orders of Railway Committee, s. 32.	ANNUAL REPORT, s. 56.
Powers of Railway Committee until Board organized, s. 33.	LABOUR DISPUTES, ss. 58, 59.
Orders of Board may be made orders of Court, s. 34.	FEES AND EXPENSES, ss. 60-62.
Terms of Orders, ss. 35-38, 40.	ENFORCEMENT OF AGREEMENT BETWEEN COMPANIES AND MUNICIPALITIES, ss. 63, 64.
General rules of practice, s. 39.	PENDING PROCEEDINGS, s. 65.
Judgments of other courts not to bind Board, s. 41.	COMMENCEMENT OF ACT, s. 66.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title 1. This act may be cited as *The Ontario Railway and Municipal Board Act, 1906.*

2. The interpretation section of *The Ontario Railway Act, 1906*, shall apply to this Act. Interpretation.

3.—(1) All the provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including Street Railways; and the expression "Railway" shall include "a Street Railway." To apply to street railways.

(2) "Public Utility" shall mean and include any water works, gas works, electric heat, light and power works and telegraph or telephone lines, or any similar works supplying the general public with necessaries or conveniences. "Public utility."

NAME, CONSTITUTION, DUTIES, ETC.

4.—(1) From and after the appointment of the Board the Railway Committee of the Executive Council of Ontario shall be abolished. Railway Committee abolished.

(2) The Lieutenant-Governor may from time to time appoint a Commission to be called "The Ontario Railway and Municipal Board." Appointment of Commission.

(3) Such Board shall be composed of three members, one of whom shall be the chairman thereof, who shall be appointed chairman by the Lieutenant-Governor in Council and shall continue to be chairman so long as he is a member of the Board. Constitution of Board.

(4) Vacancies caused by death, resignation or otherwise may from time to time be filled by the Lieutenant-Governor in Council. Vacancies.

(5) The Board shall have all the powers of a Court of Record and shall have an official seal which shall be judicially noticed. Board to have powers of Court of Record.

(6) Each member of the Board shall hold office during pleasure. Tenure of office.

Powers,
etc., of
Railway
Commit-
tee trans-
ferred
to Board.

(7) Whenever any power or authority is given or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document, such power, authority or duty may or shall, as the case may be, be exercised by the Board.

Power of
Vice-
Chairman.

5. In case of the absence of the Chairman, or of his inability to act, the Vice-Chairman shall exercise the powers of the Chairman in his stead; and in such case all regulations, orders and other documents signed by the Vice-Chairman shall have the like force and effect as if signed by the Chairman. Whenever the Vice-Chairman appears to have acted for and instead of the Chairman, it shall be conclusively presumed that he so acted in the absence or disability of the Chairman within the meaning of this section.

Quorum.

6. Not less than two members shall attend at the hearing of every case, and the Chairman, when present, shall preside, and his opinion upon any question, which in his opinion is a question of law, shall prevail. In any case where there is no opposing party, and no notice to be given to any interested party, any one member may act alone for the Board.

Appoint-
ments
pro hac
vice.

7. Whenever any member is interested in any matter before the Board, the Lieutenant-Governor in Council may, either upon the application of such member or otherwise, appoint some disinterested person to act as member of the Board, the Lieutenant-Governor in Council may also appoint a member *pro hac vice* in the case of sickness, absence or inability to act, of any member.

Members
of Board
not to hold
railway
stock, etc.

8.—(1) No member shall, directly or indirectly, hold, purchase, take or become interested in, for his own behalf, any stock, share, bond, debenture or other security, of any railway company, street railway company or public utility subject to this Act or the said Act nor shall, directly or indirectly, have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as a part of the equipment of railways or of street railways, or of any rolling stock to be used thereon; and, if any such stock, share, bond or other

security, device, appliance, machine, patented process or article, or any part thereof, or any interest therein, shall come to, or vest in any such member by will or succession, for his own benefit, he shall, within three calendar months after the same shall so come to, or vest in him, absolutely dispose of the same, or his interest therein.

(2) No member shall act as an officer or director of any public utility, or of any company that has power to invest any portion of its funds in the securities of a railway company, street railway company, or public utility company.

Members of Board not to be officers or directors of certain companies.

9. The members shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section.

Members to give whole time to work of Board.

10. The Lieutenant-Governor in Council shall provide within the City of Toronto, a suitable place in which the sessions of the Board may be held, and also suitable offices for the members, Secretary, staff and other employees, and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same, and for the performance of the duties of the Board.

Offices at Toronto.

11. The members shall sit at such times and places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this Act or in the said *Ontario Railway Act, 1906*, mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

Sittings of Board.

12.—(1) In case sittings of the Board or of any member thereof are appointed to be held in any city, town or place in which a Court House is situated, the member presiding at any such sittings, shall have, in all respects the same authority as a Judge of the High Court in regard to the use of the Court House and other buildings or apartments set apart in the county for the administration of justice.

Use of Court house.

Use of town hall. (2) In case sittings of the Board or of any member thereof are appointed to be held in any municipality in which there is a Hall belonging to the municipality but no Court House, the municipality shall allow such sittings to be held in such Hall.

Secretary. 13.—(1) There shall be a Secretary of the Board, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

(2) It shall be the duty of the Secretary—

- | | |
|--|--|
| Duties of Secretary. | (a) To attend all sessions of the Board, to keep a record of all proceedings conducted before the Board or any member under this Act, to have the custody and care of all records and documents belonging or appertaining thereto, or filed in his office, and to obey all rules and directions which may be made or given by the Board touching his duties or the governance of his office. |
| Regulations and orders of the Board. | (b) To have every regulation and order made by the Board, drawn pursuant to the direction of the Board, signed by the Chairman, sealed with the official seal of the Board, and filed in the office of the Secretary. |
| Record books. | (c) To keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order and every other document which the Board may require to be entered therein, and such entry shall constitute and be, and in all Courts be deemed and taken to be, the original record of any such regulation or order. |
| Evidence. Certified copies of regulations or orders. | (d) Upon application of any person, and on payment of such fees as are authorized by this Act or as the Board may prescribe, the Secretary shall deliver to such applicant a certified copy of any such regulation or order. |

(e) In the absence of the Secretary from sickness or any other cause, the Board may appoint an Acting Secretary, who shall thereupon act in the place of the Secretary, and exercise his powers.

(f) A member of the Board may act as Secretary.

14. The Chairman shall be paid an annual salary of not more than \$6,000, and the other two members shall be paid each an annual salary of not more than \$4,000. The Secretary shall receive a salary to be fixed by the Lieutenant-Governor in Council of not more than \$2,000 annually.

15.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board.

(2) There shall be attached to the Board such officers, clerks, stenographers, and messengers, as the Board, with the approval of the Lieutenant-Governor in Council, from time to time may appoint, at such salaries or remuneration as are recommended by the Board and approved by the Lieutenant-Governor in Council. The Board may, at will, dismiss any such employee.

(3) Whenever the Board, by virtue of any power vested in it by this Act, or the said Act, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act, or the said Act, such person shall be paid therefor such sum for services and expenses as the Lieutenant-Governor in Council upon the recommendation of the Board, may, in such cases, determine.

(4) The salaries or remuneration of all such officers, clerks, stenographers, messengers, and appointees and all the expenses of the Board incidental to the carrying out of this Act and the said Act, including all actual and reasonable travelling expenses of the members, Secretary, and of such appointees or persons on the staff of the Board as may be

required by the Board, to travel, necessarily incurred in attending to the duties of their office, shall be paid monthly out of such moneys as may be voted by the Legislature for that purpose.

JURISDICTION AND GENERAL POWERS.

16. The Board shall have all the powers and authority vested in it by "*The Ontario Railway Act, 1906*," and shall also have full jurisdiction by or on behalf of any party interested;

Neglect of duties under any act, regulation, order or agreement. (a) complaining that the company, or any person or Municipal Corporation, has failed to do any act, matter or thing required to be done by this Act or the said Act or the Special Act, or by any regulation, order or direction made thereunder, by the Lieutenant-Governor in Council, the Board, or by any inspecting engineer, or by any agreement entered into by the company with any Municipal Corporation, or has done or is doing any act, matter or thing contrary to, or in violation of, this Act, or the said Act, or the Special Act, or any such regulation, order or direction, or any such agreement,—

Giving orders, directions or approval. (b) requesting the Board to make any order, or give any direction, sanction or approval, which by law it is authorized to make or give.

Mandatory order. **17.—(1)** The Board may order and require any company or person or Municipal Corporation to do forthwith, or within, or at any specified time, and in any manner prescribed by the Board, so far as is not consistent with this Act or the said Act, any act, matter or thing which such company or person or Municipal Corporation is or may be required to do under this Act or the said Act, or the Special Act, or any such regulation, order, direction or agreement, and may forbid the doing or continuing of any act, matter or thing which is contrary to this Act or the said Act, or the Special Act, or any such regulation, order, direction or agreement, and shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall, as respects the attendance and examination of witnesses, the production

Injunction order.

Questions of law and fact.

and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction under this Act, or the said Act, or otherwise for carrying this Act, or the said Act, or the Special Act, or any such regulation, order, direction or agreement into effect, have all such powers, rights, and privileges as are vested in the High Court of Justice.

All powers
of a High
Court.

(2) The decision of the Board upon any question of fact, and as to whether any company, municipality or person is, or is not, a party interested within the meaning of this section, shall be binding and conclusive upon all companies and persons, Municipal Corporations, and in all Courts.

Decision
upon
questions
of fact or
whether
party is in-
terested
conclu-
sive.

(3) The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by the special Act or by the said Act, and save as herein otherwise provided no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any Court.

Exclusive
jurisdic-
tion.

18.—(1) The Board may, of its own motion, or shall, upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which, under this Act, or the said Act, it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it by this Act, or the said Act.

Board
may act
upon its
own
motion.

(2) Any power, or authority vested in the Board under this Act or the said Act may, though not so expressed in this Act, or the said Act, be exercised from time to time, or at any time, as the occasion may require.

Power to
act from
time to
time.

19.—(1) Without thereby limiting the powers and authority of the Board under this Act, or the said Act, the Board may make orders and regulations:

Board
may make
regula-
tions re-
specting—

- Passing from car to car. (a) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another, and for the coupling of cars;
- Coupling of cars. and for the coupling of cars;
- Shelter for employees. (b) requiring proper shelter to be provided for all employees when on duty;
- Devices to avoid fires. (c) with respect to the use on any steam engine, of nettings, screens, grates and other devices, and the use on any steam engine or car, of any appliances and precautions, and, generally, in connection with the railway respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started, or occurring, upon, along, or near the right of way of the railway;
- For protection generally. (d) with respect to the rolling stock, apparatus, cattle-guards, fenders, appliances, signals, methods, devices, structures and works, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public;
- Other matters. (e) with respect to any matter, act or thing which by this Act, or the said Act, or the Special Act, is sanctioned, required to be done, or prohibited.
- Application of orders. (2) Any such orders or regulations may be made to apply to any particular district, or any railway or section, or portion thereof, and the Board may exempt any railway or portion thereof, from the operation of any such order or regulation, for such time, or during such period, as the Board deems expedient.
- Penalties. (3) The Board may provide penalties, when not already provided in this Act, or the said Act, to which every company or person or Municipal Corporation who offends against any regulation made under this section shall be liable, which shall not exceed one hundred dollars for each offence. The imposition of any such penalty shall not lessen or affect any other liability which any company or person or Municipal Corporation may have incurred.

(4) The Board may review, rescind, change, alter or vary any rule, regulation, order or decision made by it, whether previously published or not. Power to review, etc.

20. In case default shall be made in the doing of any act, matter or thing which the Board may direct to be done by the company or person or Municipal Corporation who is required to do the same, the Board may authorize such person as they may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the company or person or Municipal Corporation in default as money paid for and at the request of such company or person, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. Default in obeying order, Board may direct work to be done by others and expenses to be paid by defaulter.

21. All orders or regulations under section 19 hereof may be made to apply to any railways whether operated by steam, electricity or other motive power and to street railways; provided always that no such order or regulation shall increase, or extend, lessen or impair any obligations or duty resting upon, or any privilege or franchise enjoyed by the company under the Special Act or under any agreement. Applications of to railway companies

22. The Board shall also have power to enforce its orders and directions in like case and in the manner and by the means provided in section 63 of this Act. Enforcing orders of Board.

23.—(1) Any notice required to be given to the company, or to any company, municipality, corporation, co-partnership, firm or individual may be, and shall be deemed to be sufficiently given or served by delivering the same, or a copy thereof; Method of giving notices.

(a) in the case of the company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company; To railway companies

(b) in the case of any municipality, to the mayor, warden, reeve, treasurer, or clerk; To municipalities, etc.

To other companies. (c) in the case of any other company, or body corporate, to the president, vice-president, manager or secretary, or to some adult person in the employ of the company at the head office of such company;

To firms. (d) in the case of any firm or co-partnership, to any member of such firm or co-partnership, or left at the last place of abode of any such member with any adult member of his household, or at the office or place of business of the firm with a clerk employed therein;

To individuals. (e) and, in the case of any individual, to him, or left at his last place of abode with any adult member of his household, or at his office or place of business with a clerk in his employ;

Proviso. Provided that such notice is sufficient in substance, is given in sufficient time, and, in the case of the Board, is signed by the Secretary or Chairman; in the case of the inspecting engineer or other officer or person appointed by the Board, and required or authorized to give such notice, is signed by such inspecting engineer, officer or other person as the case may be; and in the case of any company or corporation is signed by its president or secretary, or by its duly authorized agent or solicitor; and in the case of any person, is signed by such person, or his duly authorized agent or solicitor.

Service by publications in certain cases. (2) When in any of the cases mentioned in this section, it shall be made to appear to the satisfaction of the Board in any matter within the jurisdiction of the Board under this Act, or the said Act, that service of such notice cannot be made in the manner provided in this section, or that the person to be served cannot be served, or that the company or person to be served is seeking to evade service and therefore cannot be served, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper or newspapers, and service by such publication shall be deemed to be as sufficient as if the same had been served in the manner provided in subsection 1 of this section.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section.

Service of orders, reports or other documents.

24. The company shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed.

Duty of company on receipt of notice or order.

25. Sheriffs, Deputy Sheriffs, Constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the Secretary be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court for the trial of causes.

Sheriffs, etc., to obey orders of Board.

PRACTICE AND PROCEDURE.

26. Every document purporting to be signed by the Chairman and Secretary, or by either of them, or by the inspecting engineer, shall, without proof of any such signature, be *prima facie* evidence in all Courts, and shall be sufficient notice to the company and all parties interested, (if served therewith in the manner herein provided for service of notice), that such document was duly signed and issued by the Board, or inspecting engineer as the case may be; and if such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence in all Courts of such regulation, order, direction, decision or report, and when served on the company, or any person, in the manner in section 23 provided for service of notice, shall be sufficient notice to the company or such person, of such regulation, order, direction, decision or report from the time of such service.

Evidence of documents.

Service of copies.

27.—(1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or any other document deposited with the Board, or

Certified plan, etc., *prima facie* evidence.

of any portion thereof, shall, without proof of signature of the Secretary, be in all Courts *prima facie* evidence of such original document, and that the same is so deposited, and signed, certified, attested or executed by the persons by whom and in the manner in which, the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time such original was so deposited, that the same was deposited at the time so stated.

Certified copies of documents of Board.

(2) A copy of any regulation, order or other document in the custody of the Secretary, or of record with the Board, certified by the Secretary to be a true copy, and sealed with the seal of the Board, shall, in all Courts and for all purposes, be *prima facie* evidence of such regulation order or document, without proof of signature of the Secretary.

Publication of regulations and orders.

28. Publication by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette* of any rule, regulation, order or decision of the Board, shall be sufficient notice thereof to the company, to all persons, and to the public generally; and when such rule, regulation, order or decision, is so published, the same, while in force, shall have the like effect as if enacted herein, and all Courts, shall take judicial notice thereof.

Judicial notice.

Notice of application.

29. Except in any case where it is otherwise provided, ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, unless in any case the Board directs longer notice. The Board may in any case, allow notice for any period less than ten days which shall be sufficient notice as if given for ten days or longer.

Board may vary length of time.

Procedure in urgent cases when no notice given.

30. When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of, or insufficiency in, such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice and not sufficiently notified may, at any time within ten days after be-

coming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just and right.

Rehearing on application made within ten days after notice served.

31. All regulations and orders made by the Railway Committee of the Executive Council of Ontario in force at the time of the passing of this Act, shall continue in force until repealed, rescinded, changed or varied under the provisions of this Act, or the said Act, and the Board shall have the like powers to repeal, rescind, change or vary the same, as in the case of regulations or of orders which the Board may make under this Act, or the said Act.

Regulations and orders of Railway Committee continue in force until repealed.

32. Notwithstanding the repeal by this Act, or by the said Act of any Act relating thereto, all orders of the Railway Committee of the Executive Council of Ontario in force at the time of the passing hereof, may be made orders of the High Court of Justice, and may be enforced in all respects, as nearly as may be, in the same manner, as provided by this Act, and the said Act in the case of similar orders by the Board; and all penalties, forfeitures and liabilities attaching under this Act or the said Act to the violation of any regulation, or disobedience to any order of the Board, shall apply and attach to any violation of, or disobedience to, any regulation or order of the Railway Committee of the Executive Council occurring after the passing of this Act, in all respects as nearly as may be, as if the same were a regulation or order of the Board.

Existing orders of Railway Committee may be made orders of court.

RAILWAY COMMITTEE TO HAVE POWERS OF BOARD UNTIL BOARD APPOINTED.

33. The Railway Committee of the Executive Council of Ontario shall have the power and jurisdiction of the Board and it shall be the duty of the said Railway Committee to exercise the same until such time as the Board is constituted under this Act.

Railway Committee to have powers of Board, till Board constituted.

the performance to the satisfaction of the Board, or person named by it, of any terms which the Board may impose upon any party interested, and it may provide that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event. The Board may, instead of making an order final in the first instance, make an *interim* order, and reserve further order and direction to be made, either at an adjourned hearing of the matter, or upon further application.

Subject to terms.

Limited as to time.

Interim orders.

36. Upon any application made to the Board under this Act, or the said Act, the Board may make an order granting the whole, or part only, of such application, or may grant such further, or other relief, in addition to, or substitution for, that applied for, as to the Board may seem just and proper, as fully in all respects as if such application had been for such partial, other, or further relief.

May grant partial or other relief than that applied for.

37. Whenever the special circumstances of any case seem to so require, the Board may make an *interim ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid. No such interim order shall, however, be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined.

Interim *ex parte* orders.

Proviso.

38. When any work, act, matter or thing is by any regulation, order or decision of the Board required to be done, performed or completed within a specified time, the Board may, if the circumstances of the case seem to so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified.

Extension of time specified in order.

39. The Board may make general rules governing, so far as shall not be inconsistent with the express provisions of this Act, or the said Act, its practice and procedure under this Act, and the said Act, and generally for carrying this Act, and the said Act, into effect. Such rules may be published in the *Ontario Gazette*, and shall thereupon be judicially noticed, and shall have effect as if they were enacted in this Act. The Board may, upon terms or otherwise, make or allow any amendments in any proceedings before it.

May make rules governing its procedure and practice.

When to be judicially noticed.

Amendments.

Presump-
tion of
jurisdic-
tion to
make
order.

40. No order of the Board need show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order.

Judg-
ment of
other
courts on
questions
of fact not
binding
upon
board.

41.—(1) In determining any question of fact, the Board shall not be concluded by the finding or judgment of any other Court, in any suit, prosecution or proceeding, involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Jurisdic-
tion Board
not
affected by
collateral
suits.

(2) The pendency of any suit, prosecution or proceeding, in any other Court, involving questions of fact, shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Findings
of Board
on
questions
of fact
conclusive

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive on all Courts.

May state
case for
opinion of
Court of
Appeal for
Ontario.

42.—(1) The Board may, of its own motion or upon the application of any party, and upon such security being given as it directs, state a case, in writing, for the opinion of the Court of Appeal for Ontario upon any question which in the opinion of the Board is a question of law. A like reference may also be made at the request of the Lieutenant-Governor in Council.

Action
thereon.

(2) The Court of Appeal shall hear and determine the question or questions of law arising thereon, and remit the matter to the Board with the opinion of the Court thereon.

APPEALS.

Order of
Board
final.

43.—(1) Subject to the provisions of this section, every decision or order of the Board shall be final.

Appeal to
Court of
Appeal on
questions
of jurisdic-
tion.

(2) An appeal shall lie from the Board to the Court of Appeal for Ontario upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is given by the said Court upon application

and hearing the parties and the Board; the costs of such application shall be in the discretion of the Judge.

(3) Upon such leave being obtained the party so appealing shall pay into the Court the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the Registrar of the Court of Appeal shall set the appeal down for hearing on the first day of the next session; and the party appealing shall within ten days after the deposit, give to the parties affected by the appeal, or their respective solicitors by whom such parties were represented before the Board, and to the Secretary, notice in writing that the case has been so set down to be heard in appeal as aforesaid; and the said appeal shall be heard by such Court as speedily as practicable.

Security
for costs.

Notice of
appeal.

(4) On the hearing of any such appeal the Court of Appeal may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

Opinion of
court.

(5) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Board may
be heard
by counsel.

(6) The Court of Appeal shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from the High Court of Justice of the Court of Appeal shall be applicable to an appeal under this Act.

Rules of
court as to
costs, etc.

(7) When the matter in controversy before the Board exceeds the sum or value of \$4,000 as well as where the matter in question relates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or

Appeals to
Privy
Council in
certain
cases.

to any like demand of a general or public nature affecting future rights, an appeal shall lie to His Majesty in His Privy Council, and except as aforesaid no appeal shall lie to His Majesty in His Privy Council.

Members of Board not liable for costs. (8) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section.

Lieutenant-Governor in Council may refer to Board for report. 44. The Lieutenant-Governor in Council may at any time refer to the Board for a report, or other action, any question, matter or thing arising, or required to be done, under this Act, or the said Act, or the Special Act, and the Board shall without unnecessary delay comply therewith.

Costs. 45.—(1) The costs of and incidental to any proceeding before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Scale of costs. (2) The Board may proscribe a scale under which such costs shall be taxed.

Expenses of works ordered by Board. 46. When the Board, in the exercise of any power vested in it by this Act, or the said Act, or the Special Act, in and by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what company, municipality or person, interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision, the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained; and the Board may order by whom, in what proportion, and when, the cost and expenses of providing, constructing, reconstructing, altering, installing, and executing such structures, equipment, works, renewals, or repairs, or the supervision (if any), or the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid.

Board may order by whom to be constructed and paid.

47.—(1) Whenever the Board shall have reasonable ground for belief that the company, or any person or corporation is violating or has violated any of the provisions of this Act, or the said Act, in respect of which violation a penalty may be imposed under this Act, or the said Act, the Board may request the Attorney-General of Ontario to institute and prosecute proceedings on behalf of His Majesty the King against such company or person for the recovery of the penalty provided under this Act, or the said Act, for such violation.

Proceedings instituted by Attorney-General.

(2) All the provisions of the said Act as to penalties and the imposition and recovery thereof shall apply to penalties imposed under the authority of this Act.

Application of 6 Edw. VII., c. 30 as to penalties.

(3) No prosecution shall hereafter be had or penalty enforced against the company or any municipal corporation for any penalty under this Act, or the said Act, or the Special Act, without the leave of the Board being first obtained.

Prosecution for penalty over \$100.

(4) Where any penalty has been imposed upon the company under this Act, or the said Act, such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company.

Penalties a first charge on railway.

48. The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute pending before such Board, or any matter or thing over which the Board has jurisdiction under this Act, or the said Act, or the Special Act, and may order and direct by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses.

Board may order inquiries.

49.—(1) The Board, inspecting engineer, or person appointed under this Act, or the said Act, to make any inquiry or report may:—

Powers respecting inquiries.

(a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;

Entry.

Inspection. (b) inspect any works, structure, rolling stock or property of the company;

Attendance of witnesses and replies. (c) require the attendance of all such persons as it or he thinks fit to call before it or him, and examine, and require answers or returns to such inquiries as it or he thinks fit to make.

Production of documents, etc. (d) require the production of all books, papers, plans, specifications, drawings, and documents, relating to the matter before it or him;

Oaths. (e) administer oaths, affirmations or declarations;

Summoning witnesses and enforcing attendance. (2) And shall have the like power in summoning witnesses and enforcing their attendance, and compelling them to give evidence and produce books, papers or things which they are required to produce, as is vested in any Court in civil cases.

Witness fees. 50.—(1) Every person summoned to attend before the Board or before any inspecting engineer, or person appointed under this Act, or the said Act, to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the High Court of Justice.

Proof of documents. (2) In any proceeding before the Board and in any action or proceeding under this Act, or the said Act, every written or printed document purporting to have been issued or authorized by the company, or any officer, agent or employee of the company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document.

ADDITIONAL POWERS OF THE BOARD.

Assessment appeals. 51.—(1) The appeal provided for by section 76 of *The Assessment Act* shall be to the Board instead of to the Board of County Judges as therein provided.

(2) The Board shall have power upon such appeal to decide not only as to the amount at which the property in question shall be assessed, but also all questions as to whether any persons or things are liable to assessment or exempt from assessment under the provisions of *The Assessment Act*. Questions which may be decided on appeal.

(3) An appeal shall lie from the decision of the Board under this section to the Court of Appeal upon all questions of law, but such appeal shall not lie unless leave to appeal is given by the said Court upon application of any party and upon hearing the parties and the Board. Appeal from Board.

(4) The practice and procedure on any such appeal shall be the same *mutatis mutandis* subject to any rule of Court or regulation of the Board as upon an appeal from a County Court to the High Court. Procedure on appeals

52.—(1) Instead of the appeal provided for by sub-section 1 of section 48 (a) of *The Act respecting the establishment of Municipal Institutions in Territorial Districts* being to a Judge of the High Court in Chambers in Toronto, it shall be to the Board. Appeals in unorganized districts.

(2) One member may act as and for the Board in the hearing and determining of the appeal mentioned in this section. One member may hear appeal.

53. The Board shall have all the powers conferred by *The Consolidated Municipal Act, 1903*, and amending Acts, upon the Lieutenant-Governor in Council regarding,— Municipal powers.

(a) The addition to or taking from any municipality any territory;

(b) The annexation of any territory to any city or town;

(c) The alteration in any manner of the boundaries or limits of any municipality;

(d) The approval or confirmation of by-laws relating to finance, debentures, sinking funds or the creation of debts.

in cases where the approval or confirmation of the Lieutenant-Governor in Council is required by *The Consolidated Municipal Act, 1903*, or any other Statute of this Province.

(c) The approval or confirmation of by-laws relating to public highways, roads, streets, or bridges, to street or electric railways or to gas or waterworks or to any other industry or concern commonly known as a public utility, in cases where the approval or confirmation of the Lieutenant-Governor in Council is required by *The Consolidated Municipal Act, 1903*, or any other Statute of this Province.

Telegraph
and tele-
phone
wires, &c.

54.—(1) The Board may also require any telegraph, telephone, electric light, power or heat company or any person operating any telegraph, telephone, electric light, power or heat system to adopt such means and appliances, and to take and use such precautions, as the Board may deem necessary or expedient for the safety of life and property.

Jurisdiction
of
Board.

(2) The Board shall, in respect of the matters provided for by the last preceding subsection, have the like jurisdiction, powers and authorities as are vested in it with respect to railways and railway companies under *The Ontario Railway Act, 1906*, and under this Act, and the powers conferred by this section may be exercised as to a part of a highway, and as to some only of the lines of any such company or person, or as to a part or parts thereof.

ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC.

Board to
enquire
and report
on certain
matters at
request of
Government
or Legisla-
ture.

55. The Board shall in all cases when required so to do by the Lieutenant-Governor in Council, the Legislature or by any Committee thereof, make, or cause to be made under its supervision, an enquiry into any facts which the Lieutenant-Governor in Council, Legislature or any such Committee may desire to ascertain before passing upon the propriety of any proposed change in the general railway law, or upon any proposed private or special Bill or Act relating in any way to a municipal corporation or to a railway or street railway company, or to any corporation or person operating or proposing to operate what is commonly called a public utility, and upon

the conclusion of such enquiry the Board shall report to the Legislature or to such Committee its opinion upon such proposed change in the law, or upon such Bill or Act.

ANNUAL REPORT OF BOARD.

55. The Board shall make an annual report on or before the 31st day of January in each year to the Lieutenant-Governor in Council which shall contain—

Annual report.

1. A record of its meetings and an abstract of its proceedings during the preceding calendar year.

2. The result of any examination or investigation conducted by it.

3. Such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of the Province, and such suggestions as to the general railway policy of the Province, of the amendment of its laws, or the condition, affairs or conduct of any railway or street railway, as may seem to it advisable.

4. Such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient.

5. A statement in detail of the travelling expenses and disbursements of the Board, its Secretary and officers.

57. The Board shall superintend the system of bookkeeping and keeping accounts of the assets, liabilities, revenue and expenditure of all public utilities that are operated under the control of a municipal corporation or of a commission appointed by a municipal corporation, and may require from any such municipal corporation or commission such returns and statements as to the Board may seem proper and may extract from such books, returns and statements such information as in the opinion of the Board may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

May require state-ments, etc. from public utilities operated by municipalities.

ARBITRATION BY THE BOARD IN CASES OF LABOUR DISPUTES.

May arbitrate labor difficulties

58.—(1) A grievance or dispute between a railway or street railway company and its employees may be submitted to the Board for its determination and settlement. The submission shall be in writing, and may contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide by the determination of the Board, and to continue in business or at work, without a lockout or strike during the investigation.

Duty of Board upon submission.

(2) Upon such submission the Board shall investigate and determine the matters in controversy and shall render its decision within ten days after the completion of the investigation.

Procedure in such cases.

(3) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is authorized to make, but the Board may regulate the proceedings, and the manner of conducting them, as to the Board may seem meet.

MEDIATION IN CASE OF STRIKE OR LOCKOUT.

To endeavour to mediate in case of strikes.

59.—(1) Whenever a strike or lockout of the employees of any railway or street railway company or public utility occurs, or is seriously threatened, the Board shall proceed as soon as practicable to the locality thereof, and endeavour by mediation to effect an amicable settlement of the controversy.

May enquire into cause of strikes and suggest terms of settlement

(2) Wherever there shall exist in any railway or street railway or public utility a strike or lock-out or any strike or lock-out by reason of which in the opinion of the Board the general public shall appear likely to suffer injury or inconvenience with respect to food, fuel or light or power or the means of communication or transportation, or in any other respect, and the parties to such strike or lock-out will not consent to submit the matter or matters in controversy to the Board, the Board, after first having made due effort to effect a settlement thereof by conciliatory means and such

effort having failed, may proceed on its own motion to make an investigation of all facts bearing upon such strike or lock-out, and shall make public its findings, with such recommendations to the parties involved, as, in its judgment, will contribute to a fair and equitable settlement of the differences which constitute the cause of the strike or lock-out, and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by any other section or sections of this Act.

FEEs TO BE CHARGED AND COLLECTED BY THE BOARD.

60. The Board may charge and collect such fees, as to it may seem proper, for all copies of documents, maps or plans, and all certificates as to the same. All fees charged and collected by the Board shall be paid quarterly, accompanied with a detailed statement thereof, to the Treasurer of the Province.

Fees for copies, certificates, etc.

61. There shall be paid in law stamps upon every order made by the Board such sum as may be directed by the Board, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, which order may be made an order of the High Court of Justice.

Fees on orders of Board to be paid in stamps.

62. The annual expense of the Board, including the salaries of the members thereof, and of its officers and employees, and the incidental expenses of the Board shall be paid out of the Consolidated Revenue Fund of the Province of Ontario from such sums as may be granted from time to time by the Legislature.

Expenses of Board to be paid by Province.

ENFORCEMENT OF MUNICIPAL AGREEMENTS.

63.—(1) Where it is alleged by a municipal corporation that it has jurisdiction over, or owning, or maintaining a highway, along which a railway is operated, in whole or in part,

To try all cases of breach of agreement.

under an agreement between such municipality and the company operating the railway, that the company has violated or committed a breach of such agreement, or where it is alleged by such company, that such municipality has violated or committed a breach of such agreement, the Board shall hear all matters relating to such alleged violation or breach of agreement, and shall make such order as to the same as to it may seem, having regard to all the circumstances of the case, reasonable and expedient, and in such order may in its discretion direct the company or the municipality to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof.

May enter
company's
property.

(2) The Board may take such steps and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of such company, together with its books and offices and may, until such order has been enforced, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of such company and supervise and direct the management of such company and its railway in all respects, including the employment and dismissal of officers and servants of the company for such time as the Board shall continue to direct such management.

Company's
servants to
obey
Board.

(3) Upon the Board so taking possession of such railway and property, it shall be the duty of every officer and employee of the company to obey the orders of the Board, or of such person or persons as it may place in authority in the management of any or all departments of such railway.

May pay
out and
receive
money.

(4) The Board shall, upon so taking possession of such railway and property, have power to demand, receive, and pay out all moneys due to or owing by such company, and may give checks, acquittances and receipts for moneys to the same extent and in as full and ample a manner as the proper officers of such company could do if no such order had been made.

(5) Checks, acquittances or receipts so given by the Board shall be a defence to any action that may afterwards be brought by such company against the person or corporation paying over the money for which such checks, acquittances or receipts were given. May give receipts, etc.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section. Board not liable for damages.

(7) The costs and expenses of and incidental to proceedings to be taken by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid. Costs.

(8) The certificate of the Board as to the amount of such costs and expenses shall be final. Certificate as to costs, etc., to be final.

64. Except when otherwise expressly provided, notwithstanding anything in this Act, or the said Act, or in any agreement contained, in any proceeding under this Act, the Board shall have power to construe and determine the proper meaning of, but not to alter or vary any agreement between a municipal corporation and a company, or between two or more companies, and the decision of the Board on any question of fact shall be final. To construe agreements.

65. This Act shall not affect any action or other proceeding pending at the time of the coming into force of this Act. Pending suits.

66. This Act shall come into force on the first day of June, 1906. Commencement of Act.

7 ED. VII. (1907).

CHAPTER 38.

An Act to amend The Ontario Railway and
Municipal Board Act, 1906.

[Assented to 20th April, 1907.]

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

6 Edw.
VII., c. 31,
s. 4, amen-
ded.

1. Section 4 of *The Ontario Railway and Municipal Board Act, 1906*, is amended by adding thereto the following subsection:—

Powers of
Board.

(8) Whenever by any Act of the Legislature of the Province of Ontario the location of any line of railway or the route and course thereof, and the maps, plans and specifications, and any of the equipment, are subject to the approval of the Lieutenant-Governor in Council or any of his Ministers, or where in any Act it is provided that any railway company shall during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations or the number of the same, such power, authority or duty shall be exercised or performed by the Board instead of by the Lieutenant-Governor in Council or any of his Ministers.

6 Edw.
VII., c. 31,
s. 18.

2. Section 18 of the said Act is further amended by adding the following subsection thereto:—

Appoint-
ment of
counsel.

(3) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint counsel to

appear before the Board and conduct any enquiry or hearing, or to represent the Board upon the argument of any appeal to the Court of Appeal.

3. Section 57 of the said Act is amended by adding the following subsection thereto:—

6 Edw.
VII., c. 31,
s. 57 amended.

(1) The Board may from time to time enquire and report as to whether or not such public utilities are operated in such a way and that rates, in respect thereof, are charged sufficient to pay the debenture debt and interest created in respect thereof, together with the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Enquiry
and report
as to rates
charged
by public
utilities.

7 ED. VII. (1907).

CHAPTER 37.

An Act respecting Certain Railway and Other Corporations.

Assented to 20th April, 1907.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

“Public utility,” meaning of.

1. In this Act “Public Utility” shall mean and include any water works, gas works, electric heat, light and power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessaries or conveniences.

Forfeiture of rights by company passing out of jurisdiction of Province.

2. In case the undertaking of a company or other corporation operating a Public Utility, and heretofore or hereafter incorporated under a general or special Act of the Province of Ontario, has been since the 19th day of February, 1907, or hereafter shall be declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company or corporation whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the Legislative control of Ontario, the Lieutenant-Governor in Council may by Order-in-Council declare that all or any of the powers, rights, privileges and franchises conferred upon such first mentioned company or corporation by letters patent or by any general or special Act of Ontario shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited shall cease and

determine and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing such company or corporation to carry on business or granting any right, privilege or franchise thereto shall also thereupon become void and be of no effect, and such company or corporation shall forfeit all claim to any bonus or other aid granted by any municipal corporation or by the Legislature of Ontario. Provided that nothing in this section contained shall affect the validity of any debentures issued by a municipal corporation for payment of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of such company or corporation.

3. Notwithstanding anything in any Act contained, a municipal corporation shall not hereafter enter into any agreement with any such company or corporation or pass any by-law in relation to any public utility which has been declared to be a work for the general advantage of Canada, or which is not within the legislative jurisdiction of Ontario, until the Lieutenant-Governor in Council has approved of such agreement or by-law, and every agreement entered into and by-law passed in violation of this section shall be utterly void and of no effect. Provided that the Lieutenant-Governor in Council by Order-in-Council may from time to time in advance of such agreements or by-laws being made approve of any class or description of such agreements or by-laws in the Order-in-Council mentioned or referred to in regard to any corporation in any such order named, and thereafter and until such order is amended or rescinded such approval shall continue.

4. This Act shall also apply to all companies incorporated during the present session of the Legislature.

Municipal corporations not to contract with companies not under jurisdiction of Province.

Proviso.

Act to apply to companies incorporated at present session.

RULES OF PRACTICE AND PROCEDURE; REGULATIONS AND SPECIFICATIONS; AND FORMS OF THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

(Published the 14th day of July, A.D. 1906).

RULES OF PRACTICE AND PROCEDURE.

Interpretation	193
Application	193
Reply	194
Hearing	195
Applications on Affidavits	195
Record for the Hearing	195
Service of Copies of Affidavits	195
Orders for Production, Inspection, Discovery, and Taking Evidence by Commission	196
Notice to Produce	196
Notice to Admit	196
Right to Begin	196
Time for Notice of Motion	196
Enlargement or Abridging Time	197
Vocations	197
Costs	197
Computation of Time	197
Amendments	198
Technical Objections	198
Adjournments	198
Formal Order or Judgment	198
Regulations, Rules as to	198
Forms, Rules as to	198

REGULATIONS.

Application having reference to Plans and Surveys	199
Application to Alter Location	200
Application as to Completed Railway	200
Application to take Additional Lands for More Space, Snow Protection, etc.	201
Application as to Branch Lines	201
Railway Crossings and Junctions	201
Highway Crossings	202
Bridges, Tunnels, etc.	202
Application as to Wires for Light, Heat or Power	203
General Notes	203
Form of Book Reference	204
Interlocking System—Railways	205
Interlocking System—Drawbridges	207
Telephone and Telegraph Wires crossing Railways	208
Under-crossings	212
Regulations as to Accidents	215

FORMS.

Notice of Application	217
Notice of Application ex parte	217
Reply	218
Order for Production	218
Affidavit on Production	219
Order for Examination for Discovery	220
Notice to Produce	221
Notice to Admit	221
Subpoena	222
Final Order or Judgment	224

The Ontario Railway and Municipal Board under and by virtue of the Ontario Railway and Municipal Board Act, 1906, makes the following rules for regulating its practice and procedure:

INTERPRETATION.

1. The Board shall mean the Ontario Railway and Municipal Board.

2. Application shall include complaint and any other proceeding, matter or thing which the Board can hear and determine.

3. Applicant shall include complainant and any person or persons or corporation applying to the Board to hear and determine any matter or thing.

4. Respondent shall include any person or persons or corporation adverse in interest to an applicant to the Board.

5. Where any matter is not expressly provided for by these rules, the rules and practice under The Judicature Act shall be followed as far as the same are applicable in the discretion of the Board.

6. The provisions of the Interpretation Act and the interpretation clauses of the Judicature Act and of the Ontario Railway Act, 1906, shall apply to these rules unless there is something in the subject or context repugnant thereto.

APPLICATIONS.

7. Unless where otherwise provided by Statute applications to the Board shall be by a notice in writing, divided into paragraphs and numbered consecutively, setting forth clearly and concisely, in ordinary language, the nature of the application, and the relief or remedy sought; and may be in the form set forth in the schedule or to like effect.

8. Where a notice is given by a solicitor, it shall contain the solicitor's name and his address or place of business, where the reply, notices, orders, appointments and other documents or writings may be served.

9. Where proceedings are instituted in person, the notice shall contain the address or place of residence of the person giving the notice where the reply, notices, orders, appointments and other documents or writings may be served. If the requirements of this rule are not complied with, the opposite party shall be at liberty to proceed by posting up in the offices of the Board in the City of Toronto, all notices, orders, appointments and other documents or writings required to be served.

10. The notice commencing proceedings before the Board shall be mailed to or filed with the Secretary of the Board at the offices of the Board in the City of Toronto, and shall be served upon the respondent in the manner provided by the Act, unless service thereof is accepted in writing by a solicitor on behalf of the respondent.

REPLY.

11. When a reply is directed to be filed and served the same shall set forth clearly and concisely in ordinary language, divided into paragraphs and numbered consecutively, the respondent's answer to the application, admitting such parts thereof as are not in dispute. It shall contain the respondent's address or place of residence if filed in person, and that of his Solicitor if filed by a Solicitor; and such reply may be in the form set forth in the schedule hereto or to like effect.

12. The reply shall be delivered to the secretary of the Board or mailed to him by letter prepaid, and a copy thereof shall be served upon the applicant in the manner provided by the Act at his address given in the notice of application to the Board or upon the solicitor of the applicant at his address set forth in the notice if given by a solicitor.

HEARING.

13. Ten days after the service on the respondent of the notice of application either party shall be at liberty to apply to the Board on notice of motion in writing for an order fixing the time, place and manner of hearing the application; and if deemed necessary by the Board directing a reply to be filed and served by the respondent, and if the opposite party is not present or represented on such motion a copy of the order made on such application, shall be served upon the said party or his Solicitor ten days before such hearing.

APPLICATIONS ON AFFIDAVITS.

14. The Board may direct that applications shall be heard upon affidavits to be filed with the secretary and upon such documentary evidence as the parties may adduce.

RECORD FOR THE HEARING.

15. The party commencing proceedings before the Board shall, at least two clear days before the hearing, deposit with the secretary of the Board three copies of the notice of application and reply (if any), and the secretary shall compare such copies with the original notice and reply (if any), on file in his office, and certify said three copies for use of the Board.

SERVICE OF COPIES OF AFFIDAVITS.

16. Where the application is to be made on affidavits, copies of the affidavits upon which the application is to be heard, shall be served with a copy of the order for hearing, and the affidavits in defence shall be filed with the secretary and served on the opposite party within eight days thereafter, and any affidavits in reply shall be filed and served by the applicant upon the respondent within four days after the service of the affidavits in defence. Affidavits used before the Board or in any proceeding under the Act, may be sworn to before any person authorized to administer oaths to be used in the High Court of Justice or before a Justice of the Peace.

ORDERS FOR PRODUCTION, INSPECTION, DISCOVERY, AND
TAKING EVIDENCE BY COMMISSION.

17. Ten days after the service of the notice of application on the respondent orders for production of documents, for inspection, for examinations for discovery, for the examination of witnesses who cannot attend the hearing by reason of sickness or other unavoidable cause, and for the examination of witnesses resident out of Ontario, may be made by the Board, or a member thereof, as the nature of the application may require, and upon such terms as to costs or otherwise as may be just.

NOTICE OF PRODUCE.

18. Either party may give the other notice in writing to produce any documents which relate to any matter in question between the parties which are in the custody, power or possession of said other party, and if such notice be not complied with, secondary evidence of such documents may be given.

NOTICE TO ADMIT.

19. A party may be called upon by any other party, by notice in writing to admit any document which requires to be proved, saving all just exceptions; and in default of notice to admit, the costs of proving the document shall not be allowed except where, in the opinion of the Board, the omission to give notice was a saving of expense.

THE RIGHT TO BEGIN.

20. At the hearing of any application, the party commencing the proceedings shall begin, and after the evidence in defence is given, shall have the right to reply.

TIME FOR NOTICE OF MOTION.

21. There shall be at least two clear days between the service of a notice of motion and the day for hearing, unless the Board or a member thereof gives leave to serve short

notice, and in the computation of such two clear days, Sundays and days on which the offices are closed shall not be reckoned.

No notice of motion shall be served unless an appointment has been first obtained from the Board or a member thereof for hearing the motion.

ENLARGING OR ABRIDGING TIME.

22. The Board may enlarge or abridge the time appointed by these rules for doing anything or taking any proceeding, upon such terms as may be just.

VACATIONS.

23. No trial or hearing shall take place or motion be heard during the long vacation or the Christmas vacation observed by the High Court of Justice, unless otherwise directed by the Board in case of urgency, and such vacations shall not be reckoned in the computation of the times allowed by these rules for filing or delivering a notice of application or reply.

COSTS.

24. The costs of and incidental to any proceeding before the Board, shall be in the discretion of the Board, and may be fixed at a sum certain or may be taxed by the secretary, on the High Court, County Court or Division Court scale as the Board may direct.

COMPUTATION OF TIME.

25. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a holiday, in which case the time shall be reckoned exclusively of that day also.

AMENDMENTS.

26. Amendments which, in the opinion of the Board, may be necessary for determining the real question at issue between the parties may be allowed at any time; and upon such terms as the Board in its discretion may deem just.

TECHNICAL OBJECTIONS.

27. No proceeding before the Board shall be defeated or affected by any technical objection or by any objection based upon defects in form.

ADJOURNMENT.

28. The Board may from time to time adjourn any proceeding before it.

FORMAL ORDER OR JUDGMENT.

29. Unless otherwise ordered by the Board, the applicant or his solicitor shall prepare the formal order made by the Board and submit it to the respondent or his solicitor for approval, and in the event of the parties failing to agree on the form of the order, the same shall be settled by the secretary of the Board, and when settled, shall be engrossed in duplicate and left with the secretary to be signed and sealed and entered by him in the book kept for that purpose.

REGULATIONS.

30. The regulations in the First Schedule hereto shall have the same force and effect as these rules and to the same extent as if they had been incorporated in and formed part hereof.

FORMS.

31. The forms in the Second Schedule hereto or forms to like effect may be used with such variations as circumstances or the nature of the application may require, and

where no form is given in the said schedule, the forms used in connection with the Rules of Practice under the Judicature Act may be adopted.

Office of the Board, Toronto, 11th July, A.D., 1906.

(Sgd.) JAMES LEITCH,
Chairman.

(Sgd.) A. B. INGRAM,
Vice-Chairman.

(Sgd.) H. N. KITTSON.

(Sgd.) H. C. SMALL,
Secretary.

FIRST SCHEDULE.—REGULATIONS.

REQUIREMENTS ON APPLICATION HAVING REFERENCE TO PLANS AND SURVEYS.—Section 59, Ontario Railway Act, 1906.

No. 1.—Send to the secretary of the Board three copies of map or plan of the survey and levels made and taken of the lands through which the railway passes, showing its course and direction and the lands passed over and taken for the railway; also three copies of a book of reference which shall set forth:

- (a) A general description of said lands.
- (b) The names of the owners and occupiers thereof as far as can be ascertained.
- (c) Everything necessary for the right understanding of such map or plan.

Scale of Map—Not more than 6 miles to the inch.

The three sets of plans prepared are to be prepared in accordance with the "general notes" hereunder, as follows:

1st set: 1 plan, 1 profile, 1 book of reference. To be examined, sanctioned, and deposited with the Board.

2nd set: Same as 1st. To be examined, certified and returned for registration.

3rd set: Same as 1st. To be certified and returned to company.

Scale, Plans: 400 feet to the inch.

Profiles: Horizontal, 400 feet; vertical 20 feet.

No. 2.—TO ALTER LOCATION OF LINE PREVIOUSLY SANCTIONED OR COMPLETED.—Section 59, ss. 8, Ontario Railway Act, 1906.

Send to the secretary of the Board three sets of plans, profiles and books of reference as required in No. 1.

(N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves, and the changes desired or necessitated.)

Scale: Same as No. 1.

No. 3.—PLANS OF COMPLETED RAILWAY.—Section 59, ss. 15, Ontario Railway Act, 1906.

Send to the secretary of the Board within six months after completion three sets of plans and profiles of the completed road.

1st set: To be filed with the Board.

2nd set: To be certified and returned to the company.

3rd set: For registration purposes.

Scale: Same as No. 1.

No. 4.—TO TAKE ADDITIONAL LANDS FOR MORE SPACE,
SNOW PROTECTION, ETC.—Section 74, Ontario Rail-
way Act, 1906.

Send to the secretary of the Board three sets of plans and documents as follows:

1st set: 1 application certified and signed by the officers mentioned in ss. 9 of section 59 of the Act; 1 plan, 1 profile, 1 book of reference. To be examined, certified and deposited with the Board.

2nd set: Same as 1st. For certificate and return for registration with duplicate authority.

3rd set: Same as first. For certificate and return to company with copy of authority.

Scale: Same as No. 1.

(N.B.—Ten days' notice of application must be given by the applicant company to the owner or possessor of the lands, and copies of such notice with affidavits of service thereof must be furnished to the Board upon such application).

No. 5.—BRANCH LINES.—Section 51, ss. 6, Ontario Railway
Act, 1906.

The same procedure, plans, profiles and books or reference as in No. 1.

Scale: Same as No. 1.

No. 6.—RAILWAY CROSSINGS AND JUNCTIONS.—Section 98,
Ontario Railway Act, 1906.

Send to the secretary of the Board with an application, three sets of plans of both roads at the point of crossing.

Scale-Plan: 100 feet to the inch.

Also three sets of plans and profiles of both roads on either side of the proposed crossing for a distance of two miles.

Scale-Plan: 400 feet to the inch.

Profile: Horizontal 400 feet; vertical 20 feet.

1st set: For approval by and filing with the Board.

2nd and 3rd sets: To be certified and furnished to the respective companies concerned, with certified copy of order.

(N.B.—The applicant company must give ten days' notice of application to the company whose lines are to be crossed or joined, and shall serve with such notice a copy of all plans and profiles and a copy of the application. Upon completion of the work application must be made to the Board for leave to operate the railway.)

No. 7.—HIGHWAY CROSSINGS.—Section 92, Ontario Railway Act, 1906.

Send to the secretary of the Board, with an application, three sets of plans and profiles of the crossings.

Scale-Plan: 100 feet to the inch.

Profile: Horizontal 100 feet; vertical 20 feet.

1st set: For approval by and filing with the Board.

2nd and 3rd sets: To be furnished to the respective parties concerned, with a certified copy of the order of the Board approving the same.

The plan and profile shall show at least half a mile of the railway and 200 feet of the highway on each side of the crossing.

(N.B.—The applicant must give ten days' notice of application to the opposite party, and with such notice shall serve a copy of the plan and profile and of the application.)

No. 8.—BRIDGES, TUNNELS, VIADUCTS, TRESTLES, ETC.,
OVER 18 FT. SPAN.—Section 89, Ontario Railway Act,
1906.

Send to the secretary of the Board, application and two sets of detailed plans, profiles, drawings and specifications.

1st set: For filing with the Board.

2nd set: To be certified and returned to the company, with certified copy of the order of the Board.

Bridges, tunnels, viaducts and trestles, over 18 feet span, may be built in accordance with standard specifications and plans, submitted by the company and approved by the Board.

No. 9.—REQUIREMENTS ON APPLICATION TO CARRY LINES OR WIRES FOR THE CONVEYANCE OF ELECTRICITY FOR LIGHT, HEAT OR POWER, ACROSS A RAILWAY.—
Ss. 4, section 56, Ontario Railway Act, 1906.

Send to the secretary of the Board, with application, three copies of a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

1st set: 1 plan, 1 profile. To be examined, sanctioned and deposited with the Board.

2nd set: Same as first. To be examined, certified and returned to applicant.

3rd set: Same as 1st. To be certified and given to company.

Scale-Plans: 400 feet to the inch.

Profiles: Horizontal 400 feet; vertical 20 feet.

Detailed plans, profiles, drawings and specifications may be blue, white or photographic prints.

GENERAL NOTES.

Plans (for Nos. 1 to 5) must show the right of way with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines, the owners' names, the areas, and length and width of lands proposed

to be taken, in figures (every change of width being given), the curves and the bearings, also all open drains, water courses, highways, and railways proposed to be crossed or affected.

Profiles shall show the grades, curves, highway and railway crossings, open drains and water courses, and may be endorsed on the plan itself.

Books of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion thereof proposed to be taken, and names of owners and occupiers so far as they can be ascertained.

All plans, profiles and books of reference must be dated, and must be certified and signed by the President or Vice-President or General Manager, and also by the engineer of the company.

The plan and profile to be retained by the Board must be on linen, the copies to be returned may be either white, blue, or photographic prints.

All profiles shall be based, where possible, upon sea level datum.

All books of reference must be made on good thick paper, and in the form of a book with a suitable paper cover. The size of such books, when closed, shall be as nearly as possible $7\frac{1}{2}$ inches by 7 inches.

Books of reference may be endorsed on the plan.

Form of Book of Reference required.

Railway Company.
Division. Branch.

Book of reference to accompany location plan, showing lands required for railway purposes.

INTERLOCKING SYSTEM.

Regulations Governing Signals and Speed where Trains cross another Railway at Rail Level without stopping under Order of the Board.—Sub-sect. 3, sect. 124, Ontario Railway Act, 1906.

When the signal on distant semaphore post indicates caution, a train passing it must be under full control, and come to a full stop before reaching the home post.

When the signal on the home post indicates danger, it must not be passed.

When the signals on the distant and home posts indicate safety, the train can proceed.

When the clear signals are shown, the speed of passenger trains must be reduced to twenty miles, and freight trains to ten miles per hour, until the entire train has passed the crossing.

Regulations as to Requirements where the Board have ordered a Company to adopt and put in use an Interlocking Derailing and Signal System at Rail Level Crossings and Junctions.—Ss. 6, section 98, Ontario Railway Act, 1906.

The plan and construction of an interlocking, signalling and derailing system to be used at rail level crossings and junctions of one railway by another must be arranged to conform to the following general rules:

1. The normal position of all signals must indicate danger, derail points open and the interlocking so arranged that it will be impossible for the operator to give conflicting signals.
2. The derail points must be placed not less than 500 feet from point of intersection of the crossing of junction tracks, unless in special cases in which the Board authorizes in writing a less distance.

3. On side tracks the position of derail points may be located so as to best accommodate the traffic, and provide the same measure of safety indicated in foregoing rules.

4. On single track railways derail points, when practicable, should be on inside of curve, and on double track railways the derail points should be in outside rail of both tracks.

5. On double track railways back-up derails will be necessary.

6. Home signal posts must be 50 feet beyond point of derail, and the distance between home and distant signals must be not less than 1,200 feet. Signal posts should be placed on engineman's side of track it governs.

7. Guard rails should be laid on outside of rail in which the derail is placed, and commence at least 6 feet toward home signal from point of derail, extending from thence toward crossing parallel with and 9 inches distant from track rail, for 400 feet.

8. In case there are crossovers, turnouts, or other connecting tracks involved in the general system, the movement of cars and trains upon which present an element of danger, which danger will be enhanced by the passage of trains on main tracks over crossings without stopping, and consequently at higher speed than would be the case without the permit sought, then, and in all cases, whether such enhanced danger be of collision between cars and trains of the same railway, or between cars or trains of different railways, it will be necessary, in addition to the protection of the main crossing, to provide by proper appliances, against any such increased collateral dangers in the same complete manner as is required in the case of the main crossing.

9. The arms and back lights of all signals should be visible to the signal-man in the tower. If from any cause the arm or light cannot be placed so as to be seen by the signal-man, a repeater or indicator should be provided in the tower.

10. Application for inspection of interlocking plant must be made to the Board accompanied by a plain diagram, showing location of crossing and position of all main tracks, sidings, switches, turnouts, etc.

The several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use. The rate of grade on each main track must be shown, together with numbers of signals, derails, locks, etc., corresponding to levers in tower.

It is intended herein to state general rules, which will govern the construction of any proposed system of interlocking, after its adoption has been ordered by the Board. The traffic to be done, relative position and operation of intersecting lines, may require safeguards not mentioned herein.

The system of derailing, signalling, and interlocking must be connected and worked, and be complete in each particular before the Board will grant an order authorizing the operation of such interlocking, derailing, and signal system, or the crossing by the railway ordered to put on the system.

GENERAL REQUIREMENTS FOR INTERLOCKING AT DRAWBRIDGES.—Ss. 2, section 122, Ontario Railway Act, 1906.

Interlocking, signalling, and derailing system to be used at drawbridges must be arranged to conform to the following general rules:

1. The normal position of all signals must indicate danger, derail points open, and the interlocking so arranged that it will be impossible for the operator to open the draw until the signals and derails are set against the approaching train movement.

2. Where the grade is practically level the derailing points shall be located not less than 500 feet from the ends of the bridge, but in case of a descending grade towards the bridge,

the derailling point must be located at such distance from the bridge as to give the same measure of protection that is required for a level approach.

3. On single track railways, derail points when practicable, should be on the inside of the curve, and on double track railways, the derail points should be in outside rails of both tracks.

4. On double track railways back-up derails will be necessary.

5. Home signal posts must, when practicable, be located on the engineman's side of the track they govern, and should be not less than fifty (50) feet nor more than two hundred (200) feet in advance of the point they govern; the distant signals should be located not less than twelve hundred (1,200) feet in advance of the home signal, with which it is operated, and on the same side of the track. The distance signals should be distinguished by a notch cut in the end of the semaphore arm.

6. The arms and back-lights of all signals should be visible to the signal-man in the tower. If from any cause, the arm or light of any signal cannot be placed so as to be seen by the signal-man, a repeater or indicator should be provided in the tower.

7. Guard rails should be laid on outside of rail in which the derail is placed, and, commencing at least 6 feet in advance of derail, should extend thence toward the end of the bridge, parallel with and 9 inches from track rail, for not less than 400 feet.

8. Application for inspection must be made same as for railway crossings.

REGULATIONS AND SPECIFICATIONS FOR TELEPHONE OR
TELEGRAPH WIRES CROSSING RAILWAY TRACKS.—
Ss. 5, section 56, Ontario Railway Act, 1906.

1. Telephone and Telegraph Companies shall, at all times, at their own expense, maintain in good order and condition.

and at the height called for by the specifications hereinafter set forth, the lines, wires and cables crossing the said railway so that at no time shall any damage be caused to the company owning, operating or using the said railway or to any person lawfully upon or using the same, and shall use all proper and necessary means to prevent any such wires and cables from sagging below said height.

2. Telephone and Telegraph Companies shall, at all times, wholly indemnify the company owning, operating or using the said railway of, from and against all loss, costs, damage and expense to which the said Railway Company may be put by reason of any damage or injury to persons or property caused by any of the said wires or cables, or any works or appliances herein provided for, not being erected in all respects in compliance with the terms and provisions of these regulations and specifications for the crossing, or if, when so erected, not being at all times maintained and kept in good order and condition, and in accordance with the terms and provisions hereof or any order or orders of the Board in relation thereto, as well as any damage or injury resulting from the imprudence, neglect or want of skill of any of the employees or agents of a Telephone or Telegraph Company.

3. No work shall at any time be done under these regulations and specifications in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic on the said railway, nor until at least 48 hours' notice in writing has been sent by mail in a registered letter postage prepaid to the Railway Company at its head office and to the Board at its office in the City of Toronto.

4. Where, in effecting any such crossing, Telephone or Telegraph Company desires to erect poles between the tracks of the railway, before any work in connection with such crossing is begun, the Telephone or Telegraph Company shall give to the Railway Company owning, operating or using the said railway, at least forty-eight hours' prior notice thereof in writing, and the said Railway Company shall be entitled to appoint an inspector under whose supervision

such work shall be done, and whose wages, at a rate not to exceed \$3.00 per day, shall be paid by the Telephone or Telegraph Company.

5. Where wires or cables to be carried across the railway are to be carried above existing telegraph or telephone wires and across a trolley wire or other high voltage wires, either within the spans to be constructed across the railway or within the spans next thereto on either side, such additional precautions shall be taken by the Telegraph or Telephone Company by the placing of guard wires or other protective devices as the Board shall consider necessary.

6. Nothing in this regulation shall prejudice or detract from the right of the company owning, operating or using the railway to adopt at any time the use of electric or other motive power, and to place and maintain upon or under its right of way such poles, lines, wires, cables, pipes, conduits and other fixtures and appliances as may be necessary or proper for such purposes. Liability for the cost of any removal, change in location, or construction of the poles, lines, wires, cables, or other fixtures or appliances erected by a Telephone or Telegraph Company under the authority of the Ontario Railway Act, 1906, or of any order of the Board over the tracks of the said Railway Company rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the Board on the application of any party interested.

7. Any dispute arising between a Telephone or Telegraph Company and the said railway as to the manner in which the said wires and cables are being erected, maintained, used or repaired shall be referred to the Board, whose decision shall be final.

8. The wires and cables of a Telephone or Telegraph Company shall be erected and maintained across the said railway in accordance with these regulations and the specifications following.

SPECIFICATIONS.

Poles to be located, wherever possible, at a distance from the rail not less than equal to the length of the poles used.

Poles must not under any circumstances if the railway is operated by steam be placed less than 12 feet from either rail of a main line, and if operated by electricity, must not be placed less than 6 feet from either rail of a main line or less than 6 feet from either rail of a siding. At loading sidings sufficient space to be left for a driveway.

Poles of 25 feet to 34 feet in length to be set not less than 5 feet, 35 feet, 5½ feet, 36 feet to 50 feet, not less than 6 feet, and over 50 feet, 7 feet in solid ground. Poles with side strains to be reinforced. Poles to be at least six inches in diameter at top. In soft ground poles must be set so as to obtain the same amount of rigidity as would be obtained by the above specifications for setting poles in solid ground.

Span must be as short as possible consistent with the rules of locating and setting of poles.

The pole at each side of a railway must be fitted with cross arms of dimensions not less than 3 x 4 inches, equipped with 1½ inch hardwood pins nailed in arm; arm to be properly fastened to the pole in a gain by not less than two lag screws ½ x 7 inches or by a ¾ inch machine bolt through the pole; arms carrying more than two wires or carrying a cable must be braced by two iron braces fastened to the arm by ¾ inch carriage bolts, and to the pole by a lag screw 5 x ¾ inches.

The lowest wire must not be less than 25 feet from top of rail, and 4 feet above or under feed wires, and 8 feet above trolley wires, for spans up to 145 feet, 2½ feet additional clearance must be given for every 20 feet additional length of span. Wires crossing over or under other telegraph or telephone wires erected along the railway right of way must clear either 3 over or 3 feet under.

Where open lines are strung across steam railway tracks, the stretch must consist of copper wire, to be of not less than No. 13 New British Standard Gauge, .091 inches diameter. Wire to be tied to the insulator on each of the double cross arms by a soft copper wire, of same dimensions as line wire, not less than 20 inches in length.

Where open lines are strung across electric railway tracks the stretch may consist of galvanized iron wire not less than No. 14 standard gauge, iron wire to be tied to the insulator on cross arms by a tie wire of same dimensions as line wire with not less than 3 half turns made with pliers on each side of insulator.

Copper wire to be ended on transposition insulator at the poles on each side of Electric Railway.

Where a number of rubber covered wires are strung across railway tracks they may be made up into a cable by being twisted on each other or sewn with Marline, which must be tied every 3 feet and the whole securely fastened to the poles by Marline. Guy wires crossing railway tracks must consist of either 7 stranded No. 16 or No. 13 galvanized steel wire.

An iron hook guard to be placed on the end of each cross arm, or a copper wire loop guard over each wire and fastened by staples to the cross arm.

Where cables are strung across tracks they must be carried on a suspension wire of not less than 7 strands of No. 13 galvanized steel wire, which when cross arms are used will be attached to a $\frac{3}{4}$ inch iron hook, or when fastened to poles, a malleable iron messenger hanger bolted through the poles, the cable to be attached to the suspension wire by cable clips not more than 20 inches apart.

Rubber insulated cables of less than $\frac{3}{4}$ inch diameter may be carried on a suspension wire of not less than 7 strands of No. 16 galvanized steel wire.

1. The line or lines, wire or wires, shall be carried across the railway in accordance with this Regulation by a pipe or pipes, conduit or conduits, and each shall, for the whole width of the right of way adjoining the highway, be laid at the depth called for by, and shall be constructed, maintained, renewed and repaired according to, the specification hereinafter set forth.

2. All work in connection with the laying, maintaining, renewing or repairing of each pipe or conduit, and the con-

tinued supervision of the same shall be performed by, and all cost and expenses thereby incurred be borne and paid by the Telephone or Telegraph Company, but no work shall at any time be done in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic on the said railway.

3. The Telephone or Telegraph Company shall, at all times, maintain each pipe or conduit in good condition and so that at no time shall any damage be caused to the property of the Railway Company, or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use or enjoyment thereof by the said Railway Company be in any way interfered with.

4. Before any work of laying, renewing or repairing any pipe or conduit is begun the Telephone or Telegraph Company shall give to the Railway Company at least forty-eight hours' prior notice thereof, in writing, accompanied by a plan of the part of the railway to be effected showing the proposed location of such pipe or conduit and works contemplated in connection therewith, and the said Railway Company shall be entitled to appoint an inspector to see that the Telephone or Telegraph Company, in performing said work, complies, in all respects, with the specification hereinafter set forth and whose wages, at a rate not exceeding \$3.00 per day, shall be paid by the Telephone or Telegraph Company.

5. The Telephone or Telegraph Company shall at all times, wholly indemnify the company owning, operating or using the said railway of, from and against all loss, costs, damage and expense to which the said Railway Company may be put by reason of any damage or injury to persons or property caused by any pipe or conduit, or any works or appliances not being laid and constructed in all respects in compliance with the specification hereinafter set forth, or if, when so constructed and laid, not being at all times maintained and kept in good order and condition and in accordance therewith, or any order, or orders of the Board in relation thereto, as well as any damage or injury resulting from the imprudence, neglect or want of skill of any of the employees or agents of the Telephone or Telegraph Company.

6. Nothing in this regulation shall prejudice or detract from the right of any company owning, operating or using the said railway to adopt, at any time, the use of electric or other motive power and to place and maintain upon or under the said right of way such poles, wires, pipes and other fixtures and appliances as may be necessary or proper for such purpose.

Liability for the cost of any removal, change in location, or construction of the pipes, conduits, wires or cables constructed or laid by the Telephone or Telegraph Company under authority of the Ontario Railway Act, 1906, or of an order of the Board, rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the Board on the application of any party interested.

7. Any dispute arising between the Telephone or Telegraph Company and any company owning, using or operating said railway as to the manner in which any pipe or conduit, or any works or appliances hereinbefore provided for, are being laid, maintained, renewed or repaired, shall be referred to the Board, whose decision shall be final.

SPECIFICATION.

Vitrified clay, cement pipe, creosoted wood, iron pipe, or fibre may be used.

The excavation must be of sufficient depth to allow the top duct to be at least three feet in the case of a steam railway and 18 inches in the case of an electric railway below the bottom of the ties of the railway tracks.

The duct to be laid on a base of three inches in the case of a steam railway and in the case of an electric railway on two inches of concrete, mixed in proportion, one of Portland cement, three of sand, and five of broken stone or gravel.

Where stone is used such stone not to be of greater size than will permit of its passage through a one-inch ring.

After the ducts are laid, the whole to be encased to a thickness of three inches in the case of a steam railway, and two inches in the case of an electric railway on top and sides in concrete mixed in the same proportion as above.

The excavation must be well filled in slowly and well tamped on top and sides.

The excavation must be at all times safely protected.

ACCIDENTS: REGULATIONS UNDER AND IN PURSUANCE
OF SECTION 237 OF "THE ONTARIO RAILWAY ACT,
1906."

Every company upon the happening of an accident shall give to the Ontario Railway and Municipal Board notice thereof in writing by delivering the same at the office of the Board in the City of Toronto or by mailing it, postage prepaid, in a registered letter addressed to the Board.

Such notice shall contain a statement signed by a duly authorized officer of such company, setting forth the information and particulars hereinafter mentioned.

Such statement shall be divided into paragraphs, each of which shall include and refer to one (or one group) only of the numbered particulars hereinafter mentioned, and the paragraph referring to each respective numbered particular shall bear the number corresponding to the number hereinafter given for each such particular.

The numbers of paragraphs and the particulars to which each shall refer as aforesaid, are as follows:—

1. Name or names of company or companies concerned in accident.
2. Number of train, engine, car or motor.
3. Date and time of accident.
4. Nature of accident.

5. Exact location.
6. Name in full, address and legal addition of each person injured or killed.
7. Age.
8. Married or single.
9. Passenger, employee or other.
10. If employee, length and nature of service with dates and periods of different occupations (if more than one).
11. If employee, character, experience, skill and fitness with respect to occupation at time of accident.
12. How engaged at time of accident, and how long on duty.
13. Cause of accident, how same occurred, with full particulars and details and diagram if required.
14. Persons in charge, with full names, addresses and the particulars referred to in paragraphs 10, 11 and 12.
15. Result to person and particulars of injury.
16. Result to property, including amount of damage.
17. Names and addresses of all persons present at, or eye witnesses of, the accident.
18. What investigation (if any) and result of same.
19. Verdict (if any).

The Board reserves the right to require such further and other details, particulars, maps, plans, profiles, documents, models and information or illustration of any kind as the nature of the accident and a full understanding thereof may suggest or require.

In pursuance of subsection 2 of section 237 of said Act, the Board declares that all such information so given in pursuance of this regulation shall be privileged.

SECOND SCHEDULE—FORMS.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

BETWEEN

Applicant,

AND

Respondent.

NOTICE OF APPLICATION.

1. The Applicant is (here give a general description of the Applicant).

2. The Respondent is (here give a general description of the Respondent).

3. (Here follows the complaint or application).

4. (Here follows the nature of the relief or remedy sought).

5. This application will be heard by the Board after ten days from the service hereof, at such time and place and in such manner as the Board may order and direct.

6. This notice is given by _____ of the _____ of _____ in the county of _____ Solicitor for the Applicant (or this Notice is given by _____ of the _____ the Applicant in person).

Signatures; Solicitor's or Applicant's.

Form of Application where there is no Opposite Party.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

In the Matter of the Application of _____ of the _____ of _____ in the County of _____ for an order for _____

The Applicant hereby applies to the Board for an order for (here set forth the nature of the Application and Order asked for).

This Application is made by _____ of the
of _____ in the County of _____
Solicitor for the Applicant: (or this Application is made by
the Applicant in person).

Signature of Solicitor or Applicant.

REPLY.

Style of Cause as in form 1.

1. The reply of the above named Respondent to the Notice of Application of the above named Applicant.

2. The Respondent admits paragraphs numbered one, two or three (as the case may be) of the Notice.

3. The Respondent says that (here set forth reply).

4. The Respondent says that the Applicant is not entitled to the relief or remedy sought (or he is only entitled to the following relief or remedy (as the case may be).

5. This reply is made by _____ of _____
Solicitor for the above named Respondent: (or this reply is
made by _____ of _____ the Respondent
in person).

Signature of Solicitor or Respondent (as the case may be).

FORM OF ORDER FOR PRODUCTION.

Style of Cause same as in Form No. 1.

UPON the application of the _____
IT IS ORDERED, that the _____
do within ten days after the service of this Order make discovery on oath of the documents which are or have been in
possession or power relating to any
matters in question in this application and do produce to and
deposit the same with the Secretary of the Board at Toronto
for the usual purposes.

Dated this _____ day of _____ A.D. 19 _____

FORM OF AFFIDAVIT AS TO PRODUCTION OF
DOCUMENTS.

Style of Cause same as in Form No. 1.

1. I,
the above named _____ make oath and say
as follows:

1. I have in my possession or power the Documents relating to the matters in question in this application set forth in the first and second parts of the First Schedule hereto.

2. I object to produce the said Documents set forth in the second part of the First Schedule hereto.

3. That

4. I have had, but have not now, in my possession or power the Documents relating to the matters in question in this application set forth in the Second Schedule hereto.

5. The last mentioned documents were last in my possession or power on,

6. That

7. According to the best of my knowledge, information and belief, I have not now and never had in my possession, custody or power, or in the possession, custody or power of my Solicitors or Agents, Solicitor or Agent, or in the possession, custody or power of any other person or persons on my behalf, any deed, account, book or account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this application, or any of them, or wherein any entry has been made relative to such matters or any of them, other than and except the documents set forth in the said First and Second Schedules hereto, and the pleadings and other proceedings in the application.

Sworn at

in the _____ of
this _____ day of
one thousand nine hundred and _____

Before me

A Commissioner, etc.

FORM OF NOTICE TO PRODUCE.

Style of Cause same as in Form No. 1.

TAKE NOTICE that you are hereby required to produce and shew to the Board at the hearing of this application all Books, Papers, Letters, Copies of Letters and other writings and Documents in your custody, possession or power containing any Entry, Memorandum or Minute relating to the matters in question in this application and particularly those hereinafter specified.

Dated this day of 19 .

To the above named

}

Solicitor or Agent.

Solicitor for the above named.

DESCRIPTION OF DOCUMENTS.	DATES.

FORM OF NOTICE TO ADMIT.

Style of Cause same as in Form No. 1.

TAKE NOTICE, that the purpose to adduce in evidence the several Documents hereinunder specified and that the same may be inspected by the himself, his Solicitor or Agent , at on day, the day of between the hours of and in the noon, and the is hereby required, within four days from the said day to admit that such of the

said documents as are specified to be originals were respectively written, signed or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and that such documents as are stated to have been served were served or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence on this application.

Dated this day of A.D. 19 .

To the above named

Yours, etc.

and to

Solicitor or Agent.

his Solicitor or Agent

ORIGINALS.

DESCRIPTION OF DOCUMENTS.	DATES.

COPIES.

DESCRIPTION OF DOCUMENTS.	DATES.	Original or Duplicate served, sent or delivered, when, how and by whom.

SUBPŒNA.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

BETWEEN:

Applicant;

AND

Respondent.

EDWARD the Seventh, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India,

TO

GREETING.

We command you to attend before the Board at
 on day the day of A.D. 19 ,
 at the hour of o'clock in the noon, and so on
 from day to day until the above matter is heard, to give
 evidence on behalf of
 and also to bring with you and produce at the time and
 place aforesaid all

Witness, James Leitch, Esq., K.C., Chairman of our said
 Board, the day of A.D. 19 ,
 in the year of Our Reign.

(To be endorsed) O. R. & M. B. vs.
 Subpœna: This Writ is issued by of the
 of in the County of
 Solicitor for the
 (or by the in person.)

Issued from the office of The Ontario Railway and Municipal Board at the City of Toronto in the County of York and the Province of Ontario,

Secretary.

FORM OF FINAL ORDER.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

The day of A.D. 19 .

BETWEEN:

Applicant;

AND

Respondent.

Upon the application of the above named Applicant in presence of the Applicant and Respondent upon hearing the evidence adduced on behalf of the Applicant and Respondent and upon hearing counsel for the Applicant and Respondent, (or upon hearing the Applicant and Respondent in person as the case may be).

The Board orders

(Here set forth what the Board orders.)

 GENERAL FORM OF ACT OF INCORPORATION OF
RAILWAY COMPANY.

CHAPTER.

An Act to incorporate the Owen Sound, Shallow Lake and
Warton Railway Company.

Assented to (date.)

Preamble. **W**HEREAS John M. Telford, of the Town of Owen Sound, in the County of Grey, Solicitor, Melville Scott, of the said Town of Owen Sound, Accountant, and Adolf G. Larsson, of the said Town of Owen Sound, Chemist, have by their petition prayed for an Act of incorpora-

tion under the name of "The Owen Sound, Shallow Lake and Wiarton Railway Company" for the purpose of constructing and operating a railway from some point at and through the Town of Owen Sound, in the County of Grey, through the Township of Sarawak, the Village of Shallow Lake and the Township of Keppel to some point in or to the Town of Wiarton, in the County of Bruce; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said John M. Telford, Melville Scott and Adolf G. Larsson, and such other persons and corporations as shall hereafter become shareholders in the said company are hereby constituted a body corporate and politic under the name of "The Owen Sound, Shallow Lake and Wiarton Railway Company."

2. The said company is hereby authorized and empowered to lay out and construct and operate by steam, electricity, or other motive power a railway with the necessary side-tracks, switches, and turnouts from some point in the Town of Owen Sound and passing through the Town of Owen Sound, in the County of Grey, and through the Townships of Sarawak and Keppel and the Village of Shallow Lake, in the Township of Keppel, in or to some point in the Town of Wiarton, in the County of Bruce.

3. The said John M. Telford, Melville Scott, Adolf G. Larsson and Henry M. Rumball, of the City of London, Gentleman, and Maxwell D. Fraser, Solicitor, and James P. Moore, Solicitor, both of the said City of London, shall be and are hereby constituted a board of provisional directors of the said company.

4. The head office of the said company shall be at the Town of Owen Sound, in the County of Grey.

5. The capital stock of the said company shall be \$500,000.

- Number of directors. 6. The board of directors of the said company shall consist of not less than five and not more than nine persons.
- Issue of bonds. 7. The issue of bonds, debentures or other securities by the said company shall not exceed \$25,000 per mile of the railway.
- Application of 6 Edward VII c. 30. 8. The provisions of *The Ontario Railway Act 1906*, shall apply to the said company and the railway to be constructed under this Act.

FORM OF NOTICE OF EXPROPRIATION AND CERTIFICATE UNDER SECTION 68.

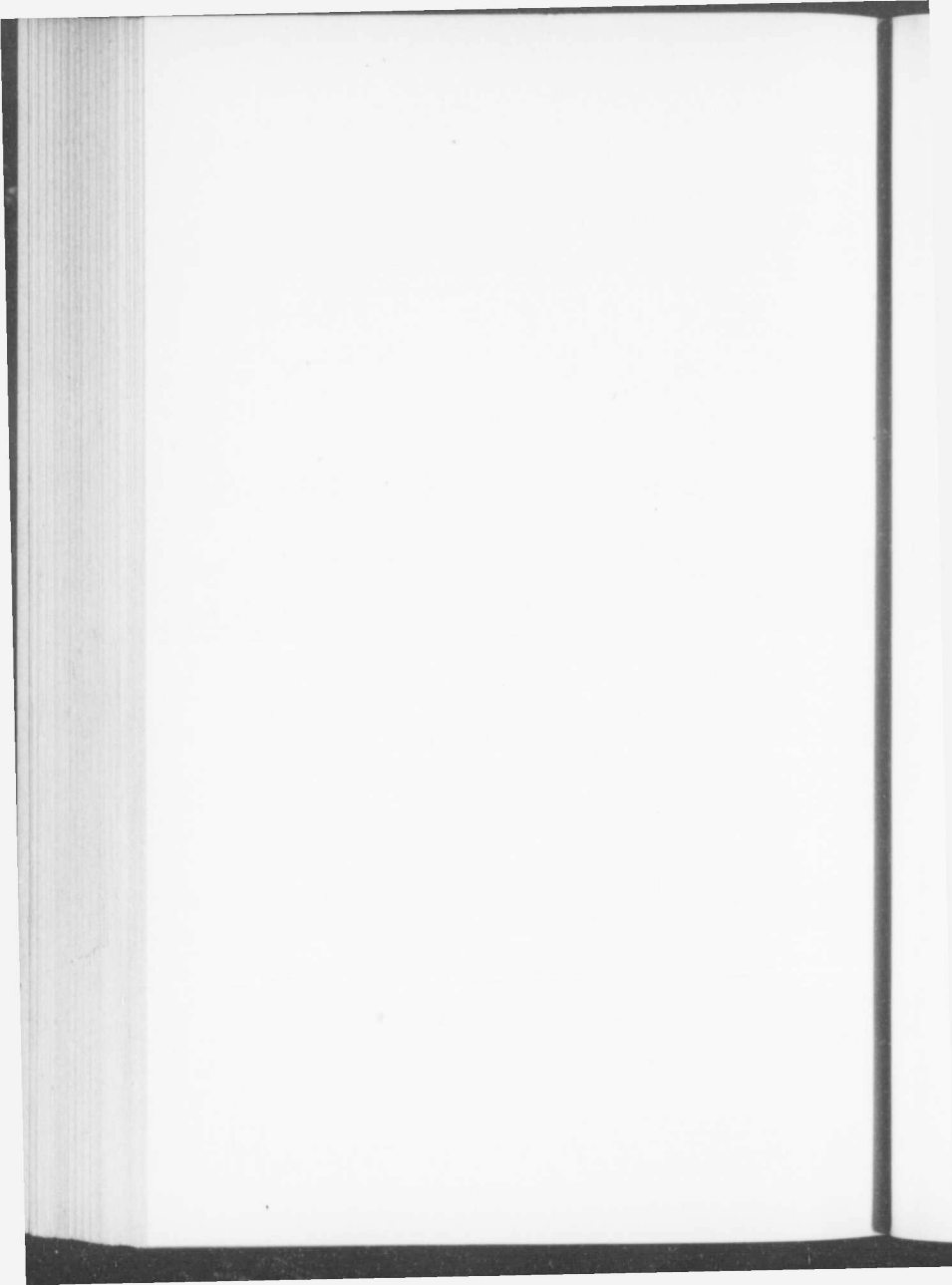
N O T I C E.

To A. B. of the _____ of _____

TAKE NOTICE that the C. D. Railway Company require from you for the purposes of its Railway all your estate and interest (*or as the case may be, here state interest intended to be acquired*) in the land hereinafter described, and will take, under the provisions of the Ontario Railway Act, 1906, all and singular that certain parcel or tract of land and premises (*here follows description*) as shewn coloured red on attached sketch.

AND TAKE NOTICE that the power intended to be exercised by the said Railway Company with regard to the land above described is the taking of the said land in fee simple (*or as the case may be*) for the purposes of constructing the said Railway and works thereon and operating the same.

AND FURTHER TAKE NOTICE that the said, the C. D. Railway Company, are ready and willing and hereby offer to pay the sum of _____ dollars as compen-



INDEX.

A.

ABANDONMENT.	PAGE
Of expropriation proceedings, and new notice given, s. 68, s.-s. (17)	52
ABSENCE.	
Provisions in event of death or absence of directors, s. 14, s.-s. (6)	14
Vice-President to act in absence of President, s. 21	16
Notice respecting lands may be served by advertisement in absence of owner, s. 68, s.-s. (3)	47
If owner is absent from district in which lands taken lie, one month's notice may be given by advertisement, s. 68, s.-s. (3)	48
ACCIDENTS.	
By reason of operation on highways, notes to cases, etc.	135
Company shall give immediate notice to Board of accidents, s. 237, s.-s. (1)	148
Board may regulate form of notice, and investigate, s. 237, s.-s. (2)	148
May order company to suspend or dismiss employee, s. 237, s.-s. (3)	148
Report of investigation to be made to Lieutenant-Governor in Council, s. 237, s.-s. (4)	148
Statistics to be furnished Board half-yearly, January and July, s. 229	145
Board may prescribe form of returns, s. 230	146
Returns to Board to be privileged communications, except to enforce penalties for failure to make returns, s. 231	146
ACCOMMODATION.	
Company to provide adequate and suitable facilities for all traffic, s. 128, s.-s. (1)	92
Action lies for failure to provide, s. 128, s.-s. (3)	93
Board may order company to provide proper accommodation, s. 128, s.-s. (4)	93
All companies to afford equal facilities for carriage, delivery and interchange of traffic, s. 174	112
Undue preference or discrimination forbidden, s. 174	112
ACCOUNTS.	
Directors shall cause annual statements to be made of all receipts and expenditures of undertaking, s. 23	17

ACT.	PAGE
This Act declared in force on 1st of June, 1906, s. 260.	157
ACTS REPEALED, s. 259	156, 157
Act respecting certain railways and other corporations....	190
ACTION.	
No right of action shall lie against company for injuries resulting from neglect to close gates at farm crossings, s. 87, s.-s. (5)	71
Company shall not be liable for cattle killed or injured by reason of gates being left open or fences torn down, s. 87, s.-s. 6	71
Right of action shall lie against company for non-compliance with provisions of this section, s. 87, s.-s. (4)	71
Liability of company for refusal to check baggage, s. 119, s.-s. (3)	88
ACTION FOR DAMAGES.	
Must be commenced within one year, s. 223, s.-s. (1)	141
Against company for breach of contract or in respect of tolls not governed by this section, s. 223, s.-s. (2)	142
Due to operation of street railways,	135
Inspection under this Act does not relieve company from responsibility, s. 168	107
Waiving right to, for defective machinery void, s. 224....	142
Cannot be maintained by trespassers	150
ADMINISTRATORS.	
Certificate of any shares held by, shall be <i>prima facie</i> evidence of title, s. 29, s.-s. (1)	20
Powers of, to sell and convey lands, s. 61, s.-s. (1)	44
ADVANCE IN RATES.	
Shall not be made in favour of or against any particular person or company travelling upon or using the railway, s. 173, s.-s. 1.	111
ADVANTAGE.	
Or undue preference, by company forbidden, s. 174.	112
Board may determine, as questions of fact, whether traffic has been carried without discrimination or preference, s. 175	113
AFFIDAVITS.	
Application to open railway to be supported by, s. 163, s.-s. (2)	104
Application for service of notice by advertisement to be accompanied by affidavit of officer of company, s. 68, s.-s. (3)	47

AFFIDAVITS— <i>Continued.</i>	PAGE
Penalty if company or officers make false returns, s. 235 ..	147
Arbitrators shall be sworn before a justice of the peace, s. 69, s.-s. (9)	49
May administer oaths, etc., s. 69, s.-s. (10)	50
Appointment of railway constables, and oaths to be taken, s. 171, s.-s. (1)	115
AGENT.	
As to liability of agent of company for contravention of provisions of this or Special Act, s. 250	154
AGREEMENT.	
Limiting liability, void, s. 76, s.-s. (9)	64
Limiting liability on carriage of goods,	114
Any agreement entered into by two or more companies contrary to this section, shall be unlawful, s. 174	113
For connection and running arrangements, sale, lease or amalgamation of railway must be authorized by shareholders and approved by the Board, s. 58, s.-s. 1, 2, 3.)	38, 39
Waiving right to damages, for defective machinery void, s. 224 ..	142
AGREEMENTS (See TRAFFIC and AMALGAMATION.)	
ALIEN.	
Shareholders shall have equal rights, s. 37	23
ALLOTMENT OF CARS.	
Cars must be so distributed as not to discriminate against any locality or industry, s. 174	113
ALLOTMENT OF SHARES.	
Shares may be allotted at discretion of Provisional Directors, s. 7 s.-s. (3)	9
ALTERATIONS IN LINE OF RAILWAY.	
May be made for certain purposes with consent of the Board, s. 55	34
Deviations or alterations in line of railway, approved by Board, shall be deposited in same manner as the originals, s. 59, s.-s. (8)	41
Deviation not to exceed one mile, s. 59, s.-s. (13)	43
Extensions beyond termini mentioned in Special Act not allowed, s. 55	34
AMALGAMATION AGREEMENTS.	
For connection and running arrangements, for sale or lease of railway, and for amalgamations, to be authorized by shareholders and approved by the Board, s. 58 s.-s. (1, 2, 3.)	38, 39
Application to street railways, s. 58, s.-s. (4)	39

ANIMALS,	PAGE
Cattle not allowed at large near railway, s. 238, s.-s.	
(1)	148
May be impounded, s. 238, s.-s. (2)	149
No right of action against company if at large, contrary to provisions of this section, s. 238, s.-s. (3)	149
At large, killed on track,	72
ANNUAL REPORT.	
Board shall make, in respect of accidents, for submission to Lieutenant-Governor-in-Council, s. 234, s.-s. (4).....	148
ANNUAL.	
Returns of companies to be furnished to Board, s. 228, s.-s.	
(1)	144
Penalty for default, s. 234	147
Returns to be laid before Legislature, s. 228, s.-s. (5).....	145
ANNUAL STATEMENT.	
Of expenditure of company or directors to be made, s. 228.	
s.-s. (1)	144
APPEAL.	
(See Ont. Railway and Municipal Board.)	
Appeal may be made from award of arbitrators upon any question of law or fact to a Judge of the High Court.	
s. 68, s.-s. (19)	53
Notes as to appeals	53
APPLIANCES.	
For protection generally, Board may regulate, s. 76, s.-s.	
(8)	63
For equipment of trains, s. 76-82	62-63
APPLICATION.	
(See Ont. Railway and Municipal Board.)	
Board may, upon application, grant leave to owner to work mines under or near railway property, s. 101..	79
Board may grant application of one railway to cross or join the lines of another railway, upon such terms as it may determine, s. 98	77
Upon application Board may grant leave to erect tele- graph or other electric wires across a railway, s. 56..	35
Upon application to Board for leave to construct bridges over 18 ft. span, plans shall be submitted to Board for approval, s. 89	73
Board may make orders respecting train equipment, s. 76.	
s.-s. (8)	63

APPLICATION OF ACT.	PAGE
Generally (Government Railways excepted), to railways and street railways under provincial jurisdiction, s. 3, s.-s. (1)	6
Exceptions by special Act, s. 4	7
How Special Acts are affected by this Act, s. 5	7
 APPROACHES.	
Grade of inclination to highway crossings, s. 95	76
Height of fences at approaches to crossings, s. 95	76
Use of bell and whistle when approaching highway crossing, s. 123	89
 AQUEDUCT.	
Company may, subject to this and Special Act, construct aqueducts for use of railway, s. 51, s.-s. (11)	32
 ARBITRATION.	
(See Expropriation and Lands.)	
Notice of, to state definitely extent of privilege and title required, s. 68, s.-s. 1	47
How proceedings are to be taken, service of notice, s. 68, s.-s. 1	46
Owner or person interested may commence proceedings, s. 68, s.-s. 7	49
Duties of arbitrators, s. 68, s.-ss. 8, 9	49
No award shall be made or action taken by majority, without notice to third arbitrator, s. 68 s.-s. 9	49
Increased value of lands to be considered under Dominion Act	50
Costs in discretion of arbitrators, s. 68, s.-s. 10	50
Amount of costs, if not agreed upon, may be fixed by arbitrators or taxed by taxing officer, s. 68, s.-s. 10	51
Arbitrators shall examine parties and witnesses on oath, s. 68, s.-s. 11	51
Subpoena may issue, s. 68, s.-s. 12	49
Evidence shall be taken down in writing, s. 68, s.-s. 14	51
Depositions to be transmitted to the central office, s. 68, s.-s. 14	51
Time for making award, s. 68, s.-s. (15)	52
How vacancies are to be filled, s. 68, s.-s. 16	52
New proceedings not to be commenced in case an arbitrator ceases to act, s. 68, s.-s. 16	52
Company may abandon proceedings once but shall be liable for damages and costs, s. 68, s.-s. 17	52
Must be before lands are taken	52
In case of abandonment of former notice, new notice may be given for other lands and materials, s. 68, s.-s. 17	52

ARBITRATION—*Continued.*

	PAGE
Third notice	52
Award not invalidated by want of form, s. 68 s.-s. 18	52
Award may be appealed, upon questions of law or fact, s. 68, s.-s. 19	53
Practice and proceedings in appeal	53
Setting aside awards, s. 68, s.-s. 21	54
When and how possession may be taken on award, s. 68, s.-s. 22	54
Warrant to be issued if possession refused, s. 68, s.-s. 22	54
Warrant may be granted for immediate possession, by judge, under certain conditions, s. 68, s.-ss. (23), (24)	55
Procedure upon application for warrant, s. 68, s.-s. 24....	55
Costs of application for warrant, by whom to be borne, s. 68, s.-s. 25	55
No part of deposit or interest to be repaid or paid to company without order from judge, s. 68, s.-s. 25	55
Compensation for lands taken without consent, s. 68, s.-s. 26	55
Company may pay compensation into court, to establish title, s. 68, s.-s. 27	56
Notice of payment into court must be published; and pro- ceedings thereon, s. 68, s.-s. 28	56
Adjudication by court bars all claims on land, s. 68, s.-s. 28 ..	56
Court shall make order for distribution, etc., of the com- pensation, and proceedings thereunder, s. 68 s.-s. 28	56
Costs to be paid as ordered by court, s. 68, s.-s. 29	56
General notes to,	49, 50

ARREARS.

(See Shares and Shareholders.)

ARREST OF OFFENDERS.

Railway constables may take any persons violating provi-
sions of this Act, before justice of the peace in any
district through which railway passes, s. 181

ASSETS AND LIABILITIES.

Upon notice, Board may require company to furnish state-
ment of assets and liabilities, s. 232

Board may also require company to furnish general finan-
cial statement as to stocks, bonds, lands and other
property, and of leases, contracts, earning and general
business of the company, s. 232

ASSETS AND LIABILITIES—Continued.		PAGE
Board may examine officers of company under oath as to any returns required, and may require production of books and documents in control of company, s. 233	147	
Penalty for refusal to furnish special returns, s. 234	147	
Penalty if company or officers make false returns, s. 235	147	
ATTORNEY-GENERAL.		
As to necessity of, as party to action	120	
Moiety of penalty for purchase of shares of stock of one railway company by another company shall be payable to His Majesty, on information filed in name of Atty-Gen., s. 239, s.-s. (2)	150	
AUTHENTICITY.		
Company may deliver copy of conveyance or award to court, with compensation money, if incumbrance feared, s. 68, s.-s. 27	56	
AUTOMATIC COUPLERS.		
Shall be provided by company on all trains, s. 76, s.-s. 3	62	
AWARD.		
(See Expropriation, Arbitration.)		
B.		
BADGES.		
Every employee of company in passenger trains or passenger station must wear a badge, s. 115	86	
BAGGAGE.		
Checks to be attached to every piece of baggage, s. 119, s.-s. (1)	87	
Company may charge for excess baggage, s. 119, s.-s. (2)	88	
Penalty if company refuses to check baggage, s. 119, s.-s. (3)	88	
May refuse to take if of a dangerous nature, ss. 120, 121	88	
BARE TRUSTEE.		
Not an owner	4	
BEACH.		
Public, and lands covered with water taken by company not to exceed quantity limited by section 60, s. 54, s.-s. 2	34	
BELL.		
Locomotives to be equipped with, s. 77	64	
Use of at highway crossings, s. 123	89	

BILLS OF EXCHANGE.

May be used by company for borrowing money, s. 49 20

Means the Ontario Railway and Municipal Board, s. 2, s.-s. 5 2

BOARD (See APPLICATION, COMMISSIONERS, JURISDICTION, PRACTICE AND PROCEDURE, RAILWAY COMMISSION.)

BOARD OF DIRECTORS (See DIRECTORS.)

BONDS.

Procedure as to issue of bonds, s. 43, s.-s. (1) 25

Good for twenty years 25

Not to exceed amount authorized by Special Act, s. 43, s.-s. (2) 25

As to disposition of bonds, s. 43, s.-s. (3) 25

Financial value of, not to be less than \$100 each, s. 43, s.-s. (4) 26

As to extent of borrowing powers of company, s. 43, s.-s. 5 26

Company may create mortgages to secure bonds, but subject to penalties, s. 44, s.-s. (1) 26

Powers which may be granted in mortgage, s. 44, s.-s. (2) 26

Property which may be exempted from operation of mortgages, s. 44, s.-s. (3) 26

Mortgages must be deposited in office of the Board, and notice given, s. 44, s.-s. (4) 27

Copy certified to by Secretary of Board to be evidence of original, s. 44, s.-s. (5) 27

To be first charge on property of company, s. 45 27

Action to enforce payment of mortgage must be through trustee named in each deed, s. 46 27

Rights of bond-holders on default of company, s. 47, s.-s. (1) 28

May vote as shareholder, s. 47, s.-s. (2) 28

Limitation affecting rights of mortgagees, s. 47, s.-s. (3) 28

Other rights under mortgage deed not affected, s. 47, s.-s. (4) 29

May be transferred by delivery until registered, s. 48 29

Borrowing powers by promissory notes, etc., and liability of company thereof, s. 49 29

Municipalities may grant, s. 130 34

Manner of submitting by-law, s. 131 35

What by-law to provide for, s. 132 35

BONUSES—Continued.

	PAGE
Petition against aid from county, s. 133	96
Deposit of expenses before by-law submitted, s. 135	96
Council to pass by-law if assented to, s. 136	97
Issuing debentures, s. 137	97
Levying rate on portion of municipality, s. 138.....	97
Council may extend time for commencement and completion, ss. 140, 141	97
Limit of aid, s. 142	98
Grants of land, s. 143	98
Trustees of debentures, s. 144	98
Trusts of proceeds of debentures, s. 145	99
Fees of trustees, s. 146	99
Head of municipality to be a director, s. 147	99

BOOK OF REFERENCE.

What is required to be shown in, s. 59, s.-s. (1).....	40
To be certified and deposited with the Board, s. 59, s.-s. (2)	40
To be deposited in registry offices, s. 59, s.-s. (3).....	40
General regulations as to, s. 59, s.-s. (9)	42
Must be furnished with applications for additional lands, s. 59, s.-s. (8)	41
Deposit of, to be deemed general notice, s. 67	46
Showing proposed location of branch lines to be deposited with registrar of deeds, s. 59, s.-s. 3	40

BORROWING POWERS.

Company may borrow money by overdrafts or promissory notes, etc., s. 49	29
--	----

BRAKES.

Regulations as to equipment of motor cars with, s. 206- 212	130, 131
--	----------

BRANCH LINES.

Company may construct, and manage, s. 51, s.-s. (6)	31
No extension permitted beyond termini authorized, s. 55 ..	34

BRIDGES.

Power to construct, s. 51, s.-s. (11)	32
Company shall not cause any obstruction to navigation, s. 51, s.-s. (4)	30
Headway under bridges and in tunnels, etc., to be not less than 22 feet 6 inches, s. 88, s.-s. (1)	72
Board may determine manner of reconstruction, s. 88 s.-s. (2)	73
Board may exempt certain bridges, s. 88, s.-s. (3)	73
Penalty for refusing to obey order, s. 88, s.-s. (4)	73

BRIGDES— <i>Continued.</i>	PAGE
Leave of Board to be obtained to reconstruct bridges over 18 ft. span, s. 89, s.-s. (1)	73
Proceedings before construction, s. 89, s.-s. (2)	73
Overhead structures, ss. 93, 94	75
Train to stop before crossing, s. 122, s.-s. (1)	80
Foot bridges at level crossings, s. 241	150
 BURDEN OF PROOF.	
S. 176, s.-s. (1)	114
 "BY-LAW" *	
Includes a resolution of company, s. 2, s.-s. 6	2
Power to alter or revoke	3
 BY-LAWS, RULES AND REGULATIONS.	
Directors may make for purposes specified, s. 17	15
Company may make for purposes specified, s. 150	100
Disobedience of	101
Penalty for violation of, s. 151	101
To establish validity, must be in writing, signed and bear company's seal, s. 152	101
Approval of Board required in certain cases, s. 153	101
Publication of required, s. 154	101
Shall be given to officers and employees, s. 155	102
When approved, shall be imperative, s. 156	102
Force may be used by company to compel observance of, s. 157	102
Certified copies of, to be evidence in court, s. 158	102
To be subject to agreements with municipalities, s. 159	102
Notice of how proved, s. 160	102
No tolls to be charged by company until tariff approved by Board, s. 169, s.-s. (4)	108
 BY-LAWS.	
Company may issue tariff of tolls for traffic, s. 169, s.-s. (1)	108
Must be submitted to and approved by Board, s. 169, s.-s. (2)	108
Board may alter whole or part, s. 169, s.-s. (3)	108
No tolls to be charged until by-law approved by Board, s. 169, s.-s. (3)	108
 CALLS.	
Upon shareholders, how to be made, s. 24, s.-s. (1)	17
Manner of publication of notice and calls, s. 24, s.-s. (2)	18
Payment of calls, how to be made, s. 24, s.-s. (1)	18

CALLS—*Continued.*

PAGE

All notices of, to be given in Ontario Gazette, s. 24, s.-s.	
2	18
30 days notice to be give, s. 24, s.-s. (1)	18
Liability of shareholders for calls in respect of shares, s.	
24, s.-s. (3)	18
Overdue calls subject to interest, s. 24, s.-s. (4)	18
Action on default of payment of, s. 24, s.-s. (5)	18
Set off	18
Limitation of action on,	18
Procedure in suits for collection of, s. 24, s.-s. (6)	18

CANAL (See NAVIGABLE WATERS.)

CAPITAL.

Special Act to state amount, and how to be applied, s. 8,	
s.-s. (1)	9
May be increased with approval of the Board, if sanc-	
tioned by shareholders, s. 9	11
The rights of all shareholders must be regarded in issue	
and allotment of new stock	11
Municipal corporations may subscribe for shares in rail-	
ways operating under Federal Charter	11

CARRIAGE, GENERAL PROVISIONS.

No contract, etc., relieves company from responsibility, s.	
128, s.-s. (3)	93
Power of Board respecting, s. 128, s.-s. (4)	93
Certain traffic to be carried free or at reduced rates, and	
exchange of passes, s. 178	115
Special rates for specific shipments may be allowed by	
Board, s. 173, s.-s. (3)	112
Members of Board and of Parliament to be carried free, s.	
172	111

CARRIER (See COMPANY.)

CARS.

Regulations as to equipment of, s. 76	62, 63
Electric, regulations as to equipment of, s. 78, 79, 82	
.....	64, 65, 66
Board may alter or modify, s. 80	65
Employees on cars to wear badges, s. 115	86
As to position of passenger cars in trains, s. 118, s.-s. (1)	
.....	87
Passengers forbidden to carry dangerous goods in, s. 120 ..	88
Penalty for violation of this section, s. 120	88
Sleeping and parlor cars, s. 127	92

CATTLE.

At large, killed on track	72
Not allowed at large near railway, s. 238, s.-s. (1)	148

CATTLE— <i>Continued.</i>		PAGE
May be impounded for trespass, s. 238, s.-s. (2)	149	
No right of action against company, if at large contrary to provisions of Act, s. 238, s.-s. (3)	149	
CATTLE GUARDS.		
As to maintenance of fences, gates, etc., s. 87	70	
Appliances for protection of cattle, s. 87, s.-s. (2)	71	
When fences and cattle guards may be dispensed with, s. 87, s.-s. (4)	71	
CERTIFICATE OF SHARES (See SHARES.)		
CERTIFICATE.		
Of secretary of company shall be evidence of absence or illness of president, s. 22	17	
CERTIFIED COPIES.		
Of any regulation, order, etc., of record with Board to be <i>prima facie</i> evidence in all courts, s. 158	102	
Of mortgage deed, s. 44, s.-s. (5)	27	
Of maps, etc., 59, s.-s. 12	42	
Copies of minutes of proceedings of shareholders of company shall be evidence in court, when signed and sealed by secretary of company, s. 13, s.-s. (1)	13	
CESTUI QUE TRUST.		
Owners	4	
CHARGE (See TOLLS.)		
CHARITABLE.		
Destitute or homeless persons transported by charitable societies may be carried at reduced rates, s. 178	115	
CHECKS. (see BAGGAGE.)		
CHILDREN'S FARES.		
On electric railways, s. 171, s.-s. (1)	110	
CLAIMS.		
All claims filed in arbitration proceedings shall be adjudicated upon by court, s. 68, s.-s. (28)	56	
"CLERK OF THE PEACE."		
Means clerk for any district where lands are situated, s. 2, s.-s. (15)	3, 4	
Record of constables to be furnished to and kept by, s. 183	117	
COLLECTION OF TOLLS (See TOLLS.)		

COMBINATION,	PAGE
No company shall, without leave of Board, pool freights or tolls with any other common carrier, s. 173, s.-s. (5)	112
No company shall prevent continuous carriage of goods from shipping point to destination, s. 174	112
 COMMENCEMENT OF WORKS.	
Company shall not commence construction of works until plans, etc., have been sanctioned by Board, s. 109.....	83
 COMMERCIAL TRAVELLERS.	
Being members of any organized association, may be carried by company at reduced rates, s. 178.....	81
 COMMISSION, RAILWAY (See ONTARIO RAILWAY AND MUNICIPAL BOARD.)	
 COMMISSIONERS. (See ONTARIO RAILWAY AND MUNICIPAL BOARD.)	
 COMMON CARRIERS. (See COMPANY.)	
 COMMUTATION.	
Mileage, excursion or commutation passenger tickets may be issued by company, s. 178	81
 COMPANY. (See also OPERATION OF RAILWAY; EXPROPRIATION.)	
Definition of, under special Act, s. 2, s.-s. (19)	5
Powers of, under special Act, ss. 4, 5	7
Powers of respecting bonds, loans, borrowing powers, etc., s. 43	25
General powers, s. 51	29
Powers of expropriation by public utility companies....	44
Act respecting certain railway and other corporations....	190
 COMPENSATION.	
For crossing, etc., other railway, ss. 51, 52, s.-s. (16)	33
Full compensation for all damage to be made, s. 53	33
Owner may commence proceedings to ascertain, s. 68, s.-s. (7)	48
Arbitrators shall state total amount to compensate for damages, s. 68, s.-s. (6)	49
Arbitrators shall ascertain as they deem best, s. 68 (9)...	49
Notes of cases on	49
Costs may be deducted from, s. 68 s.-s., (10)	50
Upon payment, tender or deposit of company may take possession, s. 68, s.-s. (22)	54

COMPENSATION— <i>Continued.</i>	PAGE
Company shall deposit security for when warrant issued by Judge, s. 68, s.-s. (24)	55
To stand in place of lands subject to encumbrances, s. 68, s.-s. (26)	55
Limitation of action for	56
Company may pay compensation into Court upon refusal of owners to convey, etc., s. 68, s.-s. (27)	56
Notice to file claims against, to be given, s. 68, s.-s. (28)	56
Court shall make order for distribution or investment of s. 68, s.-s. (28)	56
Interest on, s. 68, s.-s. (30)	57
For use of adjacent lands during construction, s. 73	59
When more ample space is required	61
To owners of land adjacent to highways, s. 110	84
 COMPLAINTS.	
As to interchange and forwarding of traffic, s. 57, s.-s. (5)	38
As to station accommodation, s. 128, s.-s. (6)	93
Board may direct inspecting engineer to investigate and may make orders respecting any railway reported in dangerous condition, s. 164	105
 COMPULSORY POWERS.	
Board, may enforce attendance of witnesses and produc- tion of documents on inquiries respecting returns, s. 233	147
 CONDUCTORS.	
May expel passengers from train who refuse to pay fares, s. 116	87
May arrest passenger guilty of offence, s. 186	118
 CONFIRMATION OF TITLE.	
Compensation for lands taken without owners' consent shall stand in place of land, s. 25	55
Payment of compensation into court shall entitle company to ownership, s. 27	56
 CONNECTING LINES.	
Interchange of traffic, s. 57	36, 37, 38
Companies may make agreements for connecting with other companies, s. 58	38
Telephone connections with station or premises, s. 56, s.-s. (2)	35
 CONSENT.	
Of Lieutenant-Governor in Council, necessary for taking of lands of the Province, s. 51, s.-s. (8), s. 54, s.-s. (1)	33

CONSENT— <i>Continued.</i>		PAGE
Extent of lands which may be taken without owner's consent, s. 60	43.	44
Of Municipal Councils:		
For construction of telephone or telegraph lines over highways, s. 56, s.-s. (1)		36
To company's acquiring land for park purposes, s. 197, s.-s. (4)		124
For laying conduits, erecting poles and wires on highways, etc., s. 197, s.-s. (5)		124
For operating on highways, s. 197, s.-s. (6)		125
For operating on highways in cities or towns, s. 218, s.-s. (1)		138
CONSTABLE. (See RAILWAY CONSTABLE).		
CONSTRUCTION. (See COMPANY; LOCATION OF LINES.)		
By sections, ss. 107, 108	82.	83
Commencement of, s. 109		83
Limitation of time, for, s. 111		85
Use of steam during construction of electric railway, s. 112		85
Contracts for, s. 113		85
CONTINUING OFFENCES.		
Each day's violation of provisions of act or orders, etc., of Board, shall constitute new offence, s. 249.....		154
CONTINUOUS ROUTE.		
Company whose railway forms part of continuous line shall not unduly delay traffic, s. 57, s.-s. (2)		37
No company shall, by combination or otherwise, interrupt or delay through traffic, s. 174		112
CONTRACTS.		
Authority of certain persons to contract and convey lands to company, s. 61		44
Contracts for conveyance of lands shall be binding, s. 62..		44
Waiving right to damages void, s. 76, s.-s. 9.....		64
Contracts waiving right to damages for defective machinery void, s. 224	142.	143
CONTROL.		
Directors shall be subject to control of shareholders at annual meetings, s. 15		15
CONVEYANCE.		
Any conveyance made under section 61 shall be valid and effectual, s. 62.		44

CONVEYANCE— <i>Continued.</i>	PAGE
Payment of compensation and interest thereon into court to entitle company to ownership of land, s. 68, s.-s. (27)	56
Form of	157
 COST.	
The proportion of cost of drains across a railway to be borne by company shall be based on increase of cost caused by construction of railway, s. 85, s.-g. (2) ..	69
 COSTS.	
Includes fees, counsel fees and expenses, s. 2, s.-s. (7)....	3
In arbitration proceedings in discretion of arbitrators, s. 68, s.-s. (10)	50
May be deducted from compensation awarded, s. 68, s.-s. (10)	50
If not agreed on, may be fixed by arbitrators, s. 68, s.-s. (10)	51
Or may be taxed by taxing officer, s. 68, s.-s. (10).....	51
Costs of application for warrant of possession shall be in the discretion of the Judge, s. 68, s.-s. (25)	55
Costs in proceedings for adjudication of claims shall be paid as court orders, s. 68, s.-s. (29)	56
Of proceedings before Board to quash by-law, s. 198, s.-s. (4)	126
 COUNSEL.	
May be heard to oppose municipal by-law, s. 198, s.-s. 2 ..	126
 "COUNTY."	
Definition of expression in this Act, s. 2, s.-s. (11)	3
 COUNTY COURT JUDGE.	
Includes Judge of District Court, s. 2, s.-s. (12)	3
 COUPLING OF CARS.	
Regulations as to, s. 76, s.-s. (3)	62
 CROPS.	
Liability of company for damages caused by fire started by a railway locomotive, s. 106, s.-s. (2)	81
 CROSSINGS, ELECTRIC STREET RAILWAY.	
Conductor of car shall see that way is clear before signalling for crossing of any unprotected railway track, s. 124, s.-s. (1)	90
Shall be constructed by company, s. 217, s.-s. (8)	136

CROSSING AND JUNCTIONS.	PAGE
Power to cross, intersect, join and unite with other railway, s. 51, s.-s. (16)	33
Provisions relating to compensation not to apply to crossing, etc., of railway under control of Dominion, s. 52	33
No railway shall cross or join another railway without leave of the Board, s. 98, s.-s. (1)	77
Upon application for such leave, company shall submit plan, etc., of proposed crossing or junction, s. 92 s.-s. (2)	77
Board may grant application on terms, s. 98, s.-s. (3)	77
Board may give directions as to supervision of works, s. 98, s.-s. (4)	78
No trains shall be operated on lines or tracks of applicant company, in respect of crossing or junction, until Board grants order for same, s. 98, s.-s. (5)	78
Board may order any company to adopt such interlocking switch and signal system as it may deem necessary, s. 98, s.-s. 6	78
This section applicable to street railways, s. 98, s.-s. 7..	78
Provincial railway crossing, one under Federal jurisdiction	78
 CROSSINGS, MAIN LINES.	
Before crossing, train must come to full stop, etc., s. 124	90
Trains, cars, etc., must not obstruct rail-level crossings on highways longer than five minutes, s. 126, s.-s. (1)	91
Penalty, s. 126, s.-s. (2)	91
 CROWN LANDS.	
Cannot be taken without consent of Lieutenant-Governor in Council, s. 54, s.-s. (1)	33
Company may alienate lands not necessary for purposes of company, s. 51, s.-s. (3)	30
Extent of public beach or land covered with water that may be taken for railway, s. 54	34
 CULVERTS.	
To be constructed by company, s. 217, s.-s. (8)	136
 CURVES, GRADES.	
Company may change location to lessen curve or reduce gradient, s. 55	34
 D.	
DAMAGES.	
Company must do minimum damage and make compensation, s. 53	33
Upon abandonment of arbitration proceedings, company shall be liable for damages and costs, s. 62, s.-s. 17..	52

DAMAGES—Continued.

	PAGE
Agreements to waive right to invalid, s. 76, s.-s. (9)	64
Agreements to waive right to invalid, s. 224 (1)	142
No contract, by-law, etc., shall relieve company from responsibility in respect of carriage of traffic, s. 106, s.-s. (2)	82
From fires caused by locomotive, s. 128, s.-s. (3)	93
For injury sustained, action may be taken within one year, s. 223	141, 142
This section not to apply to actions against company for breach of contract or for damages in respect of tolls, s. 223, s.-s. (2)	142
Inspection under Act does not relieve company from responsibility, s. 168	107
Damage caused to pipes, etc., by electricity, s. 195	122
Liability of company for injuries, s. 76, s.-s. (9)	64
Liability of company for injuries, s. 243.	151
Directors of company liable to penalty for employing its funds to purchase stock in their own or any other railway company in Canada, s. 239, s.-s. (1)	149
Penalties for damaging freight, etc., s. 240, s.-s. (2)	150

DANGEROUS COMMODITIES.

Passengers forbidden to carry dangerous goods on trains: penalty for violation, s. 120	88
Company may refuse to carry goods of a dangerous nature, s. 121	88
Carriage of, to be in cars specially designated for that purpose, s. 121	88
Penalty for carrying dangerous goods in cars unless specially so labelled, s. 121	88

DEBENTURES. (See BONDS.)

DEFAULT.

Rights of security holders on default of company in payment of principal or interest, s. 47, s.-s. (1)	27
Every person shall have right of action on default of company in providing proper accommodation for all traffic, s. 128, s.-s. (3)	93
In payment of tolls, s. 170, s.-s. (3)	109
Balance remaining after goods sold, if not claimed, to be deposited with Provincial Treasurer, s. 170, s.-s. (5)	110

DEFECTIVE SIGHT.

Company not to employ persons having, s. 222	141
--	-----

DERAILS. (See INTERLOCKING.)

DESTITUTION.

PAGE

Company may carry free, or at reduced rates, destitute or homeless persons transported by charitable societies, s. 178	115
--	-----

DESISTMENT.

Abandonment of expropriation proceedings, and new notice, s. 62, s.-s. (17)	52
---	----

DEVIATION. (See ALTERATIONS IN LINE OF RAILWAY.)

May be made for certain purposes with consent of the Board, s. 55	34
Plan, profile, &c., of any deviation in location of railway approved by Board must be deposited in same manner as originals, s. 59, s.-s. (8)	41
Not to exceed one mile, s. 59, s.-s. (13)	43
From highway by company's tracks, s. 199	127

DIRECTORS.

When 25 per cent. of capital stock is subscribed, directors shall be elected at first meeting of shareholders, s. 8, s.-s. (4)	10
Board of, to be chosen at annual meeting of company, or at special meeting, s. 14, s.-s. (1)	13
As to qualification of voters at adjourned meeting, s. 14, s.-s. (2)	13
Vacancies to be filled in manner prescribed in by-laws, s. 14, s.-s. (3)	14
No person shall be a director unless owning ten shares of stock, and qualified to vote, s. 14, s.-s. (4)	14
To hold office until next ensuing election of directors, s. 14, s.-s. (5)	14
Other directors may be elected in case of death, absence or resignation, s. 14, s.-s. (6)	14
President and vice-president to be elected by directors, s. 14, s.-s. (7)	14
Majority of directors shall form a quorum, s. 14, s.-s. (1)	13
Acts of a majority of a quorum shall be binding, s. 14, s.-s. (9)	14
Each director to have one vote, s. 14, s.-s. (10)	14
Shall be subject to examination and control of shareholders at annual or special meetings, s. 15	15
No person interested in a contract under or with company shall be eligible as a director, s. 16	15
May make by-laws and pass resolutions for specified purposes, s. 17	15
Includes power to alter or revoke	16

DIRECTORS— <i>Continued.</i>	PAGE
Shall appoint officers, and shall require security for faithful discharge of duties, s. 18	16
May provide for their retirement, s. 19	16
Salary of, s. 20	16
Powers of officers	16
In case of absence or illness of president, vice-president authorized to perform his duties, s. 21	16
Absence of president from meetings to be recorded by secretary, s. 22	17
Certificate of absence or illness of president may be obtained from secretary upon payment of fee, s. 22..	17
Annual statement to be prepared of revenue and expenditure of company, s. 23	17
Powers of directors in respect of call on capital subscribed, s. 24, s.-s. (1)	17
Authority to declare dividends out of net profits, s. 39, s.-s. 1	24
Aliens eligible for, s. 37	23
Reserve fund may be provided out of profits, subject to sanction of shareholders, s. 40	24
Interest may be paid on shares before completion of railway, s. 41	24
Arrears on calls due may be deducted from dividends, s. 42	25
Shall not permit company to purchase its own or stock of any railway company in Canada, subject to penalty for violation, s. 239, s.-s. (1)	140
Liability to penalty and damages for contraventions of this or the special Act, s. 239, s.-s. (2)	140
DIRECTORS, PROVISIONAL. (See PROVISIONAL DIRECTORS.)	
DISABILITY.	
No person concerned or interested in any contract shall be eligible as a director, s. 16	15
DISCRIMINATION.	
Tolls on railway shall be charged equally to all persons, variation in scale of, s. 173, s.-ss. (1), (2)	111
Uniform special rates may be made for carriage of perishable products, s. 173 s.-s. (3)	111
Unjust discrimination between localities prohibited; Board may declare that any places are competitive points, s. 173, s.-s. (4)	112
Pooling of freights or tolls between companies prohibited, s. 173, s.-s. (5)	112
All companies shall afford to all persons equal facilities in receiving and delivering traffic, s. 174	112

DISCRIMINATION— <i>Continued.</i>	PAGE
Board may determine as to what constitutes undue preference, s. 175	113
Burden of proof respecting undue discrimination to lie in company, s. 176, s.-s. (1)	114
Board may, in deciding if lower toll amounts to any unjust preference, consider whether such reduction is necessary, s. 176, s.-s. (2)	114
Apportionment of toll for carriage by land and by water, s. 176, s.-s. (3)	114
Equal facilities to be granted to express companies, s. 177	114
What not deemed discrimination, s. 178	115
 DISMISSAL.	
Drunkenness of servant good ground of.....	16
Records of appointments and dismissals of railway constables in office of clerk of peace shall be prima facie evidence of authority, s. 183	117
Board may order company to suspend or dismiss employee deemed to have been negligent in respect of any accident on railway, s. 237, s.-s. (3)	148
Disobedience of rules	161
 DISPUTES.	
As to equipment of railway, to be determined by the Board, s. 82, s.-s. 4	66
As to wages of laborers on subsidized railways shall be determined by Board, s. 225	123
Mediation by Board in labor disputes on railways, etc....	184
 DISQUALIFICATION.	
No person interested in a contract with company shall be chosen as a director, s. 16	15
Vacancy in office of arbitrator, how to be filled, s. 68, s.-s. (16)	52
 DISTRIBUTION OF CARS.	
No discrimination shall be exercised by company against any locality or industry in allotment of freight cars, s. 174	113
 DITCHES. (See DRAINAGE.)	
 DIVERSION. (See DEVIATION.)	
To divert highways or waterways, s. 51, s.-s. 12	32
To divert water or gas pipe, sewers, etc., s. 51, s.-s. 14 ..	32
 DIVIDENDS.	
Declaration of, out of net profits, s. 39, s.-s. (1)	24
To be pro rata on shares, s. 39, s.-s. (2)	24

DIVIDENDS— <i>Continued.</i>	PAGE
Directors may provide reserve fund, s. 40	24
Not to be permitted to impair capital, etc., s. 41	24
No interest allowed on calls in arrear, s. 41	24
Arrears on calls may be deducted from dividends, s. 42 ..	25
DOGS	4
DOMINION RAILWAY	7
Provisions as to Sunday cars applicable to	122
Dominion Government may use railways, s. 257	155
DOWER.	
Effect of adjudication of claims, s. 68, s.-s. 28	56
DRAINAGE.	
Company may divert or alter any waterpipe, sewer or drain, etc., s. 51, s.-s. 14	32
Company may construct ditches and drains to afford pro- per drainage, s. 84 s.-s. (1)	67
Company shall construct all drainage works so as not to interfere with existing drainage of lands taken, s. 84, s.- s. (1)	67
Necessary drainage works may be ordered by Board, s. 84, s.-s. (2)	68
At the option of any municipality or land owner, proceed- ings for drainage works across a railway, in place of being submitted to the Board, may be subject to drain- age laws of the province, s. 85, s.-s. (1)	68
The proportion of cost of drains across a railway to be borne by company shall be based on increase of cost caused by construction of railway, s. 85, s.-s. (2) ..	69
DRAWBARS.	
Every company shall adopt and use drawbars of such height as Board may determine, s. 76, s.-s. (6)	63
DRUNKENNESS. (See INTOXICATION.)	
Of servant a good ground for dismissal	16
E.	
EARNINGS.	
Company to furnish Board with statements of gross earn- ings and expenditures, s. 228, s.-s. (1)	144
EASEMENT.	
Not included in "lands,"	2
ECCLIASTICAL LANDS.	
Only what actually required for use and occupation may be sold and conveyed to a company, s. 61, s.-s. (2)	44

ELECTRIC CAR OR LOCOMOTIVE.	PAGE
A whistle and gong to be sounded before crossing, s. 123	89
ELECTRICITY. (See TELEGRAPH AND TELEPHONE LINES; ELECTRIC WIRES.)	
Company may, for purposes of undertaking, divert electric lines, wires or poles, s. 51, s.-s. (14)	32
No lines or wires for telegraphs, etc., shall be erected across a railway without leave of Board, s. 56, s.-s. (3)	35
ELECTRIC RAILWAYS. (See STREET RAILWAYS.)	
Fares to be collected on, s. 171	110, 111
Conductors shall see that line is clear before crossing any railway track, s. 124	90
Where interlocking system established, Board may permit cars to cross without stopping, s. 244, s.-s. (3)	91
ELEVATORS.	
Extent of land which may be taken for erection of elevators, s. 51, s.-s. (5)	30
EMINENT DOMAIN. (See EXPROPRIATION.)	
EMPLOYEES.	
Provisions for safety of when passing between or in coupling cars, s. 76, s.-s. (3)	62
Provisions for shelter of motormen when on duty, s. 79, s.-s. (1)	64
Provisions as to conductors, etc., s. 79, s.-ss. (2), (3)	65
Of company in passenger trains or at passenger stations required to wear badge, s. 115	86
Board may order company to suspend or dismiss, s. 237, s.-s. (3)	148
No agreement with employees to relieve company from liability for personal injury, s. 76, s.-s. (9)	64
No agreement with employees to relieve company from liability for personal injury, s. 224, s.-s. (1)	142
ENGINE DRIVER.	
Liable to fine and imprisonment for intoxication, s. 245	152
ENGINES.	
Provisions respecting damages by fires caused by, s. 106, s.-s. (2)	82
Communication to be provided between cars and engine, s. 76, s.-s. (1)	62
Appliances for operation of brakes, s. 76, s.-s. (2a)	62

ENGINEER.	PAGE
Appointed by the Board to hear objections to location, s. 59, s.-s. (4)	40
Fees of, s. 59, s.-s. 5	41
EQUALITY.	
All tolls shall be charged equally by company to all persons on traffic on its lines of railway, s. 173, s.-s. (1)	111
EQUIPMENT.	
Efficient modern apparatus and appliances must be provided on all trains, in accordance with this section, s. 76, s.-s. (8)	63
General provisions as to, ss. 76-82	62-66
Power of Board respecting train equipment and limitation thereunder, s. 80	65
Board to settle disputes as to, s. 82, s.-s. (4)	66
Board may order allotment of cars, s. 174	113
ERRORS IN PLAN.	
Certain errors in book of reference filed not to affect construction, s. 59, s.-s. (14)	43
EVIDENCE.	
Certified copies of minutes, etc., of shareholders' meetings shall be evidence in all courts, s. 13, s.-s. (1)	13
Certificates of absence of president from meetings to be evidence in all courts, s. 22	17
Certified copy of mortgage deed shall be evidence in all courts, s. 44, s.-s. (5)	27
Certified copy of maps, etc., shall be evidence in all courts, s. 59, s.-s. (12)	42
Copies of by-laws, rules, etc., certified and sealed by executive officer of company, shall be evidence in any court, s. 158	102
EXCEPTIONS.	
Government railways exempted, s. 3	6
Any section of this Act may, by any special Act, be excepted from incorporation therewith, s. 4	7
Company may exempt from operation of mortgage certain assets, property, etc., s. 44, s.-s. (3)	26
Mortgage deed need not be registered under any law affecting registration of real or personal property, s. 44, s.-s. (4)	27
Mines and minerals excepted from conveyance of lands s. 100	79
Where railway passes through unimproved lands, company not required to erect fences, s. 87, s.-s. (4)	71

EXCEPTIONS—Continued.	PAGE
Where safety devices are installed at rail-level crossings. Board may permit trains to pass without stoppage. s. 124, s.-s. (3)	91
Regulations respecting whistle and bell, not to apply when contrary to municipal by-laws in cities and towns, s. 123	80
EXCESS BAGGAGE. (See BAGGAGE.)	
EXCHANGE OF PASSES.	
Or free tickets between railways permitted, subject to regulation by Board, s. 178	115
EXCLUSIVE.	
Franchise or control of tracks made by street railway company shall not be considered in determining terms of compensation, s. 202, s.-s. (1)	128
Franchises not to be given by municipalities, s. 200	127
EXCURSION.	
Company may issue excursion tickets at reduced rates, s. 178	115
EXECUTORS.	
Authority to sell and convey lands, s. 61	44
EXEMPTIONS.	
Government railways are exempted from operation of this Act, s. 3, s.-s. (1)	6
When railway passes through locality where lands are not enclosed or settled, company shall not be required to erect fences, gates and cattle guards, unless Board otherwise orders, s. 87, s.-s. (4)	71
Board may exempt certain bridges from operation of this section as to stopping train, s. 122, s.-s. (2)	80
From taxation, s. 149	100
EXHIBITIONS.	
Carriage by company free, or at reduced rates of traffic, to or from exhibitions or fairs, permitted, s. 178	115
EXPENDITURE. (WORKING.)	
Definition of expression in this Act, s. 2, s.-s. (24)	5
EXPRESS COMPANIES.	
To be granted equal facilities for the carriage of goods, s. 177	114
EXPLOSIVES (See DANGEROUS GOODS).	

EXPROPRIATION (See also ARBITRATION AND LANDS.)

	PAGE
Of lands belonging to the Province, s. 54	33
Company may take lands with consent of Lieutenant-Governor in Council, s. 54	34
Company may take, but not alienate wild lands, public beach or land covered with water, necessary for railway, s. 54	34
Extent of public beach which can be taken, s. 54, s.-s. (2)	34
Extent of land which may be taken for right of way, stations, depots, yards, etc., s. 60	41
By street railway companies, s. 201, s.-s. (2)	127
As to use of lands adjoining right of way during construction, s. 73	59
Proceedings where more ample space is required, s. 74	69
When company may purchase more land than necessary, s. 71	59
As to erection of snow fences, and compensation and removal, s. 72	59
Authority of certain persons to sell, and convey lands to the company, s. 61, s.-s. 1	44
Limitation of power to sell and convey in certain cases, s. 61, s.-s. 2	44
Conveyance under preceding sections valid, and conveyor indemnified, s. 62	44
Company not responsible for disposition of purchase money if paid to owner or into court, s. 63	45
Contracts made before deposit of plans, etc., to be binding, s. 64	45
Rental shall be fixed when parties cannot sell, s. 65	45
Annual rent to be preference claim on railway and to tolls, s. 65	46
Deed creating to be registered, s. 65	46
Ten days after deposit of plans, etc., and notice thereof, company may apply to owners of lands for transfer, s. 66	46
Deposit of plans, etc., to be deemed general notice to all parties, s. 67	46
As to what notice served upon parties shall contain, s. 68, s.-s. (1)	46
Notices to be accompanied by certain certificates, s. 68, s.-s. (2)	47
Application for service by publication may be made to Judge of County Court, s. 68, s.-s. (3)	47
If County Court Judge interested, Judge of High Court to act, s. 68, s.-s. (4)	48
Procedure after service by publication, s. 68, s.-s. 5	48
Arbitration proceedings may be taken, if parties do not notify company of acceptance of terms, s. 68, s.-s. (5)	48

EXPROPRIATION—*Continued.*

PAGE

Appointment of third arbitrator, s. 68, s.-s. (6)	48
Expropriation by street railway companies, s. 201	127

EXPULSION.

Passengers refusing to pay fare may be expelled from train by conductor, s. 116	87
--	----

EXTENSIONS, (See BRANCH LINES.)

No extension of railway allowed beyond termini specified in Special Act, s. 55	34
Of street railway lines,	120

EXTORTION, (See DISCRIMINATION.)

EXTRA LANDS.

Board may grant authority to company to acquire extra lands; notice to be given and plans submitted for approval, s. 74	60
---	----

E.

FACILITIES, (See ACCOMMODATION and DISCRIMINATION.)

FALSIFICATION.

Penalties for making false returns, s. 234	147
--	-----

FARES.

Passengers refusing to pay fares may be expelled from train by conductor, s. 116	87
On electric railways, s. 171	110

FARM CROSSINGS.

Company shall make crossings on private lands, s. 86, s.-s. (1)	69
In using such crossings, live stock to be in charge of com- petent person, s. 86, s.-s. (1)	69
Board may order company to construct suitable crossings, s. 86, s.-s. (2)	69
Board may order how, when, where, by whom, and upon what terms such crossings shall be constructed, s. 86, s.-s. (2)	70
Gates at such crossings to be closed when not in use, s. 87, s.-s. (5)	71

FASTENINGS AT HURDLE GATES.

Sliding or hurdle gates may be maintained at farm cross- ings, s. 87, s.-s. (b)	70
--	----

FEES.	PAGE
Registrars of deeds entitled to fees for copies of documents at specified rates, s. 59, s.-s. 4	40
FENCES.	
At crossings to be sufficient to prevent animals from getting on railway, s. 87, s.-s. 2	71
Company shall maintain fences on each side of railway, of strength and height of ordinary division fence, s. 87, s.-s. (a)	70
Penalty for taking down, s. 87, s.-s. (6)	71
FENCES, SNOW.	
Company may erect snow fences on any lands along the line of railway, subject to payment of land damages, s. 72	59
Company may apply to Board for authority to take more ample space for protection against snowdrifts, s. 74 ..	60
FENDERS.	
On motor cars, s. 209-212	130, 131
FIRES.	
Cars shall be provided with safeguards against, s. 76, s.-s. (7)	63
Company shall keep right of way clear of unnecessary combustible matter, s. 106, s.-s. (1)	81
Company liable for damage caused by fire from locomotive; but not if proper precautions taken, s. 106, s.-s. (2)	81
Compensation for fires started at same occasion, not to exceed \$5,000.00, and shall be apportioned by court, s. 106, s.-s. (2)	82
Company may insure property along its route, s. 106, s.-s. (3)	82
FORCE.	
Where resistance offered, sheriff may use force to put company in possession, s. 68, s.-s. 22	54
Company may use reasonable force to prevent violation of by-laws, etc., when attended with danger to public, s. 157	102
FORFEITURE, (See OFFENCES and PENALTIES.)	
Of shares for nonpayment of calls, s. 29, s.-s. (3)	20
Directors may sell shares of company declared to be forfeited, s. 30	21
Certificate of treasurer of company to be evidence of forfeiture of shares, s. 33	21
Of franchise for nonuser, s. 196, s.-s. (1)	123

FORMS.

PAGE

Of City Engineer's certificate under, s. 145	157
Of conveyance under s. 258	157
General form of Act of incorporation,	224
Of notice of expropriation and certificate under, s. 68,	226

FRANCHISE.

Exclusive not to be given by municipalities, s. 200	127
Duration of street railway, 25 years, s. 202, s.-s. (1)	128
Not to be valued, s. 202, s.-s. (1)	128
Duration of electric railway on highways, 25 years, s. 208	130
Agreements with municipalities, what to be deemed con- tained in, s. 217	134
Radial lines operating in cities, conditions, limit of fran- chise, s. 218	138, 139

FREE TRANSPORTATION.

Free carriage of traffic allowed in certain cases, and in such others as Board may approve or permit, s. 178	115
Members of the legislature and Board and staff entitled to free carriage, s. 172	111

FREIGHT CARS.

Regulations as to equipment of, s. 76	62
---	----

FREIGHT CHARGES. (See TOLLS, TARIFFS).

FROGS.

Every railway frog or crossing to be packed as directed in this section, s. 83	66, 67
---	--------

G.

GAS-PIPE.

Company may divert or alter position of any gas-pipe, s. 51, s.-s. (14)	32
Must be protected from injury by electricity, s. 194, s.-s. 2	122

GATES AT FARM CROSSINGS.

Company shall erect proper swing gates at farm crossings, s. 87, s.-s. 1 (b)	70
Owners of lands at farm crossings to keep gates closed, s. s. 87, s.-s. (5)	71
Neglect to observe this section bars right of action for dam- ages against company, s. 87, s.-s. (5)	71
Penalties for wilfully leaving gates open or taking down fences at farm crossings, s. 87, s.-s. (6)	71

GAUGE	PAGE
s. 75.....	61
GENERAL POWERS.	
Of company to construct and operate railway under this and Special Act, s. 51	29
GLEBE LANDS.	
May be sold or conveyed to a company, but so much only as is actually required for use and occupation of the railway, s. 61, s.-s. (2)	44
GOODS.	
Definition of expression in this Act, s. 2, s.-s. (16)	4
No contract, notice, etc., shall relieve company from res- ponsibility for carriage of any traffic, s. 128, s.-s. (3)	93
Special rates for perishable products may be made, s. 173, s.-s. (3)	112
Equal facilities to be afforded by company to express companies for carriage of goods, s. 177	114
Special rates for specific shipments may be allowed by Board, s. 178	115
Goods may be sold if tolls not paid within six weeks, s. 170, s.-s. 3	109
Unclaimed goods may be sold after twelve months, after notice given, s. 170, s.-s. 4.....	109
As to disposition of balances on account of unclaimed goods sold, s. 170, s.-s. 5	110
Unclaimed goods left on street railway cars may be sold, s. 215	132
GOVERNMENT.	
Every company, when required by Governor-General or Lieutenant-Governor, shall give exclusive use of tele- graph lines, receiving compensation therefor, s. 257, s.-s. (2)	156
The Board on instructions from the Lieutenant-Governor in Council may cause construction of telegraph and telephone lines along right of way of any rail- way, s. 256	155
GOVERNMENT RAILWAYS.	
Exempt from operation of this Act, s. 3	6
GRADES. (See CURVES.)	
GRANTS.	
Company may accept grants in aid of undertaking, s. 51, s.-s. (2)	30

GRAVEL FOR BALLAST.	PAGE
Powers of company to obtain access to gravel pits through private and public lands, s. 69, s.-s. (1) (2)	57
GROSS RECEIPTS.....	120
GUARD WIRES.	
To be strung to prevent contact of other wires, s. 194, s.-s. (1)	122
GUARDIANS.	
Powers of, to sell and convey lands, s. 61	44
II.	
HAULAGE.	
Tolls for long and short haul, s. 173, s.-s. 2	112
HEAD OFFICE.	
Of company to be in place designated in Special Act, s. 6.	8
HENDRIE ACT	7
"HIGHWAY."	
Definition of expression in this Act, s. 2, s.-s. (13)	3
Includes unopened road allowance, but not a road merely shown on registered plan,	3
Nor a trail,	3
Construction of electric railways on, s. 197, s.-s. (6)	125
To be kept in repair, s. 217	134
Travelled portion, meaning of, s. 217, s.-s. (6)	138
HIGHWAY CROSSINGS.	
Company must obtain leave of Board to construct railway across highways, s. 90, s.-s. (1)	74
No obstruction permitted to highway during construction of railway, s. 90, s.-s. (2)	74
Penalty for violation of this section, s. 90, s.-s. (3)	74
Variation between rail and level of highway permitted, s. 91	74
Plan of crossing to be submitted to Board with application, s. 92, s.-s. (1)	74
Cost of maintaining protection,	75
Powers of Board as to manner of crossing, s. 92, s.-s. (1)	74
Board may order company to submit plan, etc., of existing crossings, s. 93	75
Limit as to width and height of overhead crossing, s. 92, s.-s. (2)	75
Company not responsible for change in level of highway, ..	75
Structures over or under crossings to be maintained by company so as to afford safe facilities for all traffic, s. 94	75

HIGHWAY CROSSINGS— <i>Continued.</i>	PAGE
Limit of inclination of approach to, and regulations as to fencing, s. 95	76
Signboards to be maintained at all level crossings, s. 96 ..	76
Municipality may require repairs to be made, s. 97	76
Manner of proceeding, s. 97	76, 77
Company to provide cattle-guards at every rail-level crossing, and fences to be turned in to, s. 87, s-s. 1 (c) ..	70
Whistle to be sounded when train is approaching crossing at rail-level, s. 123	89
No train shall cross another line of railway at rail-level unless signalled that way is clear, s. 123	89
Hours of labor, s. 227	144

HURDLE GATES, (See GATES AT FARM CROSSING.)

L.

IMMIGRANTS.

And settlers and their goods and effects may be carried by company at reduced rates, s. 178	115
---	-----

INCLINATION.

Grade of approach to highway crossing shall not exceed one foot in twenty, s. 95	76
--	----

INCORPORATION.

Powers of company under Special Act, s. 5	7
---	---

INDEMNITY.

All actions or suits for indemnity for damages or injury shall be commenced within one year, s. 223	141, 142
---	----------

INDEX

To Rules of Practice and Procedure of Board	192
---	-----

INDIGENT.

Or destitute persons may be carried free or at reduced rates by company, s. 178	115
---	-----

INDUSTRIES.

As to switches and sidings to, s. 70	58
--	----

INFORMER.

Entitled to moiety of penalty recoverable from company for purchasing stocks or securities issued by any other railway company, s. 239, s-s. (1)	149
--	-----

INJURIES.

No person shall have right of action against company for animals killed or injured if provisions of this section are disregarded, s. 87, s-s. (5)	71
---	----

INJURIES—*Continued.*

PAGE

Company shall not be liable for cattle killed or injured by reason of gates being left open or fences torn down, s. 87, s.-s. (6)	71
Company shall be liable to pay damages for injuries sustained by any person, if provisions of this section are disregarded, s. 76, s.-s. (9)	64
No person injured while on the platform of a car shall have any claim in respect thereof, s. 118	87
To pipes, etc., by electricity, s. 195	122
Limitation of time under which action for injuries may be instituted, s. 233, s.-s. (1)	141
Liability of company, directors, etc., for contraventions of this Act resulting in injury, s. 243	151

INLAND NAVIGATION.

Board may apportion tolls for carriage by land and water, if charges are considered discriminatory, s. 173, s.-s. (3)	114
---	-----

"INSPECTING ENGINEER."

Definition of expression in this Act, s. 2, s.-s. (23)	5
--	---

INSPECTING ENGINEER.

Board may appoint, with approval of Lieutenant-Governor in Council, s. 162, s.-s. (1)	102
Duties of, under direction of Board, s. 162, s.-s. (2)	102
Shall be vested with powers, as provided in Section 49, of "The Ontario Railway and Municipal Board Act," s. 162, s.-s. (3)	102
Company shall afford engineer every facility for inspection, s. 162, s.-s. (4)	102
Engineers shall have free carriage on railways and free use of telegraph lines, s. 162, s.-s. (5)	102
Officers of telegraph lines under control of company shall obey all orders of engineers; and penalty for neglect, s. 162, s.-s. (6)	104
Engineers shall produce evidence of authority of Board, if required by company, 162, s.-s. (7)	104
Penalty for obstructing engineers on inspection, s. 162, s.-s. (8)	104
Violations of orders of inspecting engineers by employees of company shall be a misdemeanour, s. 164, s.-s. (2)	106

INSPECTION GENERALLY.

Powers of Board, Inspecting Engineer, or person appointed under this Act respecting enquiries, s. 162	103
---	-----

INSPECTION OF RAILWAY.

PAGE

No railway shall be opened for carriage of traffic without leave from Board, s. 163, s.-s. (1)	104
Proceedings on application to Board for authority to open railway for traffic, s. 163, s.-s. (2)	104
Railway to be inspected by an engineer before authority shall be granted by Board, s. 163, s.-s. (3)	104
If engineer's report unfavorable Board shall notify company, and may refuse application, or order further inspection, s. 163, s.-s. (4)	105
If on further inspection, engineer reports that railway may be opened without danger to public, Board may so order, s. 163, s.-s. (5)	105
Or may allow company to carry freight over any portion not opened, s. 163, s.-s. (6)	105
Penalty if railway is opened contrary to provisions of this section, s. 163, s.-s. (7)	105
Procedure on complaints as to railway out of repair, s. 164, s.-s. (1)	106
Board may order repairs or condemn rolling stock, s. 164, s.-s. (2)	106
Penalty for violation of this section, s. 164, s.-s. 2	106
Section applies to street railways, s. 164, s.-s. (3)	106
If inspecting engineer considers a railway in dangerous condition, he may forbid running of trains, s. 165, s.-s. (1)	107
Penalty for violation of this section, s. 165, s.-s. (1)	107
Engineer shall report his action to Board, who may either modify, confirm or disallow, s. 165, s.-s. (2)	107
Notice of order of Board to be given to officials, s. 166, ..	107
How orders of Board to be notified to company, s. 167 ..	107
Inspection not to relieve company from liability, s. 168	107

INSTALLATION.

Board may grant order as to mode to be adopted for crossing of one railway by another, s. 98	78
--	----

INSTRUMENT. (See BONDS.)

INSURANCE.

Company shall have insurable interest in property upon or along its route, s. 106, s.-s. (3)	82
Credit for insurance moneys,	82
Beyond powers of insuring company,	82
Return of premiums,	82
Standing timber,	82

INTERCHANGE OF TRAFFIC.

Companies may make agreements for, s. 57, s.-s. (1)	36
All companies shall afford other companies reasonable and equal facilities in respect to traffic, s. 57, s.-s. 2	37

INTERCHANGE OF TRAFFIC.

PAGE

Every company whose railway forms part of continuous route shall afford all reasonable facilities for delivery and transfer of traffic, s. 54, s.-s. (2)	37
Board shall determine disputes and complaints, s. 57, s.-s. (4, 5)	38
Section 57 to apply to street railways, s. 57, s.-s. (6)	38
Undue preference illegal, s. 174	112
Board may determine what constitutes undue preference in respect of tolls, s. 175	113
Board may apportion tolls for carriage by land and water when expressed in a single sum by company, s. 176, s.-s. (3)	114

INTEREST.

No interest or dividend shall be paid on shares transferred until duplicate is filed, s. 25	19
Any shareholder advancing amount of shares in excess of calls shall be entitled to interest thereon, s. 34	22
No interest shall accrue to shareholder who is in arrear in payment of calls, s. 29, 41, s.-s. (3)	20, 24
On amount awarded,	50
After payment of compensation into court, interest shall be refunded to company in certain cases, s. 68, s.-s. (30)	57

INTERESTED, (See PARTIES INTERESTED.)

INTERFERENCE.

Company may use force, if necessary, where violation of any by-law, etc., is attended with danger to the public, or to enforce observance, without prejudice to any penalty incurred in respect thereof, s. 157.....	102
--	-----

INTERLOCKING.

Board may order any company to adopt interlocking switch and signal systems at crossings or junctions, s. 98, s.-s. (6)	78
Wherever interlocking system is in use at any swing bridge, Board may permit trains to pass without stopping, s. 122, s.-s. (2)	89
Same provisions as in section 122 shall apply to crossings at rail level, s. 124, s.-s. 3	91

INTERPRETATION.

Of terms and expressions used in this Act, s. 2.....	1
--	---

INTERRUPTION OF TRAFFIC.

Continuous carriage of through freight not to be unnecessarily interrupted or delayed, s. 54, s.-s. (2)	37
Continuous carriage of through freight not to be unnecessarily interrupted or delayed, s. 174	112

	PAGE
INTERSECTING.	
On application of company, Board may make order for connections between lines of railway crossing or intersecting one another, s. 98, s.-s. (2)	77
INTOXICATION.	
Every person or conductor who is intoxicated while on duty is liable to penalty, s. 245,	152
Liability for selling or giving intoxicating liquor to employees of company on duty, s. 244	151
INVESTIGATION.	
Board may order enquiry into an matter or thing under their jurisdiction	
Upon complaint, Board may order examination of railway out of repair, s. 164	106
Board may order enquiry into causes of accidents and means of prevention, s. 237, s.-s. (2)	148
INVESTMENT.	
Directors may invest reserve fund in securities not inconsistent with this or special Act, s. 40,	24
J.	
" JUDGE."	
County Court Judge, includes Judges of a District Court, s. 2, s.-s. (11)	3
JUNCTIONS. (See CROSSINGS AND JUNCTIONS.)	
" JUSTICE."	
Meaning of, s. 2, s.-s. (17)	4
JUSTICE OF THE PEACE.	
May appoint persons on application of company to act as railway constables, s. 179, s.-s. (1)	115
L.	
LABOUR, SUNDAY. (See SUNDAY LABOUR.)	
Hours of, s. 227	144
LABOUR DISPUTES. (See ONT. RY., ETC., BOARD.)	
LABOURERS. (See WAGES OF LABOURERS.)	
LAND SURVEYOR.	
Certificate of, to accompany notice to take lands, s. 68, s.-s. (2)	47
Judge may appoint, as sole arbitrator, s. 68, s.-s. (5) ..	48

LANDS. (See EXPROPRIATION AND ARBITRATION.)	PAGE
Definition of, in interpretation, s. 2, s.-s. (3) and (8)	3
Does not include easement	2
Nor minerals	2
Includes minerals under English Act	2
Right of company to survey, s. 51 s.-s. (1)	30
Right of company to receive bonuses in lands or money, s. 51, s.-s. (2)	30
Power of company to purchase or alienate, s. 51, s.-s. (3)	30
Right of company to carry railway across, s. 51, s.-s. 4.	30
Company's powers to take:	
Belonging to the Province, s. 54, s.-s. (1)	33
Wild land of the Province, s. 54, s.-s. (1)	34
Public beach, or covered with water, s. 54, s.-s. (2)	34
Without owner's consent, extent, s. 60	43
For right of way, s. 60	43
For stations, depots, yards, etc., s. 60	44
Additional for public accommodation or for protection against snow drifts, s. 74, s.-s. (1)	60
Not taken, injury to	46
Notice to owners of to be given by company, s. 68, s.-s. (1)	47
Procedure by company to take additional, s. 74	60
That may be taken by company for construction or repair of railway, s. 73	59
Compensation for to be paid into Court, s. 73	60
Company may build branches across to obtain materials, s. 69	57
Company may purchase more than required, s. 71	59
Company may erect snow fences on any land, subject to payment for damages, s. 72	59
Authority for certain persons to sell to company, s. 61	44
Order of judge requisite in certain cases, s. 68, s.-s. (27)	56
In trust, limitation of power to sell, s. 61, s.-s. (2)	44
Contracts before deposit of plan, etc., to be binding, s. 64	45
Annual rent may be fixed for when parties cannot sell, s. 65	45
Lien may be taken on for unpaid rent, s. 65	46
Application may be made to owners of for purchase ten days after deposit of plan, etc., s. 66	46
Agreements for sale or purchase authorized, s. 66	46
Notice to owners shall contain description of lands, s. 68	47
Certificate of surveyor to accompany notice, s. 68	47
Service of notice to owner may be made by advertisement in certain cases, s. 68, s.-s. (3)	47
Procedure on service by publication, s. 68	47, 48
Failure of owner to accept sum offered, may be followed by arbitration, s. 68, s.-s. (5)	48

LAVATORIES.	PAGE
Companies must provide, ss. 213-214	131, 132
"LEASE."	
Includes agreement for a lease, s. 2, s.-s. 9	3
LETTERS PATENT.	
Powers of public utility companies under letters patent as to expropriation	44
LEVEL CROSSINGS.	
Board may grant leave to carry railway across or along highway, s. 90, s.-s. (1)	74
Variation of one inch permitted between rail and levels of highway, s. 91	74
Plan of crossing to be submitted to Board for approval and Board may make conditions as to protection, safety and convenience of the public, s. 92	74
Board may order company to submit plan of existing crossings, s. 93	75
Inclination of approach to be one foot in 20, s. 95.....	76
Signboards to be maintained at all level crossings, s. 96..	76
Municipality may take proceedings, when crossing out of repair, s. 97, s.-s. (1)	76
LIABILITIES AND ASSETS (See ASSETS AND LIABILITIES.)	
LIABILITY.	
Every shareholder shall be liable to creditors of company to extent of amount unpaid on stock, s. 35	22
LIEN.	
Of municipalities for expense incurred in taking up track, etc., on forfeiture of franchise for non-user, s. 126, s.-s. 2	123
Lien for wages, s. 226	144
LIMITATION.	
Limit of time for construction and operation of a rail- way, s. 111	85
Powers to sell and convey lands held in trust in certain cases limited to lands actually required by company, s. 61, s.-s. (2)	44
Of time for commencing actions or suits for damages or injury sustained by reason of construction or operation of railway, s. 223	141, 142
Of action on calls,	18
LIQUOR (See also INTOXICATION.)	
Damage to any package containing liquor, etc., on company's property, shall be criminal offence, s. 248, s.-s. (a) 153	

LIQUOR—Continued.

PAGE

Unlawful spilling or wasting of liquor shall be criminal offence, s. 248, s.-s. (b)	153
---	-----

LITIGATION.

In suits for collection of calls, declaration that defendant is holder of one or more shares shall be sufficient, s. 24, s.-s. (6)	18
No right of action shall lie against company by reason of non-observance of rules in regard to closing of gates at farm crossings, s. 87, s.-s. (5)	71
Right of action against company for negligence in carriage and delivery of traffic, s. 128, s.-s. (3)	93
Actions on suits for damages or injury must be instituted within one year, s. 223	141, 142
Nothing in this section to apply to action against company for breach of contract, s. 223	142

LOCALITY.

Unjust discrimination in tolls charged between different localities prohibited, s. 173, s.-s. (4)	112
---	-----

LOCATION OF RAILWAY. (See PLAN AND PROFILE; LANDS.)

May be changed with leave of the Board, s. 55	34
No extension allowed beyond termini mentioned in Special Act, s. 55	34
Company shall prepare a map showing general location of proposed line of railway, s. 59, s.-s. (1)	40
General provisions respecting plans, etc., s. 59	39-43
Additional plans, etc., where more ample space is required shall be deposited with Board, s. 74	60
Works not to be commenced until certain provisions complied with, s. 109	83
Company shall not make any change or deviation in railway until provisions of last preceding section complied with, s. 109	84

LOCOMOTIVES.

Provision shall be made for immediate communication between conductor and engine driver of passenger train, s. 76	62
Every locomotive shall be equipped with bell or whistle, s. 77	64
Train shall stop at main line level crossing of two lines until signalled by watchman, s. 124	90
When train or car is moving reversely, in cities, company shall station person in front to warn persons crossing tracks, s. 125	91
Oil-cups and oiling appliances shall be operated from inside cab while locomotive is in motion, s. 83	67

LOCOMOTIVES— <i>Continued.</i>	PAGE
Company liable for damages to property from fires caused by locomotive, s. 106, s.-s. (2)	82
LOOK AND LISTEN.....	90
LORD'S DAY ACT	122
LOSS (See DAMAGES).	
LUGGAGE (See BAGGAGE).	
M.	
MAILS.	
His Majesty's mail shall be carried by the railway upon terms and conditions made by Governor-General in Council or Lieutenant-Governor in Council, s. 257	155
MAJORITY.	
Majority of provisional directors shall constitute a quorum, s. 7, s.-s. 1	8
Majority of directors of company shall be a quorum, s. 14, s.-s. (1)	13
Acts of a majority of a quorum of directors are binding, s. 14, s.-s. (3)	14
MAP (See PLAN.)	
MATERIALS.	
Company shall have right of way over lands to obtain materials for construction or maintenance, s. 69	57
MECHANIC'S LIEN ACT (See LIEN.)	
Not applicable to Dominion railway,	7
MEETINGS OF SHAREHOLDERS (See SHAREHOLDERS.)	
First meeting to be held when 25 per cent. of capital sub- scribed and 10 per cent. paid up, s. 8, s.-s. (2)	10
Notice of to be given and directors elected, s. 8, s.-s. (2) ..	10
General meeting of, shall be held annually on day fixed by Special Act, s. 10, s.-s. (1)	11
The annual meetings to be held at head office, s. 10, s.-s. (2)	11
What business may be transacted at, s. 12, s.-s. (1)	12
Shareholder entitled to vote upon each paid-up share held by him, s. 12, s.-s. (2)	12
Special general meetings may be held as provided by the by-laws, s. 10, s.-s. (3)	12
May be held outside of Province,	12

MILITARY FORCES,

PAGE

Whole resources of railway to be at disposal of Commander of Forces, if required, on terms fixed by Governor-General in Council or Lieutenant-Governor in Council, s. 257	156
---	-----

MINES AND MINERALS.

No company shall cause obstructions to mines without authority of Board, s. 99	79
Company not entitled to minerals, etc., on lands taken under compulsory powers except by direct purchase, s. 100	79
Mines under or within 40 yards of railway not to be worked without leave from Board, s. 101, s.-s. (1) ..	79
Upon application for leave to work mines, Board shall be furnished with plan, etc., of railway affected, s. 101, s.-s. (2)	79
Board may grant application subject to conditions for protection and safety of public, s. 101, s.-s. (3)	80
Company to compensate mine owner, s. 102	80
Company may inspect mines with permission of the Board, s. 103	80
Penalty for refusing to allow inspection, s. 104	80

MORTGAGES (See BONDS.)

MOTORMEN.

Examination of, s. 221, s.-s. (1)	140
For color blindness, s. 222	141

MUNICIPAL AID (See BOUNTIES.)

MUNICIPALITIES.

Mayor, Warden, Reeve, etc., granting a bonus of \$20,000 to company shall be ex-officio director, s. 149	99
May obtain leave from Board to establish telephone communication with railway stations upon terms to be ordered by Board, s. 56, s.-s. (2)	35
Cannot grant exclusive franchises, s. 200	127
Telegraph, telephone or electric lines not to be constructed over highways or other public places without consent of municipal council, s. 56, s.-s. (1)	35
Proceedings may be taken for drainage works before Board or under provincial drainage laws, s. 85	68
May prohibit use of whistle and bell at highway crossings, s. 123	89
May remove weeds, etc., from right of way at company's expense, or recover penalty, s. 105, s.-s. (3)	81
May on notice take up highway, s. 217, s.-s. (j)	137
Liability for accidents caused by non-repair of street, due to operation of street railway company	135

N.

NAVAL FORCES.

PAGE

Shall be carried on railways when so required by Commander of Forces, subject to terms to be made by Governor-General in Council or Lieutenant-Governor in Council.	
s. 257, s.-s. (1)	155

NAVIGABLE WATERS.

No company shall cause any obstruction to free navigation of any river, etc., s. 51, s.-s. (4)	30
Bridges may be built over navigable waters, s. 51, s.-s. (11)	32
Board may determine as to spans and headway and waterway of bridges, s. 88	72
All trains shall be brought to full stop before crossing draw or swing bridges, s. 122, s.-s. (1)	89
Penalty for neglect to comply with provisions of this section, s. 122, s.-s. (1)	89

NEGLIGENCE.

No person shall have right of action against company for injuries from neglect to close gates at farm crossings, s. 87, s.-s. (5)	71
Right of action shall lie against company for neglect to erect gates at farm crossings, s. 87, s.-s. (3)	71
Neglect to stop trains at all swing bridges, renders company liable to penalty, s. 122, s.-s. (1)	89
Liability of company or officers for neglect in carrying out provisions of this or Special Act, s. 243	151
In operating on highways, notes to cases, etc.,	135

NIAGARA FALLS AND RIVER.

Provisions as to expropriation by street railway companies not to apply to vicinity of, s. 201, s.-s. (3)	128
---	-----

NOTICES. (See ONT. RY. AND MUN. BOARD.)

Meetings of shareholders, four weeks notice to be given in Ontario Gazette, s. 8, s.-s. (2)	10
Notice of meeting of shareholders to increase capital stock, s. 9	11
Notice of special general meetings, s. 11	12
Objects of meeting to be stated in notice, s. 12, s.-s. (1) ..	12
Notices by secretary of the company shall be valid, s. 13, s.-s. (2)	13
Calls upon shareholders, notice to be given, s. 24, ss. (1) ..	17
As to publication of notice of calls, s. 24, s.-s. (2)	18
Application for correction of errors in plan, etc., notice to be given to parties interested, s. 59, s.-s. (6)	41
May be served by publication in certain cases, s. 68, s.-s. (4) ..	48
When company requires more ample space, ten days' notice of application shall be given owner of lands, s. 74, s.-s. (2)	60

NOTICE—Continued.	PAGE
What notice must contain in expropriation proceedings, s. 68, s.-s. (1)	47
Notice of overdue trains to be placed in conspicuous places in all stations, s. 121, (1)	94
Notice of by-laws, rules and regulations, how proved, s. 130	102
Notice of report of inspecting engineer to be given company, s. 103, s.-s. 4.....	105
Every company shall notify Board when accidents take place, s. 237, s.-s. (1)	148
Board may declare manner and form of notice to be given, and may declare such information privileged, s. 237, s.-s. (2)	148

NUISANCE.

Company may make by-laws for the prevention of any nuisance on trains or at stations, &c., s. 150, s.-s. (e) ..	100
---	-----

O.

OATHS (see AFFIDAVITS).

OBJECTIONS.

To location of line, s. 59, s.-s. (4)	40
To construction on highways, s. 192, s.-s. (2)	126

OBSTRUCTION.

Of highway in construction operations, s. 90, s.-s. (2)....	74
Trains, cars, etc., must not stand on rail-level highway crossing longer than 5 minutes, s. 126, s.-s. (1)....	91
Penalty for violation of section, s. 126, s.-s. (2)	91
Every person wilfully obstructing inspecting engineer in discharge of his duty is liable to penalty, s. 162, s.-s. (8)	104
Of highway by deviation of company's tracks, s. 199.....	127

OFFENCES AND PENALTIES.

Registrars of deeds liable to penalty for breach of duty, s. 59, s.-s. (11)	42
Penalty for violation of provisions relating to interchange of traffic, s. 57, s.-s. (3)	37
Penalty for failure to comply with provisions as to equipment of trains, s. 76, s.-s. (9).....	64
Penalty for failure to comply with provisions as to electric cars, s. 79, s.-s. (4)	65
Passenger standing on side step of car, s. 82, s.-s. (5)	66
Penalty for violation of provision respecting headway of bridges, s. 88, s.-s. (4).....	73
Penalty for leaving gates open or taking down fences, s. 87, s.-s. (6)	72
Penalty for obstruction of highway, s. 90, s.-s. (3)	74

OFFENCES AND PENALTIES—*Continued.*

	PAGE
Penalty for refusal to allow inspection of mines, s. 104..	80
Penalty for not cutting weeds, &c., s. 105, s.-s. (2)	81
Penalty for allowing freight cars in rear of passenger cars, s. 118, s.-s. (2)	87
Penalty for refusing baggage check, s. 119, s.-s. (3)	88
Penalty for passenger carrying explosives on train, s. 120.	88
Penalty for train carrying explosives, except as provided in sec. 121, s. 121	88
Penalty for failure to stop before passing over swing bridge, s. 122, s.-s. (1)	89
Penalty for failure to sound whistle, bell, &c., before cross- ing, s. 123	89
Penalty for not stationing man on car of train moving reversely, s. 125	91
Penalty for obstructing crossing, s. 126, s.-s. (2)	91, 92
Penalty for failure to post notice of overdue trains, s. 129, s.-s. (2)	94
Company may prescribe penalty for any violation of by- laws, rules, &c., s. 151,	101
Penalty for refusal to obey orders of inspecting engineer, s. 162, s.-s. (6)	104
Penalty for obstructing inspecting engineer, s. 162, s.-s. (8)	104
Penalty for opening railway without leave of Board, s. 163, s.-s. (7)	105
Penalty for using rolling stock after being condemned by Board, s. 164, s.-s. (2)	106
Penalty for running trains after notice forbidding from inspecting engineer, s. 165, s.-s. (1)	107
Penalty for neglect or breach of duty by constable, s. 184	117
Penalty for operating on Sunday, s. 193	121, 122
Penalty for operating motor car without fender or brake, s. 211	131
Penalty for not turning out to allow car to pass on high- way, s. 217, s.-s. (n)	138
Penalty for employing motormen having defective eyesight and for failure to examine, s. 222	141
Penalty for making agreements relieving company from li- ability for defective machinery, s. 224, s.-s. (2)	143
Penalty for refusal to furnish returns, s. 234	147
Penalty for making false returns, s. 235	147
Penalty for failure to give notice of accidents, s. 237	148
No company shall purchase stock of other railway com- panies, s. 239, s.-s. (1)	149
Every director liable to penalty for violation of this sec- tion, s. 239, s.-s. (2)	149
Trespassing on right of way prohibited under penalty, s. 240, s.-s. (1)	150

OFFENCES AND PENALTIES— <i>Continued.</i>	PAGE
Penalty for wilful destruction of any property of company, s. 240, s-s. (2).....	150
Any person attempting to travel without paying fares shall be liable to penalty, s. 240, s-s. (3).....	150
Penalty for using highway level crossing where company provides foot bridges, s. 241, s-s. (1).....	150
Every company erecting or operating any bridge, tunnel, etc., in violation of this Act shall be subject to penalty, s. 242	151
Liability of company, directors, &c., in respect of injuries caused by contraventions of this Act, s. 243.....	151
Sale of liquor to employee, s. 244.....	151
Intoxication of any person in charge of engine or conductor, while on duty, is an indictable offence, s. 245.	152
Violations of by-laws, rules, &c., of company by employees shall be punishable, s. 247.....	152
Damages to any package containing liquor or goods, or spilling or wasting, s. 248, s-ss. (a, b).....	153
Damages to electrical property or apparatus, s. 248, s-s. (c).....	154
Each day's violation of provisions of Act or orders of Board, &c., shall constitute a new offence, s. 249....	154
Company liable for act of officer, s. 250.....	154
Punishment not to exempt company from forfeitures, s. 251.....	154
Company may pay penalties and retain same from salary or pay, upon conviction under this Act, s. 253	155
Penalties recovered in name of His Majesty or the Atty-Gen. and paid to Provincial Treasurer, s. 254.....	155
OFFICERS OF THE COMPANY.	
Company may appoint officers, ss. 17-18.....	15, 16
Authority to bind company.....	33
Inspecting engineers to be furnished with all information by officers and directors, s. 162, s-s. (4).....	103
Company or any manager or superintendent may dismiss railway constable, s. 182	117
Violations by employees of by-laws, &c., shall be punishable, s. 151.....	101
Every officer or employee of company who permits freight car to be placed in rear of passenger car on any passenger train is liable to fine, s. 118, s-s. (2).....	87
Penalty if officer, &c., of company refuse or fail to make returns, s. 234,	147
Penalty for making false returns, s. 235.....	147
OFFICES.	
Head offices of company to be at place designated in Special Act, s. 6	8

OFFICIAL GAZETTE.	PAGE
Sale of unclaimed goods by company shall be advertised in, s. 170, s.-s. (4).....	109
OIL-CUPS AND OILING APPLIANCES.	
Shall be operated from inside cab while locomotive is in motion, s. 83, s.-s. (4)	67
OMNIBUS.	
Business, running	30, 120
OMISSION,	
In map or plan, correction of, s. 59, s.-s. (6)	41
Failure to give immediate notice to Board of accidents renders company liable to penalty, s. 237, s.-s. (1)....	148
ONTARIO GAZETTE.	
Four weeks' notice shall be given, by advertisement, of meetings of shareholders, s. 8, s.-s. (2).....	10
All notices of calls on shareholders shall be published weekly in, s. 24, s.-s. (2).....	18
Notice of deposit of mortgage deed or assignment with Secretary of Board shall be given by publication, s. 44, s.-s. (4).....	27
Notice of sale of goods to be given in, s. 170, s.-s. (4)....	109
ONTARIO RAILWAY AND MUNICIPAL BOARD,	
Interpretation	161
Application to street railways and public utilities.....	161
Railway committee of executive council abolished.....	161
Appointment and constitution of Board.....	161
Vacancies	161
To have powers of court of record	161
Powers of railway committee transferred to	162
Vice-chairman	162
Quorum	162
Appointments pro hac vice	162
Members not to hold stock or be directors in certain companies	162
Members to give whole time to work	163
Offices at Toronto	163
Sittings	163
Court house—use of	163
Town hall, use of.....	164
Secretary—appointment and duties of	164
Salaries of Board and secretary	165
Experts, appointment of	165
Officers, clerks, stenographers, etc.....	165
Jurisdiction and general powers	166
Complaints against railway companies, etc.....	166

ONTARIO RAILWAY AND MUNICIPAL BOARD— <i>Con.</i>	PAGE
Mandatory orders or injunctions	166
Questions of law and fact	166
Exclusive jurisdiction	167
Board may act on its own motion or on request of Government	167
Regulations as to railway equipment	167
Application of general orders	168
Power to review, rescind or change orders	169
Default in obeying orders, work may be done and expense charged to defaulter	169
Application of regulations	169
Enforcing orders	169
Notices—how to be given	169
Duty to company as to notifying employees, etc., of orders	171
Sheriffs, etc., to obey and assist Board	171
Practice and procedure before	171
Evidence of documents—service of copies	171
Certified copies of plans, etc.	172
Publications of regulations and orders	172
Notice of applications	172
Urgent cases proceeding without notice, rehearing	172
Railway Committee, regulations, etc., to continue until repealed	173
Existing orders may be made orders of court	173
To have powers of Board until Board constituted..	173
Making orders of Board, orders of court	174
Contingent orders, etc.	174
Partial or other relief than that asked for may be granted	175
Interim <i>ex parte</i> orders	175
Extensions of time for compliance with orders	175
Rules regulating procedure, etc.	175
Presumption as to jurisdiction	176
Judgments of other courts on facts not binding	176
Statement of case for Court of Appeal	176
Appeals to Court of Appeal on questions of jurisdiction in law	176
Security for costs	177
Notice of	177
Court of Appeal to certify opinion to Board	177
Board may be heard by counsel	177
rules as to costs, etc.	177
To Privy Council in certain cases	177
Board not liable for costs	178
Government may refer matters to Board for report	178
Costs of proceedings	178
Expense of work ordered by Board—how borne	178
Action by Attorney-General at request of Board	179
Penalties—when leave of Board required	179

ONTARIO RAILWAY AND MUNICIPAL BOARD— <i>Con.</i>		PAGE
To be a first charge on railway		179
Inquiries ordered by Board		179
Witness fees		180
Proof of documents		180
Assessment appeals—jurisdiction as to		180
Powers as to additions to municipalities, approved of by laws, etc.		181
Telephone, telegraph and light and power wires		182
Legislation—enquiry and report upon		182
Annual report		183
May superintend books of public utility companies		183
Labour disputes on railways, etc., arbitration as to, mediation		184
Fees and expenses		185
Enforcing agreements between municipalities and railways operating on highways		185
Taking control of company's property		186
Powers of Board		186
Construing agreements		187
Pending proceedings		187
Commencement of Act		187
Powers of Board under amending Act of 1907		188
Appointment of counsel		188
Enquiry and report as to rates charged by public utilities		189
OPENING OF RAILWAY.		
For carriage of traffic, leave of Board must be obtained, s. 163, s.-s. (1)		104
OPERATION OF RAILWAY (See also COMPANY).		
Equipment of trains, cars, and appliances, ss. 76-79, ..	62,	65
Penalties for failure to comply with provisions of this section, s. 79, s.-s. (4)		65
Board may make orders respecting train equipment, s. 80		65
All regular trains must be started and run at regular hours, s. 114		86
Company shall provide suitable stations and accommodation for all traffic, s. 128		92
Board may order company to furnish proper accommodation, s. 128, s.-s. (6)		93
OVERCHARGE (See DISCRIMINATION).		
OVERDUE TRAINS.		
Notice of to be entered on blackboard at all stations, stating time when due, s. 129, s.-s. (1)		93
Penalty for neglect of company or employees to place blackboard outside station to record movements of trains, s. 129, s.-s. (2)		94

"OWNER."

PAGE

Definition of expression in this Act, s. 2, s.-s. (18)	4
Includes tenant for life, etc.,	4

P.

PACKING.

Definition of, s. 83	66
Spaces behind and in front of frog or crossing, and between fixed rails of switch to be filled with, s. 83, s.-s. (2)	67
Spaces between any wing rail, frog and guard rail and track rail to be filled with packing at their splayed ends, s. 82, s.-s. (3)	67

PARKS.

Electric and street railway companies may acquire, s. 197, s.-s. (4)	124
Power lines not to be carried through provincial parks, s. 197, s.-s. (5)	125

PARTIES.

Necessary to action, Attorney-General	120
---	-----

PARTIES INTERESTED.

Board may require notice to be given to parties interested of error or omission in any plan, etc., registered, s. 59, s.-s. (6)	41
Where more ample space is required by company, after notice, parties may appear and Board may decide upon terms, s. 74, s.-s. (2)	60
Court may distribute award under arbitration for lands to persons interested, s. 68, s.-s. (28)	56
Board may make order, upon application of company, and notice to parties interested, for reconstruction of bridge, tunnel, etc., s. 88, s.-s. (2)	73

PASSENGERS.

Not to stand on side steps of car, s. 82, s.-s. (5)	66
Company shall provide adequate accommodation for passengers at all stations, s. 114	86
Protection of,	86
Every passenger who refuses to pay his fare may be expelled from train by conductor, s. 116,	87
Not entitled to damages if injured on platform, s. 117	87
Passenger shall be entitled to a check for every piece of baggage, s. 119	87
No passenger shall be allowed to carry explosive or dangerous goods, s. 120	88
Passenger guilty of offence liable to arrest, s. 186,	118

PASSENGER CARS.	PAGE
No passenger train shall haul freight or other cars in rear of passenger car, s. 118, s.-s. (1)	87
Penalty for violation, s. 118, s.-s. (2)	87
 PASSENGER FARES.	
On electric railways, s. 171	110
 PASSENGER TICKETS (See TICKETS.)	
 PASSES (See EXCHANGE OF.)	
For Board and staff to be furnished by company, s. 172..	111
 PENALTIES (See OFFENCES and PENALTIES.)	
 PERISHABLE GOODS.	
Company may make uniform special rates for, s. 173. s.-s. (3)	112
PERSONAL INCONVENIENCE.	46
 PERSONAL PROPERTY.	
Securities issued by company shall be first preferential claim on personal property, s. 45	27
 PIPES (See WATER PIPES, GAS PIPES.)	
 PLANS AND SURVEYS (See also LOCATION and BOOK OF REFERENCE.)	
Map or plan and book of reference shall be submitted to Board, s. 59, s.-s. (2)	40
Plan, &c., when approved, shall be deposited with Board, and with registrars of deeds, s. 59, s.-s. (2, 3)....	40
Open to inspection and objections to location may be made to the Board, s. 59, s.-s. (4)	40
Errors in map or plan or book of reference filed may be corrected by the Board, s. 59, s.-s. (6)	41
What certificate of Board to contain, s. 59, s.-s. (7)	41
Company may proceed with construction when certificate deposited in registry office, s. 59, s.-s. (7)	41
Errors not to interfere with operation, s. 59, s.-s. 14.	43
Defining duties of registrars of deeds with respect to plans, &c., and penalty for neglect, s. 59, s.-s. (11)	42
Copies certified by registrar of deeds or the Secretary shall be evidence in court, s. 59, s.-s. 12.	42
Plan, &c., of railway shall be filed with Board and in registry offices within a reasonable time after completion of undertaking, s. 59, s.-s. 15	43
General provisions respecting plans, profiles, and books of reference, s. 59, s.-s. (9)	42

PLANS AND SURVEYS— <i>Continued.</i>	PAGE
Additional plans, etc., of deviations, or of sidings or stations shall be deposited with Board if so required, s. 59, s.-s. (10)	42
When deviations are made by company, plan, &c., approved by the Board must be registered, s. 59, s.-s. (8)....	41
No deviations of more than one mile to be made, s. 59, s.-s. (13)	43
Deposit of map, &c., deemed a general notice, s. 67....	46
Company shall not commence construction until provisions of Act as to plans, &c., are complied with, s. 100....	83
 POLICE (See RAILWAY CONSTABLES.)	
POOLING.	
Pooling of freights or tolls between companies prohibited, s. 173, s.-s. (5)	112
 POSSESSION.	
When possession of lands may be taken by company under award, s. 68, s.-s. (22)	54
 POSTING OF BY-LAWS, ETC. s. 154.....	
Powers of company, s. 51	29
 POWER TRANSMISSION LINES.	
No lines or wires for conveyance of light, heat, power, etc., shall be erected across railway without leave of Board, s. 56, s.-s. (3)	35
Board may construct on right of way of company, s. 256.	155
 PRACTICE AND PROCEDURE.	
Index to rules of	192
 PRECEDENCE.	
Provincial and federal rival companies	46
 PREFERENCE SHARES.	
Directors may create, s. 38.....	23
Rights and liabilities of holders, s. 38, s.-s. (4)	23
Rights of creditors not impaired by, s. 38, s.-s. (5)	23
 PREFERENTIAL SECURITIES.	
Securities issued by company shall be first claim, s. 45.	27
 "PRESCRIBED."	
Refers to matter provided for in special Act, s. 2, s.-s. 2..	2
 PRESCRIPTION.	
Limitation of action against company for indemnity for damages, s. 223, s.-s. (1)	141

PRESIDENT AND DIRECTORS (See DIRECTORS),	PAGE
PRESS.	
Members of may be carried by company free or at reduced rates, s. 178	115
PRIVATE LANDS (See LANDS).	
Private owners of railway	5
PRIVILEGED.	
All returns relating to accidents shall be privileged, s. 231	146
Any information furnished to the Board on investigation of accidents shall be privileged, s. 237, s.-s. (2)	148
PROCEEDINGS FOR EXPROPRIATION (See EXPROPRIATION).	
PROCEDURE (See PRACTICE and PROCEDURE).	
PRODUCTION.	
Board may order witnesses to produce books and documents, s. 233	147
PROFILE (See PLAN and PROFILE).	
PROMISSORY NOTES.	
Company may borrow money on notes, but same not to be payable to bearer, s. 49	29
PROOF OF DOCUMENTS (See EVIDENCE).	
PROSECUTIONS (See OFFENCES and PENALTIES).	
PROVINCIAL RAILWAYS.	
Application of Act to, s. 3, s.-s. (1)	6
PROVISIONAL DIRECTORS.	
To be persons named in Special Act; majority to constitute quorum, s. 7, s.-s. (1)	8
May add to number, s. 7, s.-s. (2)	8
As to disposition of stock subscribed, s. 7, s.-s. 3.	8
May allot stock to subscribers, s. 7, s.-s. 3	8
PROXY.	
Form of to be used by shareholders, s. 12; s.-s. (3)	12
As to validity of proxies, s. 12, s.-s. (4)	13
PUBLIC UTILITY COMPANIES.	
Powers of expropriation.....	44

Q.		PAGE
QUORUM.		
A majority of Provisional Directors shall form a quorum, s. 7, s.-s. (1)		8
A majority of Board of Directors shall form a quorum, s. 14, s.-s. (1)		13
Acts of majority of quorum are binding, s. 14, s.-s. (9) ..		14
R.		
RAIL-LEVEL (See LEVEL CROSSINGS; HIGHWAY CROSSINGS).		
RAILS.		
How to be packed at switches, frogs and wing rails, s. 83, s.-s. (2, 3)		67
“RAILWAY.”		
Definition of expression in this Act, s. 2, s.-s. 20		5
Private owners within the term		5
RAILWAYS.		
Act respecting railway and other corporations		190
RAILWAY COMMISSION (See ONTARIO RAILWAY AND MUNI- CIPAL BOARD.)		
RAILWAY COMMITTEE OF THE EXECUTIVE COUNCIL (See ONTARIO RAILWAY AND MUNICIPAL BOARD).		
RAILWAY CONSTABLES.		
How to be appointed, s. 179, s.-s. (1)		115
Oaths to be administered, form of, s. 179, s.-s. (1)		115
Powers of, and jurisdiction, s. 180		116
Arrest of offenders, s. 181		116
Authority to dismiss, s. 182		117
Record of appointments and dismissals to be made and kept by Clerk of Peace, s. 183		117
Penalty for neglect or breach of duty, s. 184		117
Passenger conductors to have powers and protection of, ss. 185-188,		118, 119
RAILWAY CROSSINGS, JUNCTIONS (See CROSSINGS).		
RAILWAYS (See COMPANY; OPERATION OF RAILWAY).		
RAILWAY SECURITIES.		
No company shall employ its funds to purchase or acquire stock or shares of another company, s. 239, s.-s. (1) 149		
RATES (See TARIFFS; TOLLS and TRAFFIC.)		

REBATE (See DISCRIMINATION; TRAFFIC)	PAGE
RECEIVER.	
Provincial Court has jurisdiction to appoint	7
RECORD OF SHAREHOLDERS.	
Company shall keep a true account of names and residences of shareholders, s. 36	22
REDUCTION IN RATES (See DISCRIMINATION).	
REFUND (See DISCRIMINATION).	
REGISTER OF SHAREHOLDERS.	
Company shall keep a true account of names and residences of shareholders, s. 36	22
REGISTRAR OF DEEDS.	
Certified copies of plans, &c., of location of railway to be deposited with, s. 59, s.-s. (3)	40
Entitled to fees for copies of documents, s. 59, s.-s. (4) ..	40
Shall receive and retain all plans or other documents required by this Act, s. 59, s.-s. (11)	42
Shall be subject to penalty for breach of duty, s. 59, s.-s. (11)	42
When more ample space required by company, certified copies of plans, &c., to be deposited with, s. 74, s.-s. (5)	61
REGISTRATION (See BONDS).	
REGULATIONS (See BY-LAWS; RULES and REGULATIONS).	
REPAIRS.	
Board may order by what company, municipality or person repairs shall be made and cost paid, s. 164, s.-s. (1) ..	106
Board may order company to repair railway reported in dangerous condition, s. 164, s.-s. (1)	106
Trains shall not be run on railway reported in dangerous condition until repairs made, s. 164, s.-s. (1)	106
Track allowances, &c., on highways, s. 217	134
REPEAL OF ACTS.	
S. 259	156, 157
RESPONSIBILITY.	
Neither president, vice-president, secretary or officer of company shall be individually responsible for promissory note, etc., unless issued without proper authority, s. 49	29

RESPONSIBILITY— <i>Continued.</i>	PAGE
Company shall be responsible for disposition of purchase money paid for lands, s. 68, s.-s. (26)	55
Inspection under this Act does not relieve company from responsibility, s. 168	107
 RESERVE FUND.	
May be set aside by company for specified purposes	
 RETURNS (See STATISTICS).	
 REVIEW.	
Board may alter or modify any of the requirements as to equipment, &c., of trains, s. 80	65
 RIGHT OF WAY.	
Extent of lands which may be taken for right of way, s. 60	43
Company shall have right of way over lands to obtain materials for construction or maintenance, s. 69, s.-s. (1)	57
Weeds, &c., to be cut on right of way for prevention of fires, s. 105, s.-s. (1)	81
Farm Crossing, &c., s. 86	70
 ROAD (See "HIGHWAY.")	
 ROLLING STOCK (See OFFENCES and PENALTIES).	
Definition of expression in this Act, s. 2, s.-s. (27)	6
General requirements as to, ss. 76-79,	62-65
Board may by order condemn rolling stock reported unfit for use, s. 164, s.-s. 1	106
Inspecting engineer may forbid use of rolling stock on railway reported in dangerous condition, s. 165, s.-s. (1)	107
 ROUTE MAP (See LOCATION OF RAILWAYS).	
Of proposed location of line of railway to be submitted to Board for approval, s. 59, s.-s. (1)	40
 RIVER (See NAVIGABLE WATERS).	
 RULES (See BY-LAWS).	
 RUNNING AT LARGE (See CATTLE).	
 RUNNING POWERS.	
Company may enter into agreement for the running of trains of one company over the tracks of another company, s. 58	38

S.

SAFETY APPLIANCES.	PAGE
Board may order any company to adopt safety appliances on rail-level crossings, s. 98, s.-s. (6)	78
 SALE.	
Authority of executors, trustees, &c., to sell and convey lands to company, s. 61, s.-s. (1)	44
Unclaimed goods may be sold if tolls not paid within six weeks, s. 170, s.-s. (3)	109
Unclaimed goods may be sold after twelve months, s. 170, s.-s. 4	109
As to disposition of balance on account of unclaimed goods sold, s. 170, s.-s. (4)	109
In default of balance of proceeds of sale being claimed, it shall be escheated for use of Province, s. 170, s.-s. (5)	110
Liability for selling intoxicating liquor to employees on duty, s. 244	151
 SANITARY CONVENIENCES	
On cars, Board may order, s. 214	132
 SCHEDULES (See STATISTICS).	
Company shall annually prepare returns for Board in accordance with forms supplied, s. 228, s.-s. (1)	144
Returns of all accidents on railway shall be forwarded by company to Board, semi-annually, s. 229	145
 SCHOOL LANDS.	
Limitation of power of trustees to sell lands, s. 61, s.-s. (2)	44
 SEAL.	
Certified and sealed copies of minutes, etc., of shareholders of company shall be accepted as evidence in any court, s. 13	13
Seal of company need not be affixed to promissory notes or bills of exchange, s. 49	29
Certified and sealed copy of any by-law, etc., shall be evidence thereof in any court, s. 158	102
 SECRETARY (See ONT. RY. AND MUN. BOARD).	
Shall mean Secretary of the Board, s. 2, s.-s. (28)	6
 SECURITIES (See BONDS).	
 SECURITY FOR COSTS (See ONT. RY. AND MUN. BOARD).	
Security to be deposited before warrant of possession granted by judge, s. 24	55

SEIZURE	PAGE
Company may seize goods for non-payment of tolls, s. 170. s.-s. (2)	109
SEMI-ANNUAL.	
Statistics of accidents to be furnished Board, s. 229	145
SERVANTS (See EMPLOYEES.)	
SERVICE.	
Proceedings on failure to accept sum offered, after service of notice, s. 68	46
Application for service by advertisement may be made to a judge in arbitration proceedings, s. 68, s.-s. (3)	47
Application for such service shall be accompanied by a certificate and affidavit, s. 68, s.-s. (3)	47
SEWERS (See DRAINAGE).	
SHAREHOLDERS.	
Definition of, s. 2, s.-s. (22)	5
Number of votes of,	12
When first meeting is to be held, notice to be given, s. 10, s.-s. (1)	11
Capital may be increased by vote of two-thirds of, s. 9	11
May be represented at meetings by proxy, s. 12, s.-s. (3) ..	12
As to validity of proxies, s. 12, s.-s. (4)	13
Minutes of proceedings and resolutions to be kept, s. 13, s.-s. (1)	13
Certified copies of same to be evidence in court, s. 13, s.-s. (1)	13
Notices given by secretary to be valid, s. 13, s.-s. (2)	13
As to manner and notice of calls on shares, s. 24, s.-s. (2) ..	18
Notices of calls to be published in Ontario Gazette, s. 24, s.-s. (2)	18
Liability of shareholders as to calls, s. 24, s.-s. (3)	18
Overdue calls to be subject to interest until paid, s. 24, s.-s. (4)	18
Failure to pay calls, s. 24, s.-s. (5)	18
Allegation in action to recover money due on calls, s. 24, s.-s. (6)	18
Indemnity of, against liability for forfeited shares, s. 29, s.-s. (5)	21
Entitled to interest on advances on money due on shares, s. 34	22
Limitation of action on calls,	18
Limitation of liability to creditors, s. 35	22
Alien, shall have equal rights, s. 37	23
Record to be kept of names and domiciles, s. 36	22

SHARES.	PAGE
May be allotted at discretion of Provisional Directors, s. 7, s.-s. (3)	9
Preference shares,	10
May be transferred by instrument in duplicate, s. 25, s.-s. (1)	19
Form of transfers, s. 25, s.-s. 2	19
Stock of company shall be personal property, transferable only when calls paid up, s. 26	19
Refusal to register,	19
Procedure as to transmission of stock other than by transfer, s. 27	19
Company not bound to see to execution of trusts, s. 28	20
Assignee of trust shares put on inquiry,	20
Certificate of proprietorship to be evidence of title, s. 29, s.-s. (1)	20
As to sale without certificate, s. 29, s.-s. (2)	20
May be forfeited for non-payment of calls, s. 29, s.-s. (3)	20
Method of forfeiture, s. 29, s.-s. 4	20
Indemnity of shareholders against liability for forfeited shares, s. 29, s.-s. 5	21
Forfeiture must be in interest of company only,	21
How forfeited shares may be sold, s. 30	21
Limitation as to sale of forfeited shares, s. 31	21
If arrears of calls, etc., paid, shares to revert to former owner, s. 32	21
Certificate of treasurer to be evidence of forfeiture and of title to purchaser, s. 33	21
 SHELTER FOR EMPLOYEES.	
Provisions for, may be made by Board, s. 79, s.-s. (1)	64
 "SHERIFF."	
Definition of expression in this Act, s. 2, s.-s. (15)	3
 SHORT HAUL (See LONG AND SHORT HAUL).	
 SHORT TITLE.	
This Act may be cited as "The Ontario Railway Act, 1906," 6 E. VII., c. 30, s. 1	1
 SHUNTING.	
Obstruction of highway by shunting of cars shall not be longer than five minutes, s. 126, s.-s. (1)	91
 SICKNESS.	
In case of illness of president of company, vice-president shall perform his duties, s. 21	16
Absence of president may be entered on minutes, s. 22	17

SIDINGS.	PAGE
Extent of lands company may take for yard accommodation, etc., s. 60	44
To gravel pits, etc., s. 69, s.-s. (2)	57
To industries, s. 70	58
Inspecting engineer may examine any sidings, etc., of com- pany, s. 162, s.-s. 2	103
 SIGNALS.	
Board may make orders and regulations respecting signals	
Trains to stop at swing bridges until signalled, s. 122, s.-s. (1)	89
No train, engine or motor car shall pass over crossing of another line at rail-level until signalled, s. 124, s.-s. (1)	90
 SIGNBOARDS AT HIGHWAY CROSSINGS.	
Signboards shall be erected and maintained at every high- way crossing, s. 129, s.-s. (1)	93
 SLEEPING AND PARLOR CARS.	
S. 127.	92
 SNOW.	
To be removed from tracks, s. 217, s.-s. (i)	137
 SNOW FENCES.	
Company may erect snow fences on lands lying along rail- way, subject to payment for damages, s. 72	59
Board may authorize company to take lands for protection against snow-drifts, s. 74, s.-s. (1)	60
 SPEED OF TRAINS.	
Company may regulate speed at which rolling stock to be moved, s. 150, s.-s. (a)	100
Board may regulate and limit, s. 217, s.-s. (f)	135
 SPECIAL ACT.	
Expression means any Act under which company has authority to construct or operate a railway or street railway, s. 2, s.-s. 1	1
When Act applicable to street railways, includes charter, s. 2, s.-s. 1	2
Any section of this Act may be excepted by Special Act, s. 4	7
Provisions in Special Acts heretofore passed shall prevail unless otherwise expressed in this Act or the Special Act, s. 5	7
 SPECIFIC PERFORMANCE	 120

SPECIFIC SHIPMENTS,	PAGE
Company may make uniform special rates for perishable products, s. 173, s.-s. (3)	112
 SPEED,	
On highways, not to exceed 15 miles an hour, s. 217, s.-s. f 135	
 SPUR LINES (See BRANCH LINES),	
 STAFF OF BOARD (See ONT. RY. AND MUN. BOARD),	
 STATEMENT (ANNUAL) (See ANNUAL STATEMENTS),	
 STATIONS,	
Extent of lands which may be taken by company for stations, etc., s. 60	44
Company shall provide suitable accommodation at stations for all traffic offered, s. 128, s.-s. (1)	92
Not to be discontinued without consent of Board, s. 128, s.-s. (5)	93
Complaints to be investigated by Board, s. 128, s.-s. (6) ..	93
 STATISTICS,	
Every company shall annually furnish Board with returns, properly attested, of capital, traffic, working expenditure, etc., s. 228, s.-s. (1)	144
Such yearly returns shall be made to December 31st in each year, s. 228, s.-s. (2)	144
Such returns shall be furnished Board within 3 months after 31st of December in each year, s. 228, s.-s. (3) ..	145
Company shall furnish any information required by Board or Legislature, s. 228, s.-s. (4)	145
Returns as provided for in this section shall be transmitted to Lieutenant-Governor in Council, who shall lay the same before the Legislature within 21 days of opening of session, s. 228, s.-s. (5)	145
Company shall make return to Board of all accidents with particulars, s. 229	145
All returns so made shall be privileged communications except to enforce penalties for failure to return, s. 230	146
Board may require, by notice to company, returns setting forth particulars as specified of affairs generally of the company, s. 232	146
Board may summon and examine, under oath, any officer of company respecting returns, and may require production of documents, s. 233	147
Penalty for refusal to furnish returns, s. 234	147
Furnishing false returns shall be criminal offence, s. 235 ..	147

STEAM WHISTLE.	PAGE
Locomotives to be furnished with, s. 77	64
STOCK (See CAPITAL, SHARES, TRANSFER).	
Subscription for, not binding unless approved by resolution of directors and 10 per cent, paid within one month after subscription, s. 7, s.-s. (4)	9
Subscription to stock book sufficient evidence	9
STOPPING PLACES.	
Of electric railways subject to order of the Board, s. 81 ..	65
STREAM (See NAVIGABLE WATERS).	
STREETS (See HIGHWAYS).	
Shall include any highway, s. 2, s.-s. (14)	3
STREET CROSSINGS (See HIGHWAY CROSSINGS).	
STREET RAILWAYS.	
Definition of under this Act, s. 2, s.-s. (21)	5
Act not to apply to unless so expressed, s. 3, s.-s. (2)	7
Regulations as to equipment of cars of, s. 79, 82	64, 65, 66
Sections relating to organization to apply to, s. 50.....	29
Section 79 relation to equipment to apply to, s. 79, s.-s. (5) ..	65
Sections 190 to 221 to apply to, s. 189	119
Street railways and railways on highways, special provisions as to, s. 189	119
Powers of, s. 190	119
Freight traffic, s. 191	120
Agreements with municipalities as to construction and repair, s. 191	120
Operating on Lord's Day., s. 192	120
Exceptions, s. 193, s.-s. (1)	121
Penalties, s. 193, s.-ss. (3, 4, 5)	121, 122
Liability of conductor, s. 193, s.-s. (5)	122
Guard wires, s. 194, s.-s. (1)	122
Protection of pipes, etc., from injury, s. 194, s.-s. (2)	122
Liability for damage, s. 195	122
Forfeiture of franchise for non-user, s. 196, s.-s. (1)	123
Lien of municipality, s. 196, s.-s. (2)	123
Production and use of electricity, s. 196, s.-s. (1)	123
Acquiring power, s. 197, s.-s. (2, 3)	123
Parks, s. 197, s.-s. (4)	124
Acquiring rights to convey electricity, s. 197, s.-s. (5)	124
Construction on highways, s. 197, s.-s. 6	125
Notice to be given and objections heard before by-law passed, s. 198, s.-s. (1)	126
Appeal to Board to quash by-law, s. 198, s.-s. (3)	126

STREET RAILWAYS— <i>Continued.</i>	PAGE
Deviating from highway, s. 199	127
Exclusive rights to transmit electricity not to be given, s. 200	127
Expropriation by street railway, when allowed, s. 201, s-s. (1)	127
Duration of franchises of street railways, s. 202, s-s. (1)	128
Municipality assuming ownership, s. 202, s-s. (2)	128
Where more than one municipality interested, s. 203	128
Arbitration between municipalities, s. 204	129
Transfer of line from municipality to company, s. 205	129
Municipality when operating to be deemed a company, s. 207, s-s. (1)	130
Duration of franchise of electric railways on highways, s. 208, s-s. (2)	130
Powers of municipalities on expiration, s. 208, s-s. (3) ..	130
Notice of intention to take over line, s. 208	130, 131
Fenders, brakes, etc., s. 209, 212	131
Lavatories, s. 213	131
Sanitary conveniences on cars, s. 214	132
Unclaimed property, s. 215	133
Transfer of ownership of highways, s. 216	133
Agreements with municipalities, s. 217	134
What to be deemed contained in, s. 217	134
Radial lines, operating in cities, s. 218	138, 139
Agreements as to, s. 218	139
Limit of franchise, s. 218, s-s. (2)	139
Renewal of agreements, s. 218, s-s. (3)	140
Application of provisions as to street railways, s. 219	140
Existing agreements, s. 220	140
Motormen, examination of, s. 221	140
Examination for color blindness, s. 222	141
Actions for damages, limitation of, s. 223	141, 142
Extent of lands which may be taken for erection of buildings, s. 60	44
Headway of structures through or under which railway passes
 SUBPOENA (See ONT. RY. AND MUN. BOARD).	
Parties to arbitration may obtain, s. 98, s-s. (12)	51
 SUBROGATION.	
Of one municipality to the rights of another as to agreements with electric railway companies, s. 216	133
 SUBSIDIES.	
Company may receive grants and bonuses, s. 51, s-s. (2) ..	30
Rate of wages to be paid laborers on subsidized railways, in case of dispute, to be decided by Board, s. 225	143

SUBSIDIES—*Continued.*

PAGE

Statement of amount of subsidies received by company shall be furnished Board, if required, s. 232 146

SUMMARY INTERFERENCE (See INTERFERENCE).

SUNDAY CARS.

Street or electric railway not to operate on Lord's Day, s. 193, s.-s. (1) 121
 Exceptions, s. 193, s.-s. (2) 121
 Penalties, s. 193, s.-s. (3, 4, 5) 121, 122

SUPERANNUATION.

Company may pass resolutions to provide fund for allowance to retiring officers, s. 19 16

SUPERVISION.

Board may make orders as to the requirements of equipment, s. 80 65

SURETY.

No director of company shall have interest in any contract with company, or become partner of or surety for any contractor with company, s. 16 15

SURVEYS.

Company may enter upon any lands to make surveys of intended route for location of railway, s. 51, s.-s. (8) 31
 Proceedings to be taken after completion of survey of location, s. 66 46
 Sworn certificate of surveyor to accompany notice by company as to taking of lands, s. 68, s.-s. 2 47

SWITCHES and SIDINGS.

To industries, s. 70, s.-s. (1) (2) 58

T.

TAKING OF LANDS (See LANDS; EXPROPRIATION; ARBITRATION).

TAKING OR USING CROWN LANDS.

Company may take, with consent of Lieutenant-Governor in Council, s. 51, s.-s. (8) 31
 Extent of public beach or land covered with waters limited to quantity that may be taken without owner's consent, s. 54, s.-s. (2) 34

TARIFFS (See TOLLS).

Company may, by by-law, prepare and issue tariffs of tolls, s. 169, s.-s. (1) 108

TARIFFS—Continued.

PAGE

All such by-laws shall be submitted to and approved by Board, s. 169, s.-s. (2)	108
Board may approve or vary such by-laws, s. 169, s.-s. (3)	108
No tolls shall be charged until by-law of company has been approved by Board, s. 169, s.-s. (4)	108

TAXATION.

Municipalities may exempt from, s. 149	100
Costs under arbitration proceedings may be taxed by taxing officer, s. 68, s.-s. (10)	51

TELEGRAMS.

Telegraph operators shall transmit all messages ordered by inspecting engineer, s. 162, s.-s. (6)	104
---	-----

TELEGRAPH AND TELEPHONE LINES.

Company may divert or alter position of telegraph or telephone lines, wires or posts, s. 51, s.-s. (14)	32
Company may construct and operate lines on its railway, s. 56, s.-s. (1)	34
No poles to be erected without agreement with municipality, s. 56, s.-s. (1)	35
Municipal or other corporations may install telephones in railway stations upon authority of Board, s. 56, s.-s. (2)	35
Leave of Board must be obtained to cross railway lines, s. 56, s.-s. (3)	35
Plans to be submitted with application to Board, Board may state terms, s. 56, s.-s. (4)	35
General regulations as to construction of, s. 56, s.-s. (5)	36

TENANTS.

Authority to sell and convey lands, s. 61	44
---	----

TERMINALS.

Nothing in this section shall authorize company to extend railway beyond termini stated in Special Act, s. 55	34
Extent of land which may be taken by company for stations, etc., s. 60	44

TICKETS.

Badges to be worn by employees selling or collecting tickets, s. 115	86
Pupils' tickets, s. 171, s.-s. (2)	110

TIME.

Limitation of time for construction and operation of a railway, s. 111	85
For commencement of action, s. 223	141

TIME TABLES.	PAGE
Company may make regulations as to arrival and departure of trains, s. 150, s.-s. (6)	100
 "TOLL."	
Definition of expression in this Act, s. 2, s.-s. (10)	3
 TOLLS.	
Burden of proof in respect of unjust discrimination in collection of tolls shall lie on company, s. 176, s.-s. (1)	114
Right of action against company for neglect as to carriage, etc., of freight on payment of tolls, s. 128, s.-s. (2, 3)	93
Authority to company to issue tariff, s. 169, s.-s. (1)	108
By-laws establishing to be submitted to and approved by Board, s. 169, s.-s. (2)	108
Board may approve or vary by-laws, s. 169, s.-s. (3)	108
No tolls shall be charged until tariff approved by Board, s. 169, s.-s. (4)	108
Passenger fares on electric roads, s. 170	109
Board may apportion tolls for carriage by land and water if charges are considered discriminatory, s. 176, s.-s. (3)	114
Company may collect back charges, s. 170, s.-s. (1)	109
Company may collect tolls in court or by seizure, if payment refused, s. 170, s.-s. (2)	109
Goods may be sold if tolls not paid within six weeks, s. 170, s.-s. (3)	109
Unclaimed goods may be sold after 12 months, after public notice given, s. 170, s.-s. (4)	109
Balances on account of unclaimed goods sold to be paid to Provincial Treasurer, s. 170, s.-s. (5)	110
Unclaimed goods left on street railway cars may be sold, s. 215	132
 TRACKS (See ALTERATIONS, ANIMALS, FENCES, LOCATION, PACKING, RAILWAY CROSSINGS, REPAIRS, TRAFFIC, TRESPASSING).	
 TRAFFIC.	
Expression "traffic" means the traffic of passengers, goods and rolling stock, s. 2, s.-s. (25)	6
Company cannot relieve itself from liability for carriage of goods, s. 128, s.-s. (3)	93
Board may prescribe terms and conditions under which any traffic may be carried, s. 128, s.-s. (4)	93
Companies shall furnish free transportation for members of Legislature, also to Board and staff, s. 172	111
Special rates for perishable products may be made by company, s. 173, s.-s. (3)	112

TRAFFIC AGREEMENTS.

PAGE

Company may enter into agreement with any other company for interchange of traffic, s. 57, s.-s. (1)	36
Company may enter into agreement for running trains over tracks of another company, s. 58, s.-s. (1)	38

"TRAIN."

Definition of expression in this Act, s. 2, s.-s. (2)	6
---	---

TRAINS.

Provisions as to equipment of all trains, s. 76	62.	63
Communication with engine driver, s. 76, s.-s. (1)	62	62
Brakes and couplings, s. 76, s.-s. (2)	62	62
Freight cars, equipment with ladders, etc., s. 76, s.-s. (4)	63	63
Draw bars, height of, s. 76, s.-s. (6)	63	63
Fire, safeguards against, s. 76, s.-s. (7)	63	63
Modern equipment, s. 76, s.-s. 8	64	64
Penalty for non-compliance, s. 76, s.-s. (9)	64	65
Bells, whistles and gongs, ss. 77, 78	64,	65
Conductors and motormen, protection of, s. 79	65	65
Modification of regulations by Board, s. 80	65	65
Stopping places, s. 81	65	65
Open cars, side steps, s. 82	65.	66
All regular trains shall be started and run at regular hours, fixed by public notice, and furnish sufficient accommodation, s. 114	86	86
No passenger train, carrying passengers, shall haul freight cars in rear of any passenger car, s. 118, s.-s. (1) ..	87	87
Every train when approaching draw or swing bridge, shall be brought to a full stop until signalled, s. 122, s.-s. (1)	89	89
Section includes street railways, s. 122, s.-s. (3)	89	89
Board may make exception when inter-locking system provided, s. 122, s.-s. (2)	89	89
Whistle and bell to be sounded when train approaches highway crossing at rail-level, s. 123	89	89
No train or motor shall pass over crossing when two main lines of railway cross until signalled, s. 124, s.-s. (1)	90	90
Exception may be made by Board when interlocking switch and signal system provided s. 124, s.-s. (3)	91	91
Not to apply where Dominion Railway Commission has jurisdiction, s. 124, s.-s. 4	91	91
Regulation as to train moving reversely over or along highways, s. 125	91	91
No train shall be allowed to stand on highway crossing longer than five minutes, s. 126, s.-s. (1)	91	91

TRAINS— <i>Continued.</i>	PAGE
Notice of overdue trains must be posted at all stations, s. 129, s.-s. (1)	94
Limit of rate of speed of trains, s. 217, s.-s. (f)	135
TRANSFER OF TRAFFIC AND PASSENGERS, s. 57, s.-s.	
(2)	37
TRANSFER OF SHARES (See SHARES).	
TRANSMISSION OF POWER ON RIGHT OF WAY, s. 256 ..	
	155
TRANSPORTATION (See DISCRIMINATION, FACILITIES, and FREE TRANSPORTATION).	
Travelled portion of highway, meaning of, s. 217, s.-s. (o) ..	138
TREASURER.	
Certificate of treasurer of company as to proportion of shares, s. 33	21
TREES.	
Company may fell or remove trees within 6 rods on either side of right of way, but shall make full compensation to owner, s. 51, s.-s. (10)	31
TRESPASSING.	
All cattle, sheep, etc., at large on highway near railway crossing may be impounded for trespass, s. 238, s.-s. (2)	149
Every person who enters upon property of company with- out authority shall be liable to penalty, s. 240, s.-s. (1)	150
Cannot maintain action	150
TROOPS (See MILITARY FORCES, NAVAL FORCES).	
TRUST.	
Directors shall accept bonds, &c., for security of officers occupying positions of trust, s. 18	16
Disposition of compensation money held in trust, s. 28, s.-s. 1.	56
TRUSTEES.	
Rights and remedies of trustees under mortgage given by company, ss. 45-47	27, 28
No proceedings shall be taken to enforce payment of secu- rities or interest thereon except through trustees un- der mortgage deed, s. 46	27

TRUSTS.	PAGE
Company not bound to see to execution of, s. 28	20
U.	
UNCLAIMED GOODS.	
May be sold if tolls not paid within six weeks, s. 170, s.-s.	
3.....	109
May be sold after twelve months, after notice given, s. 170,	
s.-s. 4.....	109
As to disposition of balance on account of unclaimed goods	
sold, s. 170, s.-s. 5.....	109
Left on street railway cars may be sold, s. 215	132
UNDERGROUND WIRES.	
Right to lay with consent of municipality, s. 197, s.-s. (5).	124
UNDERTAKING.	
Definition of, s. 2, s.-s. 4	1
UNDUE PREFERENCE (See DISCRIMINATION).	
No company shall give undue advantage in traffic in favour	
of any person or company, s. 174	112
UNIFORM.	
Every employee of company in passenger train or station	
shall wear a badge indicating his office, s. 115.....	86
UNJUST PREFERENCE (See DISCRIMINATION).	
V.	
VACANCIES (See ONTARIO RAILWAY AND MUNICIPAL BOARD).	
In board of directors to be filled in manner prescribed by	
by-laws, s. 14, s.-s. (3)	14
Directors appointed in case of vacancy to hold office until	
next ensuing election, s. 14, s.-s. (5)	14
In board of directors caused by death, &c., how to be filled,	
s. 14, s.-s. (6)	14
In office of arbitrator, how to be filled, s. 68, s.-s. (16)	52
VESSELS.	
Board may apportion tolls for carriage by land and water	
if charges are considered discriminatory, s. 176, s.-s.	
(3)	114
Company may own, s. 51, s.-s. (5)	30

VIADUCTS (See BRIDGES)	PAGE
VICE-PRESIDENT.	
Directors of company may elect, s. 14, s.-s. (7)	14
Powers of in absence or illness of president, s. 21.....	16
VIOLATION (See OFFENCES and PENALTIES).	
VOTES.	
Each shareholder shall be entitled to vote in proportion to number of shares held by him, s. 12, s.-s. (2)	12
Shareholders may vote by proxy, s. 12, s.-s. (3).....	12
By proxy shall be valid as if constituent had voted in per- son, s. 12, s.-s. (4)	12
W.	
WAGES OF LABOURERS.	
On subsidized railways to be determined by Board, in the event of dispute as to rates, s. 225	143
Lien for, s. 226	144
Hours of labour, s. 227	144
WALKING ON RAILWAY.	
Every person not connected with railway is liable to pen- alty for walking along track, s. 240	150
Warning of approach of train or car, failure to give,	89
WARRANT OF POSSESSION.	
Where forcible resistance is offered, company may obtain warrant for possession of lands, s. 68, s.-s. (22)	54
Judge may grant warrant for immediate possession of lands before award in certain cases, s. 68, s.-s. (23)....	54
Judge shall not grant warrant unless 10 days' notice of application has been served on owner of land, s. 68, s.-s. (24)	55
Company shall deposit security for probable costs and compensation before issue of warrant, s. 68, s.-s. (24).	55
WATCHMAN.	
Watchman at rail-level crossings to signal before train crosses, s. 124, s.-s. (1)	90
WATERCOURSES.	
May be diverted, s. 51, s.-s. (12)	32
When diverted must be restored, s. 51, s.-s. 4	30
Obstruction of,	46
What constitutes,	68

	PAGE
WATER PIPES.	
May be diverted, s. 51, s.-s. (14)	32
Must be protected from injury by electricity, s. 194, s.-s. (2)	122
WATER TRAFFIC.	
Board may apportion tolls for carriage by land and water if charges are considered discriminatory, s. 176, s.-s. (3)	114
WEEDS.	
On right of way must be removed by company, s. 105, s.-s. (1)	81
Penalty for default, and rights of municipality, s. 105, s.-s. (2), (3)	81
Company shall at all times maintain right of way free from s. 106, s.-s. (1)	81
WHARF.	
Extent of lands which company may take for docks, &c., s. 51, s.-s. (5)	30
WHISTLE (See STEAM WHISTLE).	
WITNESSES.	
Board may summon, &c., witnesses for examination under oath as to returns, s. 233	147
Shall be examined by arbitrators on oath or by solemn affirmation, s. 68, s.-s. (11)	51
Any party to arbitration proceedings may issue subpoena, s. 68, s.-s. (12)	51
Fees and allowances to be same as in civil cases, s. 68, s.-s. (13)	51
Costs in discretion of arbitrators, &c., s. 68, s.-s. (10) ..	50
WORKMEN'S TICKETS	120
"WORKING EXPENDITURE."	
Definition of expression in this Act, s. 2, s.-s. (24)	5
WORKING OF TRAINS (See TRAINS, OPERATION OF RAIL- WAYS).	
Y.	
YEAR.	
Annual returns to be furnished to Board by company, s. 228, s.-s. (1)	144
Returns of all accidents to be furnished to Board semi- annually, s. 229	145
APPENDICES.	
The Ontario Railway and Municipal Board Act,	160
An Act respecting certain Railway and other Corporations	190
Rules of practice and procedure, &c., of Board	192
General form of Act of incorporation,	224

