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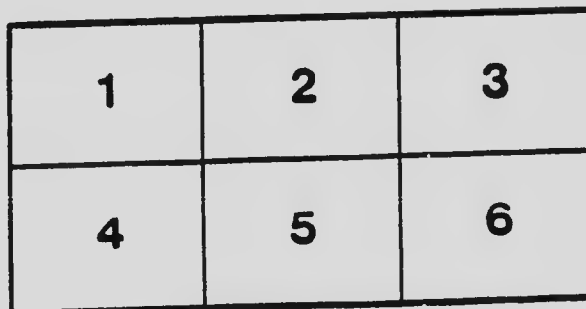
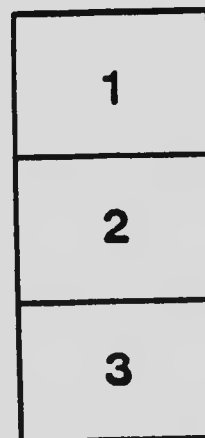
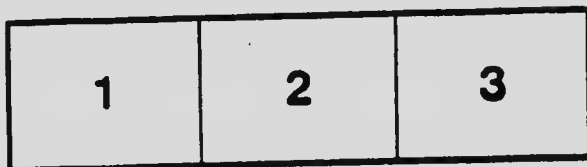
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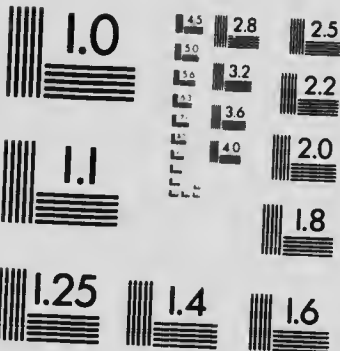
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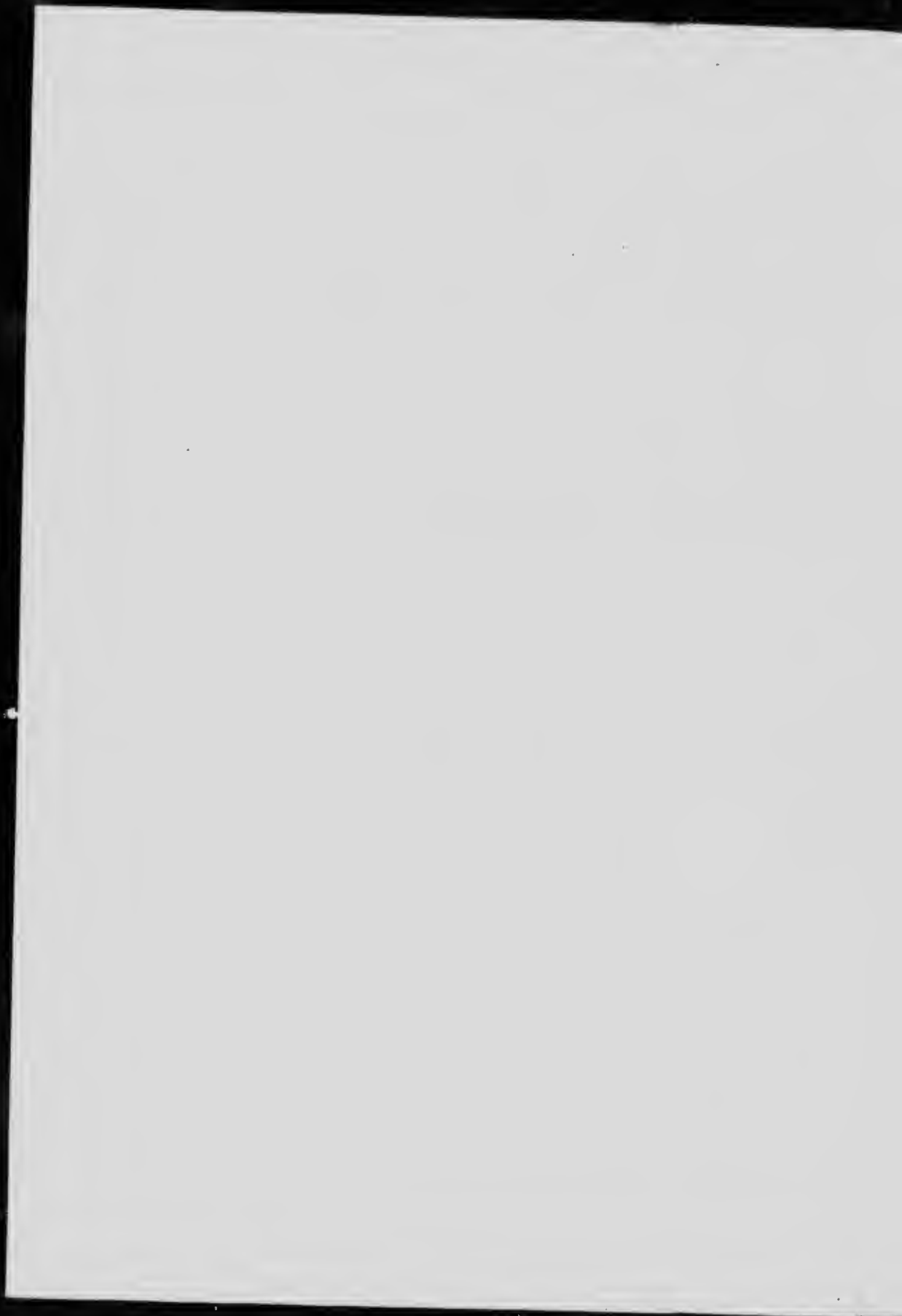
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T

A CONCORDANCE

OF

THE RAILWAY ACT, 1903

COMPILED BY

J. E. W. CURRIER

OF THE

DEPARTMENT OF RAILWAYS AND CANALS

OTTAWA:

1904

101228-1000

1.10

Entered according to Act of the Parliament of Canada, in the year one thousand
nine hundred and four, by J. E. W. CURRIER, at the Department of
Agriculture, at Ottawa.

PRINTED BY
THE ROLA L. CHAIN CO. LIMITED
174-178 Wellington St.
Ottawa.

00049264

EXPLANATORY.

The Railway Act, 1903, Chapter 58, contains 311 sections, besides schedules of forms to be used by railway companies in making the various returns required by the Act. These sections are divided into sub-sections, rendering it necessary to make a great many references to fully cover the scope of the Act, the actual number being 1,600.

The compiler has endeavoured to make each reference as clear as possible, in order that any section or subject may be identified before referring to the Act itself, and has also thought it wise to dispense with abbreviations.

THE RAILWAY COMMISSION FOR CANADA.

HON. M. E. BERNIER.....Deputy Chief Commissioner.

JAS. MILLS, Esq., M.A., LL.D.

A. D. CARTWRIGHTSecretary.

OFFICES: 66 QUEEN STREET, OTTAWA, CANADA.

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4 EDWARD VII.

CHAP. 31

An Act to amend the Railway Act, 1903.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Notwithstanding anything in any Act heretofore passed by Parliament, no railway company within the jurisdiction or legislative power or control of Parliament shall be relieved from liability for damages for personal injury to any workman, employee or servant of such company, nor shall any action or suit by such workman, employee or servant, or, in the event of his death, by his personal representatives, against the company, be barred or defeated by reason of any notice, condition or declaration made or issued by the company, or made or issued by any insurance or provident society or association of railway employees formed, or purporting to be formed, under such Act; or by reason of any rules or by-laws of the company, or rules or by-laws of the society or association; or by reason of the privity of interest or relation established between the company and the society or association, or the contribution or payment of moneys of the company to the funds of the society or association; or by reason of any benefit, compensation or indemnity which the workman, employee or servant, or his personal representatives, may become entitled to or obtain from such society or association or by membership therein; or by reason of any express or implied acknowledgment, acquittance or release obtained by the company or the society or association prior to the happening of the wrong or injury complained of, or the damage accruing, to the purport or effect of relieving or releasing the company from liability for damages for personal injuries as aforesaid.

No agreement with employees to relieve company from liability for personal injury.

2. Upon the passing of this Act the Governor in Council shall submit to the Supreme Court of Canada for its determination the question of the competency of this Parliament to enact the provisions hereinbefore set forth; and in the event of the said Court determining that the said provisions are within the powers of this Parliament, and the time for appeal having elapsed,—or in case of appeal being taken and prosecuted, then in the event of it being determined by the Judicial Committee of the Privy Council that the said provisions are within the powers of Parliament as aforesaid,—the Governor in Council shall thereupon name a day, by proclamation, for the coming into force of this Act, and this Act shall take effect and come into force upon the day so named accordingly.

Question of validity of this Act to be referred to Supreme Court.



4 EDWARD VII.

CHAP. 32

An Act to amend the Railway Act, 1903.

1903, c. 58.

In amendment of *The Railway Act, 1903*, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Orders of Railway Committee of Privy Council made under former Acts.

1. Notwithstanding anything contained in *The Railway Act, 1903*, the Governor in Council shall have, and shall be deemed to have had since the date upon which the said Act came into force, power, authority and jurisdiction to sanction, confirm, rescind, change or vary, or to take other action upon, any report, order or decision of the Railway Committee of the Privy Council made before the said date under the Railway Act of 1888, or any Act in amendment thereof, in as full and ample a manner as if *The Railway Act, 1903*, had not been passed, or had not come into force, and as if the said Railway Act of 1888, and the said Acts in amendment thereof had not been repealed; and any order or decision so sanctioned or confirmed shall have the same validity, force and effect as if the said order or decision had been so sanctioned or confirmed prior to the passing of *The Railway Act, 1903*.

New Section.

2. *The Railway Act, 1903*, is amended by inserting after section 6 the following section:—

Provincial Sunday observance laws to apply to local railways.

" 6a. Notwithstanding anything in this Act or in any other Act, every railway, steam or electric street railway, and tramway, wholly situate within one province of Canada, but, in its entirety or in part, declared by the Parliament of Canada to be a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating it wholly or partly, in respect of such ownership, control or operation, shall, notwithstanding such declaration, be subject to any Act of the legislature of the province in which it is situate, prohibiting or regulating work, business or labour upon the first day of the week, commonly called Sunday, which is in force at the time of the passing of this Act; and every such Act is hereby, in so far as it is in other respects within the powers of the legislature, confirmed and ratified, and made as valid and effectual for the purposes of this section as if it had been duly enacted by the Parliament of Canada.

" 2. The Governor in Council may at any time and from time to time by proclamation confirm, for the purposes of this section, any Act of the legislature of any province passed after the passing of this Act for the prohibition or regulation of work, business or labour upon the first day of the week, commonly called Sunday; and from and after the date of any such proclamation the Act thereby confirmed, in so far as it is in other respects within the powers of the legislature, shall, for the purposes of this section, be confirmed and ratified, and made as valid and effectual as if it had been enacted by the Parliament of Canada; and, notwithstanding anything in this Act, or in any other Act, every railway, steam or electric street railway, and tramway, wholly situate within such province, but declared by the Parliament of Canada to be, in its entirety or in part, a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating it wholly or partly, in respect of such ownership, control or operation, shall thereafter, notwithstanding such declaration, be subject to the Act so confirmed, in so far as that Act is otherwise *intra vires* of the legislature.

Confirmation
of provincial
law by
Governor in
Council

" 3. This section shall not apply, so as to interfere with or affect through traffic thereon, to any railway or part of a railway which forms part of a continuous route or system operated between two or more provinces, or between any province and a foreign country, or to any railway or part of a railway between any of the ports on the Great Lakes, and such continuous route or system; nor shall it apply to any railway or part of a railway which the Governor in Council, by proclamation, declares to be exempt from the provision of this section."

Certain
railways
excepted.

3. Section 59 of *The Railway Act, 1903*, is amended by inserting after the words "Act," in the fifth line thereof, the following words " or on such other terms as the directors may determine."

4. In order to the ascertainment of the true net earnings of the Eastern Division of the Grand Trunk Pacific Railway, for the purposes of the schedule annexed thereto in the Act of the present session intitled "An Act to amend *The National Transcontinental Railway Act*, and for the ascertainment of the true net earnings of the Grand Trunk Pacific Railway Company, upon its system of railways at all times when the principal or interest of any bonds made by the said company and guaranteed by the Government, are unpaid by the said company, the Board of Railway Commissioners of Canada shall, at the request of the Minister of Railways and Canals, enquire into, hear and determine any question as to the apportionment of the net rate or rates between the Grand Trunk Pacific Railway Company and any other transportation company, whether such other company be a railway company, or, if a railway company, whether it is or is not as such subject to the legislative jurisdiction of the Parliament of

Ascertainment
of net earnings
of Grand Trunk
Pacific Ry.

Canada, for the purpose of determining whether such apportionment is just and reasonable, having due regard to the interest of the Government of Canada as owner of the said Eastern Division and of the Intercolonial Railway, or as guarantor of any such principal or interest, and to the provisions of *The National Trans-continental Railway Act*, and of the said Act of the present session, and of the said scheduled agreements— which Acts and agreements are hereby declared to be part of the special Act of or respecting the Grand Trunk Pacific Railway Company within the meaning of paragraph (iv.) of section 2 of *The Railway Act, 1903*, and in any such case the fact that the Grand Trunk Pacific Railway Company has agreed to such apportionment shall be material evidence only and not conclusive; and such net earnings shall then be ascertained upon the basis of the receipt by the Grand Trunk Pacific Railway Company of such share of such through rate or rates as, in the opinion of the said Board, that company should have received under a just and reasonable apportionment: Provided always, that either party to any such question may appeal from any such determination to the Supreme Court of Canada.

Appeal to
Supreme Court.

Majority of
directors of
subsidized
company to be
British subjects.

Proviso.

5. The majority of the directors of any company which has heretofore received, or hereafter receives, from the Government of Canada, under any Act of the Parliament of Canada, aid towards the construction of its railway or undertaking, or any part thereof, shall be British subjects: Provided, that this section shall not, until the thirty-first day of January, one thousand nine hundred and five, apply to any company the majority of whose directors are not British subjects when this Act comes into force.

BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

The Railway Act, 1903.

MEMORANDUM of plans, documents and action required under various sections of "The Railway Act," 1903, chapter 58.

No. 1. *General Location of Railway*—Section 12—124.

(a) Send to Secretary of the Department of Railways and Canals: 3 copies of *map* showing the general location of the proposed line of railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railway navigable streams and tide-water, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and generally, the physical features of the country through which the railway is to be constructed.

1st copy to be examined and approved by the Minister and filed in the Department of Railways and Canals.

2nd copy to be approved by Minister for filing by the company with the Board.

3rd copy to be approved by Minister for the Company.
Scale of Map—not less than 6 miles to the inch.

(b) Upon approved general location map being filed by the Company with the Board, send to the Secretary of the Board three sets of plans exactly 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.

(N.B.—In prairie country, scale may be 1,000 ft. to the inch.)

Profile { Horizontal, 400 feet.
 } Vertical, 20 feet.

No. 2.—*To alter Location of Line previously sanctioned or completed.*

Section 130.

Send to the Secretary of the Board three sets of plans, profiles and books of reference, as required No. 1 (b).

(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 (b).

No. 3.—*Plans of Completed Railway.* Section 128.

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 (b).

No. 4.—*To take additional lands for Stations, Snow Protection, &c.*

Section 139.

Send to the Secretary of the Board three sets of plans and documents, as follows:—

1st set —	1 application sworn to by officers required to sign and certify plans. See "General Notes." 1 plan, 1 profile, 1 book of reference.	} To be examined and certified and deposited with the Board.
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2nd set—Same as 1st.	}	} For certificate and return for registration with duplicate authority.
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3rd set Same as 1st.	}	} For certificate and return to company with copy of authority.
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Scale—same as No. 1 (b).

(N.B.—Ten days' notice of application must be given by the applicant Company to the owner or possessor of the property, and copies of such notice, with affidavits of service thereof must be furnished to the Board on the application.

No. 5.—*Branch Lines, not exceeding six miles—Section 175.*

(a) 1 plan, profile and book of reference same as No. 1
 (b) to be deposited in Registry Office.

Upon such registration, 4 weeks' public notice of application to the Board to be given.

Send to the Secretary of the Board an application, with three copies of the plan, profile and book of reference so deposited in the Registry Office.

1st set to be filed with the Board.

2nd set, with certified copy or order, to be returned to Company.

3rd set, with certified copy of order, to be returned to Company for registration.

A map showing the adjacent country, neighbouring lines, &c., must be sent to the Secretary of the Board with the application.

Proof of registration and of public notice having been duly given will be required upon the application.

Scale—same as No. 1 (b).

No. 6.—*Railway Crossings or Junctions*—Section 177.

Send to the Secretary of the Board with an application, three sets of plan and profile of both roads at point of crossing.

Scale—Plan—100 feet to an inch.

Profile $\left\{ \begin{array}{l} 100 \text{ feet to inch horizontal.} \\ 20 \text{ feet to inch vertical.} \end{array} \right.$

Also, three sets of plan and profile of both roads on either side of the proposed crossing for a distance of two miles.

Scale—Plan—400 feet to an inch.

Profile $\left\{ \begin{array}{l} 400 \text{ feet to inch horizontal.} \\ 20 \text{ feet to inch vertical.} \end{array} \right.$

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.

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 work, application must be made to the Board for leave to operate.

No. 7.—*Highway Crossings*—Sections 184 to 191.

Send to the Secretary of the Board, with an application, three sets of plans and profiles of the crossings.

Scale—Plan—100 feet to inch.

Profile { 100 feet to inch horizontal.
 { 20 feet to inch vertical.

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 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.

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 of the application.

No. 8.—*Crossings and Works upon Navigable Waters, Beaches, &c.*—Section 182.

Upon site and general plans being approved by the Governor in Council, send to the Secretary of the Board:

Certified copy of Order in Council, with plans and description approved thereby—1 application and 4 sets of detail, plans, profiles, drawings and specifications.

1st set for filing with Board.

2nd set to be certified and returned to Company with certified copy of order.

3rd and 4th sets for the Board.

Upon completion of work application must be made to the Board for leave to operate.

GENERAL NOTES.

Plans (for Nos. 1 (b) to 5) must show the right of way, with lengths of sections in miles, the names of terminal points, the station grounds, the property lines, owner's 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.

No. 9.—*Bridges, tunnels, viaducts, trestles &c.*, over 18 ft. span—Section 203.

(a) Must be built in accordance with standard specifications and plans, approved of by the Board.

(b) Or detail plans, profiles, drawings and specifications must be sent to the Secretary of the Board for approval, &c., as in No. 8.

No. 10.—*Stations.*—Section 204.

Send to the Secretary of the Board:—

- 2 sets of detail plans, profiles, drawings and specifications, with an application for approval.
- 1st set for filing with the Board.
- 2nd set to be certified and returned to Company with certified copy of Order of approval.

Profiles will show the grades, curves, highway and railway crossings, open drains and water courses.

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.

All plans and profiles must be made on tracing linen; profiles must be made on separate pieces of tracing linen from the plans.

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 near as possible to 7½ inches by 7 inches.

FORM OF BOOK OF REFERENCE REQUIRED.

..... Railway Company.

..... Division or Province..... Branch.

Book of Reference to accompany Location Plan, showing Lands required for Railway purposes.

Station to	Station	Width of Rwy	Owner	Part of Lot	Section of Lot	Township, Parish, Block or Number of Claims	Range	Contents Acres	Remarks

An application must accompany every plan or document forwarded to the Board, and such application must express clearly the particular purpose for which such plan or document is intended, and shall specify the Special Act or Acts of Parliament, and section or sections thereof, under which the Company is authorized to construct the proposed railway or work.

INTERLOCKING SYSTEM.

RULES FOR SIGNALS AND SPEED OF TRAINS WHERE ONE STEAM RAILWAY CROSSES ANOTHER AT RAIL LEVEL.

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 trains can proceed.

When 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.

Board of Railway Commissioners for Canada,

Ottawa, August, 1904.

GENERAL REQUIREMENTS.

APPLICABLE TO STEAM RAILWAYS FOR INTERLOCK- ING, DERAILING AND SIGNAL SYSTEM AT CROSS- INGS AT RAIL LEVEL AND AT JUNCTIONS.

The plan and construction of interlocking, signalling and derailling 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 or 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. 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 post should be placed on engineman's side of track it governs.

6. 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.

7. In case there are crossovers, turnouts, or other connecting tracks involved in the general system, the movements 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 such 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.

8. 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, &c.

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, &c., corresponding to levers in tower.

It is intended herein to state general rules, which will govern the construction of any proposed system of interlocking. 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 be put on the system.

Board of Railway Commissioners for Canada,

Ottawa, August, 1904.

GENERAL REQUIREMENTS FOR INTER-LOCKING AT DRAWBRIDGES.

Interlocking, signalling and derailling systems to be used at draw-bridges 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 signals and derails are set against the approaching train movement.
2. Where the grade is practically level the derailling 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 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 not be 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 operates, and on the same side of the track. The distance signal should be distinguished by a notch cut in the end of the semaphore arm.
6. The arms and backlights of all signals should be visible to the signalman in the tower. If from any cause, the arm or light of any signal cannot be placed so as to be seen by the signalman, 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 six feet in advance of derail, should extend thence toward the end of 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.

Board of Railway Commissioners for Canada,
Ottawa, August, 1904.

CHAP. 58.

THE RAILWAY ACT

1903

CHAP. 58.

THE RAILWAY ACT, 1903.

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3 EDWARD VII.

CHAP. 58.

An Act to amend and consolidate the law respecting
Railways.

[Assented to 24th October, 1903.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

I.—SHORT TITLE.

1. This Act may be cited as *The Railway Act, 1903.* Short title.

II.—INTERPRETATION.

2. In this Act, and in the Special Act incorporating any railway company to which this Act, or any part thereof, applies, unless the context otherwise requires,—

(a.) The expression "Board" means the "Board of Railway Commissioners for Canada"; Interpre-
tion.
"Board."

(b.) The expression "by-law," when referring to the act of the company, includes a resolution; "By-law."

(c.) The expression "company" means a railway company, and includes any person having authority to construct or operate a railway; "Company."

(d.) The expression "costs" includes fees, counsel fees, and expenses; "Costs."

(e.) The expression "county" includes any county, union of counties, riding, or like division to that of a county in any province, or in the province of Quebec, any division thereof into separate municipalities; "County."

(f.) The expression "court" means a superior court of the province or district; "Court."

(g.) The expression "Exchequer Court" means the Exchequer Court of Canada. "Exchequer
Court."

(h.) The expression "goods" includes personal property of every description that may be conveyed upon the railway, or upon steam vessels, or other vessels connected with the railway; "Goods."

- "Highway." (i.) The expression "highway" includes any public road, street, lane or other public way or communication ;
- "Inspecting engineer." (j.) The expression "inspecting engineer" means an engineer who is directed by the Board, or by the Minister, to examine any railway or works, and includes two or more engineers when two or more are so directed ;
- "Judge." (k.) The expression "judge" means a judge of a superior court ;
- "Justice." (l.) The expression "justice" means a justice of the peace acting for the district, county, riding, division, city or place where the matter requiring the cognizance of a justice arises, and who is not interested in the matter ; and when any matter is authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together ;
- "Lands." (m.) The expression "lands" means the lands, the acquiring, taking or using of which is incident to the exercise of the powers given by this or the Special Act, and includes real property, messuages, lands, tenements and hereditaments of any tenure ;
- "Lease." (n.) The expression "lease" includes an agreement for a lease ;
- "Minister." (o.) The expression "Minister" means the Minister of Railways and Canals ;
- "Owner." (p.) The expression "owner," when, under the provisions of this Act or the special Act, any notice is required to be given to the owner of any lands, or when any act is authorized or required to be done with the consent of the owner, means any 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 ;
- "Plan." (q.) The expression "plan" means a ground plan of the lands and property taken or intended to be taken ;
- "Provincial legislature." (r.) The expression "legislature of any province" or "provincial legislature" means and includes any legislative body other than the Parliament of Canada ;
- "Railway." (s.) The expression "railway" means any railway which the company has authority to construct or operate, and includes all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct ;
- "Rolling stock." (t.) The expression "rolling stock" means and includes 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 ;
- "Secretary." (u.) The expression "Secretary" means the Secretary of the Board ;
- "Sheriff." (v.) The expression "sheriff" means the sheriff of the district, county, riding, division, city or place within which are situated any lands in relation to which any matter is required

to be done by a sheriff, and includes an under sheriff or other lawful deputy of the sheriff;

(*w.*) The expression "Special Act" means any Act under which the company has authority to construct or operate a railway, or which is enacted with special reference to such railway, and includes all such Acts; and where such authority is derived from any letters patent granted under any Act, such letters patent shall be deemed to form part of such Act; "Special Act."

(*x.*) The expression "toll" or "rate" means and includes any toll, rate or charge made for the carriage of any traffic, or for the collection, loading, unloading or delivery of goods, or for warehousing or wharfage, or other services incidental to the business of a carrier; "Toll."

(*y.*) The verb "charge," when used with respect to tolls, means and includes to quote, charge, demand, levy, take or receive; "Charge."

(*z.*) The expression "traffic" means and includes passengers, goods and rolling stock; "Traffic."

(*aa.*) The expression "train" includes any engine, locomotive or other rolling stock; "Train."

(*bb.*) The expression "the undertaking" means the railway and works, of whatsoever description, which the company has authority to construct or operate; "Undertaking."

(*cc.*) The expression "working expenditure" means and includes 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 all 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, insurance and compensation for accidents or losses; 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; "Working expenditure."

(*dd.*) When any matter arises in respect of any lands which are not situated wholly in any one district, county, riding, division, city or place, and which are the property of one and the same person, the expressions "clerk of the peace," "justice," and "sheriff" respectively mean any clerk of the peace, justice or sheriff for any district, county, riding, division, city or place within which any portion of such lands is situated; and the expressions "clerk of the peace" and When lands not situated wholly in one district.

"sheriff" respectively include the like persons as in other cases. 51 V., c. 29, s. 2, Am.

Provisions to apply to this section.

2. The provisions of this section shall apply to the construction thereof, and to the words and expressions used therein.

III.—APPLICATION OF ACT.

Application of Act.

3. This Act shall apply to all persons, companies and railways (other than Government railways) within the legislative authority of the Parliament of Canada, and shall be incorporated and construed, as one Act, with the Special Act, subject as herein provided. 51 V., c. 29, s. 3, Am.

Any section may be excepted by Special Act.

4. Any section of this Act may, by any Special Act passed by the Parliament of Canada, 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.

Or may be extended, limited or qualified

5. If in any Special Act heretofore passed by the Parliament of Canada it is enacted that any provision of the General 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, where the provisions of this Act and of any Special Act passed by the Parliament of Canada relate to the same subject-matter, the provisions of the Special Act shall be taken to over-ride the provisions of this Act in so far as is necessary to give effect to such Special Act. 51 V., c. 29, ss. 5 and 6, Am.

As to exceptions, etc., previous to this Act.

Conflict between this Act and Special Act.

Where railway declared to be work for general advantage of Canada.

6. Where any railway, the construction or operation of which is authorized by a Special Act passed by the Legislature of any province, is declared, by any Special Act of the Parliament of Canada, to be a work for the general advantage of Canada, this Act shall apply to such railway, and to the company constructing or operating the same, to the exclusion of such of the provisions of the Special Act of the Provincial Legislature as are inconsistent with this Act, and in lieu of any General Railway Act of the province.

7. Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a Special Act passed by the Legislature of any province, now or hereafter connecting with or crossing a railway which, at the time of such connection or crossing, is subject to the legislative authority of the Parliament of Canada, is hereby declared to be a work for the general advantage of Canada in respect only to such connection or crossing or to through traffic thereon or anything

anything appertaining thereto, and also to the provisions set forth in this Act relating to offences and penalties, navigable waters and criminal matters, and this Act shall apply to that extent only.

2. This section shall not, however, operate as regards through traffic on railways owned by any Provincial Government, without the consent of such government.

IV.—COMMISSION

Name, Constitution, Duties, etc.

8. The Railway Committee of the Privy Council is hereby abolished and, in lieu thereof, there shall be a Commission, to be known as the "Board of Railway Commissioners for Canada," consisting of three members who shall be appointed by the Governor in Council, at any time after the passing of this Act, and from time to time as vacancies occur. Such Commission shall be a Court of Record, and have an official seal which shall be judicially noticed. Each Commissioner shall hold office during good behaviour for a period of ten years from the date of his appointment, but may be removed at any time by the Governor in Council for cause; and shall cease to hold office upon reaching the age of seventy-five years. Each Commissioner on the expiration of his term of office shall be eligible for reappointment. One of such Commissioners shall be appointed, by the Governor in Council, Chief Commissioner of the Board, and shall be entitled to hold the office of Chief Commissioner so long as he continues a member of the Board; and another of the Commissioners shall be appointed by the Governor in Council, Deputy Chief Commissioner of the Board. Sub for 51 V., c. 29, s. 8.

2. Whenever by an Act or document the Railway Committee of the Privy Council is given any power or authority, or any duty is cast upon it, in regard to any company, railway, matter or thing, the power or authority so given, or the duty so cast upon the said Committee, may or shall, as the case may be, be exercised by the Board.

9. In case of the absence of the Chief Commissioner, or of his inability to act, the Deputy Chief Commissioner shall exercise the powers of the Chief Commissioner in his stead; and in such case all regulations, orders and other documents signed by the Deputy Chief Commissioner shall have the like force and effect as if signed by the Chief Commissioner. Whenever the Deputy Chief Commissioner appears to have acted for and instead of the Chief Commissioner, it shall be conclusively presumed that he so acted in the absence or disability of the Chief Commissioner within the meaning of this section.

10. Not less than two Commissioners shall attend at the hearing of every case, and the Chief Commissioner, when present,

Exception.

sent, shall preside, and his opinion upon any question, which in the opinion of the Commissioners 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 Commissioner may act alone for the Board.

Interest, kindred or affinity not a disqualification.

Appointment pro hac vice

Commissioners not to hold railway stock, etc.

11. No Commissioner shall be disqualified to act, by reason of interest, or of kindred or affinity to any person interested in any matter before the Board; but whenever any Commissioner is interested or of kin or affinity to any such person, the Governor in Council may either upon the application of such Commissioner or otherwise, appoint some disinterested person to act as Commissioner *pro hac vice*. The Governor in Council may also appoint a Commissioner *pro hac vice* in the case of sickness, absence or inability to act, of any Commissioner.

2. No Commissioner 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 subject to this 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 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 Commissioner 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 sell and dispose of the same, or his interest therein.

Residence.

12. Each Commissioner shall during his term of office reside at Ottawa, in Canada, or within five miles thereof, or within such distance thereof as the Governor in Council at any time determines.

Duty of Board

13. The Commissioners 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.

Offices at Ottawa.

14. The Governor in Council, upon the recommendation of the Minister, shall provide, within the city of Ottawa, a suitable place in which the sessions of the Board may be held, and also suitable offices for the Commissioners, 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.

Sessions of Board outside of Ottawa.

15. Whenever circumstances render it expedient to hold sessions with the same in any place other than the city of Ottawa, the Board may hold the same in any part of Canada.

16. The Commissioners shall sit at such times 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 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. Any two members of the Board shall constitute a quorum. No vacancy in their body shall impair the right of the remaining Commissioners to act.

Sittings, how conducted

17. There shall be a Secretary of the Board, who shall be appointed by the Governor in Council, shall hold office during pleasure, and shall reside in the city of Ottawa. It shall be the duty of the Secretary to attend all sessions of the Board, to keep a record of all proceedings conducted before the Board, or any Commissioner 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. Sub. for 51 V., c. 29, s. 9.

Secretary.

Duties of Secretary.

18. It shall be the duty of the Secretary to have every regulation and order made by the Board, drawn pursuant to the resolution of the Board, signed by the Chief Commissioner, sealed with the official seal of the Board, and filed in the office of the Secretary.

Regulations and orders of the Board.

2. The Secretary shall 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.

Record books.

Evidence.

3. Upon application of any person, and on payment of such fees as the Board may prescribe, the Secretary shall deliver to such applicant a certified copy of any such regulation or order.

Certified copies of regulations or orders.

19. In the absence of the Secretary from sickness or any other cause, the Board may appoint from its staff an Acting Secretary, who shall thereupon act in the place of the Secretary, and exercise his powers.

Acting Secretary.

20. The Chief Commissioner shall be paid an annual salary of ten thousand dollars, and the other two Commissioners shall be paid each the annual salary of eight thousand dollars. The Secretary shall receive a salary to be fixed by the Governor in Council, not more than four thousand dollars, annually. Such salaries shall be paid monthly out of the unappropriated funds in the hands of the Receiver General for Canada.

Salaries.

21. The Governor in Council may from time to time, or as the occasion requires, appoint one or more experts, or persons having

Experts.

having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board.

Staff of Board.

Salaries.

Payment of appointee to make inquiry.

Salaries and expenses of staff, &c., how to be paid.

2. There shall be attached to the Board such officers, clerks, stenographers and messengers, as the Board, with the approval of the Governor in Council, from time to time appoints, at such salaries or remunerations as are recommended by the Board and approved by 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, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act, such person shall be paid therefor such sum for services and expenses as the Governor in Council upon the recommendation of the Board, may, in such cases, determine.

4. The salaries or remunerations of all such officers, clerks, stenographers, messengers, and appointees, and all the expenses of the Board of, and incidental to, the carrying out of this Act, including all actual and reasonable travelling expenses of the Commissioners, Secretary, and of such appointees or members of 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 moneys to be provided by Parliament.

Correspondence free of postage.

22. All letters or mailable matter addressed to the Board or the Secretary at Ottawa, or sent by the Board or the Secretary from Ottawa, shall be free of Canada postage under such regulations as are from time to time made in that regard by the Governor in Council.

Jurisdiction and General Powers.

Jurisdiction of Board upon application.

Neglect of duties under any act, regulation or order.

Violations.

Giving orders, directions or approval.

Mandatory order.

23. The Board shall have full jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested ;

(a.) complaining that the company, or any person, has failed to do any act, matter or thing required to be done by this Act, or the Special Act, or by any regulation, order or direction made thereunder, by the Governor in Council, the Board, the Minister, or any inspecting engineer, or has done or is doing any act, matter or thing contrary to, or in violation of, this Act, or the Special Act, or any such regulation, order, or direction ;

(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 :

And the Board may order and require any company or person to do forthwith, or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing which such company or person is or may be required to do under this Act,

or the Special Act, and may forbid the doing or continuing of any act, matter or thing which is contrary to this Act, or the Special Act: 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 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 otherwise for carrying this Act into effect, have all such powers, rights and privileges as are vested in a Superior Court.

Injunction order.

Questions of law and fact.

All powers of a Superior 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, and in all courts. Sub. for 51 V., c. 29, s. 11.

Decision upon questions of fact or whether party is interested conclusive.

21. The Board may, of its own motion, or shall, upon the request of the Minister, inquire into, hear and determine any matter or thing which under this Act, it may inquire into, hear and determine upon an 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.

Board may act upon its own motion.

2. Any power, or authority vested in the Board under this Act, may though not so expressed in this Act, be exercised from time to time, or at any time, as the occasion may require.

Power to act from time to time.

25. The Board may make orders and regulations:—

Board may make regulations respecting—

(a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages described in any regulation; and, if the Board think fit, the rate of speed within certain described portions of any city, town or village, and allowing another rate of speed in other portions thereof;

Speed of trains.

(b) with respect to the use of the steam whistle within any city, town or village, or any portion thereof;

Use of steam whistle.

(c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of railway employees while passing from one car to another, and for the coupling of cars; 51 V., c. 29, s. 10, Am.

Passing from car to car.

Coupling of cars.

(d) requiring proper shelter to be provided for all railway employees when on duty; 57-58 V., c. 53, s. 1, Am.

Shelter for employees.

(e) with respect to the use on any engine, of nettings, screens, grates and other devices, and the use on any 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;

Devices to avoid fires.

- For protection generally. (f.) with respect to the rolling stock, apparatus, cattle-guards, 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. (g.) with respect to any matter, act or thing which by this 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, to which every company or person who offends against any regulation made under this section shall be liable, which shall not exceed one hundred dollars for each offence, and shall be recoverable on summary conviction. The imposition of any such penalty shall not lessen or affect any other liability which any company or person may have incurred. 51 V., c. 29, s. 10, 1 and 2, Am.
- Power to review, etc. 4. The Board may review, rescind, change, alter or vary any rule, regulation, order or decision made by it, whether previously published or not. 51 V., c. 29, s. 18, Am.

V.—PRACTICE AND PROCEDURE.

- Evidence of documents. 26. Every document purporting to be signed by the Chief Commissioner and Secretary, or by either of them, or by the Minister or 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, Minister 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 the Minister or inspecting engineer, 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 twenty-eight 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. 51 V., c. 29, s. 26, Am.
- Service of copies. 27. 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 of any portion thereof, shall, without proof of signature of the Secretary, be in all courts *prima facie* evidence of such original document,

document, and that the same is so deposited, and is 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. 51 V., c. 29, s. 127, Am.

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. Certified copies of documents of Board.

28. 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 notice.

(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, or civic or municipal corporation, to the mayor, warden, reeve, secretary, treasurer, clerk, chamberlain or other principal officer thereof; To municipalities &c.

(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 other companies.

(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 firms.

(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; To individuals.

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 Chief Commissioner, in the case of the Minister or inspecting engineer, or other officer or person appointed by the Board or the Minister and required or authorized to give such notice, is signed by the Minister or 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. Proviso.

2. When in any of the cases mentioned in this section, it shall be made to appear to the satisfaction of the Board or Minister in any matter within the jurisdiction of the Board or Minister, as the case may be, under this Act, that service of such Service by publication in certain cases.

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 or Minister, as the case may be, 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 Canada 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 the first part of this section.

Service of orders, reports or other documents.

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. 51 V., c. 29, s. 28, Am.

Duty of company on receipt of notice or order.

29. 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 the Minister, or 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. 51 V., c. 29, s. 25, Am.

Publication of regulations and orders.

30. Publication by the Board, or by leave of the Board, for three weeks in *The Canada 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.

As to judicial notice.

Notice of application. Board may vary length of time.

31. 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.

Procedure in urgent cases when no notice given.

32. 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 becoming aware of such order or decision, or within such further time as the Board may

Rehearings on application made within ten days after notice served.

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.

33. All regulations and orders made by the Railway Committee of the Privy Council, under the provisions of *The Railway Act* and amending Acts, in force at the time of the passage of this Act, shall continue in force until repealed, rescinded, changed or varied under the provisions of this 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.

34. Notwithstanding the repeal by this Act of the said *The Railway Act* and amending Acts, all orders of the Railway Committee of the Privy Council in force at the time of the passage hereof, may be made rules or orders of the Exchequer Court, or of any Superior Court of any province in Canada, and may be enforced in all respects, as near as may be, in the same manner as provided by this Act in the case of similar orders by the Board; and all penalties, forfeitures and liabilities attaching, under this 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 Privy Council occurring after the passage of this Act, in all respects, as near as may be, as if the same were a regulation or order of the Board.

35. Any decision or order made by the Board under this Act may be made an order of the Exchequer Court, or a rule, order or decree of any Superior Court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court. 51 V., c. 29, s. 17, Am.

2. To make such decision or order a rule, order or decree of such court, the usual practice and procedure of the court in such matters may be followed; or, in lieu thereof, the Secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the Board:—

“To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or, as the case may be).

“Dated this day of A.D. 19 .

“A. B.
(Seal.) “Chief Commissioner of the Board of Railway
“Commissioners for Canada.”

And the Secretary may forward such certified copy, so endorsed, to the registrar, or other proper officer of such court, who shall, on receipt thereof, enter the same as of record, and the same shall thereupon become and be such rule, order or decree of such court.

When order rescinded or changed.

3. Where an order or decision of the Board under this Act, or the Railway Committee of the Privy Council under *The Railway Act*, has been made a rule, order or decree of any court, any order or decision of the Board rescinding or changing the same shall be deemed to cancel the rule, order, or decree of such court, and may, in like manner, be made a rule, order or decree of court.

Contingent orders.

36. The Board may provide in any order that the same, or any specified portion or terms thereof, shall come into force, at a future fixed time, or upon the happening of any specified contingency, event or condition precedent, or upon 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.

May grant partial or other relief than that applied for.

37. Upon any application made to the Board under this 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.

Interim *ex parte* orders.

38. 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.

Proviso

Extension of time specified in order.

39. 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.

40. The Board may make general rules governing, so far as shall not be inconsistent with the express provisions of this Act, its practice and procedure under this Act, and generally for carrying this Act into effect. Such rules may be published in *The Canada 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 practice and procedure. When to be judicially noticed.

41. 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.

Proceeding or notice to be shown on face of order.

42. 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.

Judgments of other courts on questions of fact not binding upon Board.

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.

Jurisdiction of Board not affected by pendency of suits.

3. The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive on all courts.

Finding of Board on questions of fact conclusive.

43. 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 Supreme Court of Canada 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 Governor in Council. 51 V., c. 29, s. 19, Am.

May state case for opinion of Supreme Court of Canada.

2. The Supreme Court of Canada 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 51 V., c. 29, s. 20, Am.

Action thereon.

44. Subject to the provisions of this section, every decision or order of the Board shall be final.

Order of Board final.

2. The Governor in Council may, at any time, in his discretion, either upon petition of any party, person or company interested, or of his own motion and without any petition or application therefor, vary, change or rescind any order, decision, rule or regulation of the Board, whether such order or decision be made *inter partes* or otherwise, and whether such regulation be general or limited in its scope and application; and any order which the Governor in Council may make with respect thereto shall be binding on the Board and all parties.

Saving right to review by Governor in Council.

3. An appeal shall lie from the Board to the Supreme Court of Canada upon a question of jurisdiction, but such appeal shall

Appeal to Supreme Court on

- questions of jurisdiction. shall not lie unless the same is allowed by a judge of 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.
- On questions of law. An appeal shall also lie from the Board to such court upon any question which in the opinion of the Board is a question of law, upon leave therefor having been first obtained from the Board. The granting of such leave shall be in the discretion of the Board.
- Security for costs. 4. Upon such leave being obtained the party so appealing shall deposit with the registrar of the Supreme Court of Canada the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the registrar of such court 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.
- Notice of appeal.
- Opinion of court. 5. On the hearing of any such appeal the Supreme Court of Canada 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 their opinion to the Board, and the Board shall make an order in accordance with such opinion.
- Board may be heard by counsel.
- Rules of court as to costs, etc. 6. The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.
7. The Supreme Court of Canada 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 Exchequer Court to the Supreme Court of Canada shall be applicable to an appeal under this Act.
- 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.
- Proceedings of Board final, except as above. 9. Save as provided in this section, an order, decision or proceeding of the Board shall not be questioned or reviewed, restrained or removed by prohibition, injunction, certiorari, or any other process or proceeding in any court. *Sub. for 51 V., c. 29, s. 21.*
- Governor in Council may refer to Board for report. 15. The 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 Special Act, and the Board shall without delay comply therewith.
- Costs. 16. The costs of and incidental to any proceeding before the Board shall be in the discretion of the Board, and may be fixed

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.

2. The Board may prescribe a scale under which such costs shall be taxed. Scale of costs

47. When the Board, in the exercise of any power vested in it by this 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. Expenses of works ordered by Board. Board may order by whom to be constructed and paid.

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 or the Special Act. 51 V., c. 29, s. 12, Am. Board may order inquiries.

2. The Minister may, with the approval of the Governor in Council, appoint and direct any person to inquire into and report upon any matter or thing which the Minister is authorized to deal with under this Act or the Special Act. Minister may order inquiry.

49. The Board, the Minister, inspecting engineer, or person appointed under this 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.

(b.) inspect any works, structure, rolling stock or property of the company; Inspection.

(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; Attendance of witnesses and replies.

(d.) require the production of all books, papers, plans, specifications, drawings and documents, relating to the matter before it or him; Production of documents, etc.

(e.) administer oaths, affirmations or declarations; Oaths.

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

required to produce, as is vested in any court in civil cases. 51 V., c. 29, ss. 13 and 15, Am.

Witness fees.

50. Every person summoned to attend before the Board or the Minister, or before any inspecting engineer, or person appointed under this Act to make inquiry and report shall, in the discretion of the Board or the Minister, receive the like fees and allowances for so doing as if summoned to attend before the Exchequer Court. 51 V., c. 29, s. 16, Am.

No person to be excused from testifying.

2. No person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before the Board, or in obedience to the subpoena or order of the Board, or of any person authorized to hold any investigation or inquiry under this Act, or in any cause or proceeding based upon or growing out of any alleged violation of this Act, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to any proceeding or penalty; but no evidence so given, nor any document so produced, shall be used or receivable against such person in any criminal proceeding thereafter instituted against him other than a prosecution for perjury in giving such evidence.

Proof of documents.

3. In any proceeding before the Board and in any action or proceeding under this 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.

VI.—INCORPORATION AND ORGANIZATION OF COMPANY.

Incorporation.

Companies to have corporate powers.

51. Every company incorporated under a special Act shall be a body corporate, under the name declared in the Special Act, and shall be vested with all such powers, privileges and immunities as are necessary to carry into effect the intention and objects of this Act, and of the Special Act, and which are incident to such corporation, or are expressed or included in *The Interpretation Act*. 51 V., c. 29, s. 31.

Offices.

Head office.

52. 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 Canada, notice thereof to be given to the Secretary of the Board who shall keep a register for the purpose. The

Change of location.

directors of the company may establish one or more offices in other places in Canada or elsewhere. 51 V., c. 29, s. 32, Am. Offices.

Provisional Directors.

53. 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 cause plans and surveys to be made, and deposit in any chartered bank of Canada 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. 51 V., c. 29, s. 33. Provisional
Directors.
Majority
quorum.
Powers.
Deposit of
moneys.

54. 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. 51 V., c. 29, s. 34. Allotment of
stock.

Capital.

55. 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. 51 V., c. 29, s. 35. Capital stock
and shares.
Application
of proceeds.

56. So soon as twenty-five per cent of the capital has been subscribed, and ten per cent of the amount subscribed has been paid into some chartered bank in Canada, the provisional directors shall call a meeting of the shareholders of the company at the place where the head office is situate, at such time as they think proper, giving the notice prescribed by section sixty-one of this Act, at which meeting the shareholders who have paid at least ten per cent on the amount of stock subscribed for by them shall, from the shareholders possessing the qualifications hereinafter mentioned, elect the number of directors prescribed by the Special Act. 51 V., c. 29, s. 36. First
meeting of
shareholders.
Notice
thereof.
Election of
directors.

57. The original capital stock of the company may, with the approval of the Governor in Council, be increased, from Increase of
capital stock.

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 proceeding for 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. 51 V., c. 29, s. 37.

Notice of meetings and object.

Entry in minutes.

Municipal corporation may take stock.

Representation on directorate.

58. Municipal corporations in any province in Canada duly empowered so to do by the laws of the province, and subject to the limitations and restrictions in such laws prescribed, may subscribe for any number of shares in the capital stock of the company; and the mayor, warden, reeve or other head officer of any such corporation holding stock to the amount of twenty thousand dollars 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, unless in such Special Act provision is made for the representation of such corporation on the directorate thereof. 51 V., c. 29, s. 38, Am.

Meetings of Shareholders.

Annual meetings.

Special meetings.

59. 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; 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. 51 V., c. 29, s. 40, ss. 1.

Held at head office.

60. All general meetings, whether annual or special, shall be held at the head office of the company. 51 V., c. 29, s. 40, ss. 2.

Notice of meetings.

Evidence.

61. At least four weeks public notice of any meeting shall be given by advertisement published in *The Canada Gazette*, and 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 such *Gazette* containing such notice shall, on production thereof, be sufficient evidence of such notice having been given. 51 V., c. 29, s. 41.

62. Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as, by this Act or the Special 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. 51 V., c. 29, s. 42. What business may be transacted.

63. 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 the proportion of the number of shares held by him, and on which all calls due have been paid. 51 V., c. 29, s. 43. Voting. Calls in arrears.

64. 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:— Voting by proxy.

“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. Form of proxy.

“In witness whereof, I have hereunto set my hand and seal the _____ day of _____ in the year _____.” 51 V., c. 29, s. 44.

65. The votes by proxy shall be as valid as if the constituents had voted in person; 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. 51 V., c. 29, s. 45. Validity of proxy. Majority vote binding.

66. 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. 51 V., c. 29, s. 212. Certified copies of minutes, etc. Evidence.

67. All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company. 51 V., c. 29, s. 213. Notices by secretary valid.

President and Directors.

Board of directors.

68. A board of directors, which may be known as the 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 delay as possible after the day so appointed. 51 V., c. 29, s. 46, Am.

Majority quorum.

Votes at adjourned meeting.

69. No person shall vote on such subsequent day, except those who would have been entitled to vote if the election had been held on the day when it should have been held. 51 V., c. 29, s. 47.

Vacancies in directorate.

70. Vacancies in the directors shall be filled in the manner prescribed by the by-laws. 51 V., c. 29, s. 48.

Qualifications of directors.

71. No person shall be a director unless he is a shareholder, owning twenty shares of stock and has paid all calls due thereon, and is qualified to vote for directors at the election at which he is chosen. 51 V., c. 29, s. 49.

Term of office.

72. 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. 51 V., c. 29, s. 50.

Vacancies by death, etc., how filled.

73. In case of the death, absence or resignation of any of the directors, others may, unless otherwise prescribed by the by-laws, be appointed in their stead by the remaining directors; and, in case such remaining directors do not constitute a quorum, then by the shareholders at a special meeting to be called for that purpose; but if such appointment is not made, such death, absence or resignation, shall not invalidate the acts of the remaining directors. 51 V., c. 29, s. 51.

President.

74. 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, unless otherwise provided by by-law, 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. 51 V., c. 29, s. 52, Am.;—61 V., c. 22, s. 3.

Vice-president.

Acts of quorum are binding.

75. The directors, at any meeting at which not less than a quorum are present, shall be competent to use and exercise all

all and any of the powers vested in the directors. 51 V., c. 29, s. 53.

76. 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. 51 V., c. 29, s. 54.

Act of
majority of
quorum of
directors.

77. No director shall have more than one vote, except the chairman, who shall, in case of a division of equal numbers, have the casting vote. 51 V., c. 29, s. 55.

Vote of
directors.

78. The directors shall be subject to the examination and control of the shareholders at their annual meetings, and shall be subject to all by-laws of the company, and to the orders and directions from time to time made or given at the annual or special meetings; but such orders and directions shall not be contrary to or inconsistent with any express directions or provisions of this Act or of the Special Act. 51 V., c. 29, s. 56, Am.

Directors
subject to
shareholders
and by-laws.

Proviso.

79. No person who holds any office, place or employment in, or who is concerned or interested in any contract under or with the company, or is surety for any contractor with the company, shall be capable of being chosen a director, or of holding the office of director, nor shall any person who is a director of the company enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the company, other than a contract which relates to the purchase of land necessary for the railway, or be or become a partner of or surety for any contractor with the company. 51 V., c. 29, s. 57.

Disability of
officers,
contractors
and sureties.

80. The directors may make by-laws or pass resolutions, from time to time, for the following purposes:—

Directors may
make by-laws
respecting:—

(a.) for the management and disposition of the stock, property, business and affairs of the company, not inconsistent with the laws of Canada:

Stock,
property and
business of
company.

(b.) for the appointment of all officers, servants and artificers and for prescribing their respective duties and the compensation to be made therefor:

Appointment
of officers and
servants.

(c.) for the retirement of such of said 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. 59 V., c. 9, s. 1.

Retirement of
officers, etc.

81. The directors shall, from time to time, appoint such officers as they deem requisite, and shall take sufficient security, by one or more bonds, or by the guarantee of any society or joint stock company incorporated and empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of persons occupying positions of trust, or

Appointment
of officers and
security to be
given.

for other like purposes, as they deem expedient, from the managers and officers, for the time being, for the safe-keeping and accounting for by them, respectively, of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their duties, as the directors think proper. 51 V., c. 29, s. 59.

Absence of
vice-president

82. In case of the absence or illness of the president, the vice-president shall have all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company, or by the Special Act, are required to be signed, performed and done by the president. 51 V., c. 29, s. 60.

Absence of
president may
be entered on
minutes.

Evidence.

83. The directors may, at any meeting of directors, require the secretary of the company to enter such absence or illness among the proceedings of such meeting; and a certificate thereof, signed by the secretary of the company, shall be delivered to any person requiring the same, on payment to the treasurer of one dollar, 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. 51 V., c. 29, s. 61, Am.

Annual
accounts.

84. The directors shall cause to be kept and, annually, on the thirtieth day of June, to be made up and balanced, a true, exact and particular account of the moneys collected and received by the company or by the directors or managers 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 or the directors. 51 V., c. 29, s. 62.

Calls.

Calls upon
shareholders.

Notice of call.

85. The directors may, from time to time, make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary; and at least thirty days' notice shall be given of each call, and no call shall exceed the amount prescribed 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. 51 V., c. 29, s. 63.

86. All notices of calls upon the shareholders of the company shall be published as provided by section sixty-one of this Act, and a copy of the *Gazette* therein mentioned shall, on production thereof, be sufficient evidence of such notice having been given. 51 V., c. 29, s. 64. Publication of notice of call.

87. Every shareholder shall be liable to pay the amount of the calls 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. 51 V., c. 29, s. 65. Payment of calls.

88. If, on or before the day appointed for payment of any call, any shareholder does not pay the amount of such call, he shall be liable to pay interest for the same, at the rate of five per centum per annum, from the day appointed for the payment thereof to the time of the actual payment. 51 V., c. 29, s. 66, Am. Overdue calls bear interest.

89. If, at the time appointed for the payment of any call, any 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 shall be recoverable, with lawful interest from the day on which the call became payable. 51 V., c. 29, s. 67. Failure to pay call. Action thereon.

90. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare 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. 51 V., c. 29, s. 68. Material allegation in suits for calls.

Dividends and Interest.

91. The directors may, with the sanction of the shareholders of the company, at a general meeting, declare a dividend to be paid out of the net profits of the undertaking. 51 V., c. 29, s. 69, Am. Declaration of dividends.

2. Such dividend shall be at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company. 51 V., c. 29, s. 70, Am. Rate.

92. 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 Reserve fund.

such securities as they select, not however inconsistent with this or the Special Act.

Dividend not to impair capital, &c.

93. 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. 51 V., c. 29, s. 71. Am.

Interest may be paid on calls pending opening of road.

No interest on calls in arrear.

94. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect to any other share held by such shareholder while such call remains unpaid. 51 V., c. 29, s. 72.

Arrears may be deducted from dividends.

2. 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.

Shares.

Shares may be transferred.

95. 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. 51 V., c. 29, s. 73.

Form of transfers.

96. Transfers, except in the case of fully paid-up shares, shall be in the form following, or to the like effect, varying the names and descriptions of the contracting parties as the case requires, that is to say:—

“I, (A. B) in consideration of the sum of _____ paid to me by (C. D), hereby sell and transfer to him _____ share (or shares) of the stock of the _____, to hold to him, the said (C. D), his executors, administrators and assigns (or successors and assigns, as the case may be), 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 of the said (A. B.) share (or shares) subject to the same rules, orders and conditions.

“Witness our hands this _____ day of _____ in the year 19 _____”

2. In the case of fully paid shares the transfer may be in such form as is prescribed by by-law of the company. 51 V., c. 29, s. 74. Am.

Act to paid-up shares.

97. The stock of the company shall be personal property; but no shares shall be transferable until all previous calls thereon have been fully paid up, or until 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. 51 V., c. 29, s. 75.

Stock personal property.

Restrictions on transfers.

98. If any share in the capital stock of 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 transmitted shall deposit in the office of the company a statement in writing, signed by him, which shall declare 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 and proofs as are necessary; and without such proof the person to whom the share is so transmitted, as aforesaid, shall not be entitled to receive any part of the profits of the company, or to vote in respect of any such share as the holder thereof. 51 V., c. 29, s. 76.

Transmission of stock other than by transfer.

99. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any share or security issued by it is subject, and whether or not the company has had notice of the trust; and it may treat the registered holder as the absolute owner of any such share or security, and accordingly, shall not be bound to recognize any claim on the part of any other person whomsoever, with respect to any such share or security, or the dividend or interest payable thereon; Provided, that nothing herein contained shall prevent a person equitably interested in any such share or security from procuring the intervention of the court to protect his rights. 55-56 V., c. 27, s. 2.

Company not bound to see to execution of trusts.

100. The certificate of proprietorship of any share shall be admitted in all courts as *prima facie* evidence of the title of any shareholder, his executors, administrators or assigns, or successors and assigns, as the case may be, to the share therein specified. 51 V., c. 29, s. 78.

Certificate of stock prima facie evidence of title.

101. The want of such certificate shall not prevent the holder of any share from disposing thereof. 51 V., c. 29, s. 79.

Sale without certificate.

102. Every shareholder who makes default, for the space of two months, in the payment of any call payable by him, together with the interest, if any, accrued thereon, after the time appointed for the payment thereof, shall forfeit to the

Forfeiture of stock for non-payment of calls.

company his shares in the company, and all the profit and benefit thereof. 51 V., c. 29, s. 80, Am.

Method of
forfeiture.

103. No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred. 51 V., c. 29, s. 81.

Effect of
forfeiture on
liability.

104. Every such forfeiture shall be an indemnification to and for every shareholder so forfeiting, against all actions, suits or prosecutions, whatsoever, commenced or prosecuted for any breach of contract between such shareholder and the other shareholders with regard to carrying on the undertaking. 51 V., c. 29, s. 82, Am.

Sale of
forfeited
shares.

105. 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; and any shareholder may purchase any forfeited share so sold. 51 V., c. 29, s. 83, Am.

Limitation.

2. 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.

Payment of
arrears before
sale.

3. 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.

Certificate of
treasurer to be
evidence of
forfeiture and
of title in
purchaser.

106. A certificate of the treasurer of the company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and 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. 51 V., c. 29, s. 84, Am.

107. 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. Interest on advance made by shareholder to company. No interest to be paid out of capital. 51 V., c. 29, s. 85.

108. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company, to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up, but no such shareholder shall be liable to an action in respect of his said liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. Limit of shareholder's liability to creditors of the company. 51 V., c. 29, s. 86.

109. All shareholders in the company, whether British subjects or aliens, or residents in Canada or elsewhere, shall have equal rights to hold stock in the company, and to vote on the same, and shall be eligible to office in the company. Aliens have equal rights as shareholders. 51 V., c. 29, s. 87.

110. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book, which shall be kept for that purpose, and which shall be open to the inspection of the shareholders. Record of shareholders. 51 V., c. 29, s. 88.

Bonds, Mortgages, and Borrowing Powers.

111. 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 section 51 of 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 terminal debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which counter-signature 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 Issue of bonds authorized. Procedure. When and where payable. Interest.

Disposal of
bonds.

Amount
of bonds, etc.

Extent of
borrowing
power.

Proviso: as to
provincial
railway
coming under
authority of
Parliament.

Mortgage to
secure bonds.

Penalties,
first charge.

Powers which
may be
granted in
mortgage.

Property
excepted from
operation of
mortgage.

Mortgage to
be deposited
with Secretary

exceeding five per cent per annum, as the directors think proper.

2. The directors may issue, and sell or pledge, all or any of the said 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.

3. No such security shall be for a less sum than one hundred dollars.

4. The power of issuing securities conferred upon the company hereby, or under the Special Act, shall not be construed as being exhausted by such issue; and such power may be exercised from time to time; but the limit to the amount of securities fixed in the Special Act shall not be exceeded: Provided that no power to issue or dispose of any such securities under any Special Act of the Provincial Legislature, in connection with a railway coming under the legislative authority of the Parliament of Canada, shall be subsequently exercised without the sanction of the Governor in Council. 51 V., c. 29, s. 93, Am. by 55-56 V., c. 27, s. 4, Am.

112. The company may secure such securities, by a mortgage deed creating such mortgages, charges and encumbrances upon the whole of such property, assets, rents and revenues of the company, present or future, or both, as are described therein; but such property, assets, rents and revenues shall be subject, in the first instance, to the payment of any penalty then or thereafter imposed upon the company for non-compliance with the requirements of this Act, and next, to the payment of the working expenditure of the railway.

2. By the said mortgage the company may grant to the holders of such securities, or the trustees named in such mortgage, all and every the powers, rights and remedies granted by this Act in respect of the said 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, privilege or remedy granted by this Act, as the case may be; and all the powers, rights and remedies, so provided for in such mortgage, 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

security shall be deposited in the office of the Secretary of State of Canada, of which deposit notice shall forthwith be given in *The Canada 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 of State, or by the Deputy Registrar General of Canada, shall be received as *prima facie* evidence of the original in all courts without proof of the signature of such official.

113. The 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 provided for in the next preceding section.

2. Each holder of the said securities shall be deemed to be a mortgagee or encumbrancer 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 securities, or of the interest thereon, except through the trustee or trustees appointed by or under such mortgage deed. 51 V., c. 29, s. 95.

114. If the company makes default in paying the principal of, or interest on, any of such securities, at the time when such principal or interest, by the terms of the security, becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of such securities, so being and remaining in default, shall, in respect thereof, have and possess the same rights, 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. 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 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 securities, and thereafter any transfers thereof, in the same manner as shares or transfers of shares.

3. 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 securities, are entitled under the provisions of such mortgage deed. 51 V., c. 29, s. 96.

Transfer of
bonds.

115. All such securities 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. 51 V., c. 29, s. 97.

Power to
borrow money
by overdraft,
etc.

116. The company may, for the purpose of the undertaking, borrow money by overdraft or on promissory note, warehouse receipt, bill of exchange or otherwise upon the credit of the company and every 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 any 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. 51 V., c. 29, s. 98, Am.

No seal
necessary.

Notes not to
be payable
to bearer.

VII.—CONSTRUCTION OF RAILWAY.

Limitation of Time for Construction.

Time for
construction
limited.

117. If the construction of the railway is not commenced and fifteen per cent on the amount of the capital stock is not expended thereon within two years after the passing of the Act authorizing the construction of the railway, or if the railway is not finished and put in operation within five years from the passing of such Act, then 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. 51 V., c. 29, s. 89, Am.

General Powers.

Powers of the
company in
respect of the
undertaking.
To enter
upon lands.

Surveys.

118. The company may, for the purposes of the undertaking, subject to the provisions in this and the Special Act contained:—
(a.) enter into and upon any Crown lands without previous license therefor, or into and upon the lands of any person whomsoever, lying in the intended route or line of the railway; and make surveys, examinations or other necessary arrangements

arrangements on such lands for fixing the site of the railway, and set out and ascertain such parts of the lands as are necessary and proper for the railway ;

(b.) receive, take and hold, all voluntary grants and donations of lands or other property or any bonus of money or debenture, or other benefit of any sort, made to it for the purpose of aiding 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 ;

Receive grants and bonus

(c.) purchase, take and hold of and from any person, any lands or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of, any lands or property of the company which for any reason have become not necessary for the purposes of the railway ;

Acquire property.

Dispose of property not required.

(d.) make, carry or place the railway across or upon the lands of any person on the located line of the railway ; 63-64 V., c. 23, s. 3.

Carry railway across lands.

(e.) cross any railway, or join 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 ;

Cross and connect with other railways.

(f.) make, complete, operate, alter and maintain the railway with one or more sets of rails or tracks, to be worked by the force and power of steam, electricity, or of the atmosphere, or by mechanical power, or any combination of them ;

Construct and operate railways.

Motive power.

(g.) construct, erect and maintain all necessary and convenient roads, buildings, stations, depots, wharfs, docks, elevators, and other structures, and construct, purchase and acquire stationary or locomotive engines, rolling stock, and other apparatus necessary for the accommodation and use of the traffic and business of the railway ;

Construct buildings, equipment, etc.

(h.) make branch railways, and manage the same, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for the railway ;

Construct branch railways.

(i.) take, transport, carry and convey persons and goods on the railway, regulate the time and manner in which the same shall be transported, and the tolls to be charged therefor ;

Transport passengers and freight.

(j.) fell or remove any trees which stand within one hundred feet from either side of the right of way of the railway, or which are liable to fall across any railway track ;

Remove trees.

(k.) make or construct in, 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 ;

Construct embankments, bridges, drains, fences, etc.

(l.) 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 ;

Divert highways and waterways.

Construct drains.

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

Divert drains, pipes, and wires.

(*n.*) divert or alter the position of any water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric lines, wires or poles;

Construct telegraph, telephone and electric lines.

(*o.*) construct, acquire and use telegraph, telephone or electric lines and plant;

Alter and substitute other works

(*p.*) from time to time alter, repair or discontinue the before-mentioned works, or any of them, and substitute others in their stead;

Do other necessary acts.

(*q.*) do all other acts necessary for the construction, maintenance and operation of the railway. 51 V., c. 29, s. 90. Am.

Declaration as to powers with respect to lands.

2. Any company which has obtained from the Crown by way of subsidy or otherwise, in respect of the construction or operation of its railway, a right to any land or to an interest in land, and from the time of obtaining such right has had, as incident to the exercise of its corporate powers, authority to acquire, sell or otherwise dispose thereof or any part thereof; and such company may convey the same, or any part thereof, to any other company which has entered into any undertaking for the construction or operation, in whole, or in part, of the railway in respect of which such land or interest in land was given; and thereafter such other company shall have, in respect of such land or interest in land, the same authority as that of the company which has so conveyed it; and as to any lands given to the company by any corporation or other party, as aid towards, or as consideration in whole or in part for, the construction or operation of the company's railway, either generally or with respect to the adoption of any particular route, or on any other account, the authority of the company and of any other company to which it may convey its right in any of the said lands shall be the same as if such lands had been obtained by the company from the Crown as aforesaid. 55-56 V., c. 27, s. 3.

Company to restore, as far as possible, works diverted.

119. The company shall restore, as nearly as possible, to its former state, any river, stream, watercourse, highway, water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric lines, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair its usefulness. 51 V., c. 29, s. 91, Am.

Compensation for damage.

120. 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 and in the Special Act provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers. 51 V., c. 29, s. 92.

Powers may be exercised in U. S.

121. Any company operating a railway from any point in Canada to any point on the international boundary line may exercise,

exercise, beyond such boundary, the powers which it may exercise in Canada, in so far as they are permitted by the laws in force there. 53 V., c. 28, s. 1, part.

Location of Line.

122. The company shall prepare a map showing the general location of the proposed line of the railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tide-water, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Minister may require.

2. Such map shall be submitted to the Minister in duplicate and prepared upon a scale of not less than six miles to the inch, or upon such other appropriate scale as the Minister may determine, and shall be accompanied by an application in duplicate, stating the Special Act authorizing the construction of such railway and requesting the Minister's approval of the general location as shown on the said map.

3. Before approving such map and location the Minister may, subject to the Special Act, make such changes and alterations therein as he may deem expedient, and upon being satisfied therewith shall signify his approval upon the map and the duplicate thereof, and when so approved, the map and application shall be filed in the Department of Railways and Canals and the duplicate thereof with the Board, and no change or alteration from the general location of the line of the railway, as approved by the Minister, shall be allowed, unless such change or alteration has been first approved by the Minister.

4. The foregoing provisions of this section shall only apply to the main line and to branch lines over six miles in length.

5. Upon compliance with the preceding provisions of this section the company shall make a plan, profile and book of reference of the railway. The plan shall show the right of way, with lengths of sections in miles, the names of terminal points, the station grounds, the property lines, owners' names, the areas and length and width of lands proposed to be taken, in figures, (every change of width being given), and the bearings, also all open drains, watercourses, highways and railways proposed to be crossed or affected. The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses. The book 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. The Board may require any additional information for the proper understanding of the plan and profile.

May be of section of railway.

6. The plan, profile and book of reference may be of a section or sections of the railway.

7. In the province of Quebec the portion of the railway comprised in each municipality shall be indicated on the plan and in the book of reference by separate number or numbers. 63-64 V., c. 23, s. 6, part, Am.

Sanction by Board.

123. Such plan, profile and book of reference shall be submitted to the Board who, if satisfied therewith, may sanction the same, and by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof, as shown in such plan, profile and book of reference, but not to have relieved the company from otherwise complying with this Act. 63-64 V., c. 23, s. 6, part, Am.

To be deemed approval of location only.

Board may require plan, etc., of whole railway.

2. Before sanctioning any plan, profile or book of reference of a section of the railway, the Board may require the company to submit the plan, profile and book of reference of the whole, or any portion, of the remainder of the railway or such further or other information as the Board may deem expedient. 63-64 V., c. 23, s. 6, part, Am.

Deposit of plans, etc., and copies.

124. The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and each plan shall be numbered consecutively in order of deposit, the company shall also deposit copies thereof, or of such parts thereof as relate to each district or county through which the railway is to pass, duly certified as copies by the Secretary, in the offices of the registrars of deeds for such districts or counties respectively. 63-64 V., c. 23, s. 6, part, Am.

Certain errors in documents filed not to affect construction.

125. The railway may be made, carried or placed across or upon the lands of any person on the located line, 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 as interested in such lands. 63-64 V., c. 23, s. 5.

Errors in plan, etc., how corrected.

Notice.

Certificate.

When corrected.

126. Where any omission, misstatement or error is made in any plan, profile or book of reference so registered, the company may apply to the Board for a certificate to correct the same. The Board may, in its discretion, require notice to be given to parties interested, and, if it appears to the Board that such omission, misstatement or error arose from mistake, may grant a certificate setting forth the nature of the omission, misstatement or error and the correction allowed.

2. Upon the deposit of such certificate with the Board, and of copies thereof, certified as such by the Secretary, with the registrars of deeds of the districts or counties, respectively, in which such lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith,

with, and the company may, thereupon, subject to this Act, construct the railway in accordance with such correction.

3. Two justices may exercise the powers of the Board under this section. 51 V., c. 29, s. 128; 63-64 V., c. 23, s. 7, Am. Powers of two justices.

127. Every registrar of deeds shall receive, and preserve in his office, all plans, profiles, books of reference, certified copies thereof, and other documents, required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited, and all persons may resort to the same, and may make extracts therefrom, and copies thereof, as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words, so copied or extracted, and ten cents for each copy made of any plan or profile. The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference, or document, so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum, for any copy of plan or profile furnished by him, as is reasonable and customary in like cases, together with fifty cents for each certificate given by him. For any breach of the duties by this section imposed upon such registrar, he shall be liable on summary conviction to a penalty of ten dollars, and also to an action for damages at the suit of any person injured by such breach. Duties of registrars with respect to plans, etc.
Extracts and copies.
Fees.
Certified copies.
Fees.
Penalty for breach of duty.

2. Such certificate of the registrar shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of such original. And such certified copy 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 shown 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. 51 V., c. 29, ss. 132 and 133, Am. What certificate of registrar must state.
Evidence.

128. A plan and profile of the completed railway or of so much thereof as is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board, and plans of the parts thereof, located in different districts and counties, prepared on such a scale, and in such manner and form, and signed, or authenticated in such manner, as the Board Plan and profile of completed line must be filed.

may from time to time, by general regulation or in any individual case, sanction or require, shall be filed in the registry offices for the districts and counties in which such parts are respectively situate; and every company which fails or neglects to file such plans and profiles with the Board, or to file such plans in such registry offices, within the said period, shall incur a penalty of two hundred dollars, and a like penalty for each and every month during which such failure or neglect continues. 51 V., c. 29, s. 134, Am.; 62-63 V., c. 37, s. 2, Am.

Penalty for neglect.

General provisions respecting plans, etc.

Must be signed.

Board may refuse assent to factory plans.

Further plans as Board requires.

Deviations, changes or alterations.

When deviations allowed.

129. All plans and profiles 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.

2. 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. Sub. for 51 V., c. 29, s. 135.

130. If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed, or as merely located and sanctioned, as aforesaid, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as provided in section one hundred and twenty-three, be submitted for the approval of, and may be sanctioned by the Board; and the same, when so sanctioned, shall be deposited and dealt with as provided in section 124, and the company may thereupon make such deviation, change, or alteration, and all the provisions of this Act shall apply to the portion of such line of railway so at any time changed or proposed to be changed as to the original line.

2. The Board may either by general regulation, or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where such deviation, change, or alteration, is made, or to be made, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose

of public advantage, as may seem to the Board expedient, provided such deviation, change, or alteration shall not exceed three hundred feet from the centre line of the railway, located, or constructed, in accordance with the plans, profiles and books of reference deposited with the Board under this Act; but nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the Special Act. 51 V., c. 29, s. 120; 63-64 V., c. 23, s. 8, part, Am.

No extension allowed beyond termini mentioned in Special Act.

131. The company shall not commence the construction of the railway, or any section or portion thereof, until the provisions of sections 123 and 124 are fully complied with; and shall not make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with. 63-64 V., c. 23, ss. 4 and 8, part, Am.

Works not to be commenced until certain provisions complied with.

Mines and Minerals.

132. No company shall, without the authority of the Board, locate the line of its proposed railway, nor construct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, or the access or egress to any mine then open, or for opening which preparations are, at the time of such location, being lawfully and openly made. 51 V., c. 29, s. 119, Am.

Mines to be protected.

2. 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, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works, 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.

Company not entitled to minerals, etc., in lands.

Exceptions.

133. 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.

Mining under or within 40 yards of any railway.

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

Application for leave of Board.

3. The Board may grant such application upon such terms and conditions, as to protection and safety of the public, as to the Board seem expedient, and may order that such other

Protection and safety of the public.

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.

Taking or using Lands.

134. No company shall take possession of, use or occupy any lands vested in the Crown, without the consent of the Governor in Council; but with such consent, any such company may, upon such terms as the Governor in Council prescribes, take and appropriate, for the use of its railway and works, but not alienate, so much of the lands of the Crown lying on the route of the railway as have not been granted or sold, and as is necessary for such railway, as also so much of the public beach, or of land so vested covered with the waters of any lake, river or stream, or of their respective beds, as is necessary for making and completing and using its said railway and works; and whenever any such lands are vested in the Crown for any special purpose, or subject to any trust, the compensation money which the Company pays therefor shall be held or applied by the Governor in Council for the like purpose or trust. 51 V., c. 29, s. 99, Am.

2. The extent of the public beach, or of the land covered with the waters of any river or lake in Canada, taken for the railway, shall not exceed the quantity hereinafter limited in the case of lands which may be taken without the consent of the owner. 51 V., c. 29, s. 105, Am.

135. Whenever it is necessary for the company to occupy any part of the lands belonging to the Crown reserved for naval or military purposes, it shall first apply for and obtain the license and consent of the Crown, under the hand and seal of the Governor General, and having obtained such license and consent, it may, at any time or times, enter into and enjoy any of the said lands for the purposes of the railway; but in the case of any such naval or military reserves, no such license or consent shall be given, except upon a report first made thereupon by the naval or military authorities in which such lands are for the time being vested, approving of such license and consent being so given. 51 V., c. 29, s. 100, Am.

136. No company shall take possession of, or occupy, any portion of any Indian reserve or lands, without the consent of the Governor in Council; and when, with such consent, any portion of any such reserve or lands is taken possession of, used or occupied by any company, or when the same is injuriously affected by the construction of any railway, compensation shall be made therefor as in the case of lands taken without the consent of the owner. 51 V., c. 29, s. 101, Am.

137. The company may, for the purpose of obtaining a right of way over or through lands owned or occupied by any other railway company, and for obtaining the use of the tracks, stations or station grounds of another railway company, or for the purpose of constructing and operating its railway, take possession of, use or occupy any lands belonging to any other railway company, and use and enjoy such right of way, tracks, stations or station grounds, subject always to the approval of the Board first obtained, and to any order or direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Lands of other companies.

2. Such approval may be given upon application and notice, and after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party, as to it may appear just or desirable, having due regard for the public and all proper interests; and in case the parties fail to agree as to compensation, the Board may, by order, fix the amount of compensation to be paid in respect of the powers and privileges so granted. 51 V., c. 29, s. 102, Am.

Powers of Board on application.

Compensation.

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

Extent of lands which may be taken. For right of way.

For the right of way shall not exceed one hundred feet in breadth, except in places where the rail-level is, or is proposed 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, wharfs, 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. 51 V., c. 29, s. 103, Am.

For stations, etc.

139. Should the company require, at any point on the railway, more ample space than it then possesses or may take under the preceding section, 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.

Where more ample space required.

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.

Procedure thereon.

Notice.

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

What application must include.

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 129 of this Act.

An application, in writing, for authority to take such lands, signed and sworn to by any of the aforementioned officers,

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.

Authority from Board.

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.

Deposit with Board.

Deposit with registrar of deeds.

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.

Sections of Act to apply.

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, excepting sections one hundred and twenty-three and one hundred and twenty-four. 51 V., c. 29, ss. 106 to 111, Am.

Exceptions.

Use of lands adjoining right of way during construction or repair of railway.

140. 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 the office of one of the superior courts for the province in which the land is situated, 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 any one of such superior courts. 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 to 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

Deposit where consent of owner not obtained.

Compensation.

by the company to the person entitled to compensation under such award. 51 V., c. 29, s. 112 Am.

111. Whenever stone, gravel, earth, sand, water or other material is required for the construction or maintenance or operation of the railway, or any part thereof, or whenever such materials or water, so required, are situate, or have been brought to a place, at a distance from the line of railway, and the company desires to lay down the necessary tracks, spurs or branch lines, water pipes or conduits, over or through any lands intervening between the railway and the land on which such materials or water are situate, or to which it has been brought, the company may, if it cannot agree with the owner of the lands for the purchase thereof, cause a land surveyor, duly licensed to act in the province, or an engineer to make a plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the lands affected, a copy of such plan and description, or of so much thereof as relates to the lands owned or occupied by them respectively, duly certified by such surveyor or engineer, and all the provisions of this Act, except section 123, shall apply, and the powers thereby granted may be used and exercised, to obtain the materials or water, so required, or the right of way to the same, respectively of the distance thereof.

2. The company may, at its discretion, acquire the lands from which such material or water is taken, or upon which the right of way thereto is located, for a term of years or permanently. The notice of arbitration, if arbitration is resorted to, shall state the extent of the privilege and title required.

3. The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than aforementioned, except by leave of the Board and subject to such terms and conditions as the Board sees fit to impose. 51 V., c. 29, s. 113, Am.; 2 Ed. VII., c. 29, s. 1, Am.

112. 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 the same, and upon such purchase may sell and dispose of any part thereof which may be unnecessary for its undertaking. 51 V., c. 29, s. 115, Am.

113. 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, along the route or line of the railway, and may erect snow fences thereon, subject to the payment of compensation, to be ascertained after established, in respect of such railway, in respect to such railway, in respect to snow fence so erected on or before the first day of April then next.

Authority to certain persons to sell and convey lands to the company.

144. All tenants in tail or for life, *grévés de substitution*, guardians, curators, executors, administrators, trustees and all persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femis-covert* or other persons, seized, possessed of or interested in any lands, may contract and sell and convey to the company all or any part thereof. 51 V., c. 29, s. 136.

Order of judge requisite.

145. When such persons have no right in law to sell or convey the rights of property of the said land, they may obtain from a judge, after due notice to the persons interested, the right to sell the said land; and the said judge shall give such orders as are necessary to secure the investment of the purchase money, in such a manner as he deems necessary, in accordance with the law of the province, to secure the interests of the owner of the said land. 51 V., c. 29, s. 137, Am.

Limitation of powers to sell and convey in certain cases.

146. The powers, by the last two preceding sections conferred upon rectors in possession of glebe lands in the province of Ontario, ecclesiastical and other corporations, trustees of land for church or school purposes, executors appointed by wills under which they are not invested with any power over the real property of the testator, administrators of persons dying intestate, but at their death seized of real property, shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of the company. 51 V., c. 29, s. 138, Am.

Effect of conveyance under preceding sections.

147. Any contract, agreement, sale, conveyance and assurance, so made hereunder 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 thereof described, freed and discharged from all trusts, restrictions and limitations whatsoever; and the person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act. 51 V., c. 29, s. 139, Am.

Indemnity to persons acting in pursuance of this Act.

Responsibility as to purchase money.

148. 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 for his benefit. 51 V., c. 29, s. 140.

Contracts made before deposit of plans, etc.

149. Any contract or agreement made by any person authorized by this Act to convey lands, either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the lands required for the railway, shall be binding 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 has, in the meantime become the property of a third person; 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 51 V., c. 29, s. 141, Am.

150. All 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 agreement, it shall be fixed and all proceedings shall be regulated, in the manner herein prescribed. 51 V., c. 29, s. 142, Am.

Rental shall be fixed when parties cannot sell.

151. Such 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, shall be chargeable as part of the working expenditure of the railway upon the deed creating such charge and liability being duly registered in the registry office of the proper district, county or registration division. 51 V., c. 29, s. 143, Am.

Lien for payment of rent.

152. After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof has been given in at least one newspaper, if there is any, published in each of the districts and counties through which the railway is intended to pass, application may be made to the owners of lands, or to persons empowered to convey lands, or interested in 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 persons, 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 seems expedient to both parties; and in case of disagreement between them, or any of them, all questions which arise between them shall be settled as hereinafter provided. 51 V., c. 29, s. 144, Am.

Expropriation proceedings after deposit of plan, etc.

Notice. Application to owners.

Agreements authorized.

Disagreements

153. The deposit of a plan, profile and book of reference, and the notice of such deposit, shall be deemed a general notice to all parties of the lands which will be required for the railway and works; and the date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained. 51 V., c. 29, s. 145, Am.

Filing plan deemed general notice.

Date for purposes of valuation.

154. The notice served upon the party shall contain—

(a.) a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, and describing the lands;

(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. 51 V., c. 29, s. 146, Am.

What notice must contain.

Must be accompanied by certificate.

155. Such notice shall be accompanied by the certificate of a sworn surveyor for the province in which the lands are situated, or an engineer, who is a disinterested person, which certificate shall state—

Contents of certificate.

(a.) that the land, if the notice relates to the taking of land shown on the said plan, is required for the railway or is within the limit of deviation allowed by this Act;

(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 damages aforesaid. 51 V., c. 29, s. 147, Am.

"Court" and "judge" defined.

156. In the following sections of this Act, down to section 174 inclusive, unless the context otherwise requires, the expression "court" shall mean a superior court of the province or district, or the county court of the county, where the lands lie, and the expression "judge" shall mean a judge of such superior court or county court; but any proceedings commenced in one court having proper jurisdiction shall be continued therein.

Service by publication.

157. If the opposite party is absent from the district or county in which the lands lie, or is unknown, an application for service by advertisement may be made to a judge. 51 V., c. 29, s. 148.

Procedure on service by publication.

158. The application for service by advertisement shall be accompanied by such certificate as aforesaid, and by an affidavit of some officer of the company, that the opposite party is so absent, or that, after diligent inquiry, the person on whom the notice ought to be served cannot be ascertained; and the judge shall order a notice as aforesaid, but without such certificate, to be inserted, three times in the course of one month, in a newspaper published in the district or county, or if there is no newspaper published therein, then in a newspaper published in some adjacent district or county. 51 V., c. 29, s. 149.

Failure to accept after service of notice.

159. If within ten days after the service of such notice, or within one month after the first publication thereof, the opposite party does not give notice to the company that he accepts the sum offered by it, the judge shall, on the application of the company, six days' notice of which shall be given to the opposite party, appoint a person to be sole arbitrator for determining the compensation to be paid as aforesaid: Provided that the judge shall, at the request of either party on such application, appoint three arbitrators to determine such compensation, one of whom may be named by each party on such application. 51 V., c. 29, s. 150, Am.

Appointment of arbitrator.

Three arbitrators, if requested by either party.

Call of arbitrators.

160. The arbitrators, or the sole arbitrator, as the case may be, shall be sworn before a justice of the peace for the district

or county in which the lands lie, faithfully and impartially to perform the duties of their or his office, and shall proceed to ascertain such compensation in such way as they or he, or a majority of them, deem best; and the award of such arbitrators, or of any two of them, or of the sole arbitrator, shall be final and conclusive, except as hereinafter provided; but no such award shall be made, nor any official act be done, by such majority, except at a meeting held at a time and place of which the other arbitrator has had at least two clear days' notice, or to which some meeting at which the third arbitrator was present had been adjourned. 51 V., c. 29, s. 152, Am.

161. The arbitrator or arbitrators, in deciding on such value or compensation, shall take into consideration the increased value, beyond the increased value common to all lands in the locality, that will be given to any lands through or over which the railway will pass, by reason of the passage of the railway through or over the same, or by reason of the construction of the railway, and shall set off such increased value that will attach to the said lands or grounds, against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of the said lands as afore-said. 51 V., c. 29, s. 153.

162. If by an award of arbitrators made under this Act, the sum awarded exceeds the sum offered by the company, the costs of the arbitration shall be borne by the company; but if otherwise, they shall be borne by the opposite party, and be deducted from the compensation, and in either case the amount of such costs, if not agreed upon, may be taxed by the judge. 51 V., c. 29, s. 154.

163. The arbitrators, or a majority of them, or the sole arbitrator, shall examine on oath or solemn affirmation the parties or such witnesses as appear before them or him. 51 V., c. 29, s. 155 (1), Am.

2. Such arbitrator or arbitrators shall have and may exercise with respect to such arbitration all the powers mentioned in section 49 of this Act, excepting paragraph (c) of subsection 1 thereof, and section 50 of this Act shall apply to persons attending and giving evidence at any such arbitration.

3. The arbitrators shall take down in writing the evidence brought before them, unless either party requires that it be taken by means of stenography; in which case a stenographer shall be named by the arbitrators, unless the parties agree upon one, and shall be sworn before the arbitrators, or before any one of them before entering upon his duties; and the expense of such stenographer, if not determined by agreement between the parties, shall be taxed by the court or judge, and shall, in any case, form part of the costs of the arbitration; and after making their award the arbitrators shall forthwith deliver or transmit by registered letter, at the request of either party

party in writing, the depositions, together with the exhibits referred to therein, and all papers connected with the reference, except the award, to the clerk of the court, to be filed with the records of the said court. 54-55 V., c. 51, s. 1, Am.

Time within which award is to be made.

164. A majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties, or by resolution of the arbitrators, then the sum offered by the company, as aforesaid, shall be the compensation to be paid by the company. 51 V., c. 29, s. 156.

Award not invalidated for want of form.

2. No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the lands or other property, right or privilege for which such sum is to be the compensation; and the person to whom the sum is to be paid need not be named in the award.

Vacancies in office of arbitrator.

165. If any arbitrator appointed by the judge dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, the judge, upon the application of either party, of which application six days' notice shall be given to the opposite party, and upon being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, shall appoint another arbitrator in the place of such arbitrator: Provided that in the case of any arbitrator, named by one of the parties and appointed by the judge, so dying or not acting, such party may, upon such application, name the arbitrator who shall be appointed by the judge in the place of the arbitrator so deceased or not acting; but no recommencement or repetition of the previous proceedings shall be required in any case. 51 V., c. 29, s. 157, Am.

No recommencement of proceedings.

Company may abandon proceedings.

166. Where the notice given improperly describes the land or materials intended to be taken, or where the company decides not to take the land or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment—such costs to be taxed in the same manner as costs after an award; and the company may give to the same or any other person notice for other land or materials, or for land or materials otherwise described notwithstanding the abandonment of the former notice. 51 V., c. 29, s. 158.

Damages and costs in such event.

When arbitrator interested in compensation.

167. The person offered or appointed as valuator, or as sole arbitrator, shall not be disqualified because he is professionally employed by either party, or has previously expressed an opinion as to the amount of compensation, or because he is related

lated or of kin to any shareholder of the company, if he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any arbitrator appointed by the judge after his appointment, but the objection shall be made before the appointment and its validity or invalidity shall be summarily determined by the judge. 51 V., c. 29, s. 159.

Time taken
object to

168. Whenever the award exceeds six hundred dollars, any party to the arbitration may within one month after receiving a written notice from any one of the arbitrators or the sole arbitrator, as the case may be, of the making of the award, appeal therefrom upon any question of law or fact to a superior court; and upon the hearing of the appeal the court shall, if the same is a question of fact, decide the same upon the evidence taken before the arbitrators, as in a case of original jurisdiction.

Appeal from
award.

2. Upon such appeal the practice and proceedings shall be, as nearly as may be, the same as upon an appeal from the decision of an inferior court to the said court, subject to any general rules or orders from time to time made by the said last-mentioned court, in respect to such appeals, which orders may amongst other things provide that any such appeal may be heard and determined by a single judge.

Practice and
proceedings
in appeal

3. The right of appeal hereby given shall not affect the existing law or practice in any province as to setting aside awards. 51 V., c. 29, s. 161, Am.

Other
remedies not
affected.

169. Upon payment or legal tender of the compensation or annual rent, so awarded or agreed upon, to the person entitled to receive the same, or upon the payment into court 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 its so doing, the judge shall, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the district or county, or to a bailiff as he deems most suitable, to put down such resistance or opposition, and to put the company in possession; and the sheriff or bailiff shall take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company in possession. 51 V., c. 29, s. 162, Am.

When
possession
may be taken
by company.

Where
forcible
resistance
is offered.

170. Such warrant shall also be granted by the judge without such 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. 51 V., c. 29, s. 163, Am.

Warrant for
immediate
possession in
certain cases.

Procedure upon application for such warrant.

171. The judge shall not grant any warrant under the next preceding section, 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 deposit, in a chartered bank designated by him, to the credit of the company and such person or party jointly, of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than fifty per cent above the amount mentioned in the notice served under section 154. 51 V., c. 29, s. 164, Am.

Deposit of compensation.

Costs of application.

172. The costs of any such application to, and of any such hearing before, the judge, shall be borne by the company, unless the compensation awarded is not more than the company had offered to pay; 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. 51 V., c. 29, s. 165.

Payment.

Compensation to stand in place of the land.

173. 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 encumbrance 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 the company shall be responsible accordingly, whenever it has paid such compensation or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person. 51 V., c. 29, s. 166.

Encumbrances.

Payment of compensation into court in certain cases.

174. If the company has reason to fear any claim, mortgage, *hypothèque*, or encumbrance, or if any person to whom the 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 pay such compensation into court, with the interest thereon for six months, and may deliver to the clerk or prothonotary of such court an authentic copy of the conveyance, or of the award or agreement, if there is no conveyance; and such conveyance, or award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned. 51 V., c. 29, s. 167, Am.

Notice of payment into court, when

2. Where the lands are situated elsewhere than in the province of Quebec, a notice, of such payment and delivery, in such

form and for such time as the court appoints, shall be inserted in a newspaper, if there is any, published in the county in which the lands are situated, or if there is no newspaper published in the county, then in the official gazette of the province, and also in a newspaper published in the nearest county thereto in which a newspaper is published, 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 claiming an interest in or entitled to the lands, or any part thereof, to file their claims to the compensation, or any part thereof. 51 V., c. 29, s. 168, Am.

3. Where the lands are situated in the province of Quebec, the notice shall be published as is required in cases of confirmation of title, and the registrar's certificate shall be procured and filed as in such cases. 51 V., c. 29, s. 170, Am.

4. All such claims filed shall be received and adjudicated upon by the court, and the adjudication thereon shall forever bar all claims to the land, or any part thereof, including any dower, mortgage, *hypothèque* or encumbrance upon the same; and the court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all persons interested, as to right and justice, and to law appertains. 51 V., c. 29, s. 171, Am.

5. The costs of the proceedings, in whole or in part, including the proper allowances to witnesses, shall be paid by the company, or by any other person, as the court orders, and if the order for distribution, payment, or investment 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, it is not obtained until after six months have expired, the court shall order the company to pay into court, as part of the compensation the interest for such further period as is right. 51 V., c. 29, s. 172, Am.

Branch Lines.

175. The company may for the purposes of its undertaking construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or from any branch thereof. Before commencing to construct any such branch line the company shall obtain the authority of the Board and comply with the following provisions:—

2. The company shall make a plan, profile and book of reference, showing the proposed location of the branch line and conforming to the requirements of section 122, and shall deposit the same or such parts thereof as relate to each district or county through which the branch line is to pass, in the offices of the registrars of deeds for such districts or counties respectively.

Notice of application to Board.

3. Upon such deposit, the company shall give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county through which the branch line is to pass, or, if there should be no paper published in such county or counties, then for the same period in *The Canada Gazette*.

Procedure on application

4. After the expiration of the notice the company shall submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited. The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of such branch line, and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference, or subject to such changes in location, grades and curves as the Board may direct; and such authority shall limit the time, not exceeding two years, within which the company shall construct and complete such branch line.

Limit of time for construction.

Deposit of authority, etc. in registry offices.

5. There shall be deposited with the Board the authority, and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board, under the provisions of subsection 4 of this section. The company shall deposit in the registry offices, mentioned in subsection 2 of this section, copies, certified as such by the Secretary, of the authority, and of the papers and plans showing the changes directed by the Board.

Application of Act.

6. Upon compliance with this section, all the provisions, except sections 123 and 124, of this Act, shall apply to the branch line so authorized and to the lands to be taken for such branch line.

No extension is allowed.

7. No branch line shall be extended under the provisions of this section; nor shall any branch line be constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the Special Act.

Lapse of power inconsistent with this section.

8. Except with reference to branch lines authorized by the Special Act to be constructed between any two points or places definitely fixed or named therein, no power to construct branch lines in any Special Act contained, inconsistent with the provisions of this section shall have any force or effect after three years from the passing of this Act. Nothing in this subsection shall be deemed to take away or impair the rights or powers of any company under any contract with the Government of Canada, approved and ratified by a Special Act of the Parliament of Canada. Sub. for 51 V., c. 29, s. 121.

Saving.

Branch lines to industry within 6 miles of railway may be ordered by Board.

176. Where the owner of any industry established, or intended to be established, within six miles of the railway, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto,

the Board may, on the application of such owner, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such branch line or spur, and may direct such owner to deposit in some chartered bank such sum or sums as are by the Board deemed sufficient, or are by it found to be necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right of way, incidental expenses and damages; and the amount so deposited shall, from time to time, be paid to the company upon the order of the Board, as the work progresses.

Deposit to be made by owner of railway.

Payments therefrom to company.

2. The aggregate amount so paid by the owner in the construction and completion of the said spur or branch line shall be repaid or refunded to the owner by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the owner over the said spur or branch line; and until so repaid or refunded, the owner shall have a special lien therefor, upon such branch line, to be reimbursed by rebate as aforesaid.

Owner to be repaid by company in tolls.

Owner's lien until reimbursed.

3. Upon repayment by the company to such owner of all payments made by the owner upon such construction, the said spur or branch line, right of way, and equipment shall become the absolute property of the company free from any such lien.

Discharge of lien.

4. The operation and maintenance of the said spur or branch line, by the company, shall be subject to and in accordance with such order as the Board makes with respect thereto, having due regard to the requirements of the traffic thereon and to the safety of the public and of the employees of the company.

Operation of branch to be regulated by Board.

5. All the provisions of this Act respecting the construction of spur or branch lines shall apply to any spur or branch line constructed under this section.

Provisions applicable.

Crossings and Junctions.

177. 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. 56 V., c. 27, s. 1, Am.

Railway crossings and junctions. Power of the Board.

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.

Proceedings on application to Board.

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

Order of Board.

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.

Supervision
of works.

3. 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.

Order
authorizing
operation.

4. 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. 51 V., c. 29, s. 174, Am.

Safety
applications
on rail-level
crossings.

178. 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. 51 V., c. 29, s. 175, Am.

Navigable Waters.

Navigation
not to be
obstructed.

179. No company shall cause any obstruction in, or impede, the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across which its railway is carried. 51 V., c. 29, s. 178, Am.

Bridges to
be properly
floored.

180. No company shall run its trains over any canal, or over any navigable water, without having first laid, and without maintaining, such proper flooring under and on both sides of its railway track over such canal or water, as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. 51 V., c. 29, s. 180, Am.

Spans of
headway and
waterway of
bridges.

181. Whenever the railway is, or is proposed to be, carried over any navigable water or canal by means of a bridge, the Board may by order in any case, or by regulations, direct that such bridge shall be constructed with such span or spans of such headway and waterway, and with such opening span or spans (if any), as to the Board may seem expedient for the proper

proper protection of navigation, and, if any such bridge is a draw or swing bridge, when, under what conditions and circumstances, and subject to what precautions, the same shall be opened and closed—51 V., c. 29, s. 179, Am.

182. When the company is desirous of constructing any wharf, bridge, tunnel, pier or other structure or work in, upon, over, under, through, or across any navigable water or canal, or upon the beach, bed or lands covered with the waters thereof, the company shall before the commencement of any such work, comply with the following provisions:—

Provision for construction of works in navigable waters.

2. The company shall, in the case of navigable water, not a canal, submit to the Minister of Public Works, and in the case of a canal to the Minister, a plan and description of the proposed site for such work; and a general plan of the work to be constructed, to the satisfaction of such Minister, for a recommendation to the Governor in Council for approval.

Approval of site and general plan by Governor in Council.

3. Upon approval by the Governor in Council of such site and plans, the company shall apply to the Board for an order authorizing the construction of the work, and with such application shall transmit to the Board a certified copy of the Order in Council and of the plans and description approved thereby, and also detail plans and profiles of the proposed work, and such other plans, drawings and specifications as the Board may in any such case, or by regulation, require.

Order of Board for construction

Detail plans

4. No deviation from the site or plans approved by the Governor in Council, shall be made without the consent of the Governor in Council.

No deviation.

5. Upon any such application, the Board may make such order in regard to the construction of such work upon such terms and conditions as it may deem expedient, may make alterations in the detail plans, profiles, drawings and specifications so submitted, may in or by such order give directions respecting the supervision of any such works, and may require that such other works, structures, equipments, appliances and materials be provided, constructed, maintained, used and operated, and measures taken, as under the circumstances of each case may appear to the Board best adapted for securing the protection, safety and convenience of the public.

What order may contain.

6. Upon such order being granted the company shall be authorized to construct such work in accordance therewith.

When company authorized to construct work.

7. Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and, if the Board is satisfied that its orders and directions have been carried out, and that such work may be used or operated without danger to the public, and that the provisions of this section have been complied with, the Board may grant such order. 51 V., c. 29, s. 181, Am.

Order of Board for use and operation after completion of work.

183. The Governor in Council may, upon the report of the Board, authorize or require any company to construct fixed

Construction or substitution of particular

Form of bridges. and permanent bridges, or swing, draw or movable bridges, or to substitute any of such bridges for existing bridges on the line of its railway, within such time as the Governor in Council directs; and for every day after the period so fixed during which the company fails to comply with the directions of the Governor in Council, it shall forfeit and pay to His Majesty the sum of two hundred dollars; and no company shall substitute any swing, draw or movable bridge for any fixed or permanent bridge already built and constructed without the previous consent of the Governor in Council. 51 V., c. 29, s. 182, Am.

Penalty.

Highway Crossings.

Railway on highway.

184. The railway may be carried upon, along or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter provided, but the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway which is within the limits of any city or incorporated town, until the company has first obtained consent therefor by a by-law of the municipal authority of such city or incorporated town.

Consent of municipality.

No obstruction permitted.

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

Restoration of highway.

Rights saved.

3. Nothing in this section shall deprive any such company of rights conferred upon it by any Special Act of the Parliament of Canada, or amendment thereof, passed prior to the present session of Parliament.

Penalty.

4. Every company which violates the provisions of this section shall incur a penalty of not less than forty dollars for each such violation. 51 V., c. 29, s. 183, Am.

Variation of inch between rail and level of highway permitted.

185. 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. 51 V., c. 29, s. 184, Am.

Plan of crossing of highway to be submitted.

186. Upon any application for leave to construct the railway upon, along, or 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

Powers of Board in such case.

over or under the railway, or be temporarily or permanently diverted, and that such works be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction arising or likely to arise therefrom.

2. When the application is for the construction of the railway upon, along or across an existing highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance of the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

As to land required.

3. The Board may give directions respecting supervision in the construction of any such work.

Supervision of work.

4. When the Board orders that the highway be carried over or under the railway, or any works to be executed, the Board may direct that the detailed plans, profiles, drawings and specifications of all necessary structures, shall, before construction, be submitted to and approved by the Board. The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. 51 V., c. 29, ss. 187, 188, Am.

Details to be approved by Board.

187. Where the railway is already constructed upon, along or 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 as in the previous section provided.

As to existing crossings.

188. The highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to an extent less than twenty feet, nor shall the clear roadway from the surface of the highway to the centre of the overhead structure constructed after the passing of this Act be less than fourteen feet, unless otherwise directed or permitted by the Board. 51 V., c. 29, s. 185, Am.

Height of bridge, etc.

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

All structures must be safely constructed and maintained.

190. 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. 51 V., c. 29, s. 186, Am.

Inclination of highway

Fencing approaches

Signboards
at level
crossings.

Penalty.

191. Signboards 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, in the province of Quebec, such words shall be in both the English and the French languages; and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding forty dollars. 51 V., c. 29, s. 190, Am.

Telegraph, Telephone and other Lines and Wires.

Telegraph
and telephone
lines.

R.S.C. c. 132.

192. The company may construct and operate telegraph and telephone lines upon its railway, for the purposes of its undertaking; and for the purpose of operating such lines or exchanging and transmitting messages, may enter into contracts with any companies having telegraph or telephone powers, and may connect its own lines with the lines of, or may lease its own lines to, any such companies.

2. *The Electric Telegraph Companies Act* shall apply to the telegraphic business of the company.

Municipal
telephone
systems,
connection
with.

193. Whenever any municipality, corporation or incorporated company 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 municipality, corporation or incorporated company 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.

Wires, etc.,
across
railway.

Plans to be
submitted
to Board.

Order by
Board.

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

2. 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.

195. When the company is empowered by the Special Act of the Parliament of Canada to construct, operate and maintain lines of telegraph, telephone, or for the conveyance of light, heat, power or electricity, the company may with the consent of the municipal council or other authority having jurisdiction over any highway, square, or other public place, enter thereon for the purpose of exercising the said powers, and, as often as the company thinks proper, may break up and open any highway, square or other public place, subject, however, to the following provisions:—

(a.) The company shall not interfere with the public right of travel, or in any way obstruct the entrance to any door or gateway or free access to any building ;

Lines and wires on highways.

No interference with travel.

(b.) The company shall not permit any wire to be less than twenty-two feet above such highway or public place, nor erect more than one line of poles along any highway ;

Height of wires.

One line of poles.

(c.) All poles shall be as nearly as possible straight and perpendicular, and shall, in cities and towns, be painted ;

Description of poles.

(d.) The company shall not be entitled to damages on account of its poles or wires being cut by direction of the officer in charge of the fire brigade at any fire, if in the opinion of such officer, it is advisable that such poles or wires be cut ;

Cutting poles or wires in case of fire.

(e.) The company shall not unnecessarily cut down or mutilate any shade, fruit or ornamental tree ;

No injury to trees.

(f.) The opening up of any street, square, or other public place for the erection of poles, or for carrying wires under ground, shall be subject to the supervision of such person as the municipal council may appoint, and such street, square or other public place shall, without any unnecessary delay, be restored, as far as possible, to its former condition ;

Supervision of municipality.

(g.) Whenever any city, town or incorporated village is desirous of having lines of telegraph, telephone, or for the conveyance of light, heat, power or electricity, placed under ground, the Board may, on the application of such city, town or incorporated village, require the company to thus place its lines or wires under ground, and abrogate the right given by this section or by the Special Act to carry lines on poles, in such city, town or incorporated village, the whole on such terms and conditions as the Board may prescribe ;

Surface of street to be restored.

Future legislation as to placing wires under ground.

(h.) Every person employed upon the work of erecting or repairing any line or instrument of the company shall have conspicuously attached to his dress a badge, on which are legibly inscribed the name of the company and a number by which he can be readily identified ;

Workmen to wear badges.

(i.) If for the purpose of removing buildings, or in the exercise of the public right of travel, it is necessary that the said wires or poles be temporarily removed, by cutting or otherwise, the company shall, at its own expense, upon reasonable notice in writing from any person requiring it, remove such wires and poles ; and in default of the company so doing such person may remove such wires and poles at the expense of the company ;

Temporary removal of wires or poles.

Liability for damage.

(j.) The company shall be responsible for all unnecessary damage which it causes in carrying out, maintaining or operating any of its said works.

Refusal of consent by municipality: powers of Board.

2. Provided that where the company cannot obtain such consent from such municipal council or other authority, the company may apply to the Board for leave to exercise such powers, and upon such application shall submit to the Board a plan of such highway, square, or other public place, showing the proposed location of such lines, wires, and poles, and the Board may grant such application, in whole or in part, and may change or fix the route of such lines, wires or poles, and may by order impose any terms, conditions or limitations in respect thereof that it deems expedient, having due regard to all proper interests; and upon such order being made the company may exercise such powers in accordance with such order, and shall in the performance and execution thereof, or in the repairing, renewing or maintaining of such lines, wires or poles, conform to and be subject to the provisions of subsection 1 of this section, as if consent had been obtained from such municipal council or other authority, except in so far as the said provisions are expressly varied by order of the Board.

As to sale of light, power, etc.

3. Nothing contained in this section shall be deemed to authorize the company exercising the powers therein mentioned for the purpose of selling or distributing light, heat, power or electricity in cities, towns or villages, without the company having first obtained the consent therefor by a by-law of the municipality. 62-63 V., c. 37, s. 1, Am.

Drainage.

Drainage by company.

196. 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 sufficient 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.

Necessary drainage may be ordered by Board.

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 land 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 or 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. 51 V., c. 29, s. 14, Am.

197. Whenever by virtue of any Act of any province through which the railway runs, proceedings may be had or taken by any municipality or landowner for any drainage, or drainage works, upon and across the property of any other landowner in such province, the like proceedings may be had or taken by such municipality or landowner for drainage or drainage works 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 the drainage laws of the province shall apply to the lands of the company upon or across which such drainage is required, to the same extent as to the lands of any landowner of such province, 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 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 provided under the laws of such province to be constructed; provided always that no drainage works 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. 63-64 V., c. 23, s. 2, Am.

2. The proportion of the cost of the drain or drainage works 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.

Farm Crossings.

198. 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, the same shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents. 51 V., c. 29, s. 191, Am.

2. The Board may, upon the application of any landowner, order the company to provide and construct a suitable 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.

Fences, Gates and Cattle-guards.

Fences, etc. to be kept up. **199.** The company shall erect and maintain upon the railway fences, gates and cattle-guards, as follows:—

Fences. (a.) Fences of a minimum height of four feet six inches on each side of the railway.

Gates. (b.) Swing gates in such fences, of the minimum height aforesaid, with proper hinges and fastenings, at farm crossings; provided that sliding or hurdle gates, already constructed, may be maintained.

Cattle-guards. (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.

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

If lands are not settled and inclosed. 3. Whenever the railway passes through any locality in which the lands on either side of the railway are not improved or settled, and inclosed, the Company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs. 51 V., c. 29, s. 194, and 55-56 V., c. 27, s. 6, Am.

Land owners must close gates at farm crossings. **200.** 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 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. 51 V., c. 29, s. 198.

Leaving gates open. **201.** 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 to the railway, or who takes down any part of a railway fence, or turns any horse, cattle or other animal, upon or within the inclosure of such railway, except for the purpose of, and while, taking the same across the railway in the manner provided by section 198 of this Act, or who without the consent of the company, or except as authorized by this Act, rides, leads or drives any horse or other animal, or suffers any such horse or animal 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 animal: and no person, any of whose cattle 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. 51 V., c. 29, ss. 199 and 272, Am.

No recourse
against
company.

Additional
damages.

Bridges, Tunnels and other Structures.

202. 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, be re-constructed or altered within such time as the Board may order, and shall thereafter 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;

Headway
respecting
bridges and
tunnels.

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.

Powers of
Board
where owners
refuse to
permit
compliance.

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 such as are equipped with air brakes.

Board may
exempt
certain
bridges, etc.

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. 51 V., c. 29, s. 192, Am.

Penalty.

203. 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

Bridges, etc.,
over 18 feet
long.

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 of by the Board.

Proceedings
of the
Board
on
construction.

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 regulation, require, and the provisions of paragraphs 5, 6 and 7 of section one hundred and eighty-two, respecting the construction of works in navigable waters, and the powers of the Board relating thereto, shall apply to any and all works constructed or to be constructed under this section.

Stations.

Stations to be
suitable.

201. Every station of the company shall be erected, operated, and maintained with good and sufficient accommodation and facilities for traffic.

Location to be
approved by
Board.

2. Before the company proceeds to erect any station upon its railway, the location of such station shall be approved of by the Board.

Stations on
railways sub-
sidized by
Parliament.

3. In the case of any railway, whether subject to the legislative authority of the Parliament of Canada or not, subsidized after the eighteenth day of July, in the year one thousand nine hundred, in money or in land, under the authority of an Act of the Parliament of Canada, the payment and acceptance of such subsidy shall be taken to be subject to the covenant or condition, (whether expressed or not in any agreement relating to such subsidy), that the company, for the time being owning or operating such railway, shall, when thereto directed by order of the Board, maintain and operate a station, with such accommodation or facilities in connection therewith, as are defined by the Board, at such point or points on the railway as are designated in such order. 63-64 V., c. 23, ss. 10 and 11, Am.

Wages of Labourers.

Rate of wages
of labourers on
construction
of lines
subsidized by
Parliament.

205. In every case in which the Parliament or Canada votes 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 or a fair and reasonable rate, it shall be determined by the Minister, whose decision shall be final.

VIII.—INSPECTION OF RAILWAY.

Inspecting Engineers.

206. Inspecting engineers may be appointed by the Minister, or the Board, subject to the approval of the Governor in Council. Appointments respecting engineers.

2. It shall be the duty of every such inspecting engineer, upon being directed by the Minister or the Board, as the case may be, 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 Minister, or the Board, as the case may be, may direct, and forthwith to report fully thereon in writing to the Minister, or the Board, as the case may be. Duties.

3. Every such inspecting engineer shall be vested with all the powers in regard to any such inspection as are provided in section forty-nine. Powers of inspection.

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. 51 V., c. 29, s. 26. Duties of company respecting inspecting engineers.

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. 51 V., c. 29, s. 27, Am. Inspecting Engineers may travel free. Telegraph, &c.

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. 51 V., c. 29, s. 28. Transmission of telegrams. Penalty upon operator.

7. The production of his appointment in writing, signed by the Chief Commissioner of the Beard, or the Secretary, or by the Minister, shall be sufficient evidence of the authority of such inspecting engineer. 51 V., c. 29, s. 29, Am. Proof of engineer's authority.

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 justice or justices of the peace appoint, to imprisonment with or without hard labour for any term not exceeding three months. 51 V., c. 29, s. 30.

Inspection of Railway.

- 207.** 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 request 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 grounds for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report and grounds, 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

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. 51 V., c. 29, ss. 200 to 203, Am.

Opening
without leave
of Board.
Penalty.

208. Whenever any complaint is made to the Board, or 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 erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient, 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 work, materials or equipment to be made, done, or furnished by the company upon, in addition to, or substitution for, any portion of the railway, which may, from such report, appear to the Board necessary or proper, 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.

Where
railway out
of repair.

Inspection.

may order
repairs, etc.

May enjoin
use of portions
of railways
pending
repairs.

Or of
equipment.

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 act of disobedience, forfeit to His Majesty the sum of two thousand dollars; and any person wilfully and knowingly aiding or abetting any such violation, shall be guilty of an offence, and on conviction thereof shall be liable to a penalty of not less than twenty, nor more than two hundred dollars. 51 V., c. 29, s. 205, Am.

Penalty
for non-
compliance.

Aiding and
abetting.

209. 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, Procedure.
running

Inspecting
engineer may
in case of
danger issue
prohibitions.

Reasons and defects must be stated.	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 of non-compliance therewith such Company shall forfeit to His Majesty the sum of two thousand dollars. 51 V., c. 29, s. 210, Am.
Penalty.	
Report of inspecting engineer.	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. 51 V., c. 29, s. 211, Am.
Action thereon.	
Notice.	
Prosecution for penalties must be authorized.	210. No prosecution for any penalty under the last two preceding sections shall be instituted without the authority of the Board first had and obtained.

IX.—OPERATION OF RAILWAY.

Trains.

Train equipment to be provided.	211. Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means—
Communication with engine driver.	(a.) to provide immediate communication between the conductor while in any car of any passenger train, and the engine driver;
Brakes.	(b.) to check at will the speed of the train, and bring the same safely to a standstill, as expeditiously as possible, and except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train, including a power drive wheel brake and appliances for operating the train brake system upon the locomotive, and having a sufficient number of cars in every train so equipped with power or train brakes so that the engineer on the locomotive drawing such train can control its speed, or bring it to a stop in the quickest and best manner possible without requiring brakemen to use the common hand-brake for that purpose; and on all trains carrying passengers such system of brakes shall comply with the following requirements:—
On trains carrying passengers the brakes must—	(i.) The brakes shall be continuous and must be instantaneous in action, and capable of being applied at will by the engine driver or any brakeman;
Be continuous and instantaneous.	(ii.) The brake must be self-applying in the event of any failure in the continuity of its action;
Be self-applying in case of accident.	(c.) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars;
Couplers.	Provided that the company shall not be obliged to equip all trains with a power drive wheel brake or air brakes as provided,
Delay allowed as to brakes and couplers.	

vided in paragraph (b) of this subsection, nor to equip its cars with automatic couplers as provided in paragraph (c) of this subsection, before the first day of January, 1906.

2. 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:—

Box freight cars to be provided with ladders, etc.

(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.

All cars built prior to the passing of this Act shall be fitted with such attachments before the first day of January, 1906; 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.

3. 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.

Height of draw-bars

4. 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, unless such agreement is conformable to the law of the province in which it is made and is authorized by regulation of the Board: 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. Sub. for 51 V., c. 29, s. 243, Am.

Penalty for non-compliance.

Damages.

Agreements to contrary invalid.

Consent to Prosecution.

212. The Board may, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with the provisions of the last preceding section, but the Board shall not, by such order, allow any exception to, or modification of, the requirements of such section; but the Board may, by general regulation, or in any particular case, on good cause shown, from time to time extend the period within which such appliances shall be used.

Power of Board respecting train equipment.

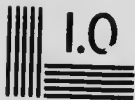
Limitation upon power.

Discretion as to extending use of brakes, couplers, etc.



MICROCOPY RESOLUTION TEST CHART

(ANSI and ISO TEST CHART No. 2)



4.5

2.8

2.5

5.0

3.2

2.2

5.6

6.3

3.6

7.1

4.0

2.0



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Power to regulate running and operation of trains.

2. The Board shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway and for a uniformity of rules for the operation and running of trains; and may make regulations designating the number of men to be employed upon trains, or providing that coal shall be used on all locomotives instead of wood in any district, and generally providing for the protection and safety of the public, of property, and of the employees of the company with respect to the running and operation of trains by the company.

Bell and whistle on locomotive.

213. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle. 51 V., c. 29, s. 244.

Accommodation for passengers and freight at stations.

Train accommodation.

Duties respecting transportation.

Payment of tolls.

Right of action on default.

Condition against negligence invalid.

Accommodation may be ordered by Board.

Regularity in train time.

Passenger stations and train employees to wear badges.

214. 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, if the damage arises from any negligence or omission of the company or of its servant.

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. 51 V., c. 29, s. 246 part, Am.

215. All regular trains shall be started and run, as near as practicable, at regular hours, fixed by public notice. 51 V., c. 29, s. 246 part.

216. Every employee of the company employed in a passenger train 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. 51 V., c. 29, s. 247.

217. Every passenger who refuses to pay his fare may, by Expulsion on refusal to pay fare the conductor of the train and the train servants of the company, be expelled from and put out of the train, 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. 51 V., c. 29, s. 248.

218. 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. No claim for injuries in certain cases. 51 V., c. 29, s. 249.

219. No passenger train shall have any freight, merchandise or lumber car in the rear of any passenger car in which any passenger is carried. Position of passenger cars. 51 V., c. 29, s. 245, Am.

2. Every officer or employee of any company, who directs, or knowingly permits, any freight, merchandise or lumber car, to be so placed, is guilty of an indictable offence. Penalty for violation. 51 V., c. 29, s. 291, Am.

220. 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. Baggage checks. 51 V., c. 29, s. 250, Am.

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. Excess baggage.

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. Liability for refusing to check baggage. 51 V., c. 29, s. 251, Am.

221. 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. Transportation of dangerous goods. Nature must be marked on outside. Notice. Penalty. 51 V., c. 29, s. 253, Am.

222. 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: Company may refuse to carry.

Carriage of such goods. 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. 51 V., c. 29, s. 254.

Trains to stop at swing bridges. **223.** 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. 51 V., c. 2, s. 255, Am.

Where safety devices installed Board may otherwise order. **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. 55-56 V., c. 27, s. 7, Am.

Use of bell and whistle. **224.** 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; 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. 51 V., c. 29, s. 256, Am.

Equal level crossings. **225.** No train or engine 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 or engineer in charge of such train or engine 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.

Application of section. **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. 56 V., c. 27, s. 2, part, Am.

226. Every train shall, before it passes over any such crossing as in the next preceding 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. 56 V., c. 27, s. 2, part, Am.

Stoppage of trains at rail-level crossing.

Where safety devices are installed Board may otherwise order.

227. No train shall pass in or through any thickly peopled portion of any city, town or village, at a speed greater than ten miles an hour, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission is given by some regulation or order of the Board. The Board may limit such speed in any case to any rate which it deems expedient. 55-56 V., c. 27, s. 8, Am.

Rate of speed in unfenced portions of cities, etc.

228. Whenever in any city, town or village, any train passing over or along a highway at rail-level, and is not headed by an engine moving forward in the ordinary manner, the company shall station on the then foremost part of the train, or of the tender, if that is in front, 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 any of the three sections next preceding, the company shall incur a penalty of one hundred dollars. 55-56 V., c. 27, s. 9.

Trains, or cars, moving reversely in cities, etc.

229. 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.

Train must not stand on rail-level crossings more than five minutes.

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 costs shall be in the discretion of the court. 51 V., c. 29, s. 261, Am.

Penalty.

Where violation excusable.

Interpreta-
tion.

"Packing."

Packing of
frogs, etc.

Packing of
wing-rails, etc.

Exception in
latter cases.

Oil cups.

Overdue
trains.

Notice at
stations.

Time when
expected to be
stated.

Penalty for
omission.

230. 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 rail 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 of 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.

4. The oil cups or other appliances, used for oiling the valves of every locomotive in use upon any railway shall be such that no employe shall be required to go outside the cab of the locomotive, while the same is in motion for the purpose of oiling such valves. 51 V., c. 29, s. 262, Am.

231. Every company, upon whose railway there is a telegraph 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 office; and when any passenger train 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 in English and French in the province of Quebec, and in English in the other provinces, stating, to the best of his knowledge and belief, the time when such overdue train 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 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. 51 V., c. 29, s. 263, Am.

232. 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 or others travelling on His Majesty's service, shall at all times, when required by the Postmaster General of Canada, the Commander of the Forces, or any person having the superintendence and command of any police force respectively, 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 the Governor in Council makes. 51 V., c. 29, s. 264.

Carriage
mails, troops
with
equipment,
etc.

Telegraphs and Telephones.

233. The company shall, when required so to do by the Governor in Council, or any person authorized by him, place any electric telegraph and telephone lines, and the apparatus and operators it has, at the exclusive use of the Government of Canada, receiving thereafter reasonable compensation for such service. 51 V., c. 29, s. 265.

Government
may have
exclusive use
of telegraph
wires, etc.
Compensa-
tion

234. The Governor in Council may, at any time, cause a line or lines of electric telegraph or telephone to be constructed along the line of the railway, for the use of the Government of Canada, and for that purpose may enter upon and occupy so much of the lands of the company as is necessary for the purpose. 51 V., c. 29, s. 266.

Government
may erect
wires on right
of way.

Accidents.

235. 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 attended with serious personal injury to any person using the railway, or whereby any bridge, culvert, viaduct, or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, 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. 51 V., c. 29, s. 267, Am.

Notice of
accident.

Penalty for
omission.

236. 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 section shall apply, and may declare any such information so given to be privileged, and the Board may appoint such person or persons as it thinks fit to 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. 51 V., c. 29, s. 268, Am.

Form of
notice and in-
vestigation
into accidents.

Report

2. The person or persons so appointed shall report fully, in writing, to the Board, his or their doings and opinions on the matters respecting which he or they are appointed to inquire, and the Board may act upon such report and may order the company to suspend or dismiss any employee of the company whom it may deem to have been negligent or wilful in respect of any such accident. 51 V., c. 29, s. 269, Am.

Animals at large.

Cattle not allowed at large near railway.

237. 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 competent person or persons, to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

May be impounded.

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.

Right of action negatived.

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. 51 V., c. 29, s. 271 Am.

Negligence of owner not presumed.

4. When any cattle or other animals at large upon the highway or otherwise, get upon the property of the company and are killed or injured by a train, the owner of any such animal so killed or injured shall be entitled to recover the amount of such loss or injury against the company in any action in any court of competent jurisdiction, unless the company, in the opinion of the court or jury trying the case, establishes that such animal got at large through the negligence or wilful act or omission of the owner or his agent, or of the custodian of such animal or his agent; but the fact that such animal was not in charge of some competent person or persons shall not for the purposes of this subsection, deprive the owner of his right to recover. Sub. for 53 V., c. 28, s. 2.

Weeds on Company's Land.

Company to remove weeds.

238. Every company shall cause thistles and all 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.

Penalty.

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

required to do; and the mayor, reeve or chief officer of the municipality of the township, county or district in which the land or ground lies, or any justice of the peace therein, 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 assistants or workmen, upon such lands, and may recover the expenses and charges incurred in so doing, and the said penalty, with costs, in any court of competent jurisdiction, and such penalty shall be paid to the proper officer of the municipality. 51 V., c. 29, s. 275 Am.

On default
municipal
officers may
perform.

Costs.

Prevention of, and Liability for, Fires.

239. 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.

Prevention.

2. Whenever damage is caused to crops, lands, fences, plantations, 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;

Liability for
fire caused by
locomotive.

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 subsection two of 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 or judge may determine.

Proviso.

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.

Company has
insurable
interest.

Purchase of Railway by Person without Corporate Power to operate.

240. If any railway, or any section of any railway, is sold under the provisions of any deed or mortgage, or at the instance of the holders of any mortgage, bonds, or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate such railway until authority therefor has been obtained under the following provisions:—

Non-corporate
purchaser to
obtain author-
ity to operate.

2. The purchaser shall transmit to the Minister, an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway purchased, specifying the Special Act under which the same was constructed and operated, and requesting authority from the Minister to

Proceedings.

run and operate the railway, and with such application shall transmit a copy of any writing preliminary to the conveyance of such railway, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of such railway, and such further details and information as the Minister may require.

Order
authorizing
operation for
certain period.

3. Upon any such application, the Minister may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of the Parliament of Canada, subject to such terms and conditions as the Minister may deem expedient, and thereupon the purchaser shall be authorized, for such period only and subject to such order of the Minister, to operate and run such railway, and take and receive such tolls in respect of traffic carried thereon, as the company previously owning and operating the same was authorized to take, and shall be subject, in so far as the same can be made applicable, to the terms and conditions of the Special Act of the said company.

Terms and
conditions.

Application
for corporate
powers.

One extension
allowed.

4. Such purchaser shall apply to the Parliament of Canada at the next following session thereof after the purchase of such railway, for an Act of incorporation or other legislative authority, to hold, operate and run such railway; and if such application is made to Parliament and is unsuccessful, the Minister may extend the order to run and operate such railway until the end of the then next following session of Parliament, and no longer; and if during such extended period the purchaser does not obtain such Act of incorporation or other legislative authority, such railway shall be closed or otherwise dealt with by the Minister, as may be determined by the Governor in Council. 51 V., c. 29, s. 280, Am.

Closing of
road.

Railway Constables.

Appointment
of railway
constables.

241. Any two justices of the peace, or a stipendiary or police magistrate, in the provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, or Manitoba or the district of Keewatin, and any judge of the Court of King's Bench or Superior Court, or clerk of the Peace, or clerk of the Crown, or judge of the Sessions of the Peace, in the province of Quebec, and any judge of the Supreme Court, or two justices of the peace, in the North-west Territories, and any commissioner of a Parish Court in the province of New Brunswick, within whose several jurisdictions the railway runs, may, on the application of the company or any clerk or agent of the company, appoint any persons recommended for that purpose by such company, 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, which may be administered by any judge or other official authorized to make the appointment or to administer oaths, in the form or to the effect following, that is to say:—

Oath to be
taken.

"I, A.B., having been appointed a constable to act upon and along (here name the railway), under the provisions of *The Railway Act, 1903*, 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." 51 V., c. 29, s. 281, Am. Form of oath.

Such appointment shall be made in writing signed by the official making the appointment, 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.

2. Every constable so appointed, who has taken such oath or made such declaration, may act as a constable for the preservation of the peace, and for the security of persons and property against unlawful acts on such railway, and on any of the works belonging thereto, and on and about any trains, roads, wharfs, quays, landing places, warehouses, lands and premises belonging to such company, whether the same are in the county, city, town, parish, 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 company, and in all places not more than a quarter of a mile distant from such railway, and shall have all such 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 offences, and for keeping the peace, which any constable duly appointed has within his constabulary. 51 V., c. 29, s. 282, Am. Powers of constable.
Protection.

3. Any such constable may take such persons as are punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts or by-laws affecting the railway, before any justice or justices appointed for any county, city, town, parish, district or other local jurisdiction within which such railway passes; and every such justice may do so in all such cases, as though the offences had been committed within the persons taken within the limits of his jurisdiction. 51 V., c. 29, s. 283, Am. Arrest of offenders.

4. Any judge of the Court of Queen's Bench or Superior Court, or judge of the Sessions of the Peace, in the province of Quebec, and any judge of the Superior Court in the North-west Territories, may dismiss any such constable who is acting within their several jurisdictions. 51 V., c. 29, s. 284, Am. Dismissal of constables.
By courts.

of

By authorized
officers of
company.

May not be
reappointed
without
consent.

Record of
appointment
of constables.

And of
dismissals.

Neglect of
duty by
constable.

Penalty.

of such company, may dismiss any such constable who is acting on such railway; and upon every such dismissal, all powers, protections and privileges which belonged to any such person, by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as constable for such railway, without the consent of the authority by whom he was dismissed. 51 V., c. 29, s. 284, Am.

5. The company shall cause to be recorded in the office of the clerk of the peace, for every county, parish, district or other local jurisdiction in which such constable is appointed 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. 51 V., c. 29, s. 285, Am.

6. 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, district or other local jurisdiction 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. 51 V., c. 29, s. 286.

Actions for Damages.

Limitation of
action for
damages.

Pleadings.

Proof.

Certain
actions
excepted.

242. All actions or suits for indemnity 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; and the defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by the authority of this Act or of the Special Act 51 V., c. 29, s. 287.

2. Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, in the carriage of any traffic nor to any action
362
against

against the company for damages under any section of Part XI. of this Act, respecting tolls.

3. 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 the province in which such liability or responsibility arises. 51 V., c. 29, s. 288.

X.—BY-LAWS, RULES AND REGULATIONS.

213. 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; Speed.

(b) the hours of the arrival and departure of trains; Timetables.

(c) the loading or unloading of cars, and the weights which they are respectively to carry; Loads.

(d) the receipt and delivery of traffic.

(e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations, or other premises occupied by the company; Freight regulations.
Nuisances.

(f) the travelling upon, or the using or working of, the railway; Traffic and operation.

(g) the employment and conduct of the officers and employees of the company; and— Conduct.

(h) the due management of the affairs of the company. 51 V., c. 29, s. 214, Am. Management.

214. The company may, for the better enforcing the observance of any such by-law, rule or regulation, thereby prescribe a penalty not exceeding forty dollars for any violation thereof. 51 V., c. 29, s. 215. Penalty for violation of by-law.

215. 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. 51 V., c. 29, s. 216, Am. Essentials to validity of by-law.

Must be approved by Governor in Council.

Board to report.

246. All such by-laws, rules and regulations, except such as relate to tolls and such as are of a private or domestic nature and do not affect the public generally, shall be submitted to the Governor in Council for approval. The Governor in Council, having first obtained the report of the Board thereon, which report it shall be the duty of the Board to make, 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 of any part thereof. Except when so sanctioned no such by-law, rule or regulation shall have any force or effect. 63-64 V., c. 23, s. 9, Am.

Publication of by-laws, etc.

247. 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; and in the province of Quebec, such notice shall be published both in the English and French languages. 51 V., c. 29, s. 218.

Publication of by-laws, etc., affecting employees.

2. 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; and in the province of Quebec the same shall be published both in the English and French languages. 51 V., c. 29, s. 219.

By-laws, etc., binding when approved.

248. 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. 51 V., c. 29, s. 220.

Summary interference in certain cases.

249. 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. 51 V., c. 29, s. 221, Am.

Evidence.

250. 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. 51 V., c. 29, s. 222.

XI.—TOLLS.

By-laws.

By-laws to be passed authorizing issue of tariffs of tolls

251. 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

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 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. 51 V., c. 29, ss. 223, 227, 228 and 231, Am.

Discrimination.

252. 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. 51 V., c. 29, s. 224, Am.

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. 51 V., c. 29, s. 225, Am.

3. 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. 51 V., c. 29, s. 232, Am.

4. 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.

Duty of company to afford reasonable facilities for receiving, forwarding and delivering traffic without partiality and without unreasonable delay.

Undue preference or advantage.

Difference in treatment.

Undue prejudice or disadvantage.

Agreements in violation void.

Power of Board to determine what are substantially similar circumstances undue preferences, etc.

253. 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 advantage 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 Canada 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. 51 V., c. 29, s. 240, Am., by 61 V., c. 22, s. 1, and 1 Ed. VII., c. 32, Am.

2. 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.

254. Whenever it is shown 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.

Burden of proof respecting unjust discrimination, etc.

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 interests 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.

What Board may consider in determining unjust discrimination, etc.

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.

Apportionment of toll for carriage by land and water.

61 V., c. 2^d, s. 2, Am.

Freight Classification.

255. The tariffs of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize. The Board shall endeavour to have such classification uniform throughout Canada, as far as may be, having due regard to all proper interests.

Freight classification to be adopted which Board may prescribe. Uniformity.

2. The Board may make any special regulations, terms and conditions in connection with such classification and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient.

Terms and conditions in classification, etc.

3. The company may, from time to time, with the approval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other higher or lower class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in *The Canada Gazette*.

Change of class.

4. Until the Board otherwise orders or directs, the freight classification last approved by the Governor in Council before the passing of this Act, shall continue in force, and any freight classification in use in the United States may, subject to such order or direction, be used by the company with respect to traffic to and from the United States. 51 V., c. 29, s. 226, Am.

Present freight classification.

Tariffs.

Form, etc., of tariffs **256.** All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details, as the Board may, by regulation, or in any case, prescribe.

Disallowance, etc., of tariffs **257.** The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed, and may designate the date at which any tariff shall come into force.

Amending tariffs. **2.** Any tariff in force (except standard tariffs, hereinafter mentioned) may, subject to disallowance or change by the Board, be amended or supplemented by the company, by tariffs, in accordance with the provisions of this Act.

Consolidation and reissue. **3.** Where any tariff has been amended or supplemented from time to time, the Board may order that a consolidation and reissue of such tariff be made by the company.

Fraction of a mile considered one mile. **258.** In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile. In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds by the company; and in estimating the tolls to be charged in passenger tariffs, any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents by the company. 51 V., c. 29, s. 229, Am.

Fractions of five pounds in weight.

Fractions of five cents.

Subdivision of freight tariffs. **259.** The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes, namely:—

Standard The maximum mileage tariff, herein referred to as the Standard Freight Tariff;

Special. The reduced class or commodity tariffs, herein referred to as the Special Freight tariffs;

Competitive. And Competitive Tariffs.

What Standard Freight tariff to specify. **260.** The Standard Freight Tariff, or Tariffs, where the company is allowed by the Board more than one Standard Freight Tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway.

Such distances may be expressed in blocks or groups and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls.

2. The Special Freight Tariffs shall specify the toll or tolls, lower than in the Standard Freight Tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway, greater tolls not being charged therein for a shorter than a longer distance over the same line in the same direction, the shorter being included in the longer.

What Special Freight Tariffs to specify.

3. The Competitive Tariffs shall specify the toll or tolls lower than in the Standard Freight Tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem, or have declared, to be competitive points not subject to the long and short haul clause under the provisions of this Act.

What Competitive Tariffs to specify.

261. Every Standard Freight Tariff shall be filed with the Board, and shall be subject to the approval of the Board.

Standard Freight Tariff to be filed and approved.

2. Upon any such tariff being filed and approved by the Board the company shall publish the same, with a notice of such approval in such form as the Board directs in at least two consecutive weekly issues of *The Canada Gazette*.

To be published in Canada Gazette.

3. Until the company files its Standard Freight Tariff or Tariffs as the case may be, with the Board, and such tariff or tariffs is, or are, so approved and published, no toll shall be charged by the company.

Until filed, etc., no toll to be charged.

4. When the provisions of this section have been complied with, and except in the cases of Special Freight and Competitive Tariffs, the tolls as specified in the Standard Freight Tariff or Tariffs, as the case may be, shall be the only tolls which the company is authorized to charge for the carriage of goods.

Upon compliance with this section what tolls authorized to be charged for freight.

262. Special Freight Tariffs and Competitive Tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

Special freight tariffs, etc., to be filed.

2. When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the Board and shall publish the same in the manner in section 274 in such case provided, three days previous to the date on which such tariff is intended to take effect. When any such special freight tariff advances any toll previously authorized to be charged under this Act, the company shall in like manner file and publish such tariff ten days previous to the date on which such tariff is intended to take effect.

Where reduce tolls previously authorized.

Where advance.

3. Upon any such special freight tariff being so filed by the company shall, until such tariff is superseded or is approved by the Board, charge the toll or tolls as specified in such special freight tariff shall supersede any previous tariffs, or any portion or portions thereof, in so far as they advance the tolls therein.

Any tolls authorized to be charged in special freight tariffs, etc.

Board may make regulations as to filing of competitive tariffs.

4. In the case of Competitive Tariffs, where it may be necessary to meet the exigencies of competition, or as to the Board may seem expedient, the Board may make rules and regulations governing the filing or publication of the same, and may provide that any such tariffs may be acted upon and put in operation immediately upon the issue thereof by the company, before they have been filed with the Board as required by this Act.

Subdivision of passenger tariffs.

263. The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes, namely :

Standard.

The maximum mileage tariff, herein referred to as the Standard Passenger Tariff;

Special.

And Reduced Passenger Tariffs, herein referred to as Special Passenger Tariffs

What standard passenger tariff shall specify.

2. The Standard Passenger Tariff shall specify the maximum mileage tolls to be charged for passengers for all distances covered by the company's railway; such distances may be expressed in like manner as provided herein in respect of Standard Freight Tariffs.

What special passenger tariffs shall specify.

3. Special Passenger Tariffs shall specify the toll or tolls to be charged by the company for passengers in every case where such tolls are lower than the tolls specified in the company's Standard Passenger Tariff.

Standard passenger tariff to be filed approved and published.

264. A Standard Passenger Tariff shall be filed, approved and published in the same manner as required by this Act in the case of a Freight Standard Tariff.

Otherwise no tolls to be charged by company.

2. Until the company files its Standard Passenger Tariff and such tariff is so approved and published in *The Canada Gazette*, no tolls shall be charged by the company.

Tolls authorized to be charged upon compliance.

3. When the provisions of this section have been complied with, and except in the case of Special Passenger Tariffs, the tolls in the Standard Passenger Tariff shall be the only tolls which the company is authorized to charge for the carriage of passengers.

Special passenger tariffs have to be filed and published.

265. All Special Passenger Tariffs shall be filed by the company with the Board, and published as required by section 274, three days before any such tariff is intended to take effect, or within such time, or in such manner, as the Board, owing to the exigencies of competition or otherwise, may require.

The date of the issue and the date on which, and the period if any, during which, any such tariff is intended to take effect, shall be specified thereon.

When tolls authorized to be charged.

2. Upon any such tariff being so duly filed the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs, or any portion or portions

tions thereof, in so far as it reduces or advances the tolls therein, but until such tariff is so duly filed, no such toll or tolls shall be charged by the company.

266. Where traffic is to pass over any continuous route in Canada operated by two or more companies, the several companies may agree upon a joint tariff for such continuous route, and the initial company shall file such joint tariff with the Board, and the other company or companies, shall promptly notify the Board of its, or their, assent to and concurrence in such joint tariff. The names of the companies whose lines compose such continuous route shall be shown by such tariffs.

Joint tariffs where agreed upon for through traffic in Canada.

267. In the event of failure by such companies to agree upon any such joint tariff as provided in the next preceding section, the Board on the application of any company or person desiring to forward traffic over any such continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect, and traffic shall be carried by the companies in accordance therewith.

Where failure to agree.

Power of Board

Order.

2. Upon any such order being made the company shall as soon as possible, or within such time as the Board may require, file and publish a Joint Tariff in accordance with this Act and in accordance with such order.

Upon order Company to file joint tariff.

3. In any case when there is a dispute between companies interested as to the apportionment of a through rate in any Joint Tariff, the Board may apportion such rate between such companies.

Apportionment of through rate.

4. The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge.

Power of Board.

268. Where traffic is to pass over any continuous route from a point in Canada through a foreign country into Canada, or from any point in Canada to a foreign country, such route being operated by two or more companies whether Canadian or foreign, the several companies shall file with the Board a Joint Tariff for such continuous route.

From Canada into foreign country.

2. Any goods carried or being carried from Canada through a foreign country into Canada, in violation of this section, shall, before being admitted into Canada, be subject to customs duties, as if such goods were of foreign production and coming into Canada for the first time, and, in case such goods are of a kind which would not otherwise be subject to any customs duties hereunder, shall be subject to a customs duty of thirty

Penalty for violation.

Goods subject to customs duties.

Liability of
company for
duties.

per centum of the value thereof; and if any such duty is paid by the consignor or consignee of such goods, the same shall be repaid to the persons so paying, on demand, by the Canadian company or companies. Any law to the contrary is hereby repealed or amended in so far as is necessary to give effect to this section.

From foreign
country into
Canada.

269. As respects all traffic which shall be carried from any point in a foreign country into Canada, or from a foreign country through Canada into a foreign country by any continuous route owned or operated by any two or more companies, whether Canadian or foreign, a Joint Tariff for such continuous route shall be duly filed with the Board.

"Canadian
company"
defined.

270. The expression "Canadian company" in the last two preceding sections shall mean and include any company owning or operating so much of any continuous line or route as lies in Canada.

Facilities to
be afforded for
through
traffic.

271. The facilities to be afforded as required by section 252 shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and in the case of goods shipped by car load of the car with the goods shipped therein, to and from the railway of such other company, at a through rate, and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates. 1 Edw. VII., c. 32, s. 1, Am.

Continuous
carriage of
through
freight not to
be unnece-
sarily inter-
rupted.

272. No company shall, by any combination, contract or agreement, express or implied, or by other means or devices, prevent the carriage of goods from being continuous from the place of shipment to the place of destination; and no break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this Act.

Filing and
publication of
joint tariffs.

273. Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description; and upon any such joint tariff being so duly filed with the Board the company or companies shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein: Provided that the Board may except from the provisions of this section the filing and publication of any or all passenger tariffs of foreign railway companies.

When tolls
therein to be
charged.

Proviso:
foreign
companies.

2. The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, which it or any other company, whether Canadian or foreign, is to receive or has received.

Information as to proportion of through rate received by each company.

274. The company shall deposit and keep on file in a convenient place open for the inspection of the public, during office hours, a copy of each of its tariffs at the respective places mentioned, as follows:—

Tariffs to be open to public inspection.

(a.) Standard Passenger and Freight Tariffs at every station or office of the company where passengers or freight, respectively, are received for carriage thereunder.

Standard tariffs.

(b.) Special Passenger and Freight Tariffs at every station or office of the company where passengers or freight, respectively, are received for carriage thereunder, and, as to such freight tariffs, as soon as possible, at each of its stations or offices to which freight traffic is to be carried thereunder.

Special tariffs.

(c.) Competitive Tariffs at each freight station or office of the company where goods are to be received and delivered thereunder.

Competitive tariffs.

(d.) Joint Tariffs under sections 266 and 267 at each freight station or office where traffic is to be received and at each freight station to which such tariffs extend.

Joint tariffs under sec. 266, 267.

(e.) Joint Tariffs under section 268 at each freight station or office where such traffic is to be received and at each freight station or office in Canada to which it is to be carried as its destination.

Joint tariffs under sec. 268.

(f.) Joint Tariffs under section 269 at each freight station or office in Canada to which such tariffs extend.

Joint tariffs under sec. 269.

2. The company shall keep on file at its stations or offices where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway, for inspection during business hours.

Publication of freight classification.

3. The company shall post up in a prominent place at each of its stations where passengers or freight, respectively, are received for carriage, a notice in large type directing the public attention to the place in such station where the passenger or freight tariffs, respectively, are kept on file for public inspection during business hours, and the station agent, or person in charge at such station, shall produce to any applicant, on request, any particular tariff in use at that station which he may desire to inspect.

Notice to be posted at stations of place where tariffs open to inspection.

4. Notwithstanding anything in this section, the Board may, in addition to, or in substitution of, the publication of any tariff required by this section, by regulation or otherwise determine and prescribe the manner and form in which any such tariff shall be published or kept open by the company for public inspection, and may exempt from any such publication any competitive tariffs or any joint tariff under sections 268 or 269. 51 V., c. 29, s. 230, Am.

Power of Board as to publication of tariffs.

General provisions respecting Carriage.

Contracts,
etc., impairing
carrier's li-
ability.

275. No contract, condition, by-law, regulation, declaration or notice made or given by the company impairing, restricting or limiting its liability in respect of the carriage of any traffic shall relieve the company from such liability, except as hereinafter provided, unless such class of contract, condition, by-law, regulation, declaration or notice shall have been first authorized or approved by order or regulation of the Board.

Power of
Board.

2. The Board may, in any case, or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited; and may by regulation prescribe the terms and conditions under which any traffic may be carried by the company.

Carriage, etc.,
of certain
traffic allowed
free or at
reduced rates.

3. 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 Provincial Legislatures or 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 subsection may, in any particular case or by general regulation, be extended, restricted, limited or qualified by the Board.

Special rates
for specific
shipments
may be
allowed by
Board.

4. Notwithstanding anything in this Act, the Board may make regulations permitting the company to issue special rate notices prescribing tolls, lower than the tolls in force upon the railway, to be charged for specific shipments between points upon the railway, not being competitive points, where it considers the charging of the special tolls mentioned in any such notices will help to create trade or develop the business of the company or be in the public interest, and not otherwise contrary to the provisions of this Act; every such special rate notice or a duplicate copy thereof, shall be filed with the Board and shall exist merely for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein.

Members of
Parliament
and Board

5. The company shall furnish free transportation upon any of its trains, for members of the Senate and House of Commons

of Canada with their 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 and be in charge any car provided for the use of the Board.

to have free transportation.

Traffic by Water.

276. When the company, owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic, by sea or by inland water, between any places or ports in Canada, the provisions of this Act in respect of tolls shall, so far as they are applicable, extend to the traffic carried thereby.

Carriage of traffic by water.

Traffic over or through certain bridges, Bridges or Tunnels.

277. When any company, under and by Special Act to construct, maintain and use any bridge or tunnel for railway purposes, or for rail traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway, the provisions of this Act in respect of tolls shall, so far as they are applicable, extend to such company and to the traffic so carried.

Traffic over certain bridges, etc.

Express Companies.

278. Every company which grants facilities for the carriage of goods by express to any incorporated express company or person, shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same. 51 V. c. 29, s. 242

Equal facilities to be granted to express companies.

Penalties and Offences.

279. The company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by the company, who contravenes or with any other company or person, shall wilfully cause to be done, or shall willingly suffer to be done any act, matter or thing, contrary to the provisions of, or to any order, direction, decision or regulation of the Board made or given under, this Act in respect of tolls, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter, or thing thereby required to be done, or shall cause or willingly suffer or permit any act, matter or thing, so directed or required thereby to be done, not to be so done, or shall aid or abet any omission or failure, or shall be guilty of any infraction of any such order, direction, decision or regulation, or any of such provisions of this Act, or shall aid or abet therein, shall for each offence be liable to a penalty of not more than one thousand dollars, nor less than one hundred dollars. 51 V., c. 29, s. 241, Am.

Penalties for violation of Act as to tolls.

Penalties for
false billing
by company.

2. Any company or any officer or agent hereof, or any person acting for or employed by the company who, by means of false billing, false classification, false report of weight or by any other device or means shall knowingly, wilfully, or shall willingly suffer or permit any person or persons to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company, shall for each offence be liable to a penalty of not exceeding one thousand dollars nor less than one hundred.

Penalties for
false billing by
shippers, etc.

3. Any person or any officer or agent of any incorporated company who shall deliver goods for transportation to the company or for whom as consignor or consignee the company shall transport goods, who shall knowingly or wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtain transportation for such goods at less than the regular tolls then authorized and in force on the railway shall for each offence be liable to a penalty of not exceeding one thousand dollars nor less than one hundred dollars. The Board may make regulations providing that any such person or company shall, in addition to the regular toll, be liable to pay to the company a further toll not exceeding fifty per cent of the regular charge. The company may, and when ordered by the Board shall, open and examine any package, box, case, or shipment, for the purpose of ascertaining whether this subsection has been violated.

Penalties for
inducing un-
just discrimi-
nation.

4. Any person or company, or any officer or agent of any company, who shall offer, grant, or give, or shall solicit, accept or receive any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall by any device whatsoever, be transported at a less rate than that named in the tariffs then in force, or for whom the company, or any of its officers or agents, shall by any such means be induced to transport traffic, and thereby to discriminate unjustly in his, its, or their favour as against any other person or company, or who shall aid or abet the company in any unjust discrimination, shall for each offence be liable to a penalty not exceeding one thousand dollars nor less than one hundred dollars.

Tariff binding
on company.

5. Whenever the company files with the Board any tariff, and such tariff comes into force and is not disallowed by the Board, under this Act, or participates in any such tariff, the tolls in such tariff, while so in force, shall as against such company, its officers, agents or employees, in any prosecution under this Act, be conclusively deemed to be the legal tolls chargeable by such company, and any departure therefrom shall be an offence under this Act.

Actions for
treble dam-
ages.

6. The company shall, in addition to any penalty in this section provided, be liable at the suit of any person injured to three times the amount of the actual damage he may be proved to have sustained, by reason of any infraction by the
company

company, or any officer, servant or agent of the company, of any of the provisions of, or of any order, direction, decision or regulation made or given by the Board under this Act in respect of tolls. 51 V., c. 29, s. 290, Am.

7. No prosecution shall be had or instituted for any penalty provided under this section nor shall any action be commenced for any treble damages under this section without the leave of the Board first being obtained. Leave of Board necessary

Collection of Tolls.

280. In case of refusal or neglect of payment on demand of any lawful tolls, or any part thereof, the same shall be recoverable 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 are payable and may detain the same until payment thereof, and in the meantime the said goods shall be at the risk of the owners thereof. 51 V., c. 29, s. 234, Am. Enforcing payment of tolls.

2. 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 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. 51 V., c. 29, s. 235, Am. Sale of goods to recover tolls.

3. 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 *Official Gazette* of the province in which such goods are, and in such other newspapers as it deems necessary, sell such goods by public auction, at a time and place which shall 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. 51 V., c. 29, s. 236. Unclaimed goods. Notice. Sale. Application of proceeds.

4. In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be deposited with the Minister of Finance and Receiver General for the public uses of Canada but may be claimed by the person entitled thereto at any time within six years from the date of such deposit. 51 V., c. 29, s. 237, Am. Unclaimed balances.

XII.—AGREEMENTS.

Amalgamation Agreements.

- Agreements for sale, lease, or amalgamation of railway.**
- 281.** Where the company is authorized by any Special Act of the Parliament of Canada, to enter into an agreement with any other company for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from such company, the railway and undertaking of such company, in whole or in part, or for amalgamation, such agreement shall be first approved by two-thirds of the votes of the shareholders of each company, parties thereto, at an annual general meeting, or at a special general meeting of each company called for the purpose of considering such agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy; and upon such agreement being so approved, and duly executed it shall be submitted to the Board with an application for a recommendation to the Governor in Council for the sanction thereof.
- Approval of shareholders.**
- Sanction of Governor in Council on recommendation of Board.**
- Notice of application to Board.**
- Action of Board.**
- Duplicate original to be filed in office of Secretary of State.**
- Notice.**
- Amalgamation.**
2. Notice of the proposed application therefor shall be published in *The Canada Gazette* for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or electoral districts through which the railway, to be sold, leased or amalgamated, runs, in which a newspaper is published.
3. Upon such notice being given the Board shall grant or refuse such application, and upon granting the same shall make a recommendation to the Governor in Council for the sanction of such agreement.
4. Upon such agreement being sanctioned by the Governor in Council, a duplicate original of such agreement shall be filed in the office of the Secretary of State for Canada, and thereupon such agreement shall come into force and effect, and notice thereof shall be forthwith given in *The Canada Gazette*, and the production of *The Canada Gazette* containing such notice shall be *prima facie* evidence of the requirements of this section being complied with.
- 282.** Upon any agreement for amalgamation coming into effect, as provided in the last preceding section, the companies, parties to such agreement, shall, subject to the provisions of this Act and the Special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company, under the name, and upon the terms and conditions in such agreement provided, and the amalgamated company shall possess and be vested with all the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties, real, personal, and mixed, belonging to, possessed by, or vested in the companies,

parties to such agreement, or to which they, or any or either of them, may be or become entitled, and shall be liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any, or either, of such companies were at or before the time that the amalgamation agreement came into effect.

Undertakings
etc., vested in
amalgamated
company.

283. Notwithstanding anything in any agreement made or sanctioned under the provisions of the last two preceding sections every act, matter or thing, done, effected or confirmed under or by virtue of this Act or the Special Act before the date of the coming into effect of such agreement, shall be valid as if such agreement had never come into effect; and such agreement shall be subject, and without prejudice, to every such act, matter or thing, and to all rights, liabilities, claims and demands, present or future, which would be incident to, or consequent upon such act, matter or thing if such agreement had never come into effect; and in the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company shall for all purposes stand in the place of, and represent, the companies who are parties thereto, and the generality of the provisions of this section shall not be deemed to be restricted by any Special Act unless this section is expressly referred to in such Special Act, and expressly limited or restricted thereby.

Saving of
rights and
claims.

Traffic Agreements.

284. The directors may, at any time, make and enter into any agreement or arrangement, not inconsistent with the provisions of this or the Special Act, with any other company, either in Canada or elsewhere, for the interchange of traffic between their railways or vessels, and for the division and apportionment of tolls in respect of such traffic.

Traffic agree-
ments.

2. The directors may also make and enter into any agreement or arrangements, not inconsistent with the provisions of this or the Special Act, for the running of the trains of one company over the tracks of another company, and for the division and apportionment of tolls 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 or railways 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 for the better carrying into effect any such agreement or arrangement, with such powers and functions as are considered necessary or expedient,—subject to the like consent of the shareholders, the sanction of the Governor in Council upon the recommendation of the Board, application, notices and filing, as provided in section 281 with respect to amalgamation

Conditions.

Board may
exempt from
conditions.

agreements, except that publication of notices in *The Canada Gazette* shall be sufficient, and that the duplicate original of such agreement or arrangement shall upon being sanctioned be filed with the Board: Provided that the Board may, by order or regulation, exempt the company from complying with any of the foregoing conditions with respect to any such agreement or arrangement made or entered into by the company for the transaction of the usual and ordinary business of the company, and where such consent of the shareholders is deemed by the Board to be unnecessary. 51 V., c. 29, ss. 238, 239, Am.

Saving.

3. Neither the making of any such arrangement or agreement, nor anything therein contained, nor any approval thereof, shall restrict, limit, or affect any power by this Act vested in the Board, or relieve the companies from complying with the provisions of this Act.

XIII.—INSOLVENT COMPANIES.

Directors of
insolvent
railway
company may
file scheme of
arrangement
in Exchequer
Court.

285. Where a company is unable to meet its engagements with its creditors, the directors may prepare a scheme of arrangement between the company and its creditors (with or without provisions for settling and defining any rights of shareholders of the company as among themselves, and for raising, if necessary, additional share and loan capital, or either of them) and may file it in the Exchequer Court with a declaration in writing, under the common seal of the company, to the effect that the company is unable to meet its engagements with its creditors, and with an affidavit of the truth of such declaration made by the president and directors, or by a majority of the president and directors of the company, to the best of their respective judgment and belief. 1 Edw. VII., c. 31, s. 1, Am.

Effect of
filing.

2. After the filing of the scheme, the Exchequer Court may, on the application of the company on summons or motion in a summary way, restrain any action against the company on such terms as the Exchequer Court thinks fit. 1 Edw. VII., c. 31, s. 2, Am.

Notice of
filing.

3. Notice of the filing of the scheme shall be published in *The Canada Gazette*. 1 Edw. VII., c. 31, s. 3.

Effect of
notice.

4. After such publication of notice, no execution, attachment, or other process against the property of the company shall be available without leave of the Exchequer Court, to be obtained on summons or motion in a summary way. 1 Edw. VII., c. 31, s. 4, Am.

Assent of
bondholders.

286. The scheme shall be deemed to be assented to by the holders of mortgages or bonds issued under the authority of this or any special Act relating to the company, when it is assented to in writing by three-fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it

is assented to in writing by three-fourths in value of the holders of such stock. 1 Edw. VII., c. 31, s. 5, Am.

2. Where any rent charge or other payment is charged on the receipts of, or is payable by, the company in consideration of the purchase of the undertaking of another company, the scheme shall be deemed to be assented to by the holders of such rent charge or other payment when it is assented to in writing by three-fourths in value of such holders. 1 Edw. VII., c. 31, s. 6.

Assent of holders of rent charges etc

3. The scheme shall be deemed to be assented to by the guaranteed or preference shareholders of the company when it is assented to in writing as follows:—If there is only one class of guaranteed or preference shareholders, then by three-fourths in value of that class; and if there are more classes of guaranteed or preference shareholders than one, then by three-fourths in value of each such class. 1 Edw. VII., c. 31, s. 7.

Assent of guaranteed or preference shareholders.

4. The scheme shall be deemed to be assented to by the ordinary shareholders of the company when it is assented to by a special general meeting of the company specially called for that purpose. 1 Edw. VII., c. 31, s. 8.

Assent of ordinary shareholders.

5. Where the company is lessee of a railway, the scheme shall be deemed to be assented to by the leasing company when it is assented to as follows:—

Assent of lessors if company is lessee of railway.

(a.) In writing by three-fourths in value of the holders of mortgages, bonds and debenture stock of the leasing company;

(b.) If there is only one class of guaranteed or preference shareholders of the leasing company, then in writing by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders in the leasing company than one, then in writing by three-fourths in value of each such class;

(c.) By the ordinary shareholders of the leasing company at a special general meeting of that company specially called for that purpose. 1 Edw. VII., c. 31, s. 9.

6. The assent to the scheme of any class of holders of mortgages, bonds or debenture stock, or of any class of holders of a rent charge or other payment as aforesaid or of any class of guaranteed or preference shareholders, or of a leasing company, shall not be requisite in case the scheme does not prejudicially affect any right or interest of such class or company. 1 Edw. VII., c. 31, s. 10.

When assent may be dispensed with.

287. If, at any time within three months after the filing of the scheme, or within such extended time as the Exchequer Court, from time to time, thinks fit to allow, the directors of the company consider the scheme to be assented to as by this Act required, they may apply to the Exchequer Court by petition in a summary way for confirmation of the scheme.

Application for confirmation of scheme.

2. Notice of any such application when intended shall be published in *The Canada Gazette*. 1 Edw. VII., c. 31, s. 11, Am.

Notice of application.

Confirmation
by court.

3. After hearing the directors, and any creditors, shareholders, or other persons whom the Exchequer Court thinks entitled to be heard on the application, the court, if satisfied that the scheme has been, within three months after the filing of it, or such extended time, if any, as such court has allowed, assented to as required by this Act, and that no sufficient objection to the scheme has been established, may confirm the scheme. 1 Edw. VII., c. 31, s. 12, Am.

Enrolment in
court.

4. The scheme when confirmed shall be enrolled in the Exchequer Court, and thenceforth it shall be binding and effectual to all intents, and the provisions thereof shall, against and in favour of the company and all persons assenting thereto or bound thereby, have the like effect as if they had been enacted by Parliament. 1 Edw. VII., c. 31, s. 13, Am.

Notice of
confirmation
and
enrolment.

5. Notice of the confirmation and enrolment of the scheme shall be published in *The Canada Gazette*. 1 Edw. VII., c. 31, s. 14.

Copies of the
scheme to be
sold to the
public.

288. The company shall at all times keep at its principal or head office printed copies of the scheme when confirmed and enrolled and shall sell such copies to all persons desiring to buy them at a reasonable price, not exceeding ten cents for each copy.

Penalty.

2. If the company fails to comply with this provision it shall be liable to a penalty not exceeding one hundred dollars, and to a further penalty not exceeding twenty dollars for every day during which such failure continues after the first penalty is incurred. 1 Edw. VII., c. 31, s. 15.

Rules of
practice.

289. The judge of the Exchequer Court may make general rules for the regulation of the practice and procedure of the court under the last preceding four sections of this Act, which rules shall have force and effect when they are approved by the Governor in Council. 1 Edw. VII., c. 31, s. 16.

XIV.—OFFENCES AND PENALTIES.

Company not
to purchase
stock in other
companies.

290. 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 which any company in Canada 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. 51, V., c. 29, s. 276, Am.

Existing
rights saved.

Penalty upon
directors.

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 recoverable on information filed in the name of the Attorney General of Canada: 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. 51 V., c. 29, s. 277.

291. 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.

Walking on track prohibited

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 Parliament, 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.

Destruction of fences, bridges, etc.

Defacing notices, etc.

Penalty.

3. Every person who enters upon any railway train without the knowledge or consent of an officer or servant of the company with intent fraudulently to be carried upon the said railway 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, not being an employee of the company, 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 subsection two of this section in regard to the offences therein mentioned.

Fraudulently attempting to travel without paying fare.

Obstructing railway authorities.

Trespassing.

Penalties.

4. Any person charged with an offence under this section shall be a competent witness on his own behalf. 51 V., c. 29, s. 273, Am.; 62-63 V., c. 37, s. 4.

Witnesses.

292. 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.

Board may order foot-bridges erected at level crossings.

Subsequent use of highway crossing.

2. Every person who offends against the provisions of this section is liable, on summary conviction to a penalty not exceeding ten dollars. 51 V., c. 29, s. 274, Am.

Penalty for non-compliance.

Penalty for
erection, etc.,
of structures
in violation
of this Act.

293. 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. Sub. for 51 V., c. 29, s. 189.

Liability of
company,
directors, etc.,
in certain
cases.

294. 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 Governor in Council, or of the Board or Minister 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. 51 V., c. 29, s. 289, ss. 1, Am.

Damages.

Penalty.

Intoxication
of conductors
and drivers.

295. Every person who is intoxicated while he is in charge of a locomotive engine, or acting as the conductor of a car or train of cars, is guilty of an indictable offence and liable to ten years' imprisonment. 51 V., c. 29, s. 292.

Selling liquor
to railway
employees
on duty.

2. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company, while on duty, is liable on summary conviction to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for a period not exceeding one month, or to both. 51 V., c. 29, s. 293.

Violation by
employees, of
by-laws, etc.,
punishable in
certain cases.

296. 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 the Minister 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 guilty of an offence, and shall, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both; but no such fine shall exceed four hundred dollars, and no such imprisonment shall exceed the term of five years. 51 V., c. 29, s. 294, Am.

Penalty.

2. The company may, in all cases under this section, pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. 51 V., c. 29, s. 295. Recovery of penalty from employees.

297. Every person who wilfully or negligently violates any 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 such offence, unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was openly affixed to a conspicuous part of the station at which the offender entered the train or at or near which the offence was committed. 51 V., c. 29, s. 296. Violation of by laws, etc., by other persons. Penalty. Provisions as to posting by law, etc.

298. Every person who—

(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, on or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of, or which belong to any company with intent feloniously to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof, or,— Damaging freight with intent to steal contents.

(b.) unlawfully drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof,— Drinking or wasting liquor.
 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. 51 V., c. 29, s. 297. Penalties.

299. 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 the Minister, or the Governor in Council, 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. Each day's violation of this Act, or order hereunder, a distinct offence.

2. 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, the Minister, or the Governor in Council, or 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 appointment 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 Act or omission of officer, etc., deemed to be act or omission of Company. Certain penalties may be imposed on summary convictions. Recovery of penalties.

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.

Recovery of penalties under this Act.

300. Where any penalty, prescribed for any offence under this Act, is one hundred dollars or less, with or without imprisonment, the penalty may, subject to the provisions of this Act, be imposed and recovered on summary conviction before a justice of the peace; and where the penalty prescribed is more than one hundred dollars and less than five hundred dollars, the penalty may, subject, as aforesaid, be imposed and recovered on summary conviction before two or more justices, or before a police magistrate, a stipendiary magistrate or any person with the power or authority of two or more justices of the peace.

Proceedings instituted by Attorney General.

2. 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 in respect of which violation a penalty may be imposed under this Act, the Board may request the Attorney General for Canada to institute and prosecute proceedings on behalf of His Majesty the King against such company or person for the imposition and recovery of the penalty provided under this Act for such violation, or the Board may cause an information to be filed in the name of the Attorney General for Canada for the imposition and recovery of such penalty.

Prosecution for penalty over \$100.

3. No prosecution shall be had against the company for any penalty under this Act in which the company might be held liable for a penalty exceeding one hundred dollars, without the leave of the Board being first obtained.

Penalties a first charge on railway.

301. Where the company has been convicted of any penalty under this Act, such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company.

XV.—STATISTICS AND RETURNS.

Interpretation.

"Company."

302. In the following sections of this Act down to section three hundred and eight inclusive, unless the context otherwise requires, the expression "company" means a company constructing or operating a line of railway in Canada, whether otherwise within the legislative authority of the Parliament of Canada or not, and includes any individual or individuals not incorporated, who are owners or lessees of a railway in Canada, or parties to an agreement for working a railway in Canada 51 V., c. 29, s. 298.

Annual returns to be prepared.

303. Every company shall annually prepare returns in accordance with the forms contained in schedule one to this Act, of its capital, traffic and working expenditure, and of all information

information required, as indicated in the said form, to be furnished to the Minister, and such returns shall be dated and signed by, and attested upon the oath of the secretary, or some other chief officer of the company, and of the president, or in his absence, of the vice-president or manager of the company.

Form and attestation.

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 June, in the then current year.

Period included.

3. A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Minister within three months after the first day of July in each year.

Duplicate for Minister.

4. The company shall also, in addition to the information required to be furnished to the Minister, as indicated in the said schedule one, furnish such other information and returns as are, from time to time, required by the Minister.

Other returns when required.

5. Every company which makes default in forwarding such returns in accordance with the provisions of this section, shall incur a penalty not exceeding ten dollars for every day during which such default continues.

Penalty for non-compliance.

6. The Minister shall lay before both Houses of Parliament, within twenty-one days from the commencement of each session thereof, the returns made and forwarded to him in pursuance of this section. 51 V., c. 29, s. 299.

Returns to be submitted to Parliament.

304. Every company shall, weekly, prepare returns of its traffic, that is to say, from the first to the seventh of the month inclusive, from the eighth to the fourteenth inclusive, from the fifteenth to the twenty-first inclusive, and from the twenty-second to the close of the month, inclusive, and such returns shall be in accordance with the form contained in schedule two to this Act, and a copy of such returns, signed by the officer of the company responsible for the correctness of such returns, shall be forwarded by the company to the Minister, within seven days from the day to which the said returns have been prepared. The Minister may in any case extend the time within which such returns shall be forwarded.

Weekly returns of traffic.

2. Every company which makes default in forwarding the weekly returns to the Minister, shall incur a penalty not exceeding ten dollars for every day during which such default continues. 51 V., c. 29, s. 300, Am.

Penalty.

3. Every person who, knowing the same to be false in any particular, signs a return required by this or the next preceding section, is guilty of an offence punishable on summary conviction. 51 V., c. 29, s. 301, Am.

Making false returns a misdemeanor.

305. Every company shall, within one month after the first days of January and July, in each and every year, make

Semi-annual returns of accidents.

to the Minister, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties, whether to life 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—

Causes and nature.
Locality and time.
Extent and particulars.
Copies of by-laws.

- (a.) the causes and natures of such accidents and casualties;
- (b.) the points at which they occurred, and whether by night or by day;
- (c.) the full extent thereof, and all the particulars of the same;

And shall also, when required by the Minister, return a true copy of the existing by-laws of the company, and of its rules and regulations for the management of the company and of its railway. 51 V., c. 29, s. 302, Am.

Minister may prescribe form of returns.

306. The Minister may order and direct, from time to time, the form in which such returns shall be made up, and may order and direct any company to make up and deliver to the Minister, from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Minister deems necessary and requires for his information with a view to public safety. 51 V., c. 29, s. 303.

Returns of serious accidents.

Penalty for non-compliance.

307. If the returns required under the two sections next preceding, so verified, are not delivered within the respective times in the said sections prescribed, or within fourteen days after the same have been so required by the Minister, every company which makes default in so doing shall forfeit to His Majesty the sum of one hundred dollars for every day during which the company neglects to deliver the same. 51 V., c. 29, s. 304.

Returns are privileged communications.

308. All returns made in pursuance of any of the provisions of the six sections of this Act next preceding shall be privileged communications, and shall not be evidence in any court whatsoever, except in any prosecution under subsection three of section three hundred and four, or for perjury in making the said oath or for forgery of said return or any part thereof. 51 V., c. 29, s. 305, Am.

Exceptions.

Returns to Board, of assets and liabilities.

309. 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—

Of stock issued and outstanding, etc.

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.

2. 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 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 inquiry which the Board deems it expedient to make in connection with any of the matters in this section aforesaid; and for such purposes may require the production to the Board of any books or documents in control of the company, or such officer, servant, agent or person.

3. If any company, or officer, servant, or agent thereof wilfully or negligently refuses to make such return when required 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, on conviction, to a penalty not exceeding one thousand dollars, and in addition, each such officer, servant or agent, so convicted shall be liable to imprisonment in the common jail of the county in which such conviction is made, for any period not exceeding twelve months.

4. 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

Of earnings and expenditure.

Of bonuses.

Of bonds.

Of accrued liabilities.

Of cost of property.

Of cost of acquisitions.

Of leases and contracts.

Generally.

Powers of Board respecting returns.

Of inquiries respecting same.

Production documents.

Refusal to make returns.

Penalties.

Making false returns to Board.

such officer, servant or agent, shall be severally liable on conviction to a penalty not exceeding one thousand dollars, and such officer, servant or agent shall also on such conviction, be liable to imprisonment for any period not exceeding twelve months, in the common jail of the county where such conviction is had.

Information privileged.

Penalty for employees of Board divulging.

Governor in Council may examine returns, etc.

Board may make information public, on notice to company, etc.

5. Any information furnished to the Board by any such return, or any evidence taken by the Board in connection therewith, shall not be open to the public, or published, but shall be for the information of the Board only; and if any official or servant of the Board, or any person having access to or knowledge of, any such return or evidence shall, without the authority of the Board first obtained, publish or make known any information, having obtained the same, or knowing the same to have been derived, from such return or evidence, he shall be liable, on conviction, to a penalty not exceeding five hundred dollars for each offence, and to imprisonment not exceeding six months in the common jail in the county where such conviction is had.

6. The Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in manner aforesaid.

7. The Board may authorize any part of such information to be made public when, and in so far as there may appear to the Board to be good and sufficient reasons for so doing; but if the information so proposed to be made public by the Board, is of such character that the company would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize such information to be published without notice to the company and hearing any objection which the company may make to such publication.

XVI.—REPEAL AND COMING INTO FORCE.

Repealed Acts.

310. The following Acts of the Parliament of Canada are hereby repealed:—

Chapter 29 of 51 Victoria;—the whole.

Chapter 28 of 53 Victoria;—the whole.

Chapter 51 of 54-55 Victoria;—the whole.

Chapter 27 of 55-56 Victoria;—the whole.

Chapter 27 of 56 Victoria;—the whole.

Chapter 53 of 57-58 Victoria;—the whole.

Chapter 9 of 59 Victoria;—the whole except section 2.

Chapter 22 of 61 Victoria;—the whole.

Chapter 37 of 62-63 Victoria;—the whole.

Chapter 23 of 63-64 Victoria;—the whole.

Chapter 31 of 1 Edward VII.;—the whole.

Chapter 32 of 1 Edward VII.;—the whole.

Date when Act comes into force.

311. This Act shall come into force on a day to be named by proclamation of the Governor General, and notice thereof shall be published in *The Canada Gazette*. But, in order to allow

allow time for the companies to comply with this Act in respect of tolls, tolls may be charged under the law as it stood immediately before the coming into force of this Act, until three months after this Act comes into force, or until such later date as the Board may by order in any case, or by regulation, fix and allow.

Tolls not affected until three months later.

SCHEDULE ONE.

..... Railway Company.

RETURN for the year ending June 30, 19 , required by the Minister of Railways and Canals, showing the conditions of the Capital and Revenue Account, etc., etc., of the Railways in the Dominion of Canada.

No. 1.—LOCATION AND GENERAL DESCRIPTION OF RAILWAY,

Showing the county or counties through which the railway runs, the terminal points, connections, if any, and giving a general description of the line and the country through which it passes.

June 30, 19 .

No. 2.—OFFICIAL NAME AND ADDRESS OF THE COMP.
OFFICIAL SEAL.

No. 3.—NAMES AND RESIDENCES OF DIRECTORS AND OFFICERS OF THE COMPANY, JUNE 30, 19 .

Names of Directors.	Residences.

President,
Vice-President,
Secretary,
Treasurer,
General Manager,
Engineers,
Superintendents.

No. 4.—LIST of all Statutes, Dominion or Provincial, in any manner affecting the railways or any part thereof, from the date of first construction to June 30, 19 .

No. 5.—LIST of all Statutes, Dominion or Provincial, under which any subsidy, loan or bonus, has been paid or voted, in respect of the railway, or any part thereof, passed prior to June 30, 19 .

No. 6.—LIST OF ALL CONTRACTS MADE BY THE COMPANY, for the construction of any part of the Railway up to June 30, 19 .

Date.	Contractors.	Description of Work.	Location and Mileage.	Prices.

Copies of any contracts must be furnished by the Company to the Minister when required.

No. 7.—CAPITAL ACCOUNT TO JUNE 30, 19 .

	Amount Authorized.	Amount Share Capital Subscribed, Bonds Issued.	Amount Share Capital Paid up, Bonds Sold.	*Rate of Interest or Dividend.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Total amount of ordinary share capital				
" of preference share capital.....				
" "				
" "				
" of ordinary bonds.....				
" "				
" "				
" of Government loans				
" " bonuses.....				
" " subscription to shares.....				
" " subscription to bonds.....				
" of municipal loans				
" " bonuses.....				
" " subscription to shares.....				
" " subscription to bonds.....				
" of capital from other sources. . .				
Total capital.....				

*State whether dividend is cumulative or not.

This statement must agree with the totals shown in the Annual Accounts or Statements from the Directors to the Company, prepared under section 84 of *The Railway Act, 1903*, a copy of which must be transmitted with this return.

If there is more than one issue of preference shares or bonds, state them and the amount of each class.

No. 8.—LOANS OR BOUNTIES FROM GOVERNMENTS OR MUNICIPALITIES, UP TO JUNE 30, 19 .

From what Source.	Amount of Loan Granted.	Amount of Bonus Granted.	Amount of Subscription to Shares.	Amount of Subscription to Bonds.	Rate of Interest.	Date of Repayment.
Governments... ..	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Total						
Municipalities.						
Total.....						

No. 9.—BONDS OR OTHER SECURITIES NEGOTIATED BY THE COMPANY, UP TO JUNE 30, 19 .

Amounts.	Rate of Interest.	Date of Sale.	Prices Realized.
\$ cts.	\$ cts.	\$ cts.	\$ cts.

No. 10.—SALES OF LAND MADE BY THE COMPANY, UP TO JUNE 30, 19 .

Acres Sold.	Price per Acre.	Amount.
	\$ cts.	\$ cts.

**No. 13.—ACTUAL COST OF RAILWAY AND ROLLING STOCK,
UP TO JUNE 30, 19 .**

1. Cost of land and land damages.....	\$ cts.
2. Cost in connection with the administration of Land Grant in aid, if any.....	
3. Cost of grading, masonry and bridging, station buildings, &c.....	
4. Cost of rolling stock of all kinds, including workshops.....	
Total.....	

The above total to show the actual cash cost of construction and of rolling stock.

**No. 14.—OPERATIONS OF THE YEAR ENDING JUNE 30, 19 ,
AND NUMBER OF MILES RUN.**

1. Miles run by passenger trains.....	
2. " freight trains.....	
3. " mixed trains.....	
4. Total miles run by trains.....	
5. " engines.....	
6. Total number of passengers carried.....	
7. " tons of freight (of 2,000 lbs.) carried.....	
8. Average rate of speed of passenger trains.....	
9. " freight trains.....	
10. Average weight of passenger trains in motion.....	
11. " freight trains in motion.....	

Note.—A train consists of one or more cars.

**No. 15.—DESCRIPTION OF FREIGHT CARRIED DURING THE YEAR
ENDING JUNE 30, 19 .**

—	Weight in Tons.
1. Flour in barrels, No.....	
2. Grain in bushels, No.....	
3. Live stock, No.....	
4. Lumber of all kinds, ft. B.M.....	
5. Coal and other fuel.....	
6. Manufactured goods.....	
7. All other articles.....	
Total weight carried.....	

**No. 16.—EARNINGS OF RAILWAY FOR YEAR ENDING
JUNE 30, 19 .**

—	\$ cts.
1. From passenger traffic.....	
2. " freight traffic.....	
3. " mails and express freight.....	
4. " other sources.....	
Total.....	

No. 17.—OPERATING EXPENSES—MAINTENANCE OF WAY,
BUILDINGS, ETC., FOR THE YEAR ENDING JUNE 30, 19 .

	\$	ct
1. Wages, etc., of labour employed on track, including sidings		
2. Cost of rails and fastenings		
3. Ballasting		
4. Repairs of bridges and culverts		
5. " and renewals of buildings		
6. " of fencing		
7. Clearing snow		
8. Engineering superintendence		
Total		

No. 18.—OPERATING EXPENSES—COST OF MOTIVE POWER FOR
THE YEAR ENDING JUNE 30, 19 .

	\$	cts.
1. Wages of engineers, motormen, firemen and cleaners		
2. Fuel		
3. Repairs of engines and tenders		
4. Oil, tallow, waste, etc., for engines		
5. Pumping engines		
6. Repairs of tools and machinery		
7. Superintendence		
Total		

No. 19.—OPERATING EXPENSES—MAINTENANCE OF CARS FOR
THE YEAR ENDING JUNE 30, 19 .

	\$	cts.
1. Wages and material for repairs of passenger cars		
2. " " freight cars and snow ploughs		
3. " " other rolling stock		
4. Superintendence		
Total		

No. 20.—OPERATING EXPENSES—GENERAL AND OPERATING CHARGES FOR THE YEAR ENDING JUNE 30, 19 .

	\$ cts.
1. Office expenses, including directors, auditors, management, travel ling expenses, stationery, etc	
2. Station agents, clerks, porters, etc	
3. Conductors, baggagemen and brakemen.....	
4. Compensation for personal injuries	
5. Loss or damage to freight.....	
6. Cattle killed.....	
7. Ferries and ferry-boats.....	
8. Foreign agencies.....	
9. Small stores, including lights, lamps and signals.....	
10. All other charges.....	
11.	
12.	
13.	
Total.....	

No. 21.—SUMMARY OF OPERATING EXPENSES FOR THE YEAR ENDING JUNE 30, 19 .

	\$ cts.
A. Maintenance of way, buildings, etc.....	
B. Motive power.....	
C. Maintenance of cars.....	
D. General and operating expenses.....	
Total cost of operating railway.....	
Operating expenses per train mile.....	

The above statement to include the full cost of operating the railway, and the total to correspond with the annual accounts or statements prepared under Sec. 84.

No. 22.—ACCIDENTS DURING THE YEAR ENDING
JUNE 30, 19 .

Cause of Accident.	PASSENGERS		EMPLOYEES		OTHERS		TOTAL	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
1. Fell from cars or engines.								
2. Jumping on or off trains or engines when in motion								
3. At work on or near the track, making up trains								
4. Putting arms or heads out of windows								
5. Coupling cars								
6. Collisions, or by trains thrown from track								
7. Struck by engine or cars on highway crossing . . .								
8. Walking, standing, lying, sitting or being on track								
9. Explosions								
10. Striking bridges								
11. Other causes								
Total								

No. 23.—DETAILS OF ACCIDENTS DURING YEAR ENDING
JUNE 30, 19 .

Date.	Name, Address and Occupation of Persons.	Place of Accident.	Cause.	Nature and Extent of Injury.

Passengers and employees to be entered separately.

CANADA,
 Province of..... } Affidavit for President, or, in his
 County of..... } absence, for Vice-President
 To WIT: } or Manager.

I,.....of the (¹).....
 of.....in the County of.....
 and Province nforesaid (²).....of the
 Railway Company, being duly sworn, make oath and say:—

That, to the best of my knowledge, information and belief,
 the foregoing returns are true and correct.

SWORN before me at the.....of..... }
 in the County of.....this..... }
 day of.....19..... }

(¹). City, town, township or parish. (²). President, Vice-President or Manager
 (³). Official capacity of person administering oath.

CANADA,
 Province of..... } Affidavit for the Secretary or
 County of..... } some other Chief Officer.
 To WIT: }

I,.....of the (¹).....
 of.....in the County of.....
 and Province aforesaid, (²).....of the
 Railway Company, being duly sworn, made oath and say:—

That, to the best of my knowledge, information and belief,
 the foregoing returns are true and correct.

SWORN before me at the.....of..... }
 in the County of.....this..... }
 day of.....19..... }

(¹). City, town, township or parish. (²). Secretary or other chief officer.
 (³). Official capacity of person administering oath.

SCHEDULE TWO.

.....Railway Company.

RETURN of Traffic for week ending 19 ,
and corresponding week of 19 .

Week ended.	PASSENGERS.		FREIGHT AND LIVE STOCK.		Mails and Sundries	Total.	Per Mile per Period.	Miles Open.
	Number	Amount	Tons.	Amount				
		\$ cts		\$ cts	\$ cts	\$ cts.	\$ cts	
.....19								
..... 19								
Increase.....								
Decrease.....								

Aggregate Traffic from July 1, 19 .

Date.	PASSENGERS.		FREIGHT AND LIVE STOCK.		Mails and Sundries	Total.	Per Mile per Period.	Miles Open.
	Number	Amount	Tons.	Amount				
		\$ cts		\$ cts	\$ cts.	\$ cts.	\$ cts.	
From 19								
Corresponding period of ..19								
Increase.....								
Decrease.....								

OTTAWA : Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.





4 EDWARD VII.

CHAP. 31.

An Act to amend the Railway Act, 1903.

[Assented to 10th August, 1904]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Notwithstanding anything in any Act heretofore passed by Parliament, no railway company within the jurisdiction or legislative power or control of Parliament shall be relieved from liability for damages for personal injury to any workman, employee or servant of such company, nor shall any action or suit by such workman, employee or servant, or, in the event of his death, by his personal representatives, against the company, be barred or defeated by reason of any notice, condition or declaration made or issued by the company, or made or issued by any insurance or provident society or association of railway employees formed, or purporting to be formed, under such Act or by reason of any rules or by-laws of the company, or rules or by-laws of the society or association; or by reason of the privity of interest or relation established between the company and the society or association, or the contribution or payment of moneys of the company to the funds of the society or association or by reason of any benefit, compensation or indemnity which the workman, employee or servant, or his personal representatives, may become entitled to or obtain from such society or association or by membership therein; or by reason of any express or implied acknowledgment, acquittance or release obtained by the company or the society or association prior to the happening of the wrong or injury complained of, or the damage accruing, to the purport or effect of relieving or releasing the company from liability for damages for personal injuries as aforesaid.

No agreement with employees to relieve company from liability for personal injury.

2. Upon the passing of this Act the Governor in Council shall submit to the Supreme Court of Canada for its determination the question of the competency of this Parliament to enact the provisions hereinbefore set forth; and in the

Question of validity of this Act to be referred to Supreme Court.

event of the said court determining that the said provisions are within the powers of this Parliament, and the time for appeal having elapsed,—or in case of appeal being taken and prosecuted, then in the event of it being determined by the Judicial Committee of the Privy Council that the said provisions are within the powers of Parliament as aforesaid,—the Governor in Council shall thereupon name a day, by proclamation, for the coming into force of this Act, and this Act shall take effect and come into force upon the day so named accordingly.

OTTAWA : Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.



4 EDWARD VII.

CHAP. 32.

An Act to amend the Railway Act, 1903.

[Assented to 10th August, 1904.]

[N amendment of *The Railway Act, 1903*, His Majesty, by 1903, c. 53, and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Notwithstanding anything contained in *The Railway Act, 1903* the Governor in Council shall have, and shall be deemed to have had since the date upon which the said Act came into force, power, authority and jurisdiction to sanction, confirm, rescind, change or vary, or to take other action upon, any report, order or decision of the Railway Committee of the Privy Council made before the said date under *The Railway Act* of 1888, or any Act in amendment thereof, in as full and ample a manner as if *The Railway Act, 1903*, had not been passed, or had not come into force, and as if the said *Railway Act* of 1888 and the said Acts in amendment thereof had not been repealed; and any order or decision so sanctioned or confirmed shall have the same validity, force and effect as if the said order or decision had been so sanctioned or confirmed prior to the passing of *The Railway Act, 1903*.

Orders of Railway Committee of Privy Council made under former Acts.

2. *The Railway Act, 1903*, is amended by inserting after section 6 the following section:—

“6A. Notwithstanding anything in this Act or in any other Act, every railway, steam or electric street railway, and tramway, wholly situate within one province of Canada, but, in its entirety or in part, declared by the Parliament of Canada to be a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating it wholly or partly, in respect of such ownership, control or operation, shall, notwithstanding such declaration, be subject to any Act of the legislature of the province in which it is situate, prohibiting or regulating work, business or labour upon the first day of the week, commonly called Sunday, which is in force at the time of the

Provincial Sunday observance laws to apply to local railways.

passing of this Act; and every such Act is hereby, in so far as it is in other respects within the powers of the legislature, confirmed and ratified, and made as valid and effectual for the purposes of this section as if it had been duly enacted by the Parliament of Canada.

Confirmation
of provincial
law by
Governor in
Council.

"2. The Governor in Council may at any time and from time to time by proclamation confirm, for the purposes of this section, any Act of the legislature of any province passed after the passing of this Act for the prohibition or regulation of work, business or labour upon the first day of the week, commonly called Sunday; and from and after the date of any such proclamation the Act thereby confirmed, in so far as it is in other respects within the powers of the legislature, shall for the purposes of this section be confirmed and ratified and made as valid and effectual as if it had been enacted by the Parliament of Canada; and, notwithstanding anything in this Act or in any other Act, every railway, steam or electric street railway, and tramway, wholly situate within such province, but declared by the Parliament of Canada to be, in its entirety or in part, a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating it wholly or partly, in respect of such ownership, control or operation, shall thereafter, notwithstanding such declaration, be subject to the Act so confirmed in so far as that Act is otherwise *intra vires* of the legislature.

Certain
railways
excepted.

"3. This section shall not apply, so as to interfere with or affect through traffic thereon, to any railway or part of a railway which forms part of a continuous route or system operated between two or more provinces or between any province and a foreign country, or to any railway or part of a railway between any of the ports on the great lakes and such continuous route or system; nor shall it apply to any railway or part of a railway which the Governor in Council, by proclamation, declares to be exempt from the provisions of this section."

Section 59
amended.

"3. Section 59 of *The Railway Act, 1903*, is amended by inserting after the word "Act," in the fifth line thereof, the following words: "or on such other day as the directors may determine."

Ascertain-
ment of net
earnings of
Grand Trunk
Pacific Ry.

4. In order to the ascertainment of the true net earnings of the Eastern Division of the Grand Trunk Pacific Railway for the purposes of the scheduled agreements referred to in the Act of the present session intitled *An Act to amend the National Transcontinental Railway Act*, and in order to the ascertainment of the true net earnings of the Grand Trunk Pacific Railway Company, upon its system of railways at all times while the principal or interest of any bonds made by the said company and guaranteed by the Government are unpaid by the said company, the Board of Railway Commissioners of

Canada shall, upon the request of the Minister of Railways and Canals, inquire into, hear and determine any question as to the apportionment of any through rate or rates between the Grand Trunk Pacific Railway Company and any other transportation company, whether such company is or is not a railway company, or, if a railway company, whether it is or is not as such subject to the legislative jurisdiction of the Parliament of Canada, for the purpose of determining whether such apportionment is just and reasonable, having due regard to the interests of the Government of Canada as owner of the said Eastern Division and of the Intercolonial Railway, or as guarantor of any such principal or interest, and to the provisions of *The National Transcontinental Railway Act*, and of the said Act of the present session, and of the said scheduled agreements,—which Acts and agreements are hereby declared to be part of the special Act of or respecting the Grand Trunk Pacific Railway Company within the meaning of paragraph (a.) of section 2 of *The Railway Act, 1903*; and in any such case the fact that the Grand Trunk Pacific Railway Company has agreed to such apportionment shall be material evidence only and not conclusive; and such net earnings shall then be ascertained upon the basis of the receipt by the Grand Trunk Pacific Railway Company of such share of such through rate or rates as, in the opinion of the said Board, that company should have received under a just and reasonable apportionment: Provided always, that either party to any such question may appeal from any such determination to the Supreme Court of Canada.

Appeal to
Supreme
Court.

5. The majority of the directors of any company which has heretofore received, or hereafter receives, from the Government of Canada, under any Act of the Parliament of Canada, aid towards the construction of its railway or undertaking, or any part thereof, shall be British subjects: Provided that this section shall not, until the thirty-first day of January, one thousand nine hundred and five, apply to any company the majority of whose directors are not British subjects when this Act comes into force.

Majority of
directors of
subsidized
company to
be British
subjects.

Proviso.

