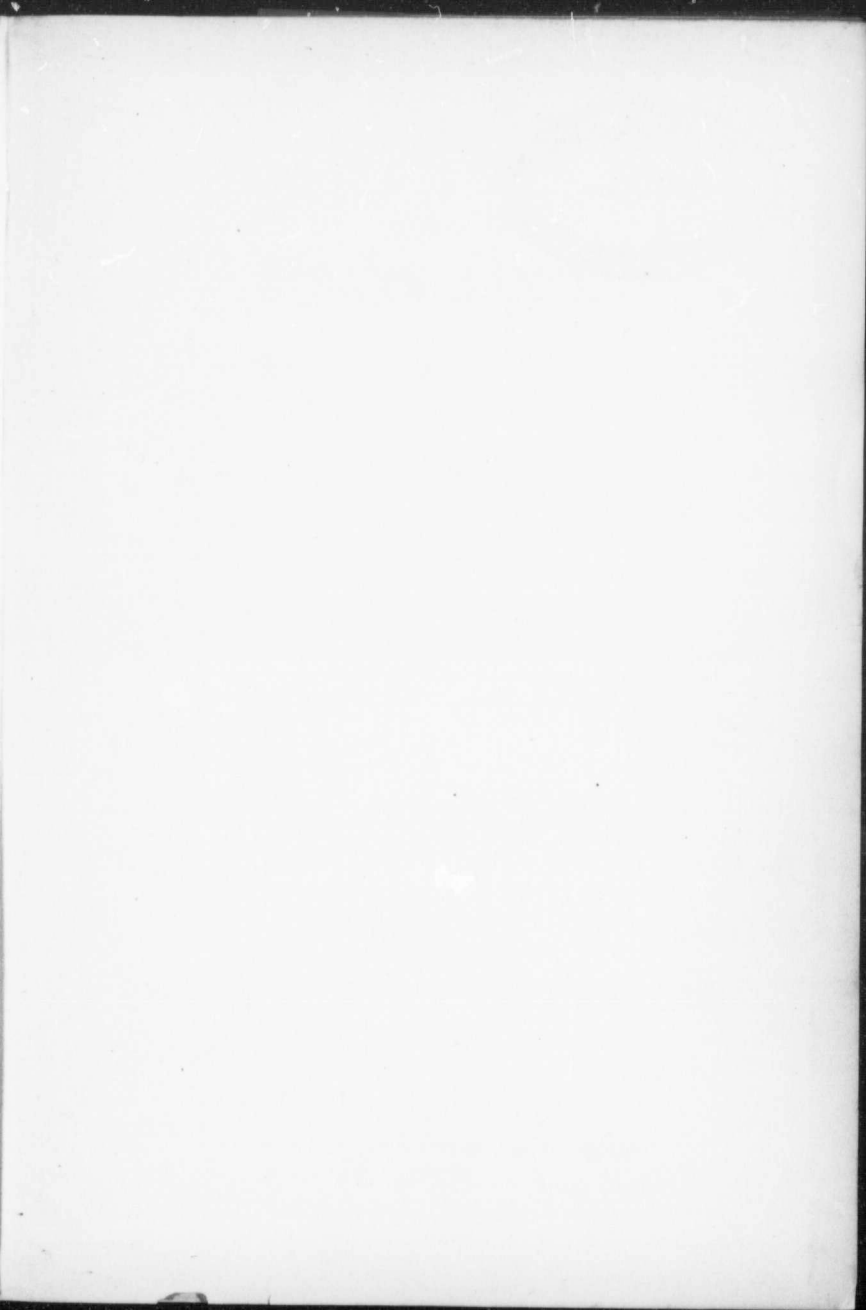


CONCORDANCE
OF
THE RAILWAY ACT

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1919









A
CONCORDANCE

OF

THE RAILWAY ACT

(CHAPTER 68 OF THE STATUTES OF CANADA, 1919)

containing

an Analytical Index to the Railway Act, the Rules and Regulations of
The Board of Railway Commissioners, etc.

A NEW EDITION OF "CURRIER'S CONCORDANCE"

BY

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"O'Brien's Conveyancer." One of the editors of the "Canada Law Journal," etc.

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THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

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Assistant Chief Commissioner—S. J. McLEAN, M.A., LL.B.

Deputy Chief Commissioner—Hon. W. B. NANTEL, K.C.

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A. C. BOYCE, K.C.

Dr. J. G. RUTHERFORD, C.M.G.

Secretary—A. D. CARTWRIGHT.

Solicitor—A. G. BLAIR, K.C.

DEPARTMENT OF RAILWAYS AND CANALS.

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Deputy Minister—G. A. BELL, C.M.G.

Assistant Deputy Minister—L. K. JONES, I.S.O.

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Secretary—J. W. PUGSLEY.

Comptroller—W. V. COPE.

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watercourse

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- power to construct, s. 162 (1 g)
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- Board may make orders respecting steam whistles, s. 287 (1 b)
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- not applicable to railway companies, R.S.C., c. 144, s. 7

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- particulars respecting, s. 151

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- definition of, s. 2 (36)
- ranking of claim for payment of, ss. 135 (1), 140 (1)
- rent for lands taken, included in, ss. 2 (36c), 212

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- health of. See Public Works Health Act, R.S.C., c. 135

works

- authorized by Parliament, approval by Board, s. 40
- required by Board, extension of time for completion, s. 41

yards

- land for, extent which may be taken, s. 199 (b)

ACTS AFFECTING RAILWAYS.

There are many Acts in the Revised Statutes of Canada (and amending Acts) which relate or refer to railways, or which affect subjects dealt with in the Railway Act. A list of the more important of these is given below. The titles sufficiently indicate the subject matter. Some of these Acts are mentioned in the Railway Act, others are not.

A complete Table of Amendments to the Public Acts of Canada, from R.S.C., 1906, up to and including the Acts of 1918, will be found in the Statutes of 1918. Amendments made in 1919 are shewn in the Statutes of this year.

- Alien Labour Act (R.S.C., c. 97).
- Bridges Act (R.S.C., c. 109).
- Canada Evidence Act (R.S.C., c. 145).
- Canada Grain Act (1912, c. 27).
- Companies Act (R.S.C., c. 79).
- Conciliation and Labour Act (R.S.C., c. 96).
- Criminal Code (R.S.C., c. 146, ss. 282, 283, 510 (A), 517, 518).
- Exchequer Court Act (R.S.C., c. 140, ss. 26-30).
- Expropriation Act (R.S.C., c. 143).
- Ferries Act (R.S.C., c. 108).
- Government Railways Act (R.S.C., c. 36).
- Government Railways Branch Lines Act (1910, c. 25).
- Indian Act (R.S.C., c. 81).
- Judges Act (1908, c. 39, s. 3).
- Land Titles Act (R.S.C., c. 110).
- Lord's Day Act (R.S.C., c. 153, ss. 2, 3, 12).
- Navigable Waters Protection Act (R.S.C., c. 115).
- Passenger Tickets Act (R.S.C., c. 38).
- Public Works Health Act (R.S.C., c. 135, s. 2).
- Radiotelegraphs Act (1913, c. 43).
- Railway Belt Act (R.S.C., c. 59).
- Telegraphs Act (R.S.C., c. 126).
- Wages Liability Act (R.S.C., c. 98, ss. 5, 6).
- Winding-up Act (R.S.C., c. 144, s. 7).

SECTION NUMBERS.

CORRESPONDING SECTIONS OF OLD AND NEW ACT.

A Table showing where the sections of the old Railway Act (R.S.C. 1906, c. 37), and its amendments, appear in the new Act (Statutes of 1919, c. 68).

The sections marked with an asterisk [*] have been amended, or new subsections added thereto.

The parallel columns are respectively the chapter and section of the old Act and the corresponding section of the new Act.

R.S.C. 1919 c. 37 c. 68		R.S.C. 1919 c. 37 c. 68		R.S.C. 1919 c. 37 c. 68	
s.	1	s.	1	s.	29
*c.	2	"	2	s.	34
"	3	"	3	*c.	30
*c.	4	"	4		
"	5	"	5		
"	6	"	7	"	31
*c.	7	{	358	"	32
			359	"	33
*c.	8	"	8	"	34
*c.	9	"	456	"	35
*c.	10	"	9, 11	"	36
"	11	"	32	"	37
*c.	12	"	11	"	38
"	13	"	12	"	39
"	14	"	13	*c.	40
"	15	"	14	"	41
"	16	"	15	"	42
"	17	"	16	*c.	43
*c.	18	"	17	"	44
*c.	19	"	18	"	45
"	20	"	19	"	46
"	21	"	21	"	47
"	22	"	22	*c.	48
*c.	23	"	23	"	49
"	24	"	24	"	50
"	25	"	25	"	51
*c.	26	"	33	"	52
"	27	"	457	"	53
*c.	28	"	36, 37	"	54
				*c.	55
				"	56
				"	57
				"	58
				*c.	59
				"	60
				"	61
				"	62
				"	63
				"	64
				"	65
				"	66
				"	67
				"	68
				*c.	69
				"	70
				"	71
				"	72
				*c.	73
				"	74
				"	75
				"	76
				"	77

R.S.C. c. 37	1919 c. 68	R.S.C. c. 37	1919 c. 68	R.S.C. c. 37	1919 c. 68
s. 85	s. 78	*s. 124	s. 126	*s. 162	s. 174
" 86	" 79	*" 125	" 96	" 163	" 176
*" 87	" 80	" 126	" 98	" 164	" 175
" 88	" 81	" 127	" 99	" 165	" 169
" 89	" 82	" 128	" 100	" 166	" 177
" 90	" 84	" 129	" 101	" 167	" 178
" 91	" 85	" 130	" 102	*" 168	" 166
" 92	" 86	" 131	" 127	" 169	" 194
" 93	" 87	" 132	" 128	" 170	" 195
" 94	" 88	" 133	" 129	" 171	" 196
" 95	" 89	" 134	" 130	" 172	" 189
" 96	" 90	" 135	" 131	" 173	" 190
" 97	" 92	" 136	" 132	" 174	" 191
" 98	" 93	" 137	" 134	" 175	" 192
" 99	" 94	*" 138	" 135	*" 176	" 193
" 100	" 95	" 139	" 136	*" 177	" 199
" 101	" 96	*" 140	" { 137	*" 178	" 200
" 102	" 103		138	" 179	" 201
" 103	" 104	*" 141	" 140	*" 180	" 202
" 104	" 105	*" 142	" 140	*" 181	" 204
" 105	" 106	" 143	" 141	" 182	" 203
" 106	" 107	" 144	" 142	" 183	" 205
" 107	" 108	" 145	" 143	*" 184	" 206
" 108	" 109	*" 146	" 144	*" 185	" 207
" 109	" 110	*" 147	" 145	" 186	" 208
" 110	" 111	*" 148	" 145	*" 187	" 209
" 111	" 112	*" 149	" 147	" 188	" 210
*" 112	" 113	" 150	" 161	" 189	" 211
*" 113	" 114	*" 151	" 162	" 190	" 212
" 114	" 115	" 152	" 148	*" 191	" { 213
" 115	" 116	" 153	" 149		214
*" 116	" 117	" 154	" 163	*" 192	" { 213
" 117	" 118	" 155	" 164		221
" 118	" 119	" 156	" 165	*" 193	" 215
" 119	" 120	*" 157	" 167	*" 194	" 216
" 120	" 121	*" 158	" 168	*" 195	" 217
*" 121	" 122	*" 159	" 170	*" 196	" 219
" 122	" 123	" 160	" 172	*" 197	" 220
" 123	" 124	" 161	" 173	*" 198	" 221

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*s. 199	s. 223	s. 237	s. 256	*s. 274	s. 308
*cc 200	" 224	" 238	" 257	*cc 275	" {287
*cc 201	" 225	" 239	" 261		" {309
*cc 202	" 226	*cc 240	" 263	" 276	" 310
*cc 203	" 227	" 241	" 264	" 277	" 306
*cc 204	" 228	*cc 242	" 266	" 278	" 307
" 205	" 230	" 243	" 267	" 279	" 311
*cc 206	" 229	*cc 244	" 367	" 280	" 353
*cc 207	" 218	*cc 245	" 371	*cc 281	" 354
*cc 208	" 231	*cc 246	" 372	" 282	" 390
*cc 209	" 232	*cc 247	" 373	" 283	" 352
*cc 210	" 233	*cc 248	" 373	*cc 284	" 312
" 211	" 234	*cc 249	" 271	*cc 285	" 313
" 212	" 235	*cc 250	" {250	*cc 286	" 349
*cc 213	" 236		" {269	*cc 287	" 350
" 214	" 237	" 251	" 270	*cc 288	" 282
" 215	" 238	*cc 252	" 272	*cc 289	" 351
*cc 216	" 239	*cc 253	" 273	" 290	" 377
" 217	" 240	*cc 254	" 274	" 291	" 378
*cc 218	" 241	" 255	" 275	*cc 292	" 285
" 219	" 242	*cc 256	" 250	" 293	" 286
*cc 220	" 243	*cc 257	" 251	*cc 294	" {278
*cc 221	" 180	*cc 258	" 188		" {386
" 222	" 181	" 259	" 244	*cc 295	" 386
" 223	" 182	" 260	" 71	" 296	" 279
" 224	" 183	*cc 261	" 276	" 297	" 280
" 225	" 184	" 262	" 283	" 298	" 387
" 226	" 185	" 263	" 284	*cc 299	" 150
" 227	" 252	" 264	" 298	" 300	" 499
*cc 228	" 253	*cc 265	" 299	" 301	" 450
" 229	" 254	" 266	" 300	" 302	" 451
" 230	" 245	" 267	" 301	*cc 303	" 452
" 231	" 246	*cc 268	" 288	" 304	" 453
" 232	" 247	*cc 269	" 287	" 305	" 454
" 233	" 248	" 270	" 302	*cc 306	" 391
" 234	" 249	*cc 271	" 303	*cc 307	" 290
*cc 235	" 255	" 272	" 304	" 308	" 291
" 236	" 265	" 273	" 305	" 309	" 292

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*s. 310	s. 293	s. 349	s. 361	s. 387	s. 416
" 311	" 294	" 350	" 362	" 388	" 434
" 312	" 295	*" 351	" 363	" 389	" 417
" 313	" 296	*" 352	" 364	" 390	" 418
" 314	" 323	*" 353	" 365	*" 391	" 419
*" 315	" 314	" 354	" 366	" 392	" 420
" 316	" 315	" 355	" 375	*" 393	" 421
" 317	" 316	" 356	" 375	" 394	" 422
" 318	" 317	" 357	" 375	*" 395	" 415
" 319	" 320	" 358	" 375	" 396	" 402
" 320	" 321	" 359	" 375	" 397	" 431
*" 321	" 322	" 360	" 375	" 398	" 425
" 322	" 324	*" 361	" 151	" 399	" 427
*" 323	" 325	" 362	" 152	*" 400	" 428
*" 324	" 327	" 363	" 153	" 401	" 429
" 325	" 328	" 364	" 154	" 402	" 430
*" 326	" 329	" 365	" 155	" 403	" 436
*" 327	" 330	" 366	" 156	*" 404	" 389
*" 328	" 331	*" 367	" 157	" 405	" 393
*" 329	" 332	" 368	" 158	" 406	" 393
*" 330	" 333	" 369	" 159	*" 407	" 406
" 331	" 334	*" 370	" 379	*" 408	" 408
*" 332	" 335	*" 371	" 380	" 409	" 409
*" 333	" 336	*" 372	" 381	*" 410	" 432
" 334	" 337	*" 373	" 382	*" 411	" 433
" 335	" 338	" 374	" 383	" 412	" 412
" 336	" 339	" 375	" 384	" 413	" 423
" 337	" 340	*" 376	" 394	" 414	" 424
*" 338	" 341	" 377	" 397	" 415	{ Repealed 1908, c. 18
*" 339	" 342	" 378	" 396	" 416	" 413
*" 340	" 348	" 379	" 400	" 417	" 407
" 341	" 345	*" 380	" 403	*" 418	" 442
" 342	" 344	*" 381	" 404	*" 419	" 437
*" 343	" 346	*" 382	" 401	*" 420	" 438
" 344	" 355	" 383	" 410	" 421	" 439
" 345	" 356	" 384	" 405	" 422	" 440
" 346	" 357	" 385	" 411	" 423	" 441
" 347	" 357	*" 386	" { 388	" 424	" 395
" 348	" 360		{ 414		

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*" 427	" {385	" 9	" 26	" 15	" 309
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" 428	" 445			c. 57	
" 429	" 446	1909		ss. 1-6	" 381
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			380		
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c. 38		" 3	" 221	" 2	" 281
s. 1	" 42	" 4	" 256	" 3	" 55
" 2	" 138	" 5	" {257	" 4	" 171
" 4	" 146		259	" 5	" 253
" 8	" 132	" 6	" 260	" 6	" 255
" 9	" 150	" 7	" 262	" 7	" 372
		" 8	" 264	" 8	" 269
		" 11	" 6	" 9	" 274
		" 12	" 31	" 10	" {281
		" 13	" {287		387
1908			309	" 11	" 331
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	375				
" 2	" 375	1910		1913	
" 3	" 375	c. 50		c. 44	
" 4	" 375	s. 1	s. 52	s. 1	s. 26
" 5	" 375	" 2	" 40	" 2	" 179
" 9	" 2	" 3	" 122		
" 10	" 312	" 5	" 274	1914	
" 11	" 323	" 6	" 276	c. 50	
c. 62		" 7	" 310	s. 1	s. 262
s. 1	" 9	" 8	" 386		
" 2	" 10	" 9	" 386	1916	
" 3	" 11	" 11	" 345	c. 2	
" 4	" 12	" 12	" 385	s. 1	s. 318
" 5	" 14				

1917		1919		1917		1919		1917		1919	
c. 37		c. 68		c. 37		c. 68		c. 37		c. 68	
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"	2	"	2	"	7	"	310	"	12	"	293
"	3	"	41	"	8	"	285	"	13	"	421
"	4	"	372	"	9	"	449	"	14	"	422
"	5	"	287	"	10	"	391				

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RULES AND REGULATIONS

OF BOARD OF RAILWAY COMMISSIONERS

MEETING AT OTTAWA, MONDAY, THE 1ST DAY OF MAY, A.D. 1911.*

The Board, in virtue of the provisions of the Railway Act, hereby make the following Rules and Regulations:—

INTERPRETATION.

1. In the construction of these rules, and the forms herein referred to words importing the singular number shall include the plural, and words importing the plural number shall include the singular number; and the following terms shall (if not inconsistent with the context or subject) have the respective meanings hereinafter assigned to them; that is to say, 'Application' shall include complaint under the Railway Act; 'Respondent' shall mean the person or company who is called upon to answer to any application or complaint; 'Affidavit' shall include affirmation; and 'Costs' shall include fees, counsel fees, and expenses.

APPLICATION OR COMPLAINT.

2. Every proceeding before the Board under the Railway Act shall be commenced by an application made to it, which shall be in writing and signed by the applicant or his solicitor; or in the case of a corporate body or company being the applicants shall be signed by their manager, secretary or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, the section of the Act under which the same is made, and the nature of the order applied for, or the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs, each of which, as nearly as possible, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively. It shall be endorsed with the name and address of the applicant, or if there be a solicitor acting for him in the matter, with the name and address of such solicitor. The application shall be according to the forms in schedule No. 1.

The application, so written and signed as aforesaid, shall be left with or mailed to the Secretary of the Board and copies thereof mailed or delivered to the parties affected, together with a copy of any document, or copies, of any maps, plans, profiles, and books of reference,

* These Rules and Regulations have been amended in accordance with the Railway Act, 1919.

as required† under the provisions of the Act, referred to therein, or which may be useful in explaining or supporting the same. The Secretary shall number such applications according to the order in which they are received by him, and make a list thereof. From the said list there shall be made up a docket of cases for hearing which, as well as their order of entry on the docket, shall be settled by the Board. Said docket list when completed to be put upon a notice board provided for that purpose, which shall be open for inspection at the office of the Secretary during office hours.

ANSWER.

3. Unless the Board otherwise directs, the respondent or respondents shall mail or deliver to the applicant, or his solicitor, a written statement containing in a clear and concise form their answer to the application, and shall also leave or mail a copy thereof with or to the Secretary of the Board at its office, together with any documents that may be useful in explaining or supporting it. The answer may admit the whole or any part of the facts in the application. It shall be divided into paragraphs, which shall be numbered consecutively, and it shall be signed by the person making the same, or his solicitor. It shall be endorsed with the name and address of the respondents, or if there be a solicitor acting for them in the matter, with the name and address of such solicitor. It shall be according to the form in schedule No. 2.

(a) The time limit for filing and delivery of answer shall be as follows: Where the subject matter of the complaint arises east of Port Arthur, Ont., fifteen days; between Port Arthur and the western boundary of the Province of Saskatchewan, twenty days; and west thereof, thirty days.

REPLY.

4. Within four days from the delivery of the answer to the application, the applicant shall mail or deliver a reply thereto to the respondents, and a copy thereof to the Secretary of the Board, and may object to the said answer as being insufficient, stating the grounds of such objection, or deny the facts stated therein, or may admit the whole or any part of said facts. The reply shall be signed by the applicant or his solicitor, and may be according to the form in schedule No. 3.

The Board may, at any time, require the whole or any part of the application, answer or reply, to be verified by affidavit, upon giving a notice to that effect to the party from whom the affidavit is required; and if such notice be not complied with the application, answer or

†For further particulars of plans, etc., see Regulations regarding Plans and Specifications required to be filed with the Board, on p. 85.

reply may be set aside, or such part of it as is not verified according to the notice may be struck out.

SUSPENSION OF PROCEEDINGS.

5. The Board may require further information, or particulars, or documents from the parties, and may suspend all formal proceedings until satisfied in this respect.

If the Board, at any stage of the proceedings, think fit to direct inquiries to be made under any of the provisions of the Act, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings thereon accordingly.

NOTICE.

6. In all proceedings under the Act, where notice is required, a copy or copies of said proceeding, or proceedings, for the purpose of service, shall be endorsed with notice to the parties in the forms of endorsement set forth in schedules Nos. 1 and 2; and in default of appearance the Board may hear and determine the application *ex parte*.

Endorsement shall be signed in accordance with the provisions of Section 55 of the Railway Act.

The Board may enlarge or abridge the periods for putting in the answer or reply, and for hearing the application, and in that case the period shall be endorsed in the notice accordingly.

Except in any case where it is otherwise provided, ten days' notice of any application to the Board, or of any hearing of 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. (Section 57 of the Railway Act.)

Notice may be given or served as provided by section 55 of the Act.

When the Board is authorized to hear an application or make an 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 allow, apply to the Board to vary, amend or rescind such order or decision; and the Board shall thereupon on such notice to all 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. (Section 59 of the Railway Act.)

(a) Any party to any matter, application, or complaint pending before the Board may set the same down for hearing at the next monthly sitting of the Board, upon giving at least ten days, or such shorter notice as the Board may order, to all parties interested.

(b) When contested matters, applications, or complaints are ready for hearing, and are not at once set down by any party interested, the Secretary shall set the same down for the first sittings, commencing after the expiration of ten days (or such shorter notice as the Board may order) from the date of such setting down.

(c) When a matter, application, or complaint is set down for hearing by the Secretary, he shall give ten days' notice of hearing (or such shorter time as the Board may order) to all parties interested.

CONSENT CASES.

7. In all cases the parties may, by consent in writing with the approval of the Board, dispense with the form of proceedings herein mentioned, or some portion thereof.

POWER TO DIRECT AND SETTLE ISSUES.

8. If it appears to the Board at any time that the statements in the application, or answer, or reply do not sufficiently raise or disclose the issue of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Board.

PRELIMINARY QUESTIONS OF LAW.

9. If it appear to the Board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner as it may deem expedient, and the Board may, pending such decision, order the whole or any portion of the proceeding before the Board in such matter, to be stayed.

PRELIMINARY MEETING.

10. If it appear to the Board at any time before the hearing of the application that it would be advantageous to hold a preliminary meeting for the purpose of fixing or altering the place of the hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, the Board may hold such meeting upon such notice to the parties as it deems sufficient, and may thereupon make such orders as it may deem expedient.

PRELIMINARY EXAMINATION WITH THE PARTIES.

11. The Board may, if it thinks fit, instead of holding the preliminary meeting, provided for in Rule 10, communicate with the parties direct, and may require answers to such inquiries as it may consider necessary.

PRODUCTION AND INSPECTION OF DOCUMENTS.

12. Either party shall be entitled at any time, before or at hearing of the case, to give notice in writing to the other party in whose application, or answer, or reply reference was made to any document, to produce it for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put in such documents in evidence on his behalf in said proceedings, unless he satisfy the Board that he had sufficient cause for not complying with such notice.

NOTICE TO PRODUCE.

13. Either party may give to the other a notice in writing to produce such documents as relate to any matter in difference (specifying the said documents), and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

14. Either party may give the other party a notice in writing to admit any documents, saving all just exceptions, and in case of neglect to admit, after such notice, the cost of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be; unless, on the hearing, the Board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the Board, a saving of expense.

WITNESSES.

15. The attendance and examination of witnesses, the production and inspection of documents, shall be enforced in the same manner as is now enforced in a Superior Court of Law; and the proceedings for that purpose shall be in the same form, *mutatis mutandis*, and they shall be sealed by the Secretary of the Board with the seal and may be served in any part of Canada. (Section 33 of the Railway Act.)

Witnesses shall be entitled, in the discretion of the Board, to be paid the fees and allowances prescribed by schedule No. 4 annexed hereto.

THE HEARING.

16. The witnesses at the hearing shall be examined *via voce*; but the Board may, at any time, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witnesses may be read at the hearing on such conditions as it may think reasonable; or that any witnesses whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a Commissioner appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before such Commissioner shall be confined to the subject-matter in question, and any objection to the admission of such evidence shall be noted by the Commissioner and dealt with by the Board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the adverse party. All examinations taken in pursuance of any of the provisions of the Act or of these rules, shall be returned to the Court; and the depositions certified under the hands of the person or persons taking the same may, without further proof, be used in evidence, saving all just exceptions. The Board may require further evidence to be given *via voce* or by deposition, taken before a Commissioner or other person appointed by it for that purpose.

The Board may, in any case when deemed advisable, require written briefs to be submitted by the parties.

The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the Board may be practicable, from day to day.

PUBLIC SESSIONS.

17. For the hearing of matters, applications or complaints other than those relating to rates and traffic matters, a sitting will be held at the offices of the Board at Ottawa, Ontario, at 10 a.m., on the first Tuesday in every month, and for hearing all matters, applications and complaints relating to rates and traffic matters a sitting will be held at the place and hour aforesaid on the third Tuesday in every month.

(a) In addition to its regular sittings, the Board may appoint special sittings at Ottawa and elsewhere.

JUDGMENT OF THE BOARD.

18. After hearing the case the Board may dismiss the application, or make an order thereon in favour of the respondents, or reserve its decision, or (subject to the right of appeal in the Act mentioned) make such other order on the application as may be warranted by the evidence and may seem to it just.

The Board may give verbally or in writing the reasons for its decisions. A copy of the order made thereon shall be mailed or delivered to the respective parties. It shall not be necessary to hold a court merely for the purpose of giving decisions.

Any decision or order made by the Board under the 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. 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 form prescribed in subsection 2, section 49, of the Act.

The Board shall with respect to all matters necessary or proper for the due exercise of its jurisdiction under the Act, or otherwise for carrying the Act into effect, have all such powers, rights and privileges as are vested in a Superior Court. (Section 33 of the Railway Act.)

ALTERATION OR RESCINDING OF ORDERS.

19. Any application to the Board to review, rescind, or vary any decision or order made by it shall be made within thirty days after the said decision or order shall have been communicated to the parties, unless the Board think fit to enlarge the time for making such application, or otherwise orders.

APPEAL.

20. If either party desires to appeal to the Supreme Court of Canada from the decision or order of the Board upon any question which, in the opinion of the Board, is a question of law, he shall give notice (*) thereof to the other party and to the Secretary, within fourteen days from the time when the decision or order appealed from was made, unless the Board allows further time, and shall in such notice state the grounds of the appeal. The granting of such leave shall be in the discretion of the Board.

For procedure upon such leave being obtained see section 52, subsection 5 *et seq.* of the Act.

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

INTERIM EX PARTE ORDERS.

21. Whenever the special circumstances of any case seem to so

*See Form of Notice in Schedule No. 5.

require, the Board may make an Interim *ex parte* Order requiring or forbidding anything to be done which the Board would be empowered upon application, notice and hearing to authorize, require or forbid. No such Interim Order shall, however, be made for a longer time than the Board may deem necessary to enable the matter to be heard and determined. (Section 47 of the Railway Act.)

AFFIDAVITS.

22. Affidavits of service according to the form No. 6 shall forthwith, after service, be filed with the Board in respect of all documents or notices required to be served under these rules; except when notice is given or served by the Secretary of the Board, in which case no affidavit of service shall be necessary.

All persons authorized to administer oaths to be used in any of the Superior Courts of any Province, may take affidavits to be used on any application to the Board.

Affidavits used before the Board, or in any proceeding under the Act, shall be filed with the Secretary of the Board at its office.

Where affidavits are made as to belief, the grounds upon which the same are based must be set forth.

COMPUTATION OF TIME.

23. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by the Act, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving in the Dominion or any of the Provinces, in which case the time shall be reckoned exclusively of that day also.

ADJOURNMENT.

24. The Board may, from time to time, adjourn any proceedings before it.

AMENDMENT.

25. The Board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the Board, may tend to prejudice, embarrass, or delay a fair hearing of the case upon its merits; and all such amendments shall be made as may, in the opinion of the Board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

FORMAL OBJECTIONS.

26. No proceedings under the Act shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

PRACTICE OF EXCHEQUER COURT, WHEN APPLICABLE.

27. In any case not expressly provided for by the Act, or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the Board, to proceedings before it.

COSTS.

28. The costs of and incidental to any proceedings before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Schedule No. 1.

APPLICATION

TO THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. _____ [This is to be filled in by the Secretary on receipt.]

A. B. of C. D. hereby applies to the Board for an Order [under sections 272-273 of the Railway Act], directing the _____ Railway Company to [provide and construct a suitable farm crossing where the Company's railway intersects this farm in Lot _____ Con. _____, Tp. _____, County of _____, Ontario,] and states:

1. That he is the owner of the land, etc.
2. That by reason of the construction of the said railway he is deprived, etc.
3. That it is necessary for the proper enjoyment of his said land, etc.

Dated this _____ day of _____, A.D., 19____.

[Signed A. B.]

ENDORSEMENTS ON APPLICATION.

The within application is made by A. B. of _____ [state address and occupation], or by C. D. of _____, his solicitor.

Take notice that the within named Railway Company is required to file with the Board of Railway Commissioners within _____ days from the service hereof, its answer to the within application.

[See subsection (a) of section 3 on page 70 as to length of notice.]

APPLICATION FOR DEVIATION OF RAILWAY.

WHERE NO NOTICE REQUIRED.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. —.

The ——— Railway Company hereby applies to the Board for an Order under section 178 of the Railway Act, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between ——— and ———, mileage ——— to ———.

Dated this ——— day of ———, A.D. 19——.

[Signed A. B.]

ENDORSEMENTS ON APPLICATION.

(See form on p. 77.)

Schedule No. 2.

ANSWER TO APPLICATION.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the Application No. ——— of A. B. for an order under sections 272-273 of the Railway Act, directing ——— Railway Company to provide a farm crossing.

The said Company in answer to the said application states:

1. That the said A. B. is not the owner but merely, etc.
2. That upon the acquisition of the right of way of the said Railway, A. B. was duly paid for and released, etc.
3. That the said A. B. has other safe and convenient means, etc.
4. That, etc.

Dated, etc.

ENDORSEMENTS ON ANSWER.

The within answer is made by A. B. of ——— [state address and occupation], or by C. D. of ———, his solicitor.

Take notice that the within named Applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

Schedule No. 3.**REPLY TO ANSWER.**

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A. B. against the Company.

The said A. B., in reply to the answer of the said Company states that:

1.

2. And the said A. B. admits that _____.

Dated this _____ day of _____, A.D. 19_____.

[Signed Q.]

Schedule No. 4.**FEEES AND ALLOWANCES TO WITNESSES.**

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

To witnesses residing within three miles of the Court-room per diem (not including ferry and meals).....	\$1 00
Barristers, attorneys, and physicians, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinion, per diem.....	5 00
Engineers, surveyors and architects, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill and judgment, per diem.....	5 00

If the witnesses attend in one case only, they will be entitled to the full allowance. If they attend in more than one case, they will be entitled to a proportionate part in each case only.

When witnesses travel over three miles they shall be allowed expenses according to the sum reasonably and actually paid, which in no case shall exceed twenty cents per mile one way.

Schedule No. 5.**NOTICE OF APPEAL.**

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____ of A. B. for an order under sections 272-273 of the Railway Act, authorizing the _____ Railway, etc., etc.

To the Board of Railway Commissioners, and

To _____,

The above named Applicant [or Respondent, as the case may be].

Take notice that the _____ Company will apply to the Board on the _____ day of _____, [not exceeding 14 days from the date hereof], for leave to appeal to the Supreme Court of Canada from the Order of the Board, dated the _____ day of _____, in the matter of the above application authorizing the expropriation of certain lands referred to in said Order, and directing that compensation or damages to be awarded to the owners of said lands, or persons interested therein, shall be ascertained as and from the date of the application (or such other time as may be named in this Order).

The grounds of appeal are that as a matter of law, the awarding of such compensation or damages should be ascertained from the date of the deposit of plan, profile, etc., as provided under section 221 of the Act, and not from the time stated in the Order.

Dated this _____ day of _____.

[Signed,] _____

Solicitor, etc.

Schedule No. 6.

AFFIDAVIT OF SERVICE.*

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____, of A. B., for an order under sections 272-273 of the Railway Act, directing _____ Railway Company to provide a farm crossing.

I, _____, of the city of Ottawa, etc., make oath and say:

1. That I am a member, etc.

2. That I did on _____ 19 _____, serve the (C.P.) Railway Company above named, with a true copy of the (application) of the said (A. B.) in this matter by delivering the same to (C. D.) the (Secretary) of the said Company, (or to E. F., the Ass't to the Gen. Mgr.) of the Company, being an adult person in the employ of the Company, at the head office of the Company in (Montreal), (*see section 55 (b) of the Railway Act*), which said copy was endorsed with the following notice, viz.:— [*Copy exactly.*]

Sworn, etc.

* This is required for Application, Answer, Reply, Notice of Appeal, etc.

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REGULATIONS REGARDING PLANS AND SPECIFICATIONS

REQUIRED TO BE FILED.

REQUIREMENTS ON APPLICATION HAVING REFERENCE TO PLANS

No. 1.—GENERAL LOCATION OF RAILWAY.—Section 167.

Send to secretary of the Board: three 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 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.

First copy to be examined and approved by the Board and filed.

Second copy to be approved by the Board for filing with the Department of Railways and Canals.

Third copy to be approved by Board for the company.

Scale of map—not more than 6 miles to the inch.

No. 2.—PLAN, PROFILE, ETC., OF LOCATED LINE.—Sections 168, 169 and 170.

After the Route Map has been approved by the Board, send to the secretary of the Board three sets of plans, prepared in accordance with the "General Notes"* as follows:—

First set.—One plan, one profile, one book of reference.—For sanction and deposit with the Board.

Second and Third sets.—To be certified as copy of original and returned to the company for registration.

Scale—Plans—400 feet to the inch.

Profiles.—Horizontal, 400 feet. Vertical, 20 feet.

N.B.—In prairie country, scale of plan may be 1,000 feet to the inch.

No. 3.—TO ALTER LOCATION OR GRADES OF LINE PREVIOUSLY SANCTIONED OR COMPLETED.—Section 178.

Send to the secretary of the Board three sets of plans, profiles and books of reference as required in No. 2.

N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves as far as possible, and railway,

*General Notes, see page 102.

highway, and farm crossings, and the changes desired or necessitated in any of these, giving reason for same. Upon completion of the work application must be made to the Board for leave to operate.

Scale.—Same as No. 2.

NO. 4.—PLANS OF COMPLETED RAILWAY.—Section 175.

Send to the secretary of the Board within six months after completion three sets of plans and profiles of the completed road.

First set to be filed with the Board.

Second set to be certified as copy of plan filed, and returned to the company.

Third set to be certified as copy of plan filed. To be returned to the company for registration purposes.

Scale.—Same as No. 2.

NO. 5.—TO TAKE ADDITIONAL LANDS FOR STATIONS, SNOW PROTECTION, ETC.—Section 200.

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

First set.—One application sworn to by officers required to sign and certify plans. See "General Notes." One plan, one profile, one book of reference.—To be examined and certified and deposited with Board.

Second set.—Same as first.—For certificate and return for registration with duplicate authority.

Third set.—Same as first.—For certificate and return to company, with copy of authority.

Scale.—Same as No. 2.

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. 6.—BRANCH LINES, NOT EXCEEDING SIX MILES.—Sections 180-187.

Plans, etc., shall be prepared the same as in No. 2; and one set shall be deposited in the Registry Office. Upon such deposit the company shall give four weeks' public notice of its intention to apply to the Board, in some newspaper published in the county or district through which the branch line is to pass; or, if there should be no newspaper published in such county or district, for the same period in the *Canada Gazette*.

Then send to the secretary of the Board an application, accompanied by proof of public notice, and three copies of the plan, profile and book

of reference, one set bearing the certificate of the registrar that it is a true copy of the plan, profile and book of reference deposited in the Registry Office.

If such a branch crosses a highway or railway, the consent of, or proof of service on, the party affected must be furnished with the application. If the branch runs along a street or highway, notice of application must be served on all property owners affected.

When the company files consent of or proof of service on all property owners affected by the construction of the branch, publication of notice may be dispensed with.

After the Board has approved the plan, etc., a certified copy of the order authorizing the construction of the branch line shall be filed in the Registry Office, together with any papers and plans showing changes directed by the Board.

NO. 7.—RAILWAY CROSSINGS OR JUNCTIONS.—Section 252.

Send to the secretary of the Board with an application three sets of plan and profile of both roads on either side of the proposed crossing for a distance of one mile in each direction.

Scale—Plan—400 feet to the inch.

Profile.—400 feet to inch horizontal; 20 feet to inch vertical.

First set for approval by and filing with the Board.

Second and third sets to be certified and furnished to the respective companies concerned, with certified copy of order.

The applicant company must give 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. 8.—HIGHWAY CROSSINGS.—Sections 255 to 267.

Standard regulations of the Board affecting highway crossings, as amended May 4, 1910.

Unless otherwise ordered by the Board, the regulations regarding the future construction of highway crossings are and shall be as follows:

1. With each application, the railway company shall send to the secretary of the Board three sets of plans and profiles of the crossing or crossings in question:—

Scale—

Plan.....	400 feet to an inch.	
Profile of railway—Horizontal.....	400	"
Vertical.....	20	"
Profile of highway—Horizontal.....	100	"
Vertical.....	20	"

First set, for approval by and filing with the Board.

Second and third sets, to be furnished to the respective parties concerned, with a certified copy of the order approving of the same.

2. The plan and profile shall show at least one-half mile of the railway each way and 300 feet of the highway on each side of the crossing.

3. The plan shall show all obstructions to the view from any point on the highway within 100 feet of the crossing to any point on the railway within one-half mile of the said crossing.

4. The company shall give the municipality in which the proposed crossing lies, notice of the application, and copies of the plan, and furnish the Board with proof of service.

5. The road surface of level or elevated approaches, and of cuts made for approaches, to rural railway crossings over highways, shall be 20 feet wide.

(a) A strong, substantial fence, or railing, four feet six inches high, with a good post-cap (four inches by four inches), a middle piece of timber (one and one-half inches by six inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, shall be constructed on each side of every approach to a rural railway crossing over a highway where the height is five feet or more above the level of the adjacent ground—leaving always a clear road-surface of 20 feet in width.

6. Unless otherwise ordered by the Board, the planking, or paving blocks, or broken stone topped with crushed-rock screenings, on rural crossings over highways (between the rails and for a width of at least eight inches on the outer sides thereof) shall be 16 feet wide.

7. In cities, towns, and villages, the width of all kinds of approaches to a railway crossing over a highway (street or avenue), and of the planking between the rails and on the outer sides thereof, must be regulated by the position of the street and the traffic or the anticipated traffic thereon, but shall not be less than 20 feet wide.

8. *Cuts and Fillings on Highway Crossings.*—Whenever a cut on the line of railway exceeds 9 feet or a filling thereon exceeds 7 feet at a highway or street crossing, the railway company, before proceeding with the work of construction, shall refer the matter to the Board, with a full statement of the facts and circumstances, that the Board may decide as to the advisability of ordering a separation of grades at the said crossing.

9. In special cases, it may, upon application, be ordered that any existing highway crossing be constructed so as to conform to the foregoing standards and requirements.

No. 9.—FARM CROSSINGS.—Sections 272-273.

1. *Gates*.—Farm crossing gates shall be of such a width as to give a clear space between the posts of not less than—

- (a) Sixteen feet in the provinces of Manitoba, Saskatchewan, Alberta and British Columbia.
- (b) Fifteen feet in the province of Ontario.
- (c) Fourteen feet in Quebec and the Maritime provinces.

2. *Planking and Approaches to Crossing*.—The planking or other approved filling between the steel rails, and for a width of at least 8 inches on the outer side thereof, and the roadways between the gates and the track or tracks, shall each furnish a road surface of not less than—

- (a) Fourteen feet wide in the provinces of Manitoba, Saskatchewan, Alberta and British Columbia.
- (b) Twelve feet wide in the other provinces of the Dominion.

3. For any cut or fill up to five feet, the grade shall not be steeper than 10 per cent; and for each foot, or fraction exceeding one-half foot, of cut or fill in excess of five feet, the percentage of grade shall (except where, and to the extent that, the slope of the ground makes it impossible) be decreased by one-half of one per cent. until a depth or heights of 11 feet is reached.

4. When a cut or fill at any farm crossing exceeds 11 feet, the matter shall be referred to the Board to decide as to the advisability of requiring the railway company to construct a bridge or under-crossing, unless the company, in consultation with the owner of the farm affected, voluntarily constructs a suitable bridge or under-crossing. The width of bridges and under-crossings to be the same as the width of the gates in the different provinces, and the height of under-crossings to be determined by the requirements in each case.

5. In special cases, it may, upon application, be ordered that any existing farm crossing be reconstructed to conform to the foregoing standards.

No. 10.—WIRES ERECTED ALONG OR ACROSS RAILWAYS.—Section 372.

By sub-section 5 of Section 372 of the Railway Act, 1919, the following was enacted:

“5. Leave of the Board under this section shall not be necessary for the exercise of the powers of a railway company under section three hundred and sixty-seven of this Act, nor for the maintenance of works now authorized, nor when works have been or are to be constructed or maintained by consent and in accordance with any general orders, regulations, plans or specifications adopted or approved by the Board for such purposes.”

GENERAL ORDER No. 231.

In the matter of section 246 of the Railway Act, as amended by chapter 37 of the Acts 7-8 George V, section 4, for the carrying of wires and cables along or across the tracks of railway companies under the jurisdiction of the Board.*

Case No. 4704.

MONDAY, the 6th day of May, A.D. 1918.

Sir HENRY L. DRAYTON, K.C., *Chief Commissioner.*

S. J. McLEAN, *Commissioner.*

A. S. GOODEVE, *Commissioner.*

A. C. BOYCE, K.C., *Commissioner.*

Upon the report and recommendation of the Electrical Engineer of the Board,—*It is ordered:*

1. That the conditions and specifications set forth in the schedule hereto annexed, under the heading, "Rules for Wires erected along or across Railways," be, and the same are hereby, adopted and confirmed as the conditions and specifications applicable to the erection, placing, or maintaining of electric lines, wires, or cables along or across all railways subject to the jurisdiction of the Board, part 1 being applicable where the line or lines, wire or wires, cable or cables, is or are carried along or over the railway; part 2 being applicable where the line or lines, wire or wires, cable or cables, is or are carried under the railway.

2. That any order of the Board granting leave to erect, place, or maintain any line or lines, wire or wires, cable or cables, along or across the railway and referring to "Rules for Wires erected along or across Railways," shall be deemed as intended to be a reference to the conditions and specifications set out in that part of the said schedule which is applicable to the mode of crossing authorized.

3. That any order of the Board granting leave to erect, place, or maintain any line or lines, wire or wires, cable or cables, along or across any railway subject to the jurisdiction of the Board, shall, unless otherwise expressed, be deemed to be an order for leave to erect, place and maintain the same according to the conditions and specifications set out in that part of the said schedule applicable thereto, which conditions and specifications shall be considered as embodied in any such order without specific reference thereto, subject, however, to such change or variation therein or thereof as shall be expressed in such order.

4. That the general order of the Board No. 113, dated November 5, 1913, approving of "Rules for Wires crossing Railways," and the conditions and specifications adopted thereby, be, and the same is hereby, rescinded.

H. L. DRAYTON,

Chief Commissioner.

*R. S. C., 1906, c. 37

CIRCULAR No. 167

Case 4704. Rules for Wires erected along or across Railways.

—General Order No. 231, June 19th, 1919.

The Board is in receipt of inquiries in regard to the scope of General Order No. 231, dated May 6, 1918, containing rules for wires erected along or across railways, and as there appears to be some misunderstanding as to whether an order is necessary where construction is along the railway, I am directed to state that the amending provision, Section 7, Chapter 22 of the Statutes of 1911, dispensing with the necessity of an order where the railway company consents, as set forth on page 2 of General Order No. 231, as printed, applies only to construction *across* the railway.

Where the wires or other conductors are to be erected *along* the railway, an order of the Board is therefore necessary.

By order of the Board,

A. D. CARTWRIGHT,
Secretary.

SCHEDULE.

NOTICE TO APPLICANTS.

When the interested company's consent cannot be procured and an application to the Board becomes necessary, send to the Secretary of the Board (postage free) with the application, three copies of a sketch or drawing about 8 by 10 inches showing:—

(a) The location of the poles or towers, or the location of the underground conduit in relation to the track; the dimensions of the poles or towers; and the material or materials of which they are made.

(b) The proposed number of wires, or cables, the distance between them and the track, and the method of attaching the conductors to the insulators.

(c) The location of all other wires adjacent or to be crossed, and their supports.

(d) The maximum potential, in volts, between wires, the potential between wires and the ground, and the maximum current, in amperes, to be transmitted.

(e) The kinds and sizes of the wires or conductors in question.

(f) On circuits of 10,000 volts, or over, the method of protecting the conductors from arcs at the insulators.

(g) The number of insulators supporting the conductors (*See also "J" in Specifications.*)

N.B.—Place a distinguishing name, number, date and signature upon the drawing. Mark the exact location of the lines or wires upon

the drawing, by stating the distance in miles from the nearest railway station—N., E., S., or W.—so that this point can readily be identified.

STANDARD CONDITIONS AND SPECIFICATIONS FOR WIRE

CROSSINGS.

PART I.—OVER-CROSSINGS.

Conditions.

1. The applicant shall, at its or his own expense, erect and place the lines, wires, cables, or conductors authorized to be placed along or across the said railway, and shall at all times, at its own expense, maintain the same in good order and condition and at the height shown on the drawing, and in accordance with the specifications herein-after set forth, so that at no time shall any damage be caused to the company owning, operating or using the said railway, or to any person lawfully upon or using the same, and shall use all necessary and proper care and means to prevent any such lines, wires, cables, or conductors from sagging below the said height.

2. The applicant shall at all times wholly indemnify the company owning, operating, or using the said railway, of, from, and against all loss, cost, damage, and expense to which the said railway company may be put by reason of any damage or injury to persons or property caused by any of the said wires or cables or any works or appliances herein provided for not being erected in all respects in compliance with the terms and provisions of this order, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of the employees or agents of the applicant.

3. No work shall at any time be done under the authority of this order in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic of the said railway.

4. Where, in affecting any such line or wire construction, it is necessary to erect poles between the tracks of the railway, the applicant, before any work is begun, shall give the railway company owning, operating, or using the said railway at least seventy-two hours' prior notice thereof in writing, and the said railway company shall be entitled to appoint an inspector, under whose supervision such work shall be done, and whose wages, at a rate not to exceed eleven dollars per day, shall be paid by the applicant, such payment to cover both wages and expenses. When the applicant is a municipality and the work is on a highway under its jurisdiction, the wages of the inspector shall be paid by the railway company.

4. (a) It shall not, however, be necessary for the applicant to give prior notice in writing to the railway company as above provided in

regard to necessary work to be done in connection with the repair or maintenance of the lines or wires when such work becomes necessary through an unforeseen emergency.

5. Where the wires or cables are to be erected at the railway and carried above, below, or parallel with existing wires, either within the span or spans to be constructed at the railway or within the spans next thereto on either side, such additional precautions shall be taken by the applicant as the Engineer of the Board shall consider necessary.

6. Nothing in these conditions shall prejudice or detract from the right of the company owning, operating, or using the railway to adopt at any time the use of the electric or other motive power, and to place and maintain, along, over, upon, or under its right of way, such poles, lines, wires, cables, pipes, conduits, and other fixtures and appliances as may be necessary or proper for such purpose. Liability for the cost of any removal, change in location or construction of the poles, lines, wires, cables or other fixtures or appliances erected by the applicant along, over or under the tracks of the said railway company, rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the Board on the application of any party interested.

7. Any disputes arising between the applicant and the said railway company as to the manner in which the said wires or cables are to be erected, placed or maintained, used or repaired, shall be referred to the Engineer of the Board, whose decision shall be final.

8. The wires or cables of the applicant shall be erected, placed and maintained in accordance with the drawing approved by the Board and the specifications following. If the drawing and specifications differ the latter shall govern unless a specific statement to the contrary appears in the Order of the Board.

9. In every case in which the line of a railway company is to be constructed along or under the wires or cables of a telegraph or telephone company, the construction of the telegraph or telephone line or lines of the company shall be made to conform to the foregoing specifications, and any changes necessary to make it so conform shall be made by the telegraph or telephone company at the cost and expense of the railway company.

OVERHEAD LINES.

Specifications.

A. *Labelling of poles.*—Poles, towers, or other wire-supporting structures on each side of and adjacent to railway crossings, to be equipped with durable labels showing (a) the name of the company or individual owning or maintaining them, and (b) the maximum voltage between

conductors; the characters upon the labels to be easily distinguished from the ground.

B. *Separate lines.*—Two or more separate lines for the transmission of electrical energy shall not be erected or maintained in the same vertical plane. The word "lines," as here used, to mean the combination of conductors and the latter's supporting poles, or towers and fittings.

C. *Location of poles, etc.*—Poles, towers, or other wire-supporting structures to be located generally a distance from the rail not less than equal to the length of the poles or structures used. Poles, towers, or other wire-supporting structures must under no consideration be placed less than 12 feet from the rail of a main line, or less than 6 feet from the rail of a siding. At loading sidings sufficient space to be left for driveway.

D. *Setting and strength of poles.*—Poles less than 50 feet in length to be set not less than 6 feet and poles over 50 feet not less than 7 feet in solid ground. Poles with side strains to be reinforced with braces and guy wires. Poles to be at least 7 inches in diameter at the top—mountain cedar poles to be at least 8 inches at the top. In soft ground poles must be set as so to obtain the same amount of rigidity as would be obtained by the above specifications for setting poles in solid ground. When the line is located in a section of the country where grass or other fires might burn them, wooden poles to be covered with a layer of some satisfactory fire-resisting material, such as concrete at least two inches thick, extending from the butt of the pole for a distance of at least 5 feet above the level of the ground. Wooden structures to have a safety factor of five.

E. *Setting and strength of other structures.*—Towers or other structures to be firmly set upon stone, metal, concrete or pile footings or foundations. Metal and concrete structures to have a safety factor of four.

F. *Length of span.*—Span must be as short as possible consistent with the rules of setting and locating of poles and towers.

G. *Fittings of wooden poles for telegraph, telephone, or similar low tension lines.*—The poles at each side of a railway must be fitted with double cross-arms, dimensions not less than 3 inches by 4 inches, each equipped with 1¼-inch hardwood pins, nailed in arms, or some stronger support and with suitable insulators; cross-arms to be securely fastened to the pole in a girth by not less than a ½-inch bolt through the pole; arms carrying more than two wires or carrying cable must be braced by two stiff iron or substantial wood braces fastened to the arms by ½-inch or larger bolts, and to the pole by a ½-inch or larger bolt.

H. *Fitting of all poles, towers, or other structures.*—All wire-supporting

structures to be equipped with fittings satisfactory to the Engineer of the Board.

I. *Guards*.—Where cross-arms are used, an iron hook guard to be placed on the ends of and securely bolted to each. The hooks shall be so placed as to engage the wire in the event of the latter's detachment from the insulators.

J. *Insulators*.—All wires or conductors for the transmission of electrical energy along or across a railway to be supported by and securely attached to suitable insulators.

Wires or conductors in 10,000-volt (or higher) circuits, to be supported by insulators capable of withstanding tests of two and one-half times the maximum voltage to be employed under operating conditions. An affidavit describing the tests to which the insulators have been subjected and the apparatus employed in the tests shall be supplied by the applicant. The tests upon which reports are required are as follows:—

Ja. *Puncture or rupture test*.—The insulators having been immersed in water for a period of seven days, immediately preceding and ending at the time of the test, to be subject for a period of five minutes to a potential of two and one-half (2.5) times the maximum potential of the line upon which they are to be installed.

Jb. *Flash-over test*.—State the potentials that were employed to cause arcing or flashing across the surface of the insulator between the conductor and the insulator's point of support when the surface was (1) dry, and (2) wet.

K. *Height of wires (a) Low tension conductors*.—The lowest conductor must not be less than 25 feet from top of rail for spans up to 145 feet; $2\frac{1}{2}$ feet additional clearance of rails or other wires must be given for every 20 feet or fraction thereof additional length of span. The words "low tension," as here used, to mean conductors for telegraph, telephone, and kindred signal work, as well as conductors connected with grounded secondary circuits of transformers below 350 volts.

Kb. All primary conductors, ungrounded secondaries and railway feeders to be maintained at least 30 feet above the top of rail—except where special provisions are made for trolley wires.

Kc. High tension conductors, those between which a potential of 10,000 volts or over is employed, to be maintained at least 35 feet above the top of rail.

L. *Clearance*.—Safe clearances between all conductors to be maintained at all times. The following distances to be provided wherever possible: at least 3 feet clearance from low tension wires; at least 5 feet between low tension wires, primaries, ungrounded secondaries, and railway feeders employing less than 10,000 volts; at least 10 feet between high tension wires and all other lines.

M. *Guy wires*.—Guy wires at railway crossings to be at least as strong as 7 strand No. 16 Stub's or New British standard gauge galvanized steel wire, and to be clearly indicated as guy wire on the drawing accompanying the application. One or more strain insulators to be placed in all guy wires; the lowest strain insulator to be not less than 8 feet above the ground.

Na. *Wires and other conductors*.—Where open telephone, telegraph, signal or kindred low tension wires are strung across a railway this stretch to consist of copper wire, or copper-clad steel wire, not less than No. 13 New British standard gauge, .092 inch in diameter. Wire is to be securely tied to insulators by a *tie wire* not less than 20 inches in length and of the same diameter as the line wire.

Nb. Where No. 9 B.W.G., or larger, galvanized iron or steel wire is employed in a circuit, and where there is no danger of deterioration from smoke or other gases, the use of this wire may be continued at the crossing.

Nc. Where a number of rubber-covered wires are strung across a railway they may be made up into a cable by being twisted on each other or otherwise held together and the whole securely fastened to the poles.

Nd. Wires or other conductors for the transmission of electrical energy for purposes other than telegraph, telephone, or kindred low tension signal work, to be composed of at least seven strands of material having a combined tensile strength equivalent to or greater than No. 4 Brown & Sharpe gauge hard-drawn copper wire. These conductors to be maintained above low tension wires at the crossing, to be free from joints or splices, and to extend at least one full span of line beyond the poles or towers at each side of the railway.

Ne. Wires or other conductors subject to potentials of 10,000 volts or over, to be reinforced by clamps, servings, wrappings, or other protection at the insulators to the satisfaction of the Engineer of the Board.

Nf. Conductors for other than low tension work to have a factor of safety of two when covered with ice or sleet to a depth of 1 inch and subjected to a wind pressure of 8 pounds per square foot on the ice-covered diameter.

Ng. All conductors to be dead ended or so fastened to their supporting insulators at each side of the crossing that they cannot slip through their fastenings.

O. *Positions of wires*.—Wires or conductors of low potential to be erected and maintained below those of higher potential which may be attached to the same poles or towers.

P. *Trolley wires*.—Trolley wires at railway crossings to be provided

with a trolley guard so arranged as to keep the trolley wheel or other rolling, sliding or scraping device in electrical contact. The trolley wire, trolley guard and their supports to be maintained at least 22 feet 6 inches above the top of the rails.

Q. Cable.—Cable to be carried on a suspension wire at least equivalent to seven strands of No. 13 Stub's or New British standard gauge galvanized steel wire. When cross-arms are used, suspension wires to be attached to a $\frac{3}{4}$ -inch iron or stronger hook, or when fastened to poles to a malleable iron or stronger messenger hanger bolted through the poles, the cable to be attached to the suspension wire by cable clips not more than 20 inches apart. Rubber insulated cables of less than $\frac{3}{4}$ -inch in diameter may be carried on a suspension wire of not less than seven strands of No. 16 Stub's or New British standard gauge galvanized steel wire. The word "cable" as here used, to mean a number of insulated conductors bound together.

PART II.—UNDERGROUND LINES.

Conditions.

1. The line or lines, wire or wires, shall be carried along or across the railway in accordance with the approved drawing, and a pipe or pipes, conduit or conduits, cable or cables, shall, for the whole width of the right of way adjoining the highway, be laid at the depth called for by, and shall be constructed and maintained in accordance with the specifications hereinafter set forth.

2. All work in connection with the laying and maintaining of each pipe, conduit or cable and the continued supervision of the same shall be performed by, and all costs and expenses thereby incurred be borne and paid by the applicant; but no work shall at any time be done in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains, traffic or other work on the said railway.

3. The applicant shall at all times maintain each pipe, conduit or cable in good order and condition, so that at no time shall any damage be caused to the property of the railway company or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use and enjoyment thereof by the said railway company be in any way interfered with.

4. Before any work of laying, removing, or repairing any pipe, conduit or cable is begun, the applicant shall give to the railway company at least seventy-two hours' prior notice thereof, in writing, accompanied by a plan and profile of the part of the railway to be affected, showing the proposed location of such pipe or conduit and works contemplated

in connection therewith, and the said railway company shall be entitled to appoint an inspector to see that the applicant, in performing said work, complies, in all respects, with the terms and conditions of this order, and whose wages, at a rate not exceeding \$11 per day, shall be paid by the applicant, such payment to cover both wages and expenses. When the applicant is a municipality and the crossing is on a highway under its jurisdiction the wages of the inspector shall be paid by the railway company.

4a. It shall not, however, be necessary for the applicant to give prior notice in writing to the railway company, as above provided, in regard to necessary work to be done in connection with the repair or maintenance of the line when such work becomes necessary through an unforeseen emergency.

5. The applicant shall, at all times, wholly indemnify the company owning, operating, or using the said railway of, from and against all loss, costs, damage and expense to which the said railway company may be put by reason of any damage or injury to person or property caused by any pipe, conduit, or cable, any works or appliances herein, or in the order authorizing the work provided for, not being laid and constructed in all respects in compliance with the terms and provisions of these conditions, or if, when so constructed and laid, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of said order, or any order or orders of the Board in relation thereto, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the applicant.

6. Nothing in these conditions shall prejudice or detract from the right of any company owning or operating or using the said railway to adopt, at any time, the use of electric or other motive power, and to place and maintain upon, over, and under the said right of way such poles, wires, pipes and other fixtures and appliances as may be necessary or proper for such purposes. Liability of the cost of any removal, change in location or construction of the pipes, conduits, wires, or cables constructed or laid by the applicant rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the Board on the application of the party interested.

7. Any dispute arising between the applicant and the company owning, using or operating the said railway as to the manner in which any pipe or conduit, or any works or appliances herein provided for, are being laid, maintained, renewed, or repaired, shall be referred to the Engineer of the Board, whose decision shall be final and binding on all parties.

UNDERGROUND LINES.

Specifications.

AA. *Conduit*.—Vitrified clay, creosoted wood, metal pipe, armoured cable or fibre conduit may be used.

BB. *Depth*.—The excavation to be of sufficient depth to allow the top of the duct to be at least three feet below the bottom of the ties of railway track.

CC. *Laying*.—The conduit or duct to be laid on a base of 3 inches of concrete, mixed in proportion, 1 of cement, 3 of sand and 5 of broken stone or gravel. Where stone is used, such stone is to be of a size that will permit of its passing through a 1-inch ring. After ducts are laid, the whole to be encased to a thickness of 3 inches on top and sides in concrete mixed in the same proportions as above.

Where the track is on an embankment a pipe may be driven through the latter.

DD. *Filling in*.—The excavation must be filled in slowly and well tamped on top and side.

EE. *Guard*.—The excavation must at all times be safely protected by the applicant.

No. 11.—CROSSINGS WITH PIPES FOR DRAINS, WATER SUPPLY, GAS,
ETC.—Section 268.

An order of the Board shall not be required in the cases in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company, in accordance with the general regulations, plans or specifications adopted or approved by the Board for such purposes.

When an order of the Board is required send to the Secretary of the Board with the application a plan and profile in triplicate. The plan must show the track or tracks proposed to be crossed. The profile must show the distance between the pipe and the base of rail, the size of the pipe, and the material of which it is to be constructed. A copy of the plan and profile must be sent to the railway company with notice of application.

Sewer pipes.—Sewers under railway tracks shall be constructed of hard brick laid in cement mortar, or standard glazed tile pipe, or such other material as may from time to time be prescribed by the Board. If standard glazed pipe is used, the joints must be properly fastened with cement mortar, and the pipe under every track and for a distance of 4 feet on the outer sides thereof be imbedded in concrete, four inches thick, beneath and all around the said pipe.

The top of the sewer (brick or pipe) shall, wherever possible, be

below the frost line and not less than 4 feet below base of rail. Where this cannot be done without causing a sag in the sewer, precautions must be taken to strengthen and protect the sewer.

2. *Water pipes.*—Every water pipe underneath a railway track shall be of the Canadian Society of Civil Engineers' Standard, properly fastened at the joints; and the top of the pipe shall be below the frost line and not less than 4 feet below base of rail.

3. *Pipes for manufactured gas.*—Every pipe for conveying manufactured gas under a railway track shall be the standard gas pipe, properly fastened at the joints; and the top of the pipe shall be below the frost line and not less than 4 feet below base of rail.

4. *Pipes for oil and natural gas.*—Every pipe for conveying oil or natural gas under a railway track shall be of steel or cast-iron, or such other material as may from time to time be prescribed by the Board, tested to a pressure of 1,000 pounds to the square inch if the gas pipe or main be a high-pressure line, and 300 pounds to the square inch if the said gas pipe or main be a low-pressure line; and the said oil or natural gas pipe shall be encased within another pipe of sufficient size and strength to protect it properly; the top of the encasing pipe to be below the frost line and not less than 4 feet below base of rail.

5. All work in connection with the laying, maintaining, renewing, and repairing of the said pipe and the continued supervision of the same shall be performed by, and all costs and expenses thereby incurred be borne and paid by, the applicant; but no work at any time shall be done in such a manner as to obstruct, delay, or in any way interfere with the operation of any of the trains or traffic of the railway company or other company using the said railway.

6. The applicant shall at all times maintain the said pipe in good working order and condition, and so that at no time shall any damage be caused to the property of the railway company, or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use and enjoyment as heretofore by the railway company or other company using the said railway, be in any way interfered with.

7. Before any work of laying, renewing, or repairing the said pipe is begun, the applicant shall give to the local superintendent of the railway company at least forty-eight hours' prior notice thereof in writing, so as to enable the railway company to appoint an inspector to see that the work is performed in such a manner as shall, in all respects, comply with these regulations. The wages of such inspector, which shall not exceed \$11 per day, to be paid by the applicant, such payment to cover both wages and expenses, except in the case of a municipal corporation desiring to lay a pipe under the railway on a highway which is

senior to the railway. In such case the railway company shall pay its own inspector.

8. The applicant shall assume and be responsible for all risk of accident, loss, injury, or damage of every nature whatsoever which may happen or be in any way caused by reason of the negligence of the applicant, its servants or agents, in connection with the laying, maintenance, renewal, or repair of the said pipe or the use thereof, or by any failure on the part of the applicant, or its servants or agents, to observe at all times and perform fully and in all respects the terms and conditions of these regulations.

9. If any dispute arises between the applicant and the railway company as to the terms and conditions of these regulations, or as to the manner in which the said pipe is being laid, maintained, renewed, or repaired, the same shall be referred to an Engineer of the Board, whose decision shall be final and binding on all the parties.

10. An order of the Board shall not be required in the cases in which water pipes or other pipes are to be laid or maintained under the railway with the consent of the railway company, in accordance with the general regulations, plans or specifications adopted or approved by the Board for such purposes.

No. 12.—CROSSINGS AND WORKS UPON NAVIGABLE WATERS, BEACHES, ETC.—Sections 247-248.

Upon site and general plans being submitted to the Department of Public Works, and being approved by the Governor in Council, send to the Secretary of the Board: Certified copy of Order in Council with the plans and description approved thereby and so certified—one application and two sets of detail plans, profiles, drawings and specifications.

The plans must show details of construction of piers and their foundations, also details of superstructure, if standard plan of the same has not already been approved.

The profile must show the cross-section of the river or stream at the place of crossing and high and low water marks.

The name of the river or stream, and the mileage of the bridge should be given.

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

No. 13.—BRIDGES, TUNNELS, VIADUCTS, TRESTLES, ETC., OVER 18-FOOT SPAN.—Section 249.

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

(b) Or detail plans, profiles, drawings and specifications, which may be blue, white or photographic prints, must be sent to the Secretary of the Board for approval, etc., as in No. 12.

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

No. 14.—STATION GROUNDS AND STATION BUILDINGS.

—Section 188.

Send to the Secretary of the Board: Three sets of plans showing the location, and details of structures, and yard tracks. The company shall give the municipality in which the proposed station lies, notice of the application and copy of the plan, and furnish the Board with proof of service.

First set for filing with the Board.

Second set to be certified and returned to the company with certified copy of order of approval.

Third set to be certified and sent to the municipality.

NOTE.—If approved plans, showing location, etc., of a station are on file with the Board, and such station were burned, a letter from the company that it intended to erect another station of the same plan and location, would call from the Board an approval and waiver of filing new plans, unless the local conditions had so changed since the original station was erected, that public convenience called for enlarged facilities or change of location.

GENERAL NOTES.

Plans (for Nos. 2 to 6) must show the right of way, with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines, owners' names, the areas and length and width of land proposed to be taken, in figures (every change of width being given), the curves and the bearings, also all open drains, watercourses, highways, farm roads and railways proposed to be crossed or affected.

Should the company at any place require right of way more than 100 feet in breadth for the accommodation of slopes and side ditches, it will be necessary to place on the plan cross-sections of the right of way, taken 100 feet apart and extending to the limits of the right of way proposed to be taken.

Profiles shall show the grades, curves, highway and railway crossings, open drains and watercourses, and may be endorsed on the plan itself.

Books of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion thereof proposed to be taken and names of owners and occupiers so far as they can be ascertained.

All plans, profiles and books of reference must be dated and must be certified and signed by the president or vice-president or general manager, and also by the engineer of the company.

The plan and profile to be retained by the Board must be on tracing linen, the copies to be returned may be either white, blue, or photographic prints.

All profiles shall be based, where possible, upon sea-level datum.

All books of reference must be made on good thick paper and in the form of a book with a suitable paper cover. The size of such books when closed shall be as near as possible to $7\frac{1}{2}$ inches by 7 inches, or book of reference may be endorsed on the plan.

The time limit for filing and delivery of answer shall be as follows: Where the subject-matter of the complaint arises east of Port Arthur, Ont., fifteen days; between Port Arthur and the western boundary of the Province of Saskatchewan, twenty days; and west thereof, thirty days.

FORM OF BOOK OF REFERENCE REQUIRED.

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.....Railway Company.
Division or Province.....Branch.

BOOK OF REFERENCE TO ACCOMPANY LOCATION PLAN SHOWING LANDS REQUIRED FOR RAILWAY PURPOSES.

Station to	Station.	Width of Railway.	Owner.	Centre of Book when open.	Part of	Section or Lot.	Township Parish Block or Number of Claim.	Range.	Con- tents Acres.	Remarks.

CONCORDANCE OF

INTERLOCKING SYSTEM.

GENERAL REQUIREMENTS, APPLICABLE TO STEAM RAILWAYS, FOR INTER-
LOCKING APPLIANCES AT RAIL LEVEL CROSSINGS,
JUNCTIONS AND DRAWBRIDGES.

When possible, railway companies concerned shall agree on the plans before submitting them to the Board. In the preparation of these plans, the symbols used to indicate all the functions of the interlocker shall be those approved by the Railway Signal Association. The plan and construction of interlocking, signalling and derailing system to be used at rail level crossings, junctions and drawbridges shall conform to the following rules:—

1. Derails must be an approved pattern, and shall be so placed, with reference to curvature, bridges and other tracks, as to obtain the maximum of efficiency and safety. Unless otherwise approved, they shall be located not less than 500 feet from the nearest frog of intersecting diamond, junction, or the end of a drawbridge. On double track, back up derails shall be located not less than 300 feet from the nearest frog of an intersecting diamond, junction, or the end of a drawbridge, unless otherwise approved.

In mechanical plants, on important high-speed main lines, all facing point switches, derails, and movable point frogs must be locked with facing point locks unless otherwise approved. All other derails, switches, and units may be locked by facing point locks, or by switch and lock movements. Bolt locks must be provided for facing point switches, derails, and movable point frogs, and the home signals governing the route through them.

2. Home signals when used in connection with derail shall be located not less than 5 feet from the detector bar.

Home signals must be pipe connected, unless operated by power, except when otherwise approved. Dwarf signals may be used to govern train movements on all tracks other than main tracks. On main tracks they may be used to govern train movements against the current of traffic. Dwarf signals may also be used as "calling on" signals at interlocking plants in automatic signal territory, and may be operated by double wires, by pipe, or by power.

The distance that the distant signal shall be located from its respective home signal shall be varied to suit the requirements of each particular case. In no case shall the distance be less than 1,200 feet, unless otherwise approved. Distant signals may be operated by double wires, by power, or have arm fixed as ordered. When conditions justify, the distant signal may be omitted.

3. Guard rails shall be laid on the outside of the rail in which the derail is placed, or on the inside of the opposite rail, and commencing at least 9 feet in front of the derail shall extend thence to a point 100 feet from the diamond, junction point, or end of drawbridge, parallel with and 9 inches from the track rail. Guard rails shall be fully spiked, and if placed inside shall have the ends bent down level with the tops of ties.

4. The normal position of all home signals must indicate "Stop." Derail points must be in derailing position and the interlocking so arranged that it will be impossible for the signal man to give conflicting routes.

5. Signals shall be of the semaphore type and shall be placed either over or upon the right of and next to the track upon which train movements are governed, unless otherwise approved, except on railways operating with current of traffic to the left, or where physical conditions require the location of signals to the left of the track.

6. Semaphore arms that govern shall be displayed to the right of the signal post, as seen from an approaching train.

7. The apparatus shall be so constructed that the failure of any part directly controlling a signal will cause it to give its least favourable indication.

8. Locking of levers must be arranged so that home or dwarf signal cannot be cleared for any given route, unless all switches, derails, movable point frogs, and other units in the route are in proper position and locked.

9. All signals should be visible to the signal man in the tower. If from any cause any signal other than pipe-connected signals cannot be placed so as to be seen by the signal man, a tower repeater or electric back lock should be provided.

10. All derails, switches and movable point frogs shall be equipped with detector bars of approved design, not less than 50 feet in length, unless otherwise approved.

11. Unless equipped with electric locking, time locks must be installed to prevent the changing of high-speed routes until after the home signal has displayed the "Stop" indication a predetermined time, except as otherwise ordered.

12. All power-operated interlocking signals shall be equipped with proper electric back locks, designed so as to prevent the latching of the signal lever normal, unless the signal has assumed the normal position.

13. Lever machines at mechanical interlocking plants must be equipped with locking of the preliminary type, and locking must be so arranged that conflicting routes cannot be given at any stage in the setting up of the route.

14. At mechanical plants one lever shall operate not more than one signal: (1) two pairs of switch points; (2) 110 feet of detector bar at single switches; (3) 156 feet of detector bar at slip switches; (4) one switch and lock movement, two eight-way bridge couplers; (5) four rail locks; (6) or two bridge locks, or combination of rail locks and bridge couplers, when total load of such combination does not exceed load of two eight-way bridge couplers.

15. As soon as the interlocking plant is completed, the company may place same in operation, but, until the plant is approved by order of the Board, all trains must stop before making the crossing as required by the Railway Act.

16. Application for inspection of the interlocking plant must be made to the Board, accompanied by a plan diagram, showing location of the crossing, junction, or drawbridge, and the position of all tracks within the limits of the interlocking plant. On the diagram the several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use, together with the numbers of signals, derails, locks, etc., corresponding to the levers in the tower.

STANDARD SPECIFICATIONS FOR HIGHWAY CROSSING BELL.

Post.—The signal must be placed upon a post of suitable structural material. If the post is made of wood, it must be of sound timber not less than 8 by 8 inches and 18 feet long, and shall be firmly set in the ground to a depth of four feet. If it is made of iron or steel, it shall not be less than 4 inches in diameter, shall extend at least twelve feet above the ground, and shall be firmly bolted to a concrete or other foundation constructed below the frost line.

Bell.—A bell which shall emit a clear, loud volume of sound under all weather conditions must be used.

Sign.—A sign shall be placed upon the same post as the bell with the word "danger" upon it in letters not less than six inches in length, to be illuminated, so as to be plainly visible after sunset. There may be added to the post, if so desired, the railway crossing sign provided for by section 267 of the Railway Act.

Operation.—The bell and the illumination of the sign shall be controlled and operated automatically by the approach of trains, in such manner that only approaching trains shall operate the signal.

Any order of the Board providing for the installation of a highway crossing signal and referring to "Standard Specifications for Highway Crossing Signals" shall be deemed a reference to the specifications herein approved and adopted.

Every electric bell upon the line of any railway company subject to the legislative authority of the Parliament of Canada, installed for the purpose of protection, shall be inspected every morning by the sectionman in whose division or section such bell is, or other employee of the railway company specifically charged with such duty by the company, and tested by placing a wire across the rail, upon each side of the crossing, or by establishing electrical connection by any other device or method which will indicate whether or not the bell is in good working order. If the bell fails to ring, or rings continuously, a flagman shall be placed at such crossing at once whose duty it shall be properly to protect the same until such bell is repaired. Notice of such non-repair shall be given at once to the station agent nearest to such bell, whose duty it shall be to report the matter at once to the department having charge of the operation and repair of such bells.

Failure to place a watchman as required by these regulations will subject the defaulter to a fine of \$50, payment of which may be ordered by the Board upon proof of the offence.









9-10 GEORGE V.

CHAP. 68.

An Act to consolidate and amend the Railway Act.

[Assented to 7th July, 1919.]

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

SHORT TITLE.

1. This Act may be cited as *The Railway Act, 1919*.
R.S., c. 37, s. 1.

Short title.

INTERPRETATION.

Definitions.

2. In this Act, and in any Special Act as hereinafter defined, in so far as this Act applies, unless the context otherwise requires,—

Definitions.

- (1) "Board" means the Board of Railway Commissioners for Canada;
- (2) "by-law," when referring to an act of the company, includes a resolution;
- (3) "charge," when used as a verb with respect to tolls, includes to quote, demand, levy, take or receive;
- (4) "company" includes a person, and where not otherwise stated or implied means "railway company," unless immediately preceded by "any," "every" or "all", in which case it means every kind of company which the context will permit of; and "railway company" or "company" when it means or includes "railway company,"—
 - (a) includes every such company and any person having authority to construct or operate a railway; and
 - (b) in the sections of this Act which require companies to furnish statistics and returns to the Board, or

"Company" and "Railway Company."

provide

provide penalties for default in so doing, includes further any company constructing or operating a line of railway in Canada, even though such company is not otherwise within the legislative authority of the Parliament of Canada, and includes also any individual not incorporated who is the owner or lessee of a railway in Canada, or party to an agreement for the working of such a railway;

- "Costs." (5) "costs" includes fees, counsel fees and expenses;
- "County." (6) "county" includes any county, union of counties, riding, district, or division corresponding to a county, and any separate municipal division of a county;
- "Court." (7) "court" means a superior court of the province or district, and, when used with respect to any proceedings for
 (a) the ascertainment or payment, either to the person entitled, or into court, of compensation for lands taken, or for the exercise of powers conferred by this Act, or
 (b) the delivery of possession of lands, or the putting down of resistance to the exercise of powers, after compensation paid or tendered,
 includes the county court of the county where the lands lie; and "county court" and "superior court" are to be interpreted according to the *Interpretation Act* and amendments thereto;
- "County court."
 "Superior court."
 R.S., c. 1.
 "Exchequer Court." (8) "Exchequer Court" means the Exchequer Court of Canada;
- "Express toll." (9) "express toll" means any toll, rate or charge to be charged by any company, or any person or corporation other than the company, to any persons, for hire or otherwise, for or in connection with the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, or for any service incidental thereto, or for or in connection with any or either of these objects, where the whole or any portion of the carriage or transportation of such goods is by rail upon the railway of the company;
- "Goods." (10) "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;
- "Highway." (11) "highway" includes any public road, street, lane or other public way or communication;
- "Inspecting Engineer." (12) "inspecting engineer" means an engineer who is directed by the Minister, or by the Board, to examine any railway or works, and includes two or more engineers, when two or more are so directed;
- "Judge." (13) "judge" means a judge of a superior or county court hereinbefore mentioned, as the case may be;

- (14) "justice" means a justice of the peace acting for the "Justice." province, district, county, riding, division, city or place where the matter requiring the cognizance of a justice arises; and, when any matter is authorized or required to be done by two justices, the expression 'two justices' means two justices assembled and acting together;
- (15) "lands" means the lands, the acquiring, taking or "Lands." using of which is authorized by this or the Special Act, and includes real property, messuages, lands, tenements and hereditaments of any tenure, and any easement, servitude, right, privilege or interest in, to, upon, under, over or in respect of the same;
- (16) "lease" includes an agreement for a lease; "Lease."
- (17) "Minister" means the Minister of Railways and "Minister." Canals;
- (18) "owner", when, under the provisions of this Act or the "Owner." 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, is enabled to sell and convey the lands to the company, and includes also a mortgagee of the lands;
- (19) "plan" means a ground plan of the lands and pro- "Plan." perty taken or intended to be taken;
- (20) "provincial legislature" or "legislature of any pro- "Provincial vidence" means and includes any legislative body other than Legislature." the Parliament of Canada;
- (21) "railway" means any railway which the company has "Railway." authority to construct or operate, and includes all branches, extensions, sidings, stations, depots, wharves, 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; and, except where the context is inapplicable, includes street railway and tramway;
- (22) "Railway Act, 1888," means the Act passed in the "Railway Act, 1888." fifty-first year of the reign of Her late Majesty, Queen Victoria, chapter twenty-nine, intituled *An Act respecting Railways*, and the several Acts in amendment thereof; 1888, c. 29.
- (23) "registrar of deeds" or "registrar" includes the regis- "Registrar of deeds." trar of land titles, or other officer with whom the title to the land is registered;
- (24) "registry of deeds," or "office of the registrar of "Registry of deeds." deeds," or other words descriptive of the office of the registrar of deeds, include the land titles office, or other office in which the title to the land is registered;
- (25) "rolling stock" means and includes any locomotive, "Rolling stock." 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."
"Sheriff."

- (26) "Secretary" means the Secretary of the Board;
(27) "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;

"Special Act."

- (28) "Special Act", when used with reference to a railway, 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, whether heretofore or hereafter passed, and includes,—

1903, c. 71.

- (a) all such Acts,
(b) with respect to the Grand Trunk Pacific Railway Company, *The National Transcontinental Railway Act*, and any amendments thereto, and any scheduled agreements therein referred to, and
(c) any letters patent, constituting a company's authority to construct or operate a railway, granted under any Act, and the Act under which such letters patent were granted or confirmed;

"Telegraph."
"Telegraph toll."

- (29) "telegraph" includes wireless telegraph;
(30) "telegraph toll", or toll when used with reference to telegraph, means and includes any toll, rate or charge to be charged by any company to the public, or to any person, for the transmission of messages by telegraph;

"Telephone toll."

- (31) "telephone toll," or toll when used with reference to telephone, means and includes any toll, rate or charge to be charged by any company to the public, or to any person, for use or lease of a telephone system or line, or any part thereof, or for the transmission of a message by telephone, or for installation and use or lease of telephone instruments, lines or apparatus, or for any service incidental to a telephone business;

"Toll" and
"rate."

- (32) "toll", or "rate", when used with reference to a railway, means and includes any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and includes also any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, expressed or implied, with respect to the use thereof; and in-

cludes also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigerating, icing, heating, switching, ferriage, cartage, storage, care, handling or delivery of, or in respect of, goods transported, or in transit, or to be transported; and includes also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage, or the like, or so charged or made in connection with any one or more of the above-mentioned objects, separately or conjointly;

- (33) "traffic" means the traffic of passengers, goods and rolling stock; "Traffic."
- (34) "train" includes any engine, locomotive or other rolling stock; "Train."
- (35) "the undertaking" means the railway and works, of whatsoever description, which the company has authority to construct or operate; "Under-taking."
- (36) "working expenditure" means and includes,— "Working expenditure."
 - (a) all expenses of maintenance of the railway;
 - (b) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock let to the company; or in respect of property leased to or held by the company, apart from the rent of any leased line;
 - (c) 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;
 - (d) all expenses of or incidental to the working of the railway and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company;
 - (e) all rates, taxes, insurance and compensation for accidents or losses, including any such compensation payable under the provisions of any Act of the Parliament of Canada or of any provincial legislature providing for compensation to workmen for injuries or in respect of an industrial disease;
 - (f) all salaries and wages of persons employed in and about the working of the railway and traffic;
 - (g) all office and management expenses, including directors' fees, and agency, legal and other like expenses;
 - (h) all costs and expenses of and incidental to the compliance by the company with any order of the Board under this Act; and
 - (i) generally, all such charges, if any, not hereinbefore otherwise specified, as, in all cases of English railway companies, are usually carried to the debit of revenue as distinguished from capital account;
- (37) when any matter arises in respect of any lands which are not situated wholly in any one district, county, riding "Clerk of the peace."

"Justice,"
"Sheriff,"

riding, division, city or place, and which are the property of one and the same person, "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. R. S., c. 37, s. 2; 1908, c. 61, ss. 1 and 9; 1911, c. 22, s. 1; 1917, c. 37, s. 2. Am.

Construing with Special Acts.

General
rules as to
construing.

3. Except as in this Act otherwise provided,—

- (a) this Act shall be construed as incorporate with the Special Act; and
- (b) 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, in so far as is necessary to give effect to such Special Act, be taken to over-ride the provisions of this Act. R.S., c. 37, s. 3.

Special Act
referring to
corresponding
provisions.

4. If in any Special Act heretofore passed, it is enacted that any provision of any 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 provisions of this Act relating to the same subject-matter, shall, unless otherwise provided in this Act, be taken to be excepted, extended, limited, or qualified, in like manner. R.S., c. 37, s. 4. Am.

APPLICATION OF ACT.

To what
persons, com-
panies and
railways
applicable.

5. This Act shall, subject as herein provided, apply to all persons, railway companies and railways, within the legislative authority of the Parliament of Canada, whether heretofore or hereafter, and howsoever, incorporated or authorized, except Government railways, to which however it shall apply to such extent as is specified in any Act referring or relating thereto. R.S., c. 37, s. 5.

Application
to—

Foreign
companies.

6. The provisions of this Act shall, without limiting the effect of the last preceding section, extend and apply to,—

- (a) every railway company incorporated elsewhere than in Canada and owning, controlling, operating or running trains or rolling stock upon or over any line or lines of railway in Canada either owned, controlled, leased or operated by such company or companies, whether in either case such ownership, control, or operation is acquired by purchase, lease, agreement or by any other means whatsoever;

- (b) every railway company operating or running trains from any point in the United States to any point in Canada. 1909, c. 32, s. 11. Am. Companies running trains into Canada.
- (c) every railway or portion thereof, whether constructed under the authority of the Parliament of Canada or not, now or hereafter owned, controlled, leased, or operated by a company wholly or partly within the legislative authority of the Parliament of Canada, or by a company operating a railway wholly or partly within the legislative authority of the Parliament of Canada, whether such ownership, control, or first mentioned operation is acquired or exercised by purchase, lease, agreement or other means whatsoever, and whether acquired or exercised under authority of the Parliament of Canada, or of the legislature of any province, or otherwise howsoever; and every railway or portion thereof, now or hereafter so owned, controlled, leased or operated shall be deemed and is hereby declared to be a work for the general advantage of Canada. Railways deemed to be works for general advantage of Canada.

7. 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 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 said Special Act as are inconsistent with this Act, and in lieu of any general railway Act of the province. R. S., c. 37, s. 6. Railways declared to be for general advantage of Canada.

Special Act.

8. Every railway, the construction or operation of which is authorized by Special Act of the legislature of any province and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, shall, although not declared by Parliament to be a work for the general advantage of Canada, be subject to the provisions of this Act relating to,— Provincial railways connecting with or crossing Dominion Railways.

- (a) the connection or crossing of one railway with or by another, so far as concerns the aforesaid connection or crossing;
- (b) criminal matters, including offences and penalties; and,
- (c) navigable waters.
- R. S., c. 37, s. 8. Am.

BOARD OF COMMISSIONERS.

Constitution.

Board, how constituted.

9. (1) There shall be a commission, known as the Board of Railway Commissioners for Canada, consisting of six members appointed by the Governor in Council.

Court of record.

(2) Such commission shall be a court of record, and have an official seal which shall be judicially noticed.

Tenure.

(3) 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 upon address of the Senate and House of Commons.

(4) A commissioner shall cease to hold office upon reaching the age of seventy-five years.

Reappointment.

(5) A commissioner on the expiration of his term of office shall, if not disqualified by age, be eligible for reappointment. R. S., c. 37, s. 10 (1)—(4); 1908, c. 62, s. 1. Am.

Chief Commissioner and Assistant Chief Commissioner.

10. (1) One of such commissioners shall be appointed by the Governor in Council, Chief Commissioner, and another of them Assistant Chief Commissioner of the Board.

(2) Any person may be appointed Chief Commissioner who is or has been a judge of a superior court of Canada or of any province of Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province.

(3) Any person may be appointed Assistant Chief Commissioner who is or has been a judge of a superior court of Canada or of any province of Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province, or who is a barrister or advocate of any such province and has held office as a Commissioner of the Board for a period of at least ten years.

(4) The Chief Commissioner shall be entitled to hold the office of Chief Commissioner, and the Assistant Chief Commissioner the office of Assistant Chief Commissioner or that of Chief Commissioner, so long as they respectively continue to be members of the Board.

Powers of Assistant Chief Commissioner.

(5) The Assistant Chief Commissioner shall have all the powers of the Chief Commissioner; but such powers shall not be exercised by him except in the absence of the Chief Commissioner, and whenever he has acted it shall be conclusively presumed that he so acted in the absence or disability of the Chief Commissioner within the meaning of this section. 1908, c. 62, s. 2.

Deputy Chief Commissioner.

11. (1) Another of the commissioners shall be appointed, by the Governor in Council, Deputy Chief Commissioner of the Board.

(2) In case of the absence of the Chief Commissioner and the Assistant Chief Commissioner, or of their inability to act, the Deputy Chief Commissioner shall exercise the powers of the Chief Commissioner for him or 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.

Powers of
deputy Chief
Commissioner.

(3) Whenever the Deputy Chief Commissioner appears to have acted for or instead of the Chief Commissioner, it shall be conclusively presumed that he so acted in the absence or disability of the Chief Commissioner and of the Assistant Chief Commissioner within the meaning of this section.

Presumption.

(4) Where the Chief Commissioner deems it necessary for the more speedy and convenient despatch of business he may by writing authorize any commissioner to sign regulations, orders and other documents in his stead, and when done pursuant to such authority the same shall have the like force and effect as if signed by the Chief Commissioner.

Authority
to other com-
missioner.

R. S., c. 37, s. 10 (6); 1908, c. 62, s. 3. Am.

12. (1) Two commissioners shall form a quorum, and not less than two commissioners shall attend at the hearing of every case; Provided that,—

Quorum.

(a) 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; and

Powers of
single Com-
missioner.

(b) the Board, or the Chief Commissioner, may authorize any one of the commissioners to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such commissioner shall have all the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper.

(2) The Chief Commissioner, when present, shall preside, and the Assistant Chief Commissioner, when present, in the absence of the Chief Commissioner, shall preside, and the opinion of either of them upon any question arising when he is presiding, which in the opinion of the commissioners is a question of law, shall prevail.

Presiding
officer.

Questions
of law.

(3) No vacancy in the Board shall impair the right of the remaining commissioners to act. 1908, c. 62, s. 4.

Vacancy.

13. Whenever any commissioner is interested in any matter before the Board, or of kin or affinity to any person interested in any such matter, the Governor in Council may, either upon the application of such commissioner or otherwise, appoint some disinterested person to act as commissioner

Interest,
kindred or
affinity.

Illness,
absence, etc.

sioner *pro hac vice*; and the Governor in Council may also, in case of the illness; absence or inability to act of any commissioner, appoint a commissioner *pro hac vice*: Provided that 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. R. S., c. 37, s. 14.

Commissioners and officers not to hold interest in stock or equipment.

14. (1) No commissioner or officer of the Board shall, directly or indirectly,—

(a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security, of any company subject to this Act; or

(b) 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, or of any other work or undertaking subject to this Act.

If acquired by will or succession.

(2) If any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof or any interest therein, comes to or vests in any commissioner or officer of the Board by will or succession for his own benefit, he shall, within three months thereafter, absolutely sell and dispose of the same, or his interest therein. 1908, c. 62, s. 5. Am.

Residence.

15. Each commissioner shall during his term of office reside in the city of Ottawa, or within five miles thereof, or within such distance thereof as the Governor in Council at any time determines. R. S., c. 37, s. 16.

Whole time.

16. 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. R. S., c. 37, s. 17.

Offices.

Offices in Ottawa.

17. (1) The Governor in Council shall, upon the recommendation of the Minister, 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, and for the Secretary, and the officers and employees of the Board, and all necessary furnishings, stationery and equipment for the conduct, maintenance and performance of the duties of the Board.

Offices elsewhere than in Ottawa.

(2) The Governor in Council, upon the recommendation of the Minister, may establish at any place or places in Canada such office or offices as are required for the Board, and may provide therefor the necessary accommodation,

furnishings, stationery and equipment. R. S., c. 37, s. 18; 1908, c. 62, s. 7.

Sittings and Disposal of Business.

18. The Board may hold more than one sitting at the same time, and, whenever circumstances render it expedient to hold a sitting elsewhere than in Ottawa, may hold such sitting in any part of Canada. R. S., c. 37, s. 19; 1908, c. 62, s. 6. Sittings.

19. (1) 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. Sittings, how conducted.

(2) They may, subject to the provisions of this Act, sit either together or separately, and either in private or in open court: Provided that any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court. R. S., c. 37, s. 20.

20. Subject to the provisions of this Act, the Board may make rules and provisions respecting,— Arrangement of sittings and business.

(a) the sittings of the Board;

(b) the manner of dealing with matters and business before the Board;

(c) the apportionment of the work of the Board among its members, and the assignment of members to sit at hearings, and to preside thereat; and,

(d) generally, the carrying on of the work of the Board, the management of its internal affairs, and the duties of its officers and employees;

and in the absence of other rule or provision as to any such matter, such matter shall be in the charge and control of the Chief Commissioner or such other member or members of the Board as the Board directs. *New.*

Experts.

21. The Governor in Council may, from time to time, or as the occasion requires, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board. R. S., c. 37, s. 21. Experts.

Secretary.

22. There shall be a Secretary of the Board who shall be appointed by the Governor in Council, and who shall hold office during pleasure, and reside in the city of Ottawa. R. S., c. 37, s. 22. Secretary.

Duties of
Secretary.

- 23.** (1) It shall be the duty of the Secretary,—
- (a) to keep a record of all proceedings conducted before the Board or any commissioner under this Act;
 - (b) to have the custody and care of all records and documents belonging or appertaining to the Board or filed in his office;
 - (c) to obey all rules and directions which may be made or given by the Board, or the Chief Commissioner, touching his duties or office, and in the event of a conflict of such rules or directions those made by the Board shall prevail;
 - (d) to have every regulation and order of the Board drawn pursuant to the direction of the Board, duly signed and sealed with the official seal of the Board, and filed in the office of the Secretary.

Record
books.

(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 the original record of any such regulation or order.

Certified
copies.

(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. R. S., c. 37, s. 23. Am.

Acting
Secretary.

24. In the absence of the Secretary from illness 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. R. S., c. 37, s. 24.

Staff.

Staff of
Board.

25. Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Board may be appointed in accordance with the provisions of *The Civil Service Act, 1918*, and of any Acts in amendment thereof.

Salaries and Payments.

Commission-
ers.

26. (1) The Chief Commissioner shall be paid an annual salary of twelve thousand five hundred dollars, the Assistant Chief Commissioner an annual salary of nine thousand dollars, and each of the other commissioners an annual salary of eight thousand dollars.

When and
how payable.

(2) Such salaries shall be paid monthly out of the unappropriated funds in the hands of the Receiver General for Canada.

Secretary.

(3) The Secretary may be paid out of money appropriated by Parliament for such purpose such annual salary

as may from time to time be fixed by the Governor in Council. R. S., c. 37, s. 35; 1908, c. 62, s. 9; 1913, c. 44, s. 1. Am.

27. The officers, clerks and employees attached to the Staff. Board may be paid out of such money as may be appropriated by Parliament for the purpose. R. S., c. 37, s. 36. Am.

28. Whenever the Board, by virtue of any power vested Others. in it by this Act or any other Act of the Parliament of Canada appoints or directs any person, other than a member of the staff of the Board, to perform any service, such person shall be paid therefor such sum for services and expenses as the Governor in Council may, upon the recommendation of the Board, determine. R.S., c. 37, s. 37. Am.

29. The salaries or remuneration of all such officers, Paid monthly. clerks, stenographers, and messengers, and all the expenses of the Board incidental to the carrying out of this Act, including all actual and reasonable travelling expenses of the commissioners and the Secretary, and of such 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. R.S., c. 37, s. 38.

Franking Privilege.

30. All letters or mailable matter addressed to the Board Correspondence free of postage. 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. R.S., c. 37, s. 39.

Annual Report.

31. (1) The Board shall, within two months after the Annual report to Governor in Council. thirty-first day of December in each year, make to the Governor in Council through the Minister, an annual report, for the year ended on the thirty-first day of December, showing briefly,—

- (a) applications to the Board and summaries of the findings thereon under this Act;
- (b) summaries of the findings of the Board in regard to any matter or thing respecting which the Board has acted of its own motion, or upon the request of the Minister;
- (c) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways subject to this Act.

Report to
be laid
before
Parliament.

(2) The said report shall be forthwith laid before both Houses of Parliament, if then in session, and if not in session then during the first fifteen days of the next ensuing session of Parliament. 1909, c. 32, s. 12. Am.

General Jurisdiction and Powers.

Powers of
Railway
Committee
transferred.

32. Whenever, by an Act or document, the Railway Committee of the Privy Council is given any power or authority, or charged with any duty with regard to any company, railway, matter or thing, such power, authority or duty may, or shall, be exercised by the Board. R.S., c. 37, s. 11.

Jurisdiction.

33. (1) 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 any company, or 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 Minister, the Board, or any inspecting engineer or other lawful authority, or that any company or person 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; or,

(b) requesting the Board to make any order, or give any direction, leave, sanction or approval, which by law it is authorized to make or give, or with respect to any matter, act or thing, which by this Act, or the Special Act, is prohibited, sanctioned or required to be done.

Mandatory
orders.

(2) 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 for the purposes of this Act have full jurisdiction to hear and determine all matters whether of law or of fact.

Restraining
orders.

All powers
of a superior
court.

(3) The Board 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, have all such powers, rights and privileges as are vested in a superior court.

(4) The fact that a receiver, manager, or other official of any railway, or a receiver of the property of a railway company, has been appointed by any court in Canada or any province thereof, or is managing or operating a railway under the authority of any such court, shall not be a bar to the exercise by the Board of its jurisdiction; but every such receiver, manager, or official shall be bound to manage and operate any such railway in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to such railway; and every such receiver, manager, or official, and every person acting under him, shall obey all orders of the Board within its jurisdiction in respect of such railway, and be subject to have them enforced against him by the Board, notwithstanding the fact that such receiver, manager, official, or person is appointed by or acts under the authority of any court; and wherever by reason of insolvency, sale under mortgage, or any other cause, a railway or section thereof is operated, managed or held otherwise than by the company, the Board may make any order it deems proper for adapting and applying the provisions of this Act to such case.

Appointment
of receiver
not to oust
jurisdiction
of Board.

Adapting
and applying
Act.

(5) The decision of the Board 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, municipalities and persons. R. S., c. 37, s. 26. Am.

Certain
decisions of
Board
conclusive.

34. (1) The Board may make orders or regulations,—

Power to
make orders
and
regulations.

(a) with respect to any matter, act or thing which by this or the Special Act is sanctioned, required to be done, or prohibited;

(b) generally for carrying this Act into effect;

(c) for exercising any jurisdiction conferred on the Board by any other Act of the Parliament of Canada.

(2) Any such orders or regulations may be made to apply to all cases or to any particular case or class of cases, or to any particular district, or to any railway or other work, or section or portion thereof; and the Board may exempt any railway or other work, or section or portion thereof, from the operation of any such order or regulation for such time or during such period as the Board deems expedient; and such orders or regulations may be for such time as the Board deems fit, and may be rescinded, amended, changed, altered or varied as the Board thinks proper.

Application.

(3) The Board may by regulation or order provide penalties, when not already provided in this Act, to which every company or person who offends against any regulation or order made by the Board shall be liable.

Penalties

(4) The imposition of any such penalty shall not lessen or affect any other liability which any company or person may have incurred. R. S., c. 37, s. 30, part. Am.

Other
liability.

Jurisdiction
of Board
as to
agreements.

35. Where it is complained by or on behalf of the Crown or any municipal or other corporation or any other person aggrieved, that the company has violated or committed a breach of an agreement between the complainant and the company—or by the company that any such corporation or person has violated or committed a breach of an agreement between the company and such corporation or person,—for the provision, construction, reconstruction, alteration, installation, operation, use or maintenance by the company, or by such corporation or person, of the railway or of any line of railway intended to be operated in connection with or as part of the railway, or of any structure, appliance, equipment, works, renewals or repairs upon or in connection with the railway, the Board shall hear all matters relating to such alleged violation or breach, and shall make such order as to the Board may seem reasonable and expedient, and in such order may, in its discretion, direct the company, or such corporation or person, to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof. 1909, c. 32, s. 1. Am.

Board may
act upon its
own motion.

36. 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 application or complaint, and with respect thereto shall have the same powers as, upon any application or complaint, are vested in it by this Act. R.S., c. 37, s. 28 (1).

From time
to time.

37. Any power or authority vested in the Board may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S., c. 37, s. 28 (2). Am.

Governor in
Council may
refer to
Board for
report
or action.

38. 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, or any other Act of the Parliament of Canada, and the Board shall without delay comply with the requirements of such reference. R.S., c. 37, s. 57. Am.

Works
ordered by
the Board.

39. (1) When the Board, in the exercise of any power vested in it, in and by any order directs or permits any structure appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may, except as otherwise expressly provided, 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 and maintained.

(2) The Board may, except as otherwise expressly provided, 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 of the supervision, if any, or of the continued operation, use or maintenance thereof, or of otherwise complying with such order, shall be paid. R.S., c. 37, s. 59. Am.

Cost, by
whom paid.

40. Whenever any Act of the Parliament of Canada requires or directs that before the doing of any work the approval of the Board must be first obtained, and whenever any such work has been done without such approval, the Board shall nevertheless have power to approve of the same and to impose any terms and conditions upon such company that may be thought proper in the premises: Provided that where the doing of such work affects the safety of the public or the employees, no such approval shall be given without due notice and hearing. 1910, c. 50, s. 2. Am.

Approval of
certain works
after con-
struction.

41. 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 in its opinion so require, upon notice and hearing or, in its discretion, upon *ex parte* application, extend the time so specified; but where such regulation, order or decision requires any Act, matter or thing to be done for the safety of the public or the employees of the railway, no extension shall be granted without hearing on notice. R.S., c. 37, s. 50; 1917, c. 37, s. 3. Am.

Extension of
time specified
by Board.

42. The Board may, in any application, proceeding or matter of special importance pending before it, if in the opinion of the Board the public interest so requires, apply to the Minister of Justice to instruct counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter as to any public interest which is or may be affected thereby or by any order or decision which may be made therein; and, upon such application to him by the Board, or of his own motion, the Minister of Justice may instruct counsel accordingly. 1907, c. 38, s. 1.

Employment
of counsel
in public
interest.

43. (1) The Board may of its own motion, or upon the application of any party, and upon such security being given as it directs, or at the request of the Governor in

Stated case
for Supreme
Court of
Canada.

Council, 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 or of the jurisdiction of the Board.

Proceedings thereon.

(2) The Supreme Court of Canada shall hear and determine such question, and remit the matter to the Board with the opinion of the Court thereon. R.S., c. 37, s. 55. Am.

Effect of judgment of other courts.

44. (1) In determining any question of fact, the Board shall not be concluded by the finding or judgment of any other court, in any suit, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Lis pendens.

(2) The pendency of any suit, prosecution or proceeding, in any other court, involving questions of fact, shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Findings of fact conclusive.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. R.S., c. 37, s. 54.

Orders and Decisions.

Orders may come into force,—
Upon contingency;

45. (1) The Board may direct in any order that such order or any portion or provision thereof, shall come into force at a future time or upon the happening of any contingency, event or condition in such order specified, or upon the performance to the satisfaction of the Board, or a person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of a specified event.

Upon terms:

For limited time.

Interim orders.

(2) The Board may, instead of making an order final in the first instance, make an interim order, and reserve further directions either for an adjourned hearing of the matter, or for further application. R.S., c. 37, s. 47.

Relief.

46. Upon any application made to the Board, 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 in 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. R.S., c. 37, s. 48. Am.

Interim *ex parte* order.

47. The Board may, if the special circumstances of any case so require, 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; but no such interim order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. R. S., c. 37, s. 49.

48. No order of the Board need show upon its face that any proceeding or notice was had or given, or any circumstance necessary to give it jurisdiction to make such order. R. S., c. 37, s. 53. Order need not show jurisdiction

49. (1) Any decision or order, made by the Board may be made a rule, order or decree of the Exchequer Court, or 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. Rule of court.

(2) To make such decision or order a rule, order or decree of any 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:— Practice.

“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”.

(3) 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. Copy to the registrar.

(4) When a decision or order of the Board under this Act, or of the Railway Committee of the Privy Council under *The Railway Act, 1888*, 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 such court. When order rescinded or changed. 1888, c. 29.

(5) It shall be optional with the Board, either before or after its decision or order is made a rule, order or decree of any court, to enforce such decision or order by its own action. R.S., c. 37, s. 46. Am. Optional to enforce otherwise.

50. Any rule, regulation, order or decision of the Board, shall, when published by the Board, or by leave of the Board, for three weeks in the *Canada Gazette*, and while In Canada Gazette.

the same remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S., c. 37, s. 31.

Review and Appeal.

Board may review, etc.

51. The Board may review, rescind, change, alter or vary any order or decision made by it, or may rehear any application before deciding it. 1908, c. 62, s. 8.

Governor in Council may vary or rescind.

52. (1) 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, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order which the Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties.

Appeal to Supreme Court as to jurisdiction by leave of judge.

(2) An appeal shall lie from the Board to the Supreme Court of Canada upon a question of jurisdiction, upon leave therefor being obtained from a judge of the said Court upon application made within one month after the making of the order, decision, rule or regulation sought to be appealed from, or within such further time as the judge under special circumstances shall allow, and upon notice to the parties and the Board, and upon hearing such of them as appear and desire to be heard, and the costs of such application shall be in the discretion of the judge.

Appeal to Supreme Court by leave of Board.

(3) 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, or a question of jurisdiction, or both, upon leave therefor having been first obtained from the Board within one month after the making of the order or decision sought to be appealed from, or within such further time as the Board under special circumstances shall allow, and after notice to the opposite party stating the grounds of appeal; and the granting of such leave shall be in the discretion of the Board.

Entry of application.

(4) No appeal, after leave therefor has been obtained under subsection two or three of this section, shall lie unless it is entered in the said Court within sixty days from the making of the order granting leave to appeal.

Security for costs.

(5) 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 shall set the appeal down for hearing at the nearest convenient time; and the party appealing shall, within ten days after the appeal has been so set down, give to the parties affected

Notice of appeal.

by

by the appeal, or the 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.

(6) On the hearing of any appeal, the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board, and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion. Powers of the Court.

(7) The Board shall be entitled to be heard by counsel or otherwise, upon the argument of any such appeal. Board may be heard.

(8) The Court 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 shall be applicable to appeals under this Act. Costs.

(9) 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. Practice.

(10) Save as provided in this section,—

- (a) every decision or order of the Board shall be final; and, Members of Board not liable for costs.
- (b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari*, or any other process or proceeding in any court. R.S., c. 37, s. 56; 1910, c. 50, s. 1. Am. Proceedings of Board final save as above.

Practice and Procedure.

53. The Board may make general rules regulating, so far as not inconsistent with the express provisions of this Act, its practice and procedure. R. S., c. 37, s. 51. Rules of practice and procedure.

Notice and Service.

54. Any notice required or authorized to be given in writing,— Notices, how signed,—

- (a) by the Board, may be signed by the Secretary or Chief Commissioner; By Board;
- (b) by the Minister, inspecting engineer, or other officer or person appointed by the Minister, or the Board, may be signed by the Minister, or by such inspecting engineer, officer or other person, as the case may be; By Minister and others;
- (c) by any company or corporation, may be signed by the president or secretary, or mayor, warden, reeve or other By company or corporation.

other principal officer thereof, or by its duly authorized agent or solicitor; and

By any person.

- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S., c. 37, s. 40. Am.

Mode of service.

55. (1) Service of any notice, summons, regulation, order, direction, decision, report or other document, unless in any case otherwise provided, may be effected,—

On companies required to name agent.

- (a) upon a railway, telegraph, telephone, or express company to which this Act in whole or in part applies, by delivering the document or a copy thereof to the person entered by the company as its agent in the agents' book in subsection two of this section provided for; or, at his residence, to any member of his household; or, at the place of business or other place entered in the agents' book, to any clerk or adult person in his employ; or if at the time of attendance to serve any document the place of business or other place aforesaid is closed or no one is in attendance therein for receiving service, service of the document may be effectively made by mailing the same or a copy thereof at any time during the same day or the next following day by registered letter, postage prepaid, addressed to the agent at such place of business or other place, and the service shall be deemed to have been effected at the time of attendance for service; or, if the company has not caused the required entry to be made in the agents' book, then posting up the document or a copy thereof in the office of the Secretary of the Board shall be effective service upon the company, unless the Board otherwise orders; but the Board may in any case direct that the fact of service upon an agent and the nature of the document served shall be communicated to the company by telegraph, or may make any other order or direction it deems proper as to such service;

Railway companies.

- (b) upon any railway company, whether included in paragraph (a) or not, by delivering the document or a copy thereof to the president, a vice-president, or a managing director, or the secretary or superintendent of the company; or, at the head or any principal office of the company, to some adult person in its employ;

Other companies.

- (c) upon any company other than a railway company, whether such company is included in paragraph (a) or not, by delivering the document or a copy thereof to the president, a vice-president, or the manager or secretary of the company; or, at its head office, to some adult person in its employ;

Municipalities.

- (d) upon a municipality or civic or municipal corporation, by delivering the document or a copy thereof

to the mayor, warden, reeve, secretary, treasurer, clerk, chamberlain or other principal officer thereof;

- (e) upon a firm or co-partnership, by delivering the document or a copy thereof to any member of such firm or co-partnership; or, at the last place of abode of any such member, to any adult member of his household; or, at the office or place of business of the firm, to a clerk employed therein;
- (f) upon an individual, by delivering the document or a copy thereof to him; or, at his last place of abode, to any adult member of his household; or, at his office or place of business, to a clerk in his employ:

Co-partnerships.

Individuals.

Provided that if, in any case within the jurisdiction of the Minister, or the Board, it is made to appear to the satisfaction of the Minister, or the Board, as the case may be, that service cannot conveniently be made in the manner above provided, the Minister, or the Board, as the case may be, may order and allow service to be made by publication of the document or notice thereof for any period not less than three weeks in the *Canada Gazette*, and also, if so ordered, in any other newspaper; and such publication shall be deemed to be equivalent to service in the manner above provided.

Order for service by publication.

(2) There shall be kept in the office of the Secretary of the Board a book to be called the agents' book in which every railway, telegraph, telephone, and express company to which this Act in whole or in part applies shall enter its name and the place of its head office and the name of an agent at Ottawa and his place of business or some other proper place within Ottawa where he may be served for such company. R. S., c. 37, s. 41; 1908, c. 62, s. 10; 1911, c. 22, s. 3. Am.

Agents' book.

56. Every company shall, as soon as possible after receiving or being served with any regulation, order, direction, decision, notice, report or other document of the Minister, or the Board, or the inspecting engineer, notify the same 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 in some place where his work or his duties, or some of them, are to be performed. R. S., c. 37, s. 42.

Duty of company upon being served.

57. Unless otherwise provided, fifteen days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient: Provided that the Board may in any case direct longer notice or allow notice for any period less than fifteen days. R. S., c. 37, s. 43. Am.

Notice of application.

58. (1) Notice of any application to the Board for permission as provided by the *Lord's Day Act*, to perform any

Notice of application for

permission
to work on
Sunday.
R.S., c. 153.

any work on the Lord's Day in connection with the freight traffic of any railway, shall be given to the Department of Railways and Canals, and shall fully set out the reasons relied upon.

Costs.

(2) The costs of any such application shall be borne by the applicant, and, if more than one, in such proportions as the Board determines.

Procedure
in other
respects.

(3) In all other respects the procedure provided by this Act, shall, so far as applicable, apply to any such application. R. S., c. 37, s. 44.

Ex parte.

59. (1) Except as herein otherwise provided, 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.

Rehearing.

(2) Any company or 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 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. R.S., c. 37, s. 45. Am.

Amending Proceedings.

Amend-
ments.

60. The Board may, upon terms or otherwise, make or allow any amendments in any proceedings before it. R.S., c. 37, s. 52.

Costs.

Costs.

61. (1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed.

Payment.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Scale.

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S., c. 37, s. 58.

Witnesses and Evidence.

62. (1) The Board may order that any witness resident or present in Canada may be examined upon oath before, or make production of books, papers, documents or articles to, any one member of the Board, or before or to any officer of the Board, or before or to any other person named for the purpose by the order of the Board, and may make such orders as seem to it proper for securing the attendance of such witness and his examination, and the production by him of books, papers, documents, or articles, and the use of the evidence so obtained, and otherwise exercise, for the enforcement of such orders or punishment for disobedience thereof, all powers that are exercised by any superior court in Canada for the enforcement of subpoenas to witnesses or punishment of disobedience thereof: Provided that no person shall be compellable, against his will, to attend for such examination or production at any place outside the province in which he is served with the order of the Board for the purpose.

Powers
regarding
witnesses and
evidence.

(2) The Board may issue commissions to take evidence in a foreign country, and make all proper orders for the purpose, and for the return and use of the evidence so obtained. R.S., c. 37, s. 63.

Commissions
to take
evidence in
foreign
countries.

63. (1) The Board may accept evidence upon affidavit or written affirmation, in cases in which it seems to it proper to do so.

Evidence by
affidavit.

(2) All persons authorized to administer oaths to be used in any of the superior courts of any province may administer oaths in such province to be used in applications, matters or proceedings before the Board.

Who may
administer
oaths in
Canada.

(3) All persons authorized by the Governor in Council to administer oaths within or out of Canada, in or concerning any proceeding had or to be had in the Supreme Court of Canada or in the Exchequer Court of Canada, may administer oaths in or concerning any application, matter, or proceeding before the Board.

Commission-
ers for
Supreme and
Exchequer
Courts.

(4) An oath administered out of Canada, before any commissioner authorized to take affidavits to be used in His Majesty's High Court of Justice in England, or before any notary public, certified under his hand and official seal, or before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of His Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate, or before a judge of any court of supreme jurisdiction in any colony or possession of His Majesty, or dependency of the Crown out of Canada, or before any consul, vice-consul, acting-consul, pro-consul or consular agent of His Majesty, exercising

Oaths
outside
Canada.

exercising his functions in any foreign place, certified under his official seal, concerning any application, matter or proceeding had or to be had by or before the Board, shall be as valid and of like effect, to all intents, as if it had been administered before a person authorized by the Governor in Council as in this section provided.

Documents
in testimony
of adminis-
tration of
oaths.

(5) Every document purporting to have affixed, imprinted or subscribed thereon or thereto, the signature of any such person or commissioner so authorized as aforesaid, or the signature or official seal of any such notary public, or the signature of any such mayor or chief magistrate and the common seal of the corporation, or the signature and official seal of any such consul, vice-consul, acting-consul, pro-consul or consular agent, in testimony of any oath having been administered by or before him, shall be admitted in evidence before the Board without proof of any such signature or seal being the signature or seal of the person or corporation whose signature or seal it purports to be, or of the official character of such person.

Informalities
shall not
invalidate.

(6) No informality in the heading or other formal requisites of any oath made before any person under any provision of this section shall be an objection to its reception in evidence before the Board, if the Board thinks proper to receive it; and if it is actually sworn to by the person making it before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. R.S., c. 37, s. 64.

Fees and
allowances.

64. Every person summoned to attend before the Minister or the Board, or before any inspecting engineer, or person appointed under this Act to make inquiry and report shall, in the discretion of the Minister or the Board, receive the like fees and allowances for so doing as if summoned to attend before the Exchequer Court. R.S., c. 37, s. 65.

No person to
be excused
from
producing.

65. No person shall be excused from attending and producing books, papers, tariffs, contracts, agreements and documents, 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 arising out of any alleged violation of this Act, on the ground that the documentary evidence required of him may tend to criminate him or subject him to any proceeding or penalty; but no such book, paper, tariffs, contract, agreement or 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 evidence upon such investigation or inquiry, cause or proceeding. R.S., c. 37, s. 66.

66. 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. R.S., c. 37, s. 67.

Documents
issued by
the company.

67. (1) Every document purporting to be signed by the Minister, or by the Chief Commissioner and Secretary or either of them, or by an inspecting engineer, shall, without proof of any such signature, be *prima facie* evidence that such document was duly signed and issued by the Minister, the Board, or inspecting engineer, as the case may be.

Documents
issued by
Minister,
Board or
engineer.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report made or given by the Minister, the Board, or an inspecting engineer, it shall be *prima facie* evidence of such regulation, order, direction, decision or report. R.S., c. 37, s. 68.

Copies.

68. (1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, shall, without proof of the signature of the Secretary, be *prima facie* evidence of such original 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 when such original was so deposited, that the same was deposited at the time so stated.

Documents
certified by
Secretary.

(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 be *prima facie* evidence of such regulation, order or document, without proof of signature of the Secretary.

Documents
in custody
of the Board.

(3) A certificate purporting to be signed by the Secretary, sealed with the seal of the Board, shall be *prima facie* evidence of the facts therein stated without proof of the signature of the Secretary. R.S., c. 37, s. 69. Am.

Certificate
that no
order or
regulation
made.

Inquiries.

69. (1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute pending before the Board, or upon any matter

Board may
order.

or thing over which the Board has jurisdiction under this or the Special Act.

Minister may
order inquiry.

(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. R.S., c. 37, s. 60.

Powers.

70. The Minister, the Board, or the inspecting engineer, or person appointed under this Act to make any inquiry or report may,—

Entry.

(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;

Inspection.

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

Attendance
and returns.

(c) require the attendance of all such persons as it or he thinks fit to summon and examine, and require answers or returns to such inquiries as it or he thinks fit to make;

Production.

(d) require the production of all material books, papers, plans, specifications, drawings and documents; and,

Oaths.

(e) administer oaths, affirmations or declarations;

Generally.

and shall have the like power in summoning witnesses and enforcing their attendance, and compelling them to give evidence and produce books, papers or things which they are required to produce, as is vested in any court in civil cases. R.S., c. 37, s. 61.

Inspecting Engineers.

Appointment
of inspecting
engineers.

71. (1) Inspecting engineers may be appointed by the Minister or the Board, subject to the approval of the Governor in Council.

Duties.

(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, roadbed, 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.

(3) Every such inspecting engineer shall have the same powers with regard to any such inspection as are by this Act conferred upon a person appointed by the Board to make an inquiry and report upon any matter pending before the Board.

Powers of inspecting engineer.

(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.

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 or under the control of any such company.

Inspecting engineers may travel free.
Use telegraph wires.

(6) The operators, or officers, employed in the telegraph offices or under the control of the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages.

Transmission of telegrams.

(7) The production of his appointment in writing, signed by the Minister, the Chief Commissioner, or the Secretary, shall be sufficient evidence of the authority of such inspecting engineer. R.S., c. 37, s. 260.

Proof of engineer's authority.

RAILWAY COMPANIES.

Incorporation.

72. Every railway company incorporated under a Special Act shall be a body corporate, under the name declared therein, 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*. R. S., c. 37, s. 79.

General powers.

R.S., c. 1.

Offices.

73. (1) 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: Provided that notice of any such change shall be given to the Secretary of the Board.

Head office.

Change of location.

(2) The Secretary of the Board shall keep a register wherein he shall enter all such changes of location so notified to him.

To be registered.

Other offices. (3) The directors of the company may establish one or more offices in other places in Canada or elsewhere. R.S., c. 37, s. 80.

Provisional Directors.

Provisional directors. **74.** (1) The persons mentioned by name as such in the Special Act shall be the provisional directors of the company.

Quorum. (2) A majority of such provisional directors shall form a quorum.

Powers. (3) The provisional directors may,—
 (a) forthwith open stock books and procure subscriptions of stock for the undertaking;
 (b) receive payments on account of stock subscribed;
 (c) cause plans and surveys to be made; and,
 (d) deposit in any chartered bank of Canada moneys received by them on account of stock subscribed.

Moneys deposited. (4) The moneys so received and deposited shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Tenure of office. (5) The provisional directors shall hold office as such until the first election of directors. R.S., c. 37, s. 81.

Allotment of stock. **75.** 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. R.S., c. 37, s. 82.

Capital.

Shares. **76.** (1) The capital stock of the company, the amount of which shall be stated in the Special Act, shall be divided into shares of one hundred dollars each.

Application of proceeds. (2) The moneys raised from the capital stock 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 moneys shall be applied to the making, equipping, completing and maintaining of the railway, and other purposes of the undertaking. R.S., c. 37, s. 83.

First meeting of shareholders. **77.** (1) So soon as twenty-five per centum of the capital has been subscribed, and ten per centum 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 which meeting the shareholders who have paid at least ten per centum 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.

(2) Notice of such meeting shall be given by advertisement for the time and in the manner hereinafter required for meetings of shareholders. R.S., c. 37, s. 84. Notice thereof.

78. (1) The original capital stock of the company may, with the approval of the Governor in Council, be increased, from time to time, to any amount, if— Increase of capital stock.

(a) 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; and, By vote.

(b) the proceedings of such meeting have been entered in the minutes of the proceedings of the company. Minutes.

(2) Notice in writing stating the time, place and object of such meeting, and the amount of the proposed increase, shall be given to each shareholder, at least twenty days previously to such meeting, by delivering the notice to the shareholder personally, or depositing the same in the post office, post paid, and properly directed to the shareholder. R.S., c. 37, s. 85. Notice of meetings and object.

Shares.

79. The stock of the company shall be personal property. R.S., c. 37, s. 86. Personal property.

80. (1) No transfer of shares, unless made by sale under execution, or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose whatever, until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally, with the transferor, to the company and its creditors: Provided that, as to the stock of any company listed and dealt with on any recognized stock exchange by means of scrip, commonly in use endorsed in blank and transferable by delivery, such endorsement and delivery shall, excepting for the purpose of voting at meetings of the company, constitute a valid transfer. R. S., c. 37, s. 87, Am. *See Revised Statutes of Quebec, 1909. Article 6052.* Registration of transfers.

Exception as to listed shares represented by scrip.

81. (1) 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
me by (C. D.), hereby sell and transfer to him

paid to
share
(or Form of transfer.

(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 upon which 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.'s) _____ share (or shares) subject to the same rules, orders and conditions.

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

As to paid-up shares.

(2) In the case of fully paid shares the transfer may be in such form as is prescribed by by-law of the company. R.S., c. 37, s. 88.

Restrictions on transfers.

82. (1) 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.

Whole share.

(2) No transfer of less than a whole share shall be valid. R.S., c. 37, s. 89.

Certificate of proprietorship of share.

83. The certificate of proprietorship of any share shall be *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. R. S., c. 37, s. 71.

Sale without certificate.

84. The want of a certificate of proprietorship shall not prevent the holder of any share from disposing thereof. R.S., c. 37, s. 90.

Transmission of stock otherwise than by transfer.

85. (1) If any share in the capital stock of the company is transmitted by the death, bankruptcy, last will and testament, *donatio mortis causa*, 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, and he shall deposit therewith a duly certified copy or probate of such will and testament, or sufficient extracts therefrom, and such other documents and proofs as are necessary.

Transferee must comply.

(2) The person to whom the share is so transmitted as aforesaid, shall not, without complying with this section, 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. R.S., c. 37, s. 91.

Company not bound to see to execution of trusts.

86. 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,

subject, 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 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 in this section contained shall prevent a person equitably interested in any such share or security from procuring the intervention of the court to protect his rights. R.S., c. 37, s. 92.

87. (1) Every shareholder who makes default in the payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company his shares in the company, and all the profit and benefit thereof. Non-payment of calls.
Forfeiture.

(2) 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. R.S., c. 37, s. 93. Procedure.

88. Every shareholder so forfeiting shall be by such declaration of forfeiture relieved from liability in all actions, suits or prosecutions whatsoever which may be commenced or prosecuted against him for any breach of the contract existing between such shareholder and the other shareholders by reason of such shareholder having subscribed for or become the holder of the shares so forfeited. R.S., c. 37, s. 94. Effect of forfeiture.

89. (1) The directors may, subject as hereinafter provided, 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. Sale of forfeited shares.

(2) The directors 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. Limitation.

(3) 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 the sale of such shares, the surplus shall, on demand, be paid to the defaulter. Surplus proceeds to defaulter.

(4) 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 Payment of arrears before sale.

to whom it belonged before such forfeiture, who shall be entitled thereto as if such calls had been duly paid.

(5) Any shareholder may purchase any forfeited share so sold. R.S., c. 37, s. 95.

Any shareholder may purchase.

Certificate of treasurer to constitute title.

90. (1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call, and that such share has been purchased by a purchaser therein named shall, together with the receipt of the treasurer of the company for the price of such share, constitute a good title thereto.

To be registered.

(2) Such certificate shall be by the 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 to be the holder of such share.

Purchase money.

(3) The purchaser shall not be bound to see to the application of the purchase money.

Irregularity.

(4) The title of the purchaser to such share shall not be affected by any irregularity in the proceedings in reference to such sale. R.S., c. 37, s. 96.

Certificate of forfeiture of share.

91. A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call or interest accrued thereon, and that such share has been purchased by a purchaser therein named shall be sufficient evidence of such facts. R.S., c. 37, s. 72.

Shareholders may advance

92. (1) 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.

Interest.

(2) 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 of 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.

No interest out of capital.

(3) Such interest shall not be paid out of the capital subscribed. R.S., c. 37, s. 97.

Limited liability.

93. 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: Provided that no action shall be instituted or maintained against any such shareholder 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. R.S., c. 37, s. 98.

94. Municipal corporations in any province of Canada duly empowered so to do by the laws of the province may, subject to the limitations and restrictions in such laws prescribed, subscribe for any number of shares in the capital stock of the company. R. S., c. 37, s. 99.

Municipal corporations may take stock.

95. 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, subject as herein provided, shall be eligible to office in the company. R.S., c. 37, s. 100.

Aliens.

Shareholders have equal rights.

96. 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. R.S., c. 37, s. 101.

Record of shareholders.

Calls.

97. (1) The directors may, from time to time, make such calls of money as they deem necessary upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, if 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.

How made.

(2) At least thirty days' notice shall be given of each call. Notice.

(3) No call shall exceed ten per centum of the amount of each share subscribed, unless otherwise provided in the Special Act. Amount.

(4) No call shall be made at a less interval than two months from the previous call. Intervals.

(5) A greater amount shall not be called in, in any one year, than the amount prescribed in the Special Act. Annual amount.

(6) Nothing herein contained shall prevent the directors from making more than one call by one resolution of the Board. R.S., c. 37, s. 125. Am. Resolution.

98. (1) At least four weeks' notice of any call upon the shareholders of the company shall be given by weekly publication in the *Canada Gazette*, and in at least one newspaper published in the place where the head office of the company is situate. Publication of notice of call.

(2) A copy of the *Canada Gazette* containing any such notice shall on production thereof be sufficient evidence of such notice having been given. R.S., c. 37, s. 126. Evidence.

99. 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. R.S., c. 37, s. 127. Liability of shareholder.

Overdue calls
bear interest.

Five per cent.

Failure to
pay call.

Suit.

Pleadings.

Annual
meeting.

Special
meetings.

At head
office.

Notice of
meetings.

Place and
day.

Publication.
Evidence of
notice.

100. 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 upon such amount, at the rate of five per centum per annum, from the day appointed for the payment thereof to the time of the actual payment. R.S., c. 37, s. 128.

101. 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 therefor in any court of competent jurisdiction, and such amount shall be recoverable with lawful interest from the day on which the call became payable. R.S., c. 37, s. 129.

102. 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. R.S., c. 37, s. 130.

Meetings of Shareholders.

103. (1) A general meeting of the shareholders for the election of directors, and for the transaction of other business connected with or incident to the undertaking, to be called the annual meeting, shall be held annually on the day mentioned in the Special Act, or on such other day as the directors may determine.

(2) 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 a special meeting, fail, for twenty-one days thereafter, to call such meeting. R.S., c. 37, s. 102.

104. All general meetings, whether annual or special, shall be held at the head office of the company. R.S., c. 37, s. 103.

105. (1) 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.

(2) Such notices shall specify the place and the day and the hour of meeting.

(3) All such notices shall be published weekly.

(4) A copy of the *Canada Gazette* containing such notice shall, on production thereof, be sufficient evidence of such notice having been given. R.S., c. 37, s. 104.

106. (1) Any business connected with or incident to the Business.
undertaking may be transacted at an annual meeting, except
such business as is, by this Act or the Special Act, required
to be transacted at a special meeting.

(2) No special meeting shall enter upon any business not At special
set forth in the notice upon which it is convened. R.S., meeting.
c. 37, s. 105.

107. The number of votes to which each shareholder Voting.
shall be entitled, at any meeting of the shareholders, shall
be in the proportion of the number of shares held by him,
on which all calls due have been paid. R.S., c. 37, s. 106.

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

"I, _____ of _____, one of the Form of
shareholders of the _____, do hereby appoint proxy.
_____ of _____, to be my
proxy, and in my absence, to vote or give my assent to any
business, matter or thing relating to the undertaking of the
said _____ that is mentioned or proposed at any
meeting of the shareholders of the said company, in such
manner as he, the said _____ thinks proper.

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

(2) The votes by proxy shall be as valid as if the consti- Valid.
tuents had voted in person. R.S., c. 37, s. 107.

109. (1) Every matter or thing proposed or considered Majority
at any meeting of the shareholders shall, except as otherwise vote.
specially provided, be determined by the majority of votes
and proxies then present and given.

(2) All decisions and acts of any such majority shall Binding.
bind the company and be deemed the decisions and acts
of the company. R.S., c. 37, s. 108.

110. All notices given by the secretary of the company Notices by
by order of the directors shall be deemed notices by the secretary.
directors of the company. R.S., c. 37, s. 109.

President and Directors.

111. (1) A board of directors of the company, to manage Chosen at
its affairs, the number of whom shall be stated in the annual
Special Act, shall be chosen at the annual meeting. meeting.

(2) If such election is not held at the annual meeting, Or special
the directors shall cause such election to be held at a special meeting.
meeting.

meeting duly called for that purpose, within as short a delay as possible after the annual meeting.

Voting.

(3) No person shall vote at such special meeting except those who would have been entitled to vote if the election had been held at the annual meeting. R.S., c. 37, s. 110.

Municipal corporations to be represented.

112. The mayor, warden, reeve or other head officer of any municipal corporation, in any province of Canada holding stock in any company 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 of such company. R.S., c. 37, s. 111.

Qualifications of directors.

113. (1) 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.

Disability of officers, contractors and sureties.

(2) No person who holds any office, place or employment in the company, 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.

Majority of directors British subjects.

(3) A majority of the directors shall be British subjects, unless the Governor in Council otherwise permits. R.S., c. 37, s. 112. Am.

Term of office.

114. The directors appointed at the last election, or those appointed in their stead in case of vacancy, shall remain in office until their successors are appointed. R.S., c. 37, s. 113. Am.

Vacancies in directorate.

115. Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws. R.S., c. 37, s. 114.

How filled.

116. (1) 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.

If no quorum.

(2) In case such remaining directors do not constitute a quorum, the shareholders, at a special meeting to be called for that purpose, may, unless otherwise prescribed in the by-laws, elect such other directors.

If not filled.

(3) If such appointment or election is not made, such death, absence or resignation shall not invalidate the acts of the remaining directors. R.S., c. 37, s. 115.

President.

117. (1) The directors shall, at their first or some other meeting after their election, elect one of their number to be

be the president of the company; and they may, in like manner, elect one or more vice-presidents.

(2) The president shall hold his office until he ceases to be a director, or until another president has been elected in his stead, and unless otherwise provided by by-law, shall always, when present, be the chairman of and preside at all meetings of the directors. Vice-president.
Tenure.

(3) In the absence of the president the vice-president, or one of the vice-presidents, according to such priority as may be prescribed by by-law or determined by the directors, shall act as chairman. Duties.

(4) In the absence of the president and the vice-president, or vice-presidents, the directors at any meeting at which not less than a quorum are present, shall be competent to elect a chairman from among their number to preside at such meeting. R.S., c. 37, s. 116. Am. Chairman.

118. (1) A majority of the directors shall form a quorum. Quorum.

(2) The directors at any meeting regularly held, at which not less than a quorum are present, shall be competent to exercise all or any of the powers vested in the directors; and the act of a majority of a quorum of the directors present at any such meeting shall be deemed the act of the directors. R.S., c. 37, s. 117. Acts of quorum binding.

119. 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. R.S., c. 37, s. 118. Votes of directors.
Casting vote.

120. 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 if such orders and directions are not contrary to or inconsistent with any express direction or provision of this Act or of the Special Act. R.S., c. 37, s. 119. Directors subject to shareholders and by-laws.

121. No person who is a director of the company shall 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, nor shall any such person be or become a partner of or surety for any contractor with the company. R.S., c. 37, s. 120. Directors not to contract with company.

122. (1) The directors may make by-laws or pass resolutions, from time to time, not inconsistent with law, for,— Directors may make by-laws.

(a) the management and disposition of the stock, property, business and affairs of the company;

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

(c) 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.

By-laws for election of officers.

(2) The directors may also, from time to time, make by-laws or pass resolutions for the election or appointment of officers of the company, who need not be directors, as vice-presidents of the company, and may by any such by-law or resolution specify the manner of such election or appointment and define the powers, duties, qualifications and term of office of such vice-presidents, each of whom shall have and may exercise, subject to the limitations set forth in any such by-law or resolution, all the powers of a vice-president elected by the directors pursuant to the provisions of section one hundred and seventeen of this Act.

Evidence.

(3) A copy of any such by-law or resolution 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. R.S., c. 37, ss. 76, 121; 1910, c. 50, s. 3. Am.

Appointment of officers.

123. The directors shall, from time to time, appoint such officers as they deem requisite, and shall take such sufficient security as they think proper 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.

By bond or guarantee.

(2) Such security may, as the directors deem expedient, be by bond 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 for other like purposes. R.S., c. 37, s. 122.

Vice-President, powers of.

124. (1) In case of the absence or illness of the president, the vice-president or one of the vice-presidents 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.

Empowering a director to act.

(2) In the absence or illness of the president and the vice-president, or vice-presidents, any director of the company acting under the express authority of the board of directors may while so acting exercise the rights and powers of the president or vice-president as hereinbefore set forth.

(3) The directors may, at any meeting of the directors, require the secretary of the company to enter such absence or illness among the proceedings of such meeting. Entry in minutes.

(4) A certificate of any such absence or illness 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 *prima facie* evidence of the absence or illness therein certified. R.S., c. 37, s. 123. Am. Evidence of absence or illness.

125. 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 book, when sealed with the company's seal, shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions. R.S., c. 37, s. 70. Copies of minutes to be evidence.

126. The directors shall cause to be kept, and, annually, on the thirty-first day of December, 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. R.S., c. 37, s. 124. Am. Accounts.

Dividends and Interest.

127. Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. R.S., c. 37, s. 131. Declaration of dividends.

128. (1) 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. Reserve fund.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the Special Act, as they select. R.S., c. 37, s. 132. How invested.

129. No dividend shall be,—

(a) declared whereby the capital of the company is in any degree reduced or impaired; or, No dividend out of capital.

(b) paid out of such capital; or,
 Or if call (c) paid in respect of any share, after a day appointed
 unpaid. for payment of any call for money in respect thereof,
 until such call has been paid:

Provido as to interest. Provided that 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 that such interest shall accrue and be paid at such times and places as the directors appoint for that purpose. R.S., c. 37, s. 133.

No interest if shareholder in arrears. **130.** No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. R.S., c. 37, s. 134.

Arrears deducted from dividend. **131.** 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. R.S., c. 37, s. 135.

Bonds, Mortgages and Borrowing Powers.

Authorized. **132.** (1) Subject to the provisions of this Act and of the Special Act, the directors of the company may, when thereunto authorized by the Special Act, issue bonds, debentures, perpetual or terminable debenture stock, or other securities, if duly empowered in that behalf by the shareholders, at any special meeting called for the purpose by notice in the manner provided by this Act, or at any annual meeting in case like notice of intention to apply for such authority at such annual meeting has been given, 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.

Securities, how executed. (2) Such securities,—
 (a) if in the form of bonds, may be signed by the president, or the vice-president or one of the vice-presidents, or a director, and countersigned by the secretary or an assistant or local secretary of the company; and any coupons attached to such bonds shall bear the signature of the treasurer or secretary of the company: Provided that the signature of the president on the bonds, and the signature of the treasurer or secretary on the coupons, may be engraved, lithographed or otherwise mechanically reproduced *fac-simile* of such signatures respectively; and such reproduced and all other signatures of the officers aforesaid shall.

Bonds.

shall, for all purposes, be valid and binding upon the company, notwithstanding that at the date of the issue or certification of the bonds or coupons the persons whose signatures so appear are not the president, vice-president, director, treasurer, secretary, or assistant or local secretary, of the company as the case may be;

(b) if in the form of debenture stock, may be signed in the same way as herein provided for the signature of bonds, or may be signed by the secretary or an assistant or local secretary of the company and countersigned by the registrar or an assistant or local registrar of the stock for the time being, or such other officers as the directors may designate; Debenture stock.

(c) if in any form other than bonds or debenture stock, may be signed in the same way as herein provided for the signature of bonds. Other securities.

(3) 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 six per centum per annum, as the directors think proper. When and where payable.
Interest.

(4) The directors may, for the purpose of raising money for prosecuting the undertaking, 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. Terms of sale.

(5) The power of issuing securities conferred upon the company by this Act, or under the Special Act, shall not be construed as being exhausted by any issue; and such power may be exercised from time to time: Provided that the limit to the amount of securities fixed in the Special Act shall not be exceeded. R.S., c. 37, s. 136; 1907, c. 38, s. 8. Am. Extent of borrowing power.

133. (1) When securities issued under the last preceding section have been deposited or pledged by the company, as security for a loan or for advances made to it, and such loan or advances have been paid off and such deposit or pledge redeemed, such securities shall not be deemed to have been paid off or to have become extinguished, but shall be deemed to be still alive, and the company may reissue them; or may cancel them and issue other securities in lieu thereof. In such event the person to whom such issue or reissue is made shall have the same rights and priorities as if the securities had not previously been issued. Securities pledged for loans or advances.

(2) Where a company has deposited any of its securities to secure advances from time to time on current account, such securities shall not be deemed to have been paid off or extinguished by reason only of the account of the company When not deemed paid off.

pany ceasing to be in debit while the securities remain so deposited.

Reissue not
a new
security.

(3) The issue or reissue of a security under this section shall not be treated as the issue of a new security for the purpose of any provision limiting the number or amount of the securities to be issued.

To be
retroactive.

(4) This section shall be retrospective in its operation, and shall apply to securities heretofore as well as to securities hereafter issued, deposited or pledged, and to past as well as to future transactions relating to or affecting the same, but nothing therein shall prejudice,—

Pending
proceedings
not affected.

(a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made in any legal proceedings which were pending on the nineteenth day of May, nineteen hundred and nine, as between the parties to the proceedings, in which judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this section had not been enacted;

Issue of
securities in
place of
those paid
off.

(b) any power to issue securities in the place of any securities paid off, or otherwise satisfied or extinguished, reserved to a company by the securities themselves, or by any mortgage or trust deed securing them. 1909, c. 32, s. 2.

Provincial
railways.

134. No power to issue or dispose of any such securities conferred by any Special Act of a provincial legislature shall, if such railway is thereafter brought under the legislative authority of the Parliament of Canada, be subsequently exercised without the sanction of the Governor in Council. R.S., c. 37, s. 137.

Mortgage
deeds of
trust.

135. (1) The company may secure such securities by one or more deeds of trust by way of mortgage or charge 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: Provided that 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.

Powers
which may
be granted
in mortgage.

(2) By such a mortgage deed the company may grant to the holders of such securities or the trustee or trustees named in such mortgage deed 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, or trustee or trustees, 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 deed, shall be valid and binding and available to the said holders and trustee or trustees in manner and form as therein provided. R.S., c. 37, s. 138. Am.

136. (1) The company may except from the operation of any such mortgage 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.

Property
excepted
from
mortgage.

(2) 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 sections or portions of the railway not intended to be included therein or conveyed thereby. R.S., c. 37, s. 139.

Special
description.

137. Every such mortgage deed, and every assignment thereof, or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Secretary of State of Canada, and notice of such deposit shall forthwith be given in the *Canada Gazette*. R.S., c. 37, s. 140 (1).

Deposit with
Secretary of
State.

Notice.

138. Where the provisions of the last preceding section have been complied with, or where by any Act of the Parliament of Canada heretofore or hereafter passed, provision was or is made for the deposit in the office of the Secretary of State of Canada of any mortgage or mortgage deed given to secure the payment of bonds or other securities issued by the company and the provisions with regard to such deposit have been duly complied with, it is hereby declared and enacted that it was and is unnecessary for any purpose that such mortgage, or any assignment thereof, or any other instrument in any way affecting it, should have been or should be otherwise deposited, registered or filed under the provisions of any law respecting the deposit, registration or filing of instruments affecting real or personal property: Provided that if such Act expressly required or requires some additional or other deposit, registration or filing, nothing herein contained shall be taken or held to dispense therewith or to waive any non-compliance with such requirement. R.S., c. 37, s. 140 (2); 1907, c. 38, s. 2. Am.

Other filing,
deposit or
registration
not necessary.

139. A copy of any mortgage deed securing any bonds, debentures, or other securities issued under the authority of this Act and the Special Act, and of any assignment thereof, or other instrument in any way affecting such mortgage or security, deposited in the office of the Secretary of State of Canada, purporting to be certified to be a true copy by the Secretary of State, or by the Deputy Registrar

Instruments
deposited,
evidence of.

General of Canada, shall be *prima facie* evidence of the original, without proof of the signature of such official. R.S., c. 37, s. 73. Am.

Ranking of securities.

140. (1) Subject however to the payment of the penalties and the working expenditure of the railway as hereinbefore provided, the securities so authorized and the mortgage deeds respectively securing the same shall rank against the company, and upon the franchise, undertaking, tolls and income, rents and revenues, and the real and personal property thereof, according to the priorities, if any, established by such mortgage deeds.

Holder a mortgagee.

(2) Each holder of the said securities shall be deemed to be a mortgagee or encumbrancee upon the mortgaged premises *pro rata* with all other holders of the same issue and in accordance with and having regard to the priorities, if any, so established; but 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 or deeds. R.S., c. 37, ss. 141, 142. Am.

No proceedings except through trustee.

Default of company.

141. If the company makes default in paying the principal or interest on any of such securities at the time when such principal or interest, by the terms of the securities, 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, subject to the provisions of the next following section, 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. R.S., c. 37, s. 143.

Rights of security holders.

Limitations affecting such rights.

142. (1) The rights given by the last preceding 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.

Registration.

(2) 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. R.S., c. 37, s. 144.

Other rights not affected.

143. The exercise of the rights so given as provided by the last two preceding sections, 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. R.S., c. 37, s. 145.

144. (1) All such securities may be made payable to bearer, and shall, in that case, be transferable by delivery until registration thereof, as hereinbefore provided.

Transfer by delivery.

(2) While so registered, they shall be transferable by written transfers, registered in the manner prescribed in the mortgage deed or deeds. R.S., c. 37, s. 146. Am.

Or writing if registered.

145. (1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, warehouse receipt, bill of exchange, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange.

Power to borrow by overdraft, etc.

(2) Every such note or bill made, drawn, accepted or endorsed by the president or vice-president or one of the vice-presidents of the company, or other officer authorized by the by-laws of the company or by resolution of the directors, and countersigned by the secretary, or assistant or local secretary, or treasurer of the company, shall be binding on the company, and shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown.

Note or bill of company, how made.

(3) It shall not be necessary in any case to have the seal of the company affixed to any such promissory note or bill of exchange.

No seal necessary.

(4) 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.

No bill payable to bearer.

(5) Neither the president, vice-president or secretary, nor any other officer of the company so authorized as aforesaid, shall be individually responsible for any such promissory note or bill of exchange made, drawn, accepted or endorsed, or countersigned by him, unless such promissory note or bill of exchange has been issued without proper authority. R.S., c. 37, ss. 147, 148. Am.

Officers not personally liable.

Contracts Respecting Rolling Stock.

146. (1) Any contract evidencing the lease, conditional sale or bailment of rolling stock to a company shall be in writing, duly executed by the parties thereto, and the same or a copy thereof may be deposited in the office of the Secretary of State of Canada, within twenty-one days from the execution thereof, and no contract so deposited need be otherwise deposited, registered or filed under the provisions of any law respecting the deposit, registration or filing of instruments affecting real or personal property, and upon the due execution and deposit of any such lease, conditional sale or bailment of rolling stock as aforesaid, the same shall be valid against all persons.

Deposit of contract evidencing lease, etc., of rolling stock.

(2) Notice of such deposit shall forthwith thereafter be given in the *Canada Gazette*. 1907, c. 38, s. 4. Am.

Notice of deposit.

Purchase of Railway Securities.

Company not
to purchase
railway stock.

147. Except as in this Act or the Special Act otherwise provided, 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, or in the purchase or acquisition of any interest in any such stock, shares, bonds or other securities. R.S., c. 37, s. 149. Am.

Disposing of Lands obtained as Subsidy, etc.

Company
may dispose
of lands
acquired
from Crown.

148. (1) 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, has, 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 of the same or any part thereof.

May convey
right to
another
company.

(2) Such company may convey such right or interest, 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. R.S., c. 37, s. 152.

Lands given
to company
by any
person.

149. If any lands have been given to the company by any corporation or person, 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. R.S., c. 37, s. 153.

Purchase of Railway by Person without Corporate Power to operate.

Purchaser
to obtain
authority to
operate.

150. (1) 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 as in this section provided.

(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 run and operate the railway, and shall with such application 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.

Application
to Minister.

(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.

Minister may
authorize.

(4) The purchaser shall thereupon be authorized for such period only and subject to such order, to run and operate such railway, and, subject to the other provisions of this Act, to 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 the purchaser shall also be subject to the terms and conditions of the Special Act of the said company, in so far as the same can be made applicable.

Purchaser
thereupon
authorized
to operate
railway.

(5) The purchaser shall apply to the Parliament of Canada at the next following session thereof after the granting of such order by the Minister for an Act of incorporation, or other legislative authority, to hold, run and operate the railway.

Must apply
to Parlia-
ment.

(6) 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.

One exten-
sion allowed.

(7) If during such extended period the purchaser does not obtain such an 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.

Closing of
railway.

(8) Provided, however, that notwithstanding anything herein contained the purchaser may, pending the obtaining of authority from the Minister, run and operate the railway for a period not exceeding fifteen days subject to the provisions of this Act and to the terms and conditions of the special Act in so far as the same can be made applicable. R.S., c. 37, s. 299; 1907, c. 38, s. 9. Am.

Provision for
temporary
operation.

Agreements for Sale, Lease and Amalgamation.

151. (1) Where the company is authorized by any Special Act of the Parliament of Canada to enter into an agreement

Agreement
for sale, lease
or amalga-

mation of
railway.

Approval of
shareholders.

Board to
recommend
sanction.

Notice in
Canada
Gazette.

Action
Board.

Proceedings
upon sanc-
tion.

Notice.

Evidence.

Exemptions
in certain
cases.

Amalgama-
tion.

agreement with any other company (whether within the legislative authority of the Parliament of Canada or not) 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 party 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.

(2) 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.

(3) Notice of the proposed application for such recommendation 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.

(4) 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.

(5) 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 of Canada; and thereupon such agreement shall come into force and effect, and notice thereof shall be forthwith given in the *Canada Gazette*.

(6) The production of the *Canada Gazette* containing the notice mentioned in subsection five of this section shall be *prima facie* evidence that the requirements of this section have been complied with.

(7) Whenever the agreement does not involve any sale or amalgamation and may be terminated by either company on giving a notice not exceeding twelve months, the Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions with respect to any such agreement. R.S., c. 37, s. 361. Am.

152. Upon any agreement for amalgamation coming into effect, as provided in the last preceding section, the
474
companies,

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 was, at or before the time when the amalgamation agreement came into effect. R.S., c. 37, s. 362.

Powers, etc.,
of amalga-
mated
company.

153. (1) 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 as 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.

Saving of
rights and
claims.

(2) 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. R. S., c. 37, s. 363.

Amalga-
mated com-
pany in
place of
former com-
panies.

Agreements for Interchange of Traffic and Running Rights.

154. (1) The directors of the company 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.

Directors
may make
traffic agree-
ments.

(2) The directors may also make and enter into any agreement or arrangements, not inconsistent with the provisions

And agree-
ments for—

of this or the Special Act, for any term not exceeding twenty-one years,—

- | | |
|-----------------------------------|---|
| Running powers; | (a) for the running of the trains of one company over the tracks of another company; |
| Division of tolls; | (b) for the division and apportionment of tolls in respect of such traffic; |
| Management and working; | (c) 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; and, |
| Joint committee. | (d) to provide, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient; |
| Conditions. | 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 hereinbefore provided with respect to amalgamation agreements: Provided that publication of notices in the <i>Canada Gazette</i> shall be sufficient notice, and that the duplicate original of such agreement or arrangement shall, upon being sanctioned, be filed with the Board. |
| Proviso. | |
| Board may exempt from conditions. | (3) The Board may, notwithstanding anything in this section, 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. |
| Saving. | (4) 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. R.S., c. 37, s. 364. |

Insolvent Companies.

- | | |
|---|--|
| Scheme may be filed in Exchequer Court. | 155. (1) 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, and may file it in the Exchequer Court. |
| May affect shareholders and capital. | (2) Such scheme of arrangement may or may not include provisions for settling and defining any rights of shareholders of the company as among themselves, and for the raising if necessary of additional share and loan capital. |
| | (3) There shall be filed with such scheme of arrangement,— |
| Declaration to be filed. | (a) 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, |

- (b) an affidavit made by the president and directors of the company, or by a majority of them, that such declaration is true to the best of their respective judgments and beliefs. Affidavit.
- (4) 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. Court may restrain action.
- (5) Notice of the filing of the scheme shall be published in the *Canada Gazette*. Notice of filing.
- (6) 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. No execution without leave.
- R.S., c. 37, s. 365.

- 156.** (1) The scheme shall be deemed to be assented to,— Assent to scheme.
- (a) 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; By bondholders.
- (b) 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; By debenture holders.
- (c) by the holders of any rent charge, or other payment, charged on the receipts of or payable by the company in consideration of the purchase of the undertaking of another company, when it is assented to in writing by three-fourths in value of such holders; By charge holders.
- (d) by the guaranteed or preference shareholders of the company, when it is assented to in writing by three-fourths in value of such shareholders, if there is only one class of such shareholders, or three-fourths in value of each class, if there are more classes of such shareholders than one; By preference shareholders.
- (e) by the ordinary shareholders of the company, when it is assented to by a special meeting of the company called for that purpose. By ordinary shareholders.
- (2) 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,— Assent of leasing company
- (a) in writing, by three-fourths in value of the holders of mortgages, bonds and debenture stock of the leasing company; Bondholders.
- (b) in writing, by three-fourths in value of the guaranteed or preference shareholders of the leasing company, if there is only one such class, and by three-fourths in value of each class, if there are more classes than one of such shareholders; and, Preference shareholders.

Ordinary shareholders.

(c) by the ordinary shareholders of the leasing company, at a special meeting of that company called for that purpose.

No assent required from class not interested.

(3) 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. R.S., c. 37, s. 366.

Application for confirmation of scheme.

157. (1) 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.

Notice of application

(2) Notice of any such application shall be published in the *Canada Gazette*.

Confirmation of court.

(3) The Court, after hearing the directors, and any creditors, shareholders or other persons whom it thinks entitled to be heard on the application, may confirm the scheme, if satisfied that the scheme has been assented to, as required by this Act, within three months after the filing of it, or within such extended time, if any, as the Court has allowed, and that no sufficient objection to the scheme has been established.

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, have the like effect as if they had been enacted by Parliament.

Notice thereof.

(5) Notice of the confirmation and enrolment of the scheme shall be published in the *Canada Gazette*. R.S., c. 37, s. 367. Am.

Rules of practice.

158. The Judge of the Exchequer Court may make general rules for the regulation of the practice and procedure of the Court under the three last preceding sections of this Act, which rules shall have force and effect when they are approved by the Governor in Council. R.S., c. 37, s. 368.

Copies of the scheme to be kept for sale.

159. 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. R.S., c. 37, s. 369.

Sale of Subsidized Railways not kept in Repair.

160. (1) Whenever it is made to appear to the Minister that any railway owned by a company incorporated by the Parliament of Canada, the construction of which has been aided by a subsidy from the Government of Canada, cannot by reason of the condition of such railway or of its equipment be safely and efficiently operated, the Minister may apply to the Board for an order that the said railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable, and the Board may, by order, direct what repairs, improvements or additions shall be made to the said railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

Subsidized railways must be in safe and efficient condition.

Application to Board.

(2) If the company fails to comply with such order of the Board, the Governor in Council may, upon the recommendation of the Minister, approve of such order, and direct that a copy of such order and of the order of the Governor in Council approving thereof, certified by the Secretary of the Board and the Clerk of the Privy Council respectively, shall be filed by the Minister in the office of the Registrar of Deeds of each county through which such railway runs, and upon such orders being so filed there shall, *ipso facto*, be created a first lien or mortgage upon the said railway and its equipment in favour of His Majesty for the amount of the said subsidy, which shall immediately thereupon become due and payable to His Majesty. Such lien may be enforced by His Majesty in the same manner and by the like proceedings as any other lien upon property may be enforced by His Majesty in the Exchequer Court of Canada. The said Court may order such railway and its equipment to be sold to satisfy such lien, and pending such lien may appoint a receiver to manage and operate such railway. Any moneys realized from such sale may, with the consent of the purchaser, be applied by the Minister under the direction of the Chief Engineer of Government Railways towards the repair and improvement of such railway and equipment so far as the same may be deemed necessary by the Minister, and any moneys so realized, and not in the opinion of the Minister required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for the holders of any outstanding bonds or other securities secured by mortgage or otherwise upon such railway. 1911, c. 22, s. 13. Am.

On failure of company to comply with order, a lien may be created.

Enforcement of lien.

POWERS—CONSTRUCTION OF RAILWAYS.

*Limitation of Time for Construction.*Commence-
ment.

161. If the construction of the railway is not commenced and fifteen per centum of the amount of the capital stock is not expended thereon in survey, purchase of right of way, and actual construction work, or, in the case of a branch or extension of the railway, if fifteen per centum of the bond issue authorized therefor is not expended thereon in actual construction work, within two years after the passing of the Act authorizing the construction of such railway, branch, or extension, as the case may be, or, where the Parliament of Canada grants an extension of the time for commencing such construction, within the time so granted; or, if the railway or branch or extension, as the case may be, is not completed and put in operation within five years from the passing of such Act, or, where the Parliament of Canada grants an extension of time for completion, within the time so granted; 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 or branch or extension, as the case may be, as then remains uncompleted. R.S., c. 37, s. 150. Am.

Completion.

*General Powers.*Powers of
company.

162. (1) The company may, for the purposes of the undertaking, subject to the provisions in this and the Special Act contained,—

Entry upon
lands.

(a) enter into and upon any Crown lands without previous license therefor, or into or 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 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;

Surveys.

Receive
grants and
bonuses.

(b) receive, take and hold, all voluntary grants and donations of lands or other property or any bonus of money or debentures, 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;

Acquire
property.

(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;

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; Placing of railway.
- (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.
- (g) construct, erect and maintain all necessary and convenient roads, buildings, stations, depots, wharves, 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; 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; Branch railways.
- (i) take, transport, carry and convey persons and goods on the railway, and 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; Make tunnels and other works.
- (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.
- (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; Construct drains.
- (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; Divert drains, pipes and wires.
- (o) construct, acquire and use telegraph, telephone or electric lines and plant; Telegraph, etc.
- (p) from time to time alter, repair or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and, Alter and substitute other works.

Other
necessary
acts.

Gauge.

(g) do all other acts necessary for the construction, maintenance and operation of the railway. R.S., c. 37, s. 151.

(2) The tracks of every railway, the construction of which is hereafter commenced, shall be of the standard gauge of four feet eight and one-half inches, unless otherwise permitted by the Board. *New.*

Diversions
and altera-
tions, to be
made good.

163. 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 line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. R.S., c. 37, s. 154.

Damage.

164. 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 persons interested, for all damage by them sustained by reason of the exercise of such powers. R.S., c. 37, s. 155.

Compensa-
tion.

Exercise of
powers in
United
States.

165. Any company operating a railway from any point in Canada to any point on the international boundary line may exercise, beyond such boundary, in so far as permitted by the laws there in force, the powers which it may exercise in Canada. R.S. c. 37, s. 156.

Commencement of Works.

Require-
ments before
works com-
menced.

166. The company shall not, except as in this Act otherwise provided, commence the construction of the railway, or any section or portion thereof, until the general location has been approved by the Board as hereinafter provided, nor until the plan, profile and book of reference have been sanctioned by and deposited with the Board and duly certified copies thereof deposited with the registrars of deeds, in accordance with the provisions of this Act. R.S., c. 37, s. 168 (1). *Am.*

LOCATION OF LINE.

Map.

Contents.

167. (1) The company shall prepare, and submit to the Board, in duplicate, 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-waters, 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 Board may require.

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

(3) The Board may approve such map and location, or any portion thereof, or may make or require such changes and alterations therein as it deems expedient. Approval of Board.

(4) Where the Board approves the whole or any portion of such map and location such approval shall be signified upon the map and the duplicate thereof accordingly. Board may approve whole or portion.

(5) The map when so approved and the application shall be filed in the Department of Railways and Canals and the duplicate thereof with the Board. Filing.

(6) The provisions of this section shall only apply to the main line, and to branch lines over six miles in length. R.S., c. 37, s. 157. Am. Application of section.

Plan, Profile and Book of Reference.

168. (1) Upon compliance with the provisions of the last preceding section, the company shall make a plan, profile and book of reference of the railway. Plan, profile and book of reference.

(2) The plan shall show,— Plan.

- (a) the right of way, with lengths of sections in miles;
- (b) the names of terminal points;
- (c) the station grounds;
- (d) the property lines and owners' names;
- (e) the areas and length and width of lands proposed to be taken, in figures, stating every change of width; or other accurate description thereof;
- (f) the bearings; and,
- (g) all open drains, watercourses, highways and railways proposed to be crossed or affected.

(3) The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses. Profile.

(4) 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 of each lot proposed to be taken, and names of owners and occupiers so far as they can be ascertained. Book of reference.

(5) The Board may require any additional information for the proper understanding of the plan and profile. Further information.

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

(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. R.S., c. 37, s. 158. Am. Quebec.

Plans and
profiles, how
prepared.

169. (1) 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 shall be of such character, as the Board may, either by general regulation, or in any case, require, or sanction.

Certification.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager, and also by the engineer of the company.

Book of
reference.

(3) Any book of reference, required to be so deposited, shall be prepared to the satisfaction of the Board.

Board may
refuse
sanction.

(4) Unless and until such plan, profile and book of reference are 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. R.S., c. 37, s. 165.

Sanction by
Board.

170. (1) Such plan, profile and book of reference shall be submitted to the Board which, if satisfied therewith, may sanction the same.

Effect.

(2) The Board 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.

Board may
sanction
deviation of
one mile.

(3) The Board upon the application of the company may sanction a deviation of not more than one mile from any one point as shown on the general location approved by the Board, and any such deviation shall be shown upon the general location plan filed with the Department of Railways and Canals, and upon the duplicate thereof filed with the Board.

Further
information.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway, the Board may require the company to submit the plan, profile and book of reference of the whole or of any portion of the remainder of the railway or such further or other information as the Board may deem expedient. R.S., c. 37, s. 159 (1) -(4). Am.

Board may
fix time for
acquiring
land.

171. (1) In granting any such sanction, or in giving leave under any provision of this Act to take lands without the consent of the owner, the Board may fix a period,—

(a) within which the company must acquire the lands or take the necessary steps for such purpose; or

(b) within which the notice mentioned in section two hundred and fifteen shall be conclusively deemed to have been given.

Application
for time
limit.

(2) In the event of the order granting such sanction or leave, whether made before or after the passing of this Act, providing no such time limit, any owner or person interested in the lands may apply to the Board for an order that the company shall acquire such lands, or take the necessary steps for such purpose, within such time as the Board deems

proper, and thereupon the Board may make such order in the premises as appears just.

(3) Where no time is fixed by the Board as above mentioned, if the company, within one year after any such sanction or leave has been given by the Board, or in any case where no such sanction or leave is necessary, if the company within one year after the plan, profile and book of reference have been deposited with the registrar of deeds, does not either acquire the lands covered by such sanction, leave, or plan, profile and book of reference, or give the notice mentioned in section two hundred and fifteen in respect thereof, the company's right to take or enter upon, without the consent of the owner, any part of such lands which it has not within the said year either acquired or given such notice in respect of, shall at the expiration of such year absolutely cease and determine, unless the Board, after notice to the owner and upon such terms as the Board may deem proper, otherwise orders. If no such order is made by the Board the company shall be liable for damages and costs to any person damaged by such failure to acquire the lands or give such notice. 1911, c. 22, s. 4. Am.

Company must acquire within one year.

Liability for damages.

Deposit of Plans, etc., after Sanction.

172. (1) 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.

Deposit with Board.

(2) 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. R.S., c. 37, s. 160.

With registrar of deeds.

Errors.

173. The railway may be made, carried or placed across or upon the lands of any person on the located line, although through error or any other cause, the name of such person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or as interested in such lands. R.S., c. 37, s. 161.

Errors.

174. (1) 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.

Corrections.

Procedure.

(2) 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

Notice.

mistake, may grant a certificate setting forth the nature of the omission, misstatement or error and the correction allowed.

Deposit.

(3) 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, and the company may, thereupon, subject to this Act, construct the railway in accordance with such correction. R.S., c. 37, s. 162. Am.

Deposit of Plans, etc., of Completed Railway.

Plan and profile of completed line must be filed.

175. (1) A plan and profile of the completed railway or of any part thereof which 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 six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board.

With Board.

At registry offices.

(2) Plans of the parts of such railway so completed or in operation 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 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. R.S., c. 37, s. 164.

Duties of Registrars of Deeds.

Duties of registrars of deeds.

176. (1) 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.

Extracts and copies.

Fees.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, 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.

Registrar to furnish certified copies.

(3) The registrar shall, at the request of any person, certify copies of any plan, profile, book of reference, certified copy thereof, or other document, deposited in his office under the provisions of this Act, 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.

(4) 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 shall 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. Certificate of registrar.

(5) Such certified copy shall be *primâ facie* evidence of the original so deposited, that such original was so deposited at the time stated and certified, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which the said original 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 a manner and form sanctioned by the Board. R.S., c. 37, ss. 163, 74. Evidence.

Board may Require Further Plans, etc.

177. In addition to the plans, profiles and books of reference elsewhere provided for, 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. R.S., c. 37, s. 166. Further plans, etc., as Board requires.

Deviations, Changes and Removal.

178. (1) 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, 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 hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board. Deviations, changes or alterations.
Plan, profile, etc.
Sanction.

(2) The plan, profile and book of reference of the portion of such railway so proposed to be changed shall, when so sanctioned, be deposited and dealt with as hereinbefore provided with respect to such original plan, profile and book of reference. Deposit.

(3) 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, at any time so changed or proposed to be changed, in the same manner as they apply to the original line. Company may execute works.

Board may
dispense
with proceed-
ings.

(4) 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; if such deviation, change, or alteration does 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.

Termini to
be observed.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the Special Act. R.S., c. 37, s. 167.

Unauthorized
changes for-
bidden.

179. The company shall not, at any time, 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, or remove, close, or abandon any station, or divisional point or create a new divisional point which would involve the removal of employees, without leave of the Board; and where any such change is made the company shall compensate its employees as the Board deems proper for any financial loss caused to them by change of residence necessitated thereby. 1913, c. 44, s. 2.

Compensa-
tion.

Branch Lines.

Power to
construct.

180. 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, except as hereinafter provided, from any branch thereof. R.S., c. 37, s. 221. Am.

Procedure.

181. Before commencing to construct any such branch line, the company shall,—

Plans, etc.

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and 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.

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county or district through which the branch line is to pass, or, if there should be no newspaper published in such county or district, then for the same period in the *Canada Gazette*:

Provided that the Board may dispense with or shorten the time of such notice in any case where it deems proper; and,

- (c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited. R.S., c. 37, s. 222.

Papers to be submitted.

182. (1) 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.

Board may authorize branch line.

(2) Such authority shall limit the time, not exceeding two years, within which the company shall construct and complete such branch line. R.S., c. 37, s. 223.

Time for construction.

183. (1) 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 the last preceding section.

Papers to be deposited with Board.

(2) The company shall deposit in the registry offices of the counties or districts through which the branch line is to pass, copies, certified as such by the Secretary, of the authority, and of the papers and plans, showing the changes directed by the Board.

Copies with registrars of deeds.

(3) No branch line shall be,—

(a) extended under the foregoing provisions for the construction of branch lines; or,

No extension allowed.

(b) constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the Special Act.

(4) 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 foregoing provisions for the construction of branch lines, shall have any force or effect after the first day of February, one thousand nine hundred and seven: Provided that 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. R.S., c. 37, s. 224.

Special Act controlled.

Saving.

184. Upon compliance with the requirements of the last four preceding sections all the other provisions of this Act,

Provisions applicable.

Act, except sections one hundred and seventy and one hundred and seventy-two, relating to the sanction by the Board of the plan, profile and book of reference of the railway, and the deposit thereof with the Board and in the offices of the registrars of deeds for the districts or counties through which the railway is to pass, shall, in so far as applicable, apply to the branch lines so authorized, and to the lands to be taken for such branch lines. R.S., c. 37, s. 225.

Industrial Spurs.

Branch lines
required by
owner of any
industry.

Owner to
deposit cost.

Payment
therefrom to
the company.

Repayment
to owner by
rebate on
tolls.

Lien to
owner mean-
time.

Discharge of
lien.

Operation of
branch to be
regulated by
Board.

185. (1) When any industry or business is established or intended to be established, within six miles of the railway, and the owner of such industry or business, or the person intending to establish the same, 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 or person, 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 spur or branch line, and may direct such owner or person to deposit in some chartered bank such sum or sums as are by the Board deemed sufficient, or are by the Board 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.

(2) The amount so deposited shall, from time to time, be paid to the company upon the order of the Board, as the work progresses.

(3) The aggregate amount so paid by the applicant in the construction and completion of the said spur or branch line shall be repaid or refunded to the applicant 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 applicant over the said spur or branch line.

(4) Until so repaid or refunded, the applicant shall have a special lien for such amount upon such branch line, to be reimbursed by rebate as aforesaid.

(5) Upon repayment by the company to such applicant of all payments made by the applicant 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.

(6) 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.

(7) 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. R.S., c. 37, s. 226. Provisions applicable.

186. Notwithstanding anything done under the last preceding section and notwithstanding any agreement made thereunder or otherwise the Board may, on application, permit any owner of another industry or business or any person intending to establish another industry or business, within six miles of the railway, to have traffic carried over any spur or branch line, or any part thereof, constructed pursuant to the said section or to have such spur or branch line extended: Provided that any terms and conditions which the Board thinks just and reasonable shall always be imposed, and regard shall always be had to the convenience of the owner or person having senior rights in such spur or branch line. *New.* Use of spur for another industry.

187. No branch line or spur constructed pursuant to either of the last two preceding sections shall be removed without the consent of the Board. *New.* Removal.

Stations.

188. (1) Before the company proceeds to erect any station upon its railway, the location of such station shall be approved of by the Board. Stations, location of to be approved by Board.

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

(3) The company shall erect, maintain and operate stations at any points on the railway designated by the Board, and shall provide such accommodation and facilities in connection therewith as the Board directs. Board may order station.

(4) In the case of any railway, whether subject to the legislative authority of the Parliament of Canada or not, subsidized in money or in land, after the eighteenth day of July, one thousand nine hundred, 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 stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order. R.S., c. 37, s. 258. *Am.* On railways subsidized by Parliament.

THE TAKING AND USING OF LANDS.

Restrictions—Crown Lands.

- 189.** (1) No company shall take possession of, use or occupy any lands vested in the Crown, without the consent of the Governor in Council.
- (2) Any railway company may, with such consent, upon such terms as the Governor in Council prescribes, take and appropriate, for the use of its railway and works, so much of the lands of the Crown lying on the route of the railway which have not been granted or sold, as is necessary for such railway, and also so much of the public beach, or bed of any lake, river or stream, or of the land so vested covered with the waters of any such lake, river or stream as is necessary for making and completing and using its said railway and works.
- (3) The company may not alienate any such lands so taken, used or occupied.
- (4) 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. R.S., c. 37, s. 172.
- Crown lands.
- Consent.
- May not alienate.
- In trust.
- Compensation.

Public Beach and Waters.

- 190.** 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. R.S., c. 37, s. 173.
- Public beach and lands covered with water.

Naval and Military Lands.

- 191.** (1) 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.
- (2) 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.
- (3) The company may, with such license and consent, at any time or times enter into and enjoy any of the said lands for the purposes of the railway. R.S., c. 37, s. 174.
- Naval or military lands.
- License or consent.
- Entry.

Indian Lands.

- 192.** (1) No company shall take possession of or occupy any portion of any Indian reserve or lands, without the consent of the Governor in Council.
- Indian lands.

(2) When, with such consent, any portion of any such reserve or lands is taken possession of, used or occupied by any railway 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. R.S., c. 37, s. 175.

Consent.

Other Railways.

193. (1) The company may take possession of, use or occupy any lands belonging to any other railway company, use and enjoy the whole or any portion of the right of way, tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion or portions of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Lands of other companies.

Use of tracks, etc.

Approval of Board.

(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 to the public and all proper interests.

Procedure therefor.

(3) If 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. R.S., c. 37, s. 176.

Compensation.

(4) Where the proposed location of any new railway is close to or in the neighbourhood of an existing railway, and the Board is of opinion that it is undesirable in the public interest to have the two separate rights of way in such vicinity, the Board may, when it deems proper, upon the application of any company, municipality or person interested, or of its own motion, order that the company constructing such new railway shall take the proceedings provided for in subsection (1) of this section to such extent as the Board deems necessary in order to avoid having such separate rights of way.

Board may order proceedings.

(5) The Board, in any case where it deems it in the public interest to avoid the construction of one or more new railways close to or in the neighbourhood of an existing railway, or to avoid the construction of two or more new railways close to or in the neighbourhood of each other, may, on the application of any company, municipality or person interested, or of its own motion, make such order or direction for the joint or common use, or construction and use, by the companies owning, constructing or operating such railways, of one right of way, with such number of tracks, and such terminals, stations and other facilities,

Joint use of tracks, etc.

and such arrangements respecting them, as may be deemed necessary or desirable. *New.*

Mines and Minerals.

Mines to be protected.

194. No company shall, without the authority of the Board, locate the line of its proposed railway, or construct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, or the access or adit to any mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. R.S., c. 37, s. 169.

Company not entitled to minerals.

195. (1) The company shall not, unless the same have been expressly purchased, be entitled to any mines, ores, metals, coal, slate, mineral oils, gas 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.

Exception.

Not included in conveyance.

(2) 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. R.S., c. 37, s. 170.

Mining under or within 40 yards of any railway.

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

Application for leave of Board.

(2) Upon any application to the Board for leave to work any such mines 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 affecting the railway, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Protection and safety of the public.

(3) The Board may grant such application upon such terms and conditions for the protection and safety of the public as to the Board seem expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from such mining operations. R.S., c. 37, s. 171.

Board may order compensation in certain cases.

197. The company shall, from time to time, pay to the owner, lessee, or occupier of any such mines such compensation as the Board shall fix and order to be paid, for or by reason of any severance by the railway of the land lying over such mines, or because of the working of such mines being prevented, stopped or interrupted, or of the same having to be worked in such manner and

under such restrictions as not to injure or be detrimental to the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of the construction and operation of the railway. *New.* (See *Ontario Statute* 1913, c. 36, s. 135-7.)

198. If necessary in order to ascertain whether any such mines are being worked, or have been worked, so as to injure or be detrimental to the railway or its safety or the safety of the public, the company may with the written permission of the Board, after giving "twenty-four hours' notice in writing, enter upon any lands through or near which the railway passes wherein any such mines are being worked, and enter into and return from any such mines or the works connected therewith; and for such purpose may make use of any apparatus of such mines and use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. *New.* (See *Ontario Statute*, 1913, c. 36, s. 136.)

Examination
of mine
workings.

Extent of Lands that may be Taken without Consent.

199. The lands which may be taken without the consent of the owner shall not, subject to the provisions of the next following section, exceed,—

Lands taken
without
consent.

(a) for the right of way, 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 right of
way.

(b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right of way:

For stations,
etc.

Provided that no interest in land less than a fee-simple interest shall be acquired without the consent of the owner, except upon leave of the Board and upon such terms and conditions as the Board may impose. R.S., c. 37, s. 177. Am.

Interests less
than fee
simple.

Leave to Take Additional Lands.

200. (1) Should the company require, at any point on the railway, more ample space than it possesses or may take under the last preceding section, for the convenient accommodation of the public, or for the traffic on its railway, or for protection against snowdrifts, or for the diversion of a highway, or for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the Special Act, or to secure the efficient construction, maintenance or operation of the railway, it may, whether

Where more
ample space
required.

before or after the railway has been opened for the carriage of traffic, apply to the Board for authority to take the same for such purposes, without the consent of the owner.

Procedure.

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

What application must include.

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

Plan, etc.

(a) a plan, profile and book of reference of the portion of the railway affected, showing the additional lands required, and certified as hereinbefore provided with respect to plans and profiles required to be deposited by the company with the Board;

Particulars to be specified.

(b) an application, in writing, for authority to take such lands, signed and sworn to by the president, vice-president, general manager or engineer of the company, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the lands is 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 such 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.

In duplicate.

(5) Such authority shall be executed in duplicate, and one of such duplicates shall 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, shall be delivered to the company.

Deposit with registrars of deeds.

(6) 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.

Provisions of this Act which apply.

(7) All the provisions of this Act applicable to the taking of lands without the consent of the owner for the right of way or main line of the railway shall apply to the lands authorized under this section to be taken, except sections one hundred and seventy and one hundred and seventy-two relating to the sanction by the Board of the plan, profile and book of reference of the railway, but the deposit with the Board and with the registrar of deeds shall be made as in this section provided.

Repeal and change of certificates made under 1888, c. 29, s. 109.

(8) The Board may, upon consent in writing having been first obtained from the Minister in that behalf, repeal, rescind, change or vary any certificate of the Minister made under

under section one hundred and nine of *The Railway Act*, 1888, c. 29. 1888. R.S., c. 37, s. 178. Am.

Using Lands for Special Purposes.

201. (1) 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 the 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.

Use of adjoining lands.

(2) 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,—

If owner does not consent.

(a) such sum, 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 such superior court; and,

Sum to be deposited.

(b) interest for six months upon the sum so fixed.

Interest.

(3) 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, and the surplus, if any thereafter remaining, shall, by order of the judge, be repaid to the company.

As security for compensation.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. R.S., c. 37, s. 179.

Deficiency to be paid.

202. (1) Whenever,—

(a) any stone, gravel, earth, sand, water or other material is required for the construction, maintenance or operation of the railway, or any part thereof; or,

Obtaining materials for construction or operation.

(b) 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 they have been brought;

Transport.

Tracks or conduits.

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.

plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the land 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.

Provisions of this Act which apply.

(2) All the provisions of this Act shall, in so far as applicable, 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, irrespective of the distance thereof: Provided that the company shall not be required to submit any such plan for the sanction of the Board.

Title may be acquired.

(3) The company may, at its discretion, acquire the lands from which such materials or water are taken, or upon which the right of way thereto is located, for a term of years or permanently.

Arbitration.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privilege and title required.

Tracks not to be used for other purposes.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board, and subject to such terms and conditions as the Board sees fit to impose.

Power of Board.

(6) The Board may restrict or forbid the exercise of any power under this section. R. S., c. 37, s. 180. Am.

Snow fences.

203. (1) Every railway company may, on and after the first day of November, in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway, and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, actually suffered, as are thereafter established, in the manner provided by law with respect to such railway.

Compensation.

Removal.

(2) Every snow fence so erected shall be removed on or before the first day of April then next following. R. S., c. 37, s. 182.

Purchase and Conveyance.

Purchase of more land than required.

204. (1) Except as otherwise provided in section two hundred and seven, whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on terms more advantageous, than those upon which it could obtain the portion thereof which it may take from him without his consent, it may purchase such larger quantity.

Re-sale.

(2) The company may sell and dispose of any part of the lands so purchased which may be unnecessary for its undertaking. R. S., c. 37, s. 181. Am.

Power of representa-

205. All tenants in tail or for life, *grévés de substitution*, guardians, curators, executors, administrators, trustees

and all persons whomsoever, as well for and on behalf of themselves, their heirs and successors, as on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert* or other persons, seized, possessed of or interested in any lands, may, subject to the provisions of the next following section, contract and sell and convey to the company all or any part thereof. R.S., c. 37, s. 183.

206. (1) When such persons have no right in law to sell or convey the rights of property in the said lands they shall not sell or convey the same without obtaining from a judge, after due notice to the persons interested, the right to sell the said lands: Provided that where any person interested is absent from the district or county in which the lands lie, or is unknown, the judge may order such substitutional service of notice as he deems proper or may dispense with notice.

Order of
judge
may be
had.

(2) 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. R.S., c. 37, s. 184. Am.

Purchase
money.

207. The powers by the last two preceding sections conferred upon,—

Limitation
of powers to
convey.

(a) rectors in possession of glebe lands in the province of Ontario;

(b) ecclesiastical and other corporations;

(c) trustees of land for church or school purposes;

(d) executors appointed by wills under which they are not invested with, and have not otherwise, power to sell the real property of the testator; and,

(e) administrators of persons dying intestate seized of real property, where such administrators have not power to sell such property;

shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of the company. R.S., c. 37, s. 185. Am.

208. (1) Any contract, agreement, sale, conveyance or assurance made under the authority of any of the last three preceding sections shall be valid and effectual in law, to all intents and purposes whatsoever; and any conveyance so authorized shall vest in the company receiving the same the fee simple in the lands therein described, freed and discharged from all trusts, restrictions and limitations whatsoever.

Conveyance
to vest fee
simple.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. R.S., c. 37, s. 186.

Indemnity to
persons
conveying.

Application
of purchase
money.

209. The company shall not be responsible for the disposition of any purchase money for lands taken by the company for its purposes, if paid to the owner of the land or into court for his benefit. R.S., c. 37, s. 187.

Prior
contracts.

210. (1) 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, if such contract or agreement or notice thereof by caveat or otherwise, is duly registered with the proper registrar of deeds, be binding at the price agreed upon, if the lands are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such lands have in the meantime become the property of a third person.

May be
carried out.

(2) Possession of the lands may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an arbitration award as hereinafter provided, and the agreement shall be in the place of an award. R.S., c. 37, s. 188. Am.

Rental when
parties
cannot sell.

211. (1) If, in any case not hereinbefore provided for, any person interested in any lands so set out and ascertained is not authorized by law to sell or alienate the same, he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor.

How fixed.

(2) If the amount of the rent is not fixed by agreement, it shall be fixed and all proceedings shall be regulated, in the manner in this Act prescribed. R.S., c. 37, s. 189.

Rent charge-
able to
working
expenses.

212. 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, upon the deed creating such charge and liability being duly registered in the registry office of the proper district, county or registration division, be chargeable as part of the working expenditure of the railway. R.S., c. 37, s. 190.

Publishing Notice of Plans and Making Agreements.

Compensa-
tion or
damages may
be agreed
for.

213. (1) 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 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 be taken, or which suffer damage from the taking of materials, or the exercise of any of the powers granted for the railway; and, thereupon, such

agreements and contracts as seem expedient to both parties 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. Agreements authorized.

(2) The company may at any time grant or agree to grant to the owner of any lands injuriously affected, or likely to be injuriously affected, by the exercise of the company's powers, any easement, servitude or privilege over or in respect of the company's lands or the lands being taken by the company, and may construct and maintain or agree to construct and maintain any work for such owner's benefit; and any such agreement may be enforced by the Board, or damages may be recovered for the breach thereof in any court of competent jurisdiction. Company may grant easement, etc.

(3) Such deposit of plan, profile and book of reference and such 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. R.S., c. 37, ss. 191 (1), 192 (1). Am. General notice.

214. In case of disagreement between the parties, or any of them, all questions which arise between them shall be settled as hereinafter provided. R.S., c. 37, s. 191 (2). Disagreement.

EXPROPRIATION PROCEEDINGS.

Notice.

215. Preliminary to proceeding to arbitration to fix compensation or damages the company shall serve upon the opposite party a notice, which shall contain,— Notice of expropriation to be served.

- (a) a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such lands or for such damages; and,
- (c) a notification that if within ten days after the service of this notice, or, where the notice is served by publication, within one month after the first publication thereof, the party to whom the notice is addressed does not give notice to the company that he accepts the sum offered by the company, either he or the company will be entitled to apply to have the compensation fixed by arbitration as provided in *The Railway Act, 1919*. R.S., c. 37, s. 193. Am.

216. 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 not interested in the land. Certificate of surveyor or engineer.

land or in the amount of compensation or damages, which certificate shall state,—

- (a) that the land, if the notice relates to the taking of land shown on the said plan, is required for the railway;
- (b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and,
- (c) what sum is, in his opinion, a fair compensation for the land and damages aforesaid. R. S., c. 37, s. 194. Am.

Service by
publication.

217. (1) If the opposite party is absent from the district or county in which the lands^s lie, or is unknown, an application for service by advertisement may be made to a judge of a superior court for the province or district, or to the judge of the county court of the county where the lands lie.

Application
for.

(2) Such application 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.

Judge shall
order notice.

(3) 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, and in such other newspaper, if any, as the judge may direct. R.S., c. 37, s. 195. Am.

Notice may
be abandon-
ed.

218. (1) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands 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 suffered and costs incurred by him in consequence of such notice and abandonment, and such damages shall be fixed and such costs taxed by the judge, or as he directs.

Damages
and costs.

New notice
may be
given.

(2) The company after payment of such damages and costs, if any, may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described.

Notice in lieu
of abandon-
ment.

(3) Where the amount of compensation payable under the notice has been referred to arbitration, the Company may, in lieu of abandoning the notice pursuant to subsection one hereof, give to the opposite party and to the arbitrator, a notice varying the description of the lands or materials to be taken or the powers intended to be exercised by the Company; which subsequent notice shall also contain,—

Particulars of
notice.

- (a) a declaration of readiness to pay a certain sum or rent as the case may be, as compensation for such

lands or for damages for such materials or powers, and damages suffered and costs incurred by such opposite party in consequence of the former notice;

- (b) a notification that if within eight days after the service of such notice, the party to whom the notice is addressed does not give notice to the Company that he accepts the sum offered by the Company, the arbitrator may proceed to fix the compensation for the lands, materials or powers described in such subsequent notice.

(4) In the event of the arbitration proceeding pursuant to such subsequent notice, all evidence taken and proceedings had under the former notice, shall, in so far as they are applicable, be used in the arbitration upon the subsequent notice and the proceedings on both notices shall be deemed one arbitration, but the Company shall be liable to pay all damages suffered and costs incurred by the opposite party by reason of the Company having failed to demand by the original notice, the lands, materials or powers as described in the subsequent notice. R.S., c. 37, s. 207. Am.

Evidence.

Arbitrator.

219. (1) If within ten days after the service of such notice, or, where service is made by advertisement, 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, either party may apply to the judge of the county court of the county in which the lands lie, or, in the province of Quebec or in any other part of Canada where there is no county court, to a judge of the superior court for the district or place in which the lands lie, to determine the compensation to be paid as aforesaid.

If sum offered not accepted.

Appointment of arbitrator.

(2) Ten days' notice of such application shall be given by the company to the opposite party, or *vice versa*.

Notice.

(3) If the opposite party is absent from the district or county in which the lands lie, or is unknown, service of such ten days' notice may be made by advertisement as in section two hundred and seventeen authorized: Provided that the judge may dispense with, shorten or lengthen the time or times for the publication of the notice in any case in which he deems it proper. R.S., c. 37, s. 196; 1907, c. 37, s. 1. Am.

Service by publication.

220. (1) Such judge shall, upon application being made to him as aforesaid, become the arbitrator for determining such compensation: Provided that where such judge is personally interested in the land or in the amount of the compensation or damages in question, or where for any other reason it is necessary, either party may, on six days' notice to the opposite party, apply to a judge of a superior court to

Constituting arbitrator.

appoint, and that judge may appoint, a county or superior court judge to be arbitrator, and in such case the judge so appointed shall be the arbitrator for the purposes aforesaid.

Procedure.

(2) The arbitrator shall proceed to ascertain such compensation in such way as he deems best, and, except as hereinafter provided, his award shall be final and conclusive. R.S., c. 37, s. 197, Am.

Award.

Determining Compensation.

Increased value of remaining lands to be considered.

221. (1) The arbitrator, 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 of the opposite party 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 against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands.

Date of compensation fixed.

(2) The date of the deposit of the plan, profile and book of reference with the registrar of deeds shall be the date with reference to which such compensation or damages shall be ascertained: Provided, however, that if the company does not actually acquire title to the lands within one year from the date of such deposit then the date of such acquisition shall be the date with reference to which such compensation or damages shall be ascertained.

Interest may be allowed.

(3) The arbitrator may include in the award an allowance for interest on the compensation or damages from the date of deposit of the plan, profile and book of reference with the registrar of deeds or for such shorter time as he deems proper. R. S., c. 37, ss. 198, 192 (2); 1909, c. 32, s. 3. Am.

Company may offer easement, etc.

222. In mitigation of any injury or damage caused or likely to be caused to any lands by the exercise of the company's powers, the company may, by its notice of expropriation or by subsequent notice filed with the arbitrator, and served upon the opposite party, prior to the close of the hearing before the arbitrator, undertake to abandon or grant to the owner of the above mentioned lands or the party interested therein any portion of the company's lands, or the lands being taken, or any easement, servitude or privilege over or in respect of the same, or to construct and maintain any work for the benefit of such owner or person interested, and if such owner or person interested, by writing filed with the arbitrator, consents to accept what is so undertaken, or if the arbitrator approves thereof in the award, such undertaking shall be binding

upon the company, and the compensation or damages shall be fixed in view of what is so undertaken, and the undertaking may be enforced by the Board, or damages may be recovered for the breach thereof in any court of competent jurisdiction. *New.* (*See R. S., c. 143, s. 30.*)

Costs of Arbitration.

223. (1) The costs of the arbitration shall be in the discretion of the arbitrator and shall be paid by the party against whom he allows the same, and it shall be the duty of the arbitrator to state in his award whether the whole or any part of the costs are allowed and by whom the same are to be paid. *Costs, how disposed of.*

(2) The amount of the costs, if not agreed upon, may be taxed by the proper taxing officer for the taxation of costs of an action or suit tried before the judge who acted as arbitrator, and appeal may be taken from such taxing officer as in the case of the costs of such an action or suit. *R.S., c. 37, s. 199. Am.* *Taxation.*

(3) The arbitrator shall not be entitled to any fee or reward for his services as arbitrator, but shall be paid, as part of the costs of the arbitration, all his actual necessary and reasonable travelling and other expenses incurred in or in connection with the arbitration. *New.* *No fees.*
Expenses.

Proceedings of Arbitrator.

224. The arbitrator shall examine on oath or solemn affirmation such witnesses as appear before him, but no more than three expert or opinion witnesses shall be called in behalf of any party: Provided that the arbitrator may by consent of the parties decide the matter upon view or inspection of the property without examining witnesses, but any party or his representative may in such case be permitted to point out and explain such things as seem material to the case. *R. S., c. 37, s. 200. Am.* *Examination by arbitrator.*
Proviso.

225. (1) The arbitrator may in any case with respect to such arbitration,— *Powers of arbitrator.*

(a) enter upon and inspect any land, place, building, works or other thing, being the property of or under the control of the company or the opposite party, the entry or inspection of which appears to him requisite; *Entry.*

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

(c) require the production of all books, papers, plans, specifications, drawings and documents relating to the matter before him; and, *Production.*

(d) administer oaths, affirmations or declarations. *Oaths.*

(2) He 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 *Compelling witnesses.*

which they are required to produce as is vested in any court in civil cases.

Witnesses' fees.

(3) The persons attending and giving evidence at any such arbitration shall be entitled to the like fees and allowances for so doing as if summoned to attend before the Exchequer Court.

Incriminating papers.

(4) The provisions hereinbefore contained with respect to the production before the Board of books and papers which may tend to criminate the persons producing them shall apply to persons attending and giving evidence at any such arbitration. R.S., c. 37, s. 201. Am.

Notes of evidence.

226. (1) The arbitrator shall take down in writing the evidence brought before him, unless either party requires that it be taken by a stenographer; in which case a stenographer shall be named by the arbitrator, unless the parties agree upon one.

Stenographer.

(2) The stenographer shall be sworn before the arbitrator before entering upon his duties.

His expenses.

(3) The expense of such stenographer, if not arranged by agreement between the parties, shall form part of the costs of the arbitration. R. S., c. 37, s. 202. Am.

Notice of award to be given.

227. (1) After making the award, the arbitrator shall forthwith notify the parties that the award has been made, and shall forthwith deliver or transmit by registered post the award and the depositions, exhibits and all other papers connected with the arbitration to the clerk of the court, to be filed with the records of the said court.

Award, etc., to be filed.

How notice to be given.

(2) The notice of the making of the award may be given by registered letter addressed to the parties at their usual or last known post office addresses, or addressed in care of their representatives, if any, who appeared for them in the arbitration proceedings. R.S., c. 37, s. 203. Am.

Preventing Delay.

Arbitrator to proceed speedily.

228. After the making of the application constituting him arbitrator, or in the case of appointment by order of a judge of a superior court after the receipt of such order or a copy thereof, the arbitrator shall proceed with and complete the arbitration and award as speedily as possible, having regard to the interests of the parties, and he may give any directions respecting the proceedings which he deems proper to prevent delay. R.S., c. 37, s. 204, Am.

Directions to prevent delay.

Death or delay of arbitrator.

229. (1) If the arbitrator dies before the award is made, or is incapacitated, disqualified or unable to act, either party may, on six days' notice to the opposite party, apply to a judge of the superior court to appoint, and such judge shall appoint, any county or superior court judge to be

Application to court or judge.

arbitrator in the place of the arbitrator who has died, become incapacitated, disqualified or unable to act.

(2) The proceedings shall not in any such case require to be recommenced or repeated. Proceedings
not to be
repeated.
Costs.

(3) The cost of applications and proceedings under this section shall form part of the costs of the arbitration proceedings. R. S., c. 37, s. 206. Am.

Impeaching Award.

230. (1) 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. Award not
invalidated
by want of
form.

(2) The person to whom the sum is to be paid need not be named in the award. R.S., c. 37, s. 205. Payee need
not be
named.

231. If the arbitrator is not himself personally interested in the amount of the compensation he shall not be disqualified because he has previously expressed an opinion as to the amount of compensation or because he is related or of kin to any shareholder of the company. R. S., c. 37, s. 208. Am. Arbitrator
not disquali-
fied by—
Opinion;
Kindred.

Appeal from Award.

232. (1) Within one month after receiving from the arbitrator or from the opposite party a written notice of the making of the award, the company may, where the award exceeds six hundred dollars, and any other party may, where such party in his notice of appeal claims more than six hundred dollars or objects to some easement or other thing approved by the arbitrator without his consent under section two hundred and twenty-two, appeal from the award upon any question of law or fact, or upon any other ground of objection, to a superior court, or to the court of last resort of the province in which the lands lie, if a judge of a superior court has been constituted arbitrator: Provided that where the award is less than six hundred dollars the company or the opposite party may, within the time limited by this section, appeal from the award upon any question of law or upon any question of mistake appearing on the face of the proceedings, to a superior court or to the court of last resort as the case may be; and upon the hearing of the appeal such court shall decide any question of fact upon the evidence taken before the arbitrator as in the case of original jurisdiction: Provided that the court may, where, from any other evidence it deems proper to admit, it is clearly satisfied that injustice has been done, set aside the award or remit it to the arbitrator for reconsideration with such directions as it deems proper. Appeal
from
award.

Practice and
proceedings
on appeal.

(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 superior court, subject to any general rules or orders from time to time made by the court to which such appeal lies in respect to such appeals.

No further
appeal, etc.

(3) The decision of such court shall not, except where the amount awarded by or claimed in the appeal from such decision exceeds five thousand dollars, be subject to further appeal, and except as herein provided there shall be no appeal from, or proceedings had to impeach or set aside any award made under this Act. R.S., c. 37, s. 209. Am.

Paying Money into Court, etc.

Payment of
compensa-
tion into
court in
some cases.

- 233.** (1) (a) If the company has reason to fear any claim, mortgage, *hypothèque*, or encumbrance; or,
(b) If any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute a proper conveyance; or,
(c) If the person entitled to claim the compensation or annual rent cannot be found, or is unknown to the company; or,
(d) 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.

Title.

(2) Such conveyance, or award or agreement, shall thereafter be deemed to be the title of the company to the land therein mentioned. R.S., c. 37, s. 210. Am.

Lands not in
Quebec.

Publication
of notice.

234. (1) 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, 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.

What notice
shall state.

(2) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under the authority of 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. R.S., c. 37, s. 211.

Lands in
Quebec.

235. Where the lands are situated in the province of Quebec, the notice shall be published as required in cases

of confirmation of title, and the registrar's certificate shall be procured and filed as in such cases. R.S., c. 37, s. 212.

236. 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; but nothing herein contained shall prejudice any owner's right to a lien for unpaid purchase money unless such compensation is actually paid to such owner or paid into court pursuant to this Act. R.S., c. 37, s. 213. Am.

Compensation in place of land.
Encumbrances.

Lien for purchase money.

237. (1) All such claims filed shall be received and adjudicated upon by the court, and the adjudication thereon shall for ever bar all claims to the land, or any part thereof, including any dower, mortgage, *hypothèque* or encumbrance upon the same.

Effect of adjudication

(2) 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.

Disposal of compensation.

(3) If the order for distribution, payment, or investment is obtained within 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.

Interest.

(4) If from any error, fault or neglect of the company, such order 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.

For further period.

(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. R.S., c. 37, s. 214.

Costs.

Right of Company to take Possession.

238. Upon payment or legal tender of the compensation or annual rent 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 hereinbefore 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. R.S., c. 37, s. 215.

Upon payment or tender.

proceedings

Proceedings in case of Resistance.

Warrant.

239. (1) If any resistance or forcible opposition is made by any person to the exercise by the company of any such power the judge shall, upon or without notice to the opposite party as he deems proper, on proof to his satisfaction of such award or agreement and of payment or tender of the sum awarded or agreed upon or of payment thereof into court, 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 railway company in possession.

How executed.

(2) The sheriff or bailiff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company in possession. R.S., c. 37, s. 216. Am.

Warrant for immediate possession in certain cases.

240. 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 for the construction or maintenance of some part of the railway with which the company is ready forthwith to proceed. R.S., c. 37, s. 217.

Procedure upon application for such warrant.

241. (1) The judge shall not grant any warrant under the last preceding section, unless,—

Notice.

(a) 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 lands, or the person empowered to convey the lands or interested in the lands 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,

Deposit of compensation.

(b) the company gives security to his satisfaction, by payment into court, of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than fifty per centum above the amount offered by the company in the notice mentioned in section two hundred and fifteen, or certified by the surveyor or engineer under section two hundred and sixteen, whichever is larger; or, if the judge deems proper, pays the party in part and gives security for the balance.

Where notice cannot be served.

(2) Where for any reason service of such notice can not be made, or can not be made promptly, the judge may, on proof to his satisfaction of circumstances justifying it, order substitutional or other service of such notice or dispense with such notice. R.S., c. 37, s. 218. Am.

242 (1) The costs of any such application and hearing before the judge shall be borne by the company, unless the compensation awarded is not more than the company had offered to pay. Costs.

(2) 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. R.S., c. 37, s. 219. Repayment of deposit.

Procedure.

243. Any proceeding under the foregoing provisions of this Act relating to the ascertainment or payment of compensation, or the delivery of possession of lands taken, or the putting down of resistance to the exercise of powers, shall, if commenced in a superior court having jurisdiction, be continued in such superior court, or, if the proceeding is commenced in a county court having jurisdiction, it shall be continued in such county court; and where there are different interests in the same lands all shall as far as possible be dealt with in one proceeding. R. S., c. 37, s. 220. Am. To be continued in court where commenced.

Different interests.

MATTERS INCIDENTAL TO CONSTRUCTION.

Respecting Wages.

244. (1) In every case in which the Parliament of 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. Current rate.

(2) 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. R. S., c. 37, s. 259. Minister may determine.

Respecting Navigable Waters.

245. 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. R. S., c. 37, s. 230. Navigation not to be obstructed.

246. No company shall run its trains over any canal, or over any navigable water, without having first laid, nor without maintaining, such proper flooring under and on both sides of its railway track over such canal or water Bridges to be properly floored.

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. R. S., c. 37, s. 231.

Spans of
headway and
waterway.

247. (1) 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 protection of navigation.

Operation of
draw.

(2) The Board may in like manner, if any such bridge is a draw or swing bridge, direct when, under what conditions and circumstances, and subject to what precautions, the same shall be opened and closed. R. S., c. 37, s. 232.

Proceedings
for construction
of works
in navigable
waters.

248. (1) 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,—

Approval by
Governor in
Council.

(a) 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, for approval by the Governor in Council, 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; and,

Board to
authorize.

(b) upon approval by the Governor in Council of such site and plans, apply to the Board for an order authorizing the construction of the work, and, with such application, 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.

No deviation.

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

Powers of
Board.

(3) Upon any such application, the Board may,—

- (a) make such order in regard to the construction of such work upon such terms and conditions as it may deem expedient;
- (b) make alterations in the detail plans, profiles, drawings and specifications so submitted;
- (c) give directions respecting the supervision of any such work; and,

(d) require that such other works, structures, equipment, 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.

(4) Upon such order being granted, the company shall be authorized to construct such work in accordance therewith. Company to construct.

(5) 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. R.S., c. 37, s. 233. Operation also to be authorized by Board.

Bridges, Tunnels and other Structures.

249. (1) The Governor in Council may, upon the report of the Board, authorize or require any railway company to construct fixed and permanent bridges, or swing, draw or movable bridges, or to substitute any of such bridges for bridges existing on the line of its railway, within such time as the Governor in Council directs. Bridges.

(2) 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. R.S., c. 37, s. 234. Consent of Governor in Council.

250. (1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and 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. Headway over cars.

(2) The Board may, if necessary, require any existing bridge, tunnel, or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure, when so reconstructed or altered shall thereafter be maintained accordingly. Powers of Board to order alteration.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the first day of February, one thousand nine hundred and four, shall in no case be less than twenty-two feet six inches. Space above rail.

Structures
not owned
by company.

(4) 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, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

Board may
exempt cer-
tain struc-
tures.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which it is satisfied no trains, except such as are equipped with air brakes, are run. R.S., c. 37, s. 256. Am.

Where length
exceeds 18
feet.

251. (1) The company shall not, within the limits of any incorporated city or town, or where its line of railway crosses a highway, whether within or without such limits, commence the construction or reconstruction of, or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, 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, until leave therefor has been obtained from the Board; but the company may, without such leave, commence such construction, reconstruction or alteration at any place beyond the said limits, if such construction, reconstruction or alteration is not at a highway crossing and is in accordance with standard specifications and plans approved by the Board.

Leave or
approval of
Board.

Application
for leave.

(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.

Powers of
Board
Terms.

(3) Upon any such application the Board may,—

Alterations

Supervision.

Other works.

(a) make such order with regard to the construction of such work, and upon such terms and conditions, as it deems expedient;

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

(c) give directions respecting the supervision of any such work; and,

(d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be 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.

Company
may con-
struct.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith.

(5) 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 the Board may grant such order if it 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. R.S., c. 37, s. 257.

Board to
authorize
operation.

(6) Upon the application of any municipality or municipalities interested, the Board may, where it deems it reasonable and proper, require the company to construct under or along-side of its track upon any bridge being constructed, reconstructed or materially altered by the company a passage-way for the use of the public either as a general highway or as a foot-way, the additional cost to the company of constructing, maintaining and renewing which, as fixed by or under the direction of the Board, shall be paid by the municipality or municipalities as the Board may direct, and the Board may impose any terms or conditions as to the use of such passage-way or otherwise which it deems proper. *New.*

Passage-way
for public.

Crossings and Junctions with other Railways.

252. (1) The railway lines or tracks of any railway company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company, whether otherwise within the legislative authority of the Parliament of Canada or not, until leave therefor has been obtained from the Board as hereinafter provided.

Leave of
Board.

(2) Upon any application for such leave the applicant 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.

Plans, etc.
to be sub-
mitted.

(3) The Board may, by order,—

(a) grant such application on such terms as to protection and safety as it deems expedient;

Powers of
Board.

(b) change the plan and profile, drawings and specifications so submitted, and fix the place and mode of crossing or junction;

(c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;

(d) direct 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;

(e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or

injuriously

injuriously affected by reason of the construction of such works;

(f) give directions as to supervision of the construction of the works; and

(g) require that detail 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.

No operation until authorized.

(4) No trains shall be operated on the lines or tracks of the applicant over, upon or through such crossing or junction until the Board grants an order authorizing such operation.

Board shall see to compliance.

(5) The Board shall not grant such last mentioned order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with. R.S., c. 37, s. 227.

Connections of intersecting railway lines.

253. (1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person or persons interested, order that the lines or tracks of such railways shall be so connected, at or near the point of intersection or crossing or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains, from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used.

Costs and terms of connections.

(2) In and by the order for such connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and in what proportions, the cost of making and maintaining any such connections shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another.

Connections between intersecting provincial and Dominion railways.

(3) Where the lines or tracks of any railway within the legislative authority of a province intersect the lines or tracks, or run through or into the same city, town or village as the lines or tracks, of a railway within the legislative authority of the Parliament of Canada, and it is desired by the company owning or operating either of such railways, or by any municipal corporation, or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines, cars and trains from the lines or tracks of one of such railways to those of the other, and for the reasonable receiving, forwarding, delivering and interswitching of traffic between such railways, and there exists in the province in which such connection

is desired a provincial railway, public utilities, or other board, commission or body, having power to require such connection between two railways within the legislative authority of such province, hereinafter in this subsection called the provincial board, proceedings may be taken in accordance with the following provisions:—

- (a) Either of such companies, or any municipal corporation, or other public body, or any person interested, may file with the Secretary of the Board, and with the secretary of the provincial board, an application for an order that such connection should be required to be made, together with evidence of service of such application upon the railway companies interested or affected; and, where the application is not made by the municipality, upon the head of the municipal corporation within which the proposed connection is situate; Proceedings.
Application for order.
- (b) After the receipt of the said application, the Board and the provincial board may, by joint session or conference, in conformity with the practice established or adopted by them, hear and determine the said application, and may order that the lines or tracks of such railways be so connected at or near the point of intersection, or in or near such city, town, or village, upon such terms and conditions, and subject to such plans, as they may deem proper; Hearing of application by Board and provincial authorities.
- (c) The Chief Commissioner and the chairman of the provincial board of any province having concurrent legislation carrying into effect the purposes and objects of this subsection, may make rules of procedure and practice covering the making of such applications and the hearing and the disposition thereof; Rules of procedure.
- (d) The Chief Commissioner and the chairman of the provincial board may assign or appoint from each board the members comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise; Constitution of joint boards.
- (e) Any order aforesaid may be made a rule of the Exchequer Court and shall be enforced in like manner as any rule, order, or decree of such court. R.S., c. 37, s. 228; 1911, c. 22, s. 5. Am. Enforcement of order.

254. The Board may order the adoption and use at any such crossing or junction, at rail level, of such interlocking switch, derailing device, signal system, equipment, 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. R.S., c. 37, s. 229. Safety appliances at rail level crossings.

Highway Crossings, etc.

255. (1) The railway of the company may, if leave therefor is first obtained from the Board as hereinafter authorized Railway on highway.

- Leav-
Compensa-
tion.
- Consent of
municipality.
- Highway to
be kept open.
- Rights saved.
- Application
for crossings.
- Powers of
Board.
- Protection,
etc.
- As to land
required.
- thorized, but shall not without such leave, be carried upon, along or across any existing highway: Provided that the company shall make compensation to adjacent or abutting land-owners if the Board so directs, said compensation to be determined under the arbitration sections of this Act, in so far as such sections are applicable, and provided that 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; and provided that where leave is obtained to carry any railway along a highway the Board may require the company to make compensation to the municipality if the Board deems proper, said compensation to be determined under the arbitration sections of this Act, in so far as such sections are applicable.
- (2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and, on completion of the works, restore the highway to as good a condition as nearly as possible as it originally had.
- (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 twelfth day of March, one thousand nine hundred and three. R.S., c. 37, s. 235; 1911, c. 22, s. 6. Am.
- 256.** (1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.
- (2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work 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, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.
- (3) When the application is for the construction of the railway, upon, along or across a 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 to the company, and to the compensation therefor, including compensation to be paid to adjacent or abutting landowners as provided by the next preceding section, shall apply to the land exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision. Supervision.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or permanently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board. Detailed plans, etc., in certain cases.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. 1909, c. 32, s. 4. Regulations by Board.

257. (1) Where a railway is already constructed upon, along or across any highway, the Board may, of its own motion, or upon complaint or application, by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway, and may cause inspection of such portion, and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work 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 in the opinion of the Board arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected. Powers of Board as to existing crossings.

(2) When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to 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. Protection, etc.

As to land required.

Supervision
by Board.

(3) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision. 1909, c. 32, s. 5 (1), (2). Am.

Preventing
obstruction
of view.

258. The Board shall, without limiting any general power elsewhere conferred, have power, for the purpose of diminishing the danger at any highway crossing with any railway heretofore or hereafter constructed, to order,—

(a) that any trees, buildings, earth or other obstruction to the view, which may be upon the railway, or the highway or any trees on any adjoining lands, shall be removed;

(b) that nothing obstructing the view shall be placed at such crossing or nearer thereto than the Board designates;

and for any such purpose the Board shall have power to authorize or direct the expropriation of any land, the acquirement of any easement and the doing of anything deemed necessary, and shall have power to fix and order payment of such compensation as it deems just. *New.*

Apportion-
ment of cost
of protection,
etc.

259. Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of the next following section of this Act, order what portion, if any, of cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board, under any of the last three preceding sections, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order. 1909, c. 32, s. 5 (3).

When rail-
way to bear
whole cost.

260. In any case where a railway is constructed after the nineteenth day of May, one thousand nine hundred and nine, the company shall, at its own cost and expense (unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person), provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway. 1909, c. 32, s. 6; 1910, c. 50, s. 14.

Foot bridges.

261. The Board may order any company to erect over its railway at or near, or in lieu of any highway crossing at rail level, a foot bridge or foot bridges, for the purpose of enabling persons, passing on foot along such highway, to cross the railway by means of such bridge or bridges. R.S., c. 37, s. 239.

Railway
Grade
Crossing
Fund.

262. (1) The sums appropriated and set apart to aid actual construction work for the protection, safety and convenience

venience of the public in respect of highway crossings of railways at rail level in existence on the first day of April, one thousand nine hundred and nine, shall be placed to the credit of a special account to be known as "The Railway Grade Crossing Fund," and shall be applied by the Board, subject to the limitations hereinafter set out, solely towards the cost (not including that of maintenance and operation), of actual construction work for the purpose aforesaid.

(2) The total amount of money to be apportioned, and directed and ordered by the Board to be payable from any such annual appropriation shall not, in the case of any one crossing, exceed twenty-five per cent of the cost of the actual construction work in providing such protection, safety and convenience, and shall not, in any such case, exceed the sum of fifteen thousand dollars, and no such money shall in any one year be applied to more than six crossings on any one railway in any one municipality or more than once in any one year to any one crossing.

Apportionment of money by Board.

(3) In case any province contributes towards the said fund, the Board may apportion, direct and order payment out of the amount so contributed by such province, subject to any conditions and restrictions made and imposed by such province in respect of its contribution.

Provincial contributions to fund.

(4) In this section,—

"crossing," means any steam railway crossing of a highway, or highway crossing of a steam railway, at rail level, and every manner of construction of the railway or of the highway by the elevation or the depression of the one above or below the other, or by the diversion of the one or the other, and any other work ordered by the Board to be provided as one work of protection, safety and convenience for the public in respect of one or more railways not exceeding four tracks in all crossing or so crossed;

"Crossing" defined.

"municipality," means an incorporated city, town, village, county, township, parish, or rural municipality. 1909, c. 32, s. 7; 1914, c. 50, s. 1. Am.

"Municipality" defined.

(5) The grant of two hundred thousand dollars each year for ten consecutive years from the first day of April, one thousand nine hundred and nineteen, made under the provisions of an Act passed at the present session of Parliament shall be expended for the purposes mentioned in the said Act, subject to the terms and conditions in this section contained.

Grant for rail level crossings.

263. Unless otherwise directed or permitted by the Board, the highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to a width less than twenty feet, nor shall the clear headway above the surface of the highway at the central part of any overhead structure, constructed after the first day of

Overhead crossings.

Width and height of highway.

February, one thousand nine hundred and four, be less than fourteen feet. R. S., c. 37, s. 240. Am.

Facilities for traffic.

264. Every structure by which any railway is carried over or under any highway or 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. 1909, c. 32, s. 8 (1).

When rail level not obstruction.

265. 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, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. R.S., c. 37, s. 236.

Inclination of approach.

266. (1) 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, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach.

Fencing approaches.

(2) A good and sufficient fence at least four feet six inches in height from the surface of the approach or structure shall be made and maintained on each side of such approach, and of the structure connected with it. R.S., c. 37, s. 242. Am.

Signboards at level crossings.

267. (1) Sign boards 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 thereof in letters at least six inches in length.

In Quebec.

(2) In the province of Quebec such words shall be in both the English and the French languages. R.S., c. 37, s. 243.

Drainage and Power, Mining and Irrigation Works.

Ditches, drains and flumes.

268. The company shall in constructing the railway make and maintain suitable water pipes, flumes, ditches and drains along each side of, and across and under the railway, to connect with water pipes, flumes, 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, or to convey the water supply, and so that the then natural, artificial, or existing drainage, or water supply, of the said lands shall not be obstructed or impeded by the railway. R.S., c. 37, s. 250 (1). Am.

If drainage insufficient.

269. (1) Whenever,—

(a) 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,

(b) 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; or,

Or municipality desires.

(c) the railway company 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 any lands adjoining or near the railway;

Or company desires.

the Board may, upon the application or complaint of the municipality or landowner, or of the company, order or permit 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 or lands 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.

Board may order or permit drainage or laying of pipes.

(2) 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, and may fix the compensation, if any, which should be paid to any owner injuriously affected or may direct the compensation, if any, to be determined under the arbitration sections of this Act.

Terms and conditions.

(3) An order of the Board shall not be required in the cases in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company in accordance with the general regulations, plans or specifications adopted or approved by the Board for such purposes. R.S., c. 37, s. 250 (2)-(3); 1911, c. 22, s. 8. Am.

Order not needed where consent, etc.

270. (1) 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, at the option of such municipality or landowner, be had or taken by such municipality or landowner for drainage, or drainage works, upon and across the railway and lands of the company, in the place of the proceedings before the Board in the last preceding section provided.

Drainage proceedings under Provincial Acts.

(2) In case of any such proceedings, the drainage laws of the province shall, subject to any previous order or direction of the Board made or given with respect to drainage of the same lands, 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: Pro-

Provincial laws to apply.

Option of
company.

vided 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.

If option not
exercised.

(3) In the event of the company not exercising such option, and completing such work within a reasonable time, and 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.

Approval of
Board.

(4) Notwithstanding anything in this section contained, 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.

Costs.

(5) 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. R.S., c. 37, s. 251.

Power,
mining and
irrigation
works.

271. (1) When any person having authority to create, develop, enlarge or change any water-power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, or to use water for irrigation purposes, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the said railway, an application may be made to the Board for leave to construct the necessary works.

Application
to Board.

Plan and
profile.

(2) Upon such application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make such crossing, and a plan or plans showing the proposed method of carrying such canal, tunnel, flume pipe, ditch or wire across, over or under the said railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires.

Terms of
order.

(3) The Board may, by order, grant such application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, 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. R.S., c. 37, s. 249. Am.

Farm Crossings.

272. (1) Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes.

Farm crossings.

(2) Live stock, in using such crossings when at rail level, shall be in charge of some competent person, who shall take all reasonable care and precaution to avoid accidents. R.S., c. 37, s. 252. Am.

Live stock.

273. (1) 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, and safe in the public interest.

Necessary crossings may be ordered by Board.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such farm crossing shall be constructed and maintained. R.S., c. 37, s. 253. Am.

Terms and conditions.

Fences, Gates and Cattle-guards.

274. (1) The company shall erect and maintain upon the railway,—

Company shall erect.

(a) fences of a minimum height of four feet six inches on each side of the railway;

Fences.

(b) swing gates in such fences at farm crossings of the minimum height aforesaid, with proper hinges and fastenings: Provided that sliding or hurdle gates, already lawfully constructed, may be maintained until the first day of July, one thousand nine hundred and twenty, unless otherwise ordered by the Board; and,

Gates.

(c) cattle-guards, on each side of the highway, at every highway crossing at rail level with the railway.

Cattle-guards.

(2) The railway fences at every such highway crossing shall be turned into the respective cattle-guards on each side of the highway.

To be joined.

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

To be suitable.

(4) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining such fences, gates and cattle-guards where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary.

Exemption by Board.

(5) Where the railway is being constructed through enclosed lands, the company shall, by fencing its right of way before any existing fences are taken down or by other effective means, prevent cattle or other animals escaping from or getting upon such enclosed lands or from one enclosure

Duty of company while constructing.

enclosure to another or upon the property of the company by reason of such construction or of any act or thing done by the company, its contractors, agents or employees. R.S., c. 37, s. 254; 1910, c. 50, s. 5; 1911, c. 22, s. 9. Am.

Gates to be Kept Closed.

Gates to
be closed.

275. The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed, when not in use. R.S., c. 37, s. 255.

OPENING RAILWAY FOR TRAFFIC.

Inspection and Leave of Board.

Leave of
Board for
opening
railway.

276. (1) No railway, nor 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.

Application
therefor.

(2) When the company is desirous of so opening its railway or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating 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.

Inspection.

(3) Before granting such application, the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

When
opening
reported
to be safe

(4) If the inspecting engineer reports to the Board, after making such examination, that in his opinion the opening of the railway or portion thereof so proposed to be opened 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 of the railway or such portion 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.

Board may
grant
application.

When
opening
reported
dangerous.

(5) If such inspecting engineer, after the inspection of the railway, or any portion thereof, reports 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

Notice.

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.

Board may refuse.

(6) 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 an order granting such application in whole or in part, and may name the time therein for the opening of the railway, or such portion 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.

Further inspection.

Order for opening.

(7) 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 traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section. R.S., c. 37, s. 261; 1910, c. 50, s. 6.

Leave to carry freight traffic.

Board May Order Railway to be Opened.

277. The Board, in any case where it deems it right, may, upon the application of any person interested or of its own motion, order the opening of any railway or line or any portion thereof, for traffic, and may require the company to do all things necessary therefor, within such time as the Board fixes. *New.*

Board may order opening.

SAFETY AND CARE OF ROADWAY.

Animals not to be at Large Near Highway Crossings.

278. (1) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway, within half a mile of the intersection of such highway with any railway at rail level, unless they are in charge of some competent person or persons, to prevent their loitering or stopping on such highway at such intersection.

Cattle not allowed at large near railway.

(2) All horses, sheep, swine or other cattle found at large contrary to the provisions of this section may, by any person who finds them at large, be impounded in the pound nearest to the place where they are so found, and the pound-keeper with whom the same are impounded shall detain them in 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. R. S., c. 37, s. 294 (1) (2). *Am.*

May be impounded.

Thistles and Weeds to be Kept Cut.

279. Every company shall cause thistles and all noxious weeds growing on the right of way, and upon land of the company

Company to remove weeds, etc.

pany adjoining the railway, to be cut down or to be rooted out and destroyed each year, before such thistles or weeds have sufficiently matured to seed. R. S., c. 37, s. 296.

Dry Grass to be Removed.

- * Company to keep right of way clear. **280.** 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. R. S., c. 37, s. 297.

Fire Protection.

- 281.** (1) The Board may make orders and regulations,—
- (a) respecting the construction, use and maintenance, in connection with the railway, of fire guards or other works which may be deemed by the Board to be necessary and suitable to prevent, as far as possible, fires from being started or occurring, upon, along or near the right of way of the company;
 - (b) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting fires or preventing them from spreading, as the Board may deem proper, and to provide such fire-rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed;
 - (c) requiring the company to maintain an efficient patrol of the line of railway and of the lands in the vicinity thereof to which fires may spread, and generally defining the duties of the company and of the fire-rangers in respect thereof;
 - (d) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above-mentioned duties, and of the places or areas in which they are from time to time engaged;
 - (e) requiring the company to make reports and returns of fires occurring upon or near its right of way.
- (2) Any such orders or regulations may be made applicable during or after the construction of the railway, or during such time, and in such manner, as the Board deems proper.
- (3) For the purpose of fighting and extinguishing fires, the fire-rangers of the company may follow the fires which spread from the railway, to, over and upon the lands to which they may spread.
- (4) Subject to the terms and conditions of any order or regulation of the Board, the company may at all times enter into and upon any lands of His Majesty or of any person lying along the railway, for the purpose of establishing and maintaining thereon the fire guards or other protection directed by the Board, and for the purpose of freeing

from dead or dry grass, weeds, and other unnecessary inflammable matter, the land between such fire guards and the line of railway. R.S., c. 37, s. 30 (f), *part*; 1911, c. 22, ss. 2, 10 (4). Am.

Packing.

282. (1) 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. Packing
in spaces.

(2) 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. In splayed
ends.

(3) Such packing shall not reach higher than to the under side of the head of the rail. Height of.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inches of the crown of the rails in use, 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: Provided that if there is at any time any method of packing which, in the opinion of the Board, is an improvement over the present requirements, the Board, after hearing on notice, may authorize or direct the use of such improved method. R.S., c. 37, s. 288. Am. Of what
to consist.

Board may Direct Inspection and Order Repairs.

283. (1) 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. When
railway out
of repair.

(2) The Board may, upon the report of the inspecting engineer, 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 Inspection.

Board may
order repairs.

May enjoin
operation
meantime.

Rolling
stock may
be con-
demned.

and furnished to its satisfaction, no 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.

(3) 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. R.S., c. 37, s. 262.

Inspecting Engineer may Forbid Operation.

Inspecting
engineer
may forbid
operation.

By notice.

What notice
shall state.

Service of
notice.

Action of
Board.

Notice
thereof.

284. (1) If in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, the said engineer may, by notice, in writing,—

(a) forthwith forbid the running of any train over such railway or portion of railway; or,

(b) require that the same be run only at such times, under such conditions, and with such precautions, as he by such notice specifies; and,

(c) forbid the running or using of any such rolling stock.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

(3) The notice may be served upon the company owning, running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

(5) Notice of such confirmation, modification or disallowance, shall be duly given to the company. R.S., c. 37, s. 263.

ACCIDENTS.

Notice to be Sent to Board.

Notice to
Board of
accidents.

By company.

By employees.

285. (1) Every company shall, as soon as possible and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company, of any accident attended with personal injury to any person using the railway, or to any employee of the company, 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. The conductor or other employee in charge of the train, place

or structure in connection with which such accident occurred, shall as soon as possible after such accident notify the Board of the same by telegraph.

(2) The Board may by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged. R.S., c. 37, s. 292; 1917, c. 37, s. 8.

Board may regulate.

Board May Direct Inquiry.

286. (1) 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.

Appointment of officer to inquire into accidents.

(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. R.S., c. 37, s. 293.

Officer to report to Board.

Powers of Board.

OPERATION AND EQUIPMENT.

Orders and Regulations of Board.

- 287.** (1) The Board may make orders and regulations,—
- (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; and the Board may, if it thinks fit, limit certain rates of speed within certain described portions of any city, town or village, and different rates of speed in other portions thereof;
 - (b) with respect to the use of the steam whistle within any city, town or village, or any portion thereof;
 - (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;
 - (d) for the coupling of cars;
 - (e) requiring proper shelter to be provided for all railway employees when on duty;
 - (f) 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, 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;

Regulations of Board.

Speed of trains.

Use of steam whistle.

Passing from car to car.

Coupling.

Shelter.

Prevention of fires.

Protection generally.	(g) with respect to the rolling stock, apparatus, cattle-guards, appliances, signals, methods, devices, structures and works, including light, heat and power lines or wires, 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 and all persons travelling on His Majesty's service;
Length of sections, etc.	(h) with respect to the length of sections required to be kept in repair by employees of the company, and with respect to the number of employees required for each section, so as to ensure safety to the public and to employees;
Number of men.	(i) designating the number of men to be employed upon trains, with a view to the safety of the public and of employees;
Hours of duty.	(j) limiting or regulating the hours of duty of any employees or class or classes of employees, with a view to the safety of the public and of employees;
Fuel Motive power.	(k) providing that a specified kind of fuel or a specified kind of power or method or means of propulsion shall be used on any or all locomotives and trains in any district; and,
Safety, etc.	(l) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company or on or in connection with the railway.
	(2) Any orders or regulations under this section may be made applicable during or after the construction of the railway, or during such time, and in such manner, as the Board deems proper. R.S., c. 37, s. 30, <i>part</i> , s. 269, s. 275, <i>part</i> ; 1909, c. 32, s. 13, <i>part</i> ; 1917, c. 37, s. 5. Am.
Uniformity.	288. The Board shall endeavor to provide for uniformity in the construction of rolling stock to be used upon the railway, and for uniformity of rules for the operation and running of trains. R.S., c. 37, s. 268. Am.
Payment of salary or wages.	289. The salary or wages of every person employed in the operation, maintenance or equipment of any railway to which the Parliament of Canada has granted aid by means of subsidy or guarantee shall be paid not less frequently than semi-monthly during the term of employment of such person. 1917, c. 37, s. 1.

By-Laws, Rules and Regulations of Company.

Company may make by-laws.

290. The company may, subject to the provisions and restrictions in this and in the Special Act contained, and subject to any orders or regulations of the Board made under

under sections two hundred and eighty-seven and two hundred and eighty-eight, 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 arrival and departure of trains; Time tables.
 - (c) the loading and unloading of cars, and the weights which they are respectively to carry; Loads.
 - (d) the receipt and delivery of traffic; 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; Nuisances.
 - (f) the travelling upon, or the using or working of the railway; Operation.
 - (g) the employment and conduct of the officers and employees of the company; and, Officers and employees.
 - (h) the due management of the affairs of the company. Management.
- R.S., c. 37, s. 307. Am.

291. The company may, for the better enforcing of the observance of any such by-law, rule or regulation, thereby prescribe a penalty enforceable on summary conviction not exceeding forty dollars for any violation thereof. 1917, c. 37, s. 11. Penalty may be prescribed.

292. 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. R.S., c. 37, s. 309. To be in writing under common seal.

293. (1) 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. Must be approved by Governor in Council.

(2) The Board shall make a report to the Governor in Council upon such by-laws, rules and regulations, and the Governor in Council may thereupon sanction such by-laws, rules and regulations or any of them, or any part thereof, and may, from time to time, rescind the sanction thereof, or of any part thereof. Board to report.

(3) No such by-law, rule or regulation shall have any force or effect without such sanction, or after such sanction has been rescinded. R.S., c. 37, s. 310; 1917, c. 37, s. 12. No effect without sanction.

294. Such by-laws, rules and regulations when so approved shall be binding upon, and shall be observed by all persons, and shall be sufficient to justify all persons acting thereunder. R.S., c. 37, s. 311. Binding when approved.

Printed copy
to be
posted up.

295. (1) 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.

Copy to
every
officer and
employee
affected.

(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.

In Quebec
both
languages.

(3) In the province of Quebec every such notice, by-law, rule and regulation shall be published both in the English and French languages. R.S., c. 37, s. 312.

Company
may
enforce.

296. 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. R.S., c. 37, s. 313.

Evidence of
by-law or
regulation.

297. A copy of any such by-law, rule or regulation of the company, 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. R.S., c. 37, s. 76.

Equipment of Cars and Locomotives.

Modern and
efficient
appliances.

298. (1) Every railway company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means,—

Communica-
tion.

(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; and,

Couplers.

(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.

Drive wheel
brake.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

Power or
train brakes.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.

Continuous,
instantaneous
action.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with,—

Box
freight
cars.

(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 each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and,

Outside
ladders.

(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 ladders:

Hand grips.

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, the Board may require any of such cars not already fitted with the side attachments by this section required, to be fitted with the said improved attachment.

Proviso.

(6) Every railway 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.

(7) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section.—
R.S., c. 37, s. 264.

Delay may
be allowed
for com-
pliance.

299. The Board may, by general regulation or upon application in any particular case, after hearing on notice, order that any apparatus or appliances specified in such regulation or order shall or shall not be deemed sufficient compliance with the provisions of the last preceding section, or that any apparatus or appliances specified in such regulation or order shall or shall not, when used upon the train in the manner and under the circumstances in such regulation or order specified, be deemed sufficient compliance with the provisions of the said section. R.S., c. 37, s. 265. Am.

Board may
determine
what
equipment
sufficient.

300. The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the

Oiling.

cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. R.S., c. 37, s. 266.

Bell and whistle.

301. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle. R.S., c. 37, s. 267.

Running of Trains.

Regularity in train time.

302. (1) All regular trains shall be started and run, as nearly as practicable, at regular hours, fixed by public notice. —R. S., c. 37, s. 270.

Time tables in both languages.

(2) Every railway company shall print in both the English and French languages the time tables that are to be used along its lines within the limits of the province of Quebec. 1909, c. 32, s. 14. Am.

Blackboard.

303. (1) Every railway company, upon whose railway there is a telegraph or telephone line in operation shall have a blackboard put upon the outside of the station house, over the platform of the station, in some conspicuous place at each station of such company at which there is a telegraph or telephone-office; and when any passenger train is overdue at any such station, according to the time table of such company, the station agent or person in charge at such station, shall write, or cause to be written, with white chalk on such blackboard, a notice stating, to the best of his knowledge and belief, the time when such overdue train may be expected to reach such station.

Further notice.

(2) 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.

English and French.

(3) Such notices shall, in the province of Quebec, be written in the English and French languages, and, in the other provinces, in English. R.S., c. 37, s. 271. Am.

Position of passenger cars.

304. No passenger train shall have any freight, merchandise or lumber car in the rear of any passenger car in which any passenger is carried. R.S., c. 37, s. 272.

Precautions at Swing Bridges.

Trains to stop at swing bridges.

305. (1) When any railway passes over any navigable water, or canal, by means of a draw or swing bridge which is subject to be opened for navigation, every train shall, before coming on or crossing over such bridge, be brought to a full stop, and shall not thereafter proceed until a proper signal has been given for that purpose.

(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. R.S., c. 37, s. 273. Board may exempt.

Precautions at Railway Crossings.

306. (1) No train or engine or electric car shall pass over any crossing where two main lines of railway, or the main tracks of any branch lines, cross each other at rail level, whether they are owned by different companies or the same company, 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. Signal at rail level crossings.

(2) In the case of an electric car crossing any railway track at rail level, if there is no competent person or watchman in charge of the crossing, it shall be the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear. R.S., c. 37, s. 277. Electric railway crossings.

307. Every engine, train or electric car shall, before it passes over any crossing as in the last preceding section mentioned, be brought to a full stop: Provided that 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. R.S., c. 37, s. 278. Stoppage of trains at rail level crossings.

Precautions at Highway Crossings and in Thickly Peopled Places.

308. (1) When any train is approaching a highway crossing at rail level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of the sounding of the whistle until the engine has crossed such highway. Use of bell and whistle.

(2) Where a municipal by-law of a city or town prohibits such sounding of the whistle or such ringing of the bell in respect of any such crossing or crossings within the limits of such city or town, such by-law shall, if approved by an order

order of the Board, to the extent of such prohibition relieve the company and its employees from the duty imposed by this section. R.S., c. 37, s. 274; 1917, c. 37, s. 6.

Speed of
trains.

In unfenced
portions of
thickly
peopled
places.

Over
unprotected
highway
crossings
in thickly
peopled
places.

Over
crossings
where
accidents
happened.

Over
crossings not
protected
as ordered.

Trains or
cars moving
reversely.

Board
may exempt.

Proviso.

309. No train shall pass at a speed greater than ten miles an hour,—

(a) in or through any thickly peopled portion of any city, town or village, 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; or,

(b) over any highway crossing at rail level in any thickly peopled portion of any city, town or village, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions specially issued by the Railway Committee of the Privy Council or of the Board, in force with respect to such crossing, or unless permission is given by some regulation or order of the Board; or,

(c) over any highway crossing at rail level, if at such crossing, subsequent to the first day of January, one thousand nine hundred and five, a person or vehicle using such crossing, or an animal being ridden or driven over the same, has been struck by a moving train, and bodily injury or death thereby caused to such person or to any other person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; or,

(d) over any highway crossing at rail level in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with. R.S., c. 37, s. 275, *part*; 1909, c. 32, s. 13, *part*; 1910, c. 50, s. 15. Am.

310. (1) Whenever in any city, town or village, any train not headed by an engine is passing over or along a highway at rail level which is not adequately protected by gates or otherwise, the company shall station on that part of the train, which is then foremost, a person who shall warn persons standing on, or crossing, or about to cross the track of such railway. 1917, c. 37, s. 7.

(2) The Board, upon the application of any railway company or person, shall have power to order that this section shall not apply to any particular trains or classes of trains, or to trains running on any specified portions of the railway of the company: Provided that no such order shall be made with respect to trains engaged in shunting or switching, or in yard or terminal movements. 1910, c. 50, s. 7.

Respecting the Obstruction of Highway Traffic.

311. 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 one time, or, in the opinion of the Board, unnecessarily interfere therewith. R.S., c. 37, s. 279.

Train must not obstruct highway more than five minutes.

TRAFFIC, TOLLS AND TARIFFS.

Accommodation for Traffic.

- 312.** (1) The company shall, according to its powers,—
- (a) 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; Accommodation. At all stations.
 - (b) furnish adequate and suitable accommodation for the carrying, unloading and delivering of all such traffic; Carriage and delivery.
 - (c) without delay, and with due care and diligence, receive, carry and deliver all such traffic; and, No delay.
 - (d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic; Appliances.
 - (e) furnish such other service incidental to transportation as is customary or usual in connection with the business of a railway company, as may be ordered by the Board. Other service.
- (2) Such adequate and suitable accommodation shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by the company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the placing of cars and moving them upon and from such private sidings and private branch railways. What adequate and suitable accommodation shall include.
- (3) 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; or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act. May be ordered by Board.

Payment
of tolls.

Board may
regulate time
so as to
allow
connections
to be made
between
railways for
passengers
and mails.

Board may
order specific
works, tolls,
etc.

Right of
action on
default.

Condition
against
negligence
invalid.

Demurrage.

Interchange
of traffic
between
connecting
lines.

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

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway, upon which passengers or mails are transported, whether the last mentioned railway is within the legislative authority of the Parliament of Canada or not, the Board may order the company to so regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally.

(7) Every person aggrieved by any neglect or refusal of the company to comply with the requirements of this section 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.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, or may make an order in any case where it sees fit, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges. R.S., c. 37, s. 284. 1908, c. 61, s. 10. Am.

313. (1) Where a branch line of one railway joins or connects the line or lines of such railway with another, the Board may, upon application of one of the companies, or of a municipal corporation or other public body, order that the railway company which constructed such branch line shall afford all reasonable and proper facilities for the interchange,

change, by means of such branch, of freight and live stock traffic, and the empty cars incidental thereto, between the lines of the said railway and those of the railway with which the said branch is so joined or connected, in both directions, and also between the lines of the said first mentioned railway and those of other railways connecting with the lines of the first mentioned railway and all tracks and sidings used by such first mentioned railway for the purpose of loading and unloading cars, and owned or controlled by, or connecting with the lines of, the company owning or controlling the first mentioned railway, and such other tracks and sidings as the Board from time to time directs; and the company owning or controlling the secondly mentioned railway shall furnish similar reasonable and proper facilities to the first mentioned railway, and to other lines connecting with its own railway, and shall in all respects be under duties corresponding to those of the company owning or controlling the first mentioned railway, and shall be subject in like manner to the directions of the Board.

Inter-switching.

Reciprocal duties of companies.

(2) The Board may, in and by such order, or by other orders, from time to time determine as questions of fact and direct the price per car which shall be charged by and paid for such traffic.

Charge regulated by Board.

(3) This section shall apply whether or not the point of connection is within the same city, town or village as the point of shipment or delivery, or so near thereto that the tolls to and from such points are the same. R.S., c. 37, s. 285. Am.

Application of section.

Equality as to Tolls and Facilities.

314. (1) All tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

Equal tolls to be charged.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favor of or against any particular person or company travelling upon or using the railway.

No discrimination.

(3) The tolls for carload quantities or longer distances, may be proportionately less than the tolls for less than carload quantities, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons.

Carload quantities.

(4) No toll shall be charged which unjustly discriminates between different localities.

Localities.

(5) The Board shall not approve or allow any toll, which for the like description of goods, or for passengers carried

Duty of Board.

under

under substantially similar circumstances and conditions in the same direction over the same line or route is greater for a shorter than for a longer distance, within which such shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll.

Competitive
points.

(6) The Board may declare that any places are competitive points within the meaning of this Act. R.S., c. 37, s. 315. Am.

Pooling
prohibited.

315. No company shall, without leave therefor having been obtained from the Board, 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, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. R.S., c. 37, s. 316.

Facilities
for traffic.

316. (1) All railway 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.

Through
traffic.

(2) Such facilities to be so afforded 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.

No undue
preference.

(3) No company shall,—

(a) 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;

Or discrimi-
nation.

(b) 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;

Or prejudice.

(c) subject any particular person, or company, or any particular description of traffic, to any undue, or unreasonable prejudice or disadvantage, in any respect whatsoever; or,

Allotment of
freight cars.

(d) 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.

(4) Every railway 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.

Connecting railway to afford reasonable facilities.

(5) The reasonable facilities which every railway company is required to afford under this section, shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways.

Facilities for junction of private sidings, branches, etc.

(6) Every railway company which grants any 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.

Equal facilities to be granted to express companies.

(7) Any agreement made between any two or more companies contrary to this section shall be unlawful and null and void. R.S., c. 37, s. 317.

Agreements to the contrary void.

317. (1) 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 the three last preceding sections.

Board may determine.

(2) The Board 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 the three last preceding sections.

May make declaratory regulation.

(3) For the purposes of the last preceding section, the Board may order that specific works be constructed or carried

Board may order specific works, tolls, etc.

carried out, or that property be acquired, or that specified tolls be charged or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. R.S., c. 37, s. 318.

Facilities
to be afforded
for movement
of grain from
the Western
Provinces.

318. If the company is unable or fails to provide sufficient facilities for the movement of grain from the Western Provinces to the elevators at the head of Lake Superior, or to destinations east thereof, after the close of navigation on the Great Lakes and before the next harvest, and grain in certain sections or districts cannot by reason thereof be marketed, the Board may require the said company to furnish all facilities within its powers for the carriage of such grain in such sections or districts to any intermediate point or points of interchange with another company or any terminal elevator, and there to make delivery thereof to such other company or companies or to such elevator for carriage by such other company or companies as the Board may direct; and the Board may require such other company or companies to transport such grain and supply the necessary cars and engines therefor, and the rates lawfully published and filed by the company in default and obtaining on its route shall apply over the joint route or routes so directed and shall be apportioned between the companies as the Board may direct. 1916, c. 2, s. 1.

Discrimi-
nation.

319. Whenever it is shown that any railway 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 it charges to other persons, companies, or classes 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. R.S., c. 37, s. 77.

Burden of
proof.

What Board
may consider
in deciding
undue
preference.

320. In deciding whether a lower toll, or difference in treatment, does or does not amount to an 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. R.S., c. 37, s. 319.

321. 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. R.S., c. 37, s. 320.

Apportionment of toll for carriage by land and water.

Freight Classification.

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

Tariff of tolls subject to classification by Board.

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

Special terms and conditions.

(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: Provided that 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*.

Changes of class.

(4) Any freight classification and exception thereto in use in the United States may, subject to any regulation, order or direction of the Board, be used by the company with respect to traffic to and from the United States. R.S., c. 37, s. 321. Am.

United States classification.

Tariffs—General Provisions.

323. (1) The company or the directors of the company, by by-law, or any officer of the company who is thereunto authorized by a by-law of the company or directors may from time to time prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which, such tolls shall be paid.

Tariffs of tolls.

Preparation and issue.

(2) The tolls may be either for the whole or for any particular portion of the railway.

Local or general.

(3) All such by-laws shall be submitted to and approved by the Board.

Approval by Board.

(4) The Board may approve such by-laws in whole or in part, or change, alter or vary any of the provisions therein.

Nature of approval.

No tolls
unless
authorized.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by, the Board, nor until any other requirements necessary under this Act to bring such tariff into effect have been complied with; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board, or not in effect in accordance with the provisions of this Act; nor shall the company charge, levy or collect any toll or money for any service as a common carrier except under and in accordance with the provisions of this Act.

Regulations
as to
publication.

(6) The Board may, with respect to any tariff of tolls, other than the passenger and freight tariffs in this Act hereinafter mentioned, make regulations fixing and determining the time when, the places where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection. 1908, c. 61, s. 11. Am.

Form and
particulars.

324. 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. R.S., c. 37, s. 322.

Disallow-
ance.

325. (1) 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.

Substitution.

Effective
date.

(2) The Board may designate the date at which any tariff shall come into force, and either on application or of its own motion may, pending investigation or for any reason, postpone the effective date of, or either before or after it comes into effect, suspend any tariff or any portion thereof.

Amendment.

(3) Except as otherwise provided, 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 new tariffs, in accordance with the provisions of this Act.

Consolida-
tion.

(4) When any tariff has been amended or supplemented, or is proposed to be amended or supplemented, the Board may order that a consolidation and reissue of such tariff be made by the company. R.S., c. 37, s. 323. Am.

Powers to fix
rates not
limited.

(5) Notwithstanding the provisions of section three the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, shall not be limited

or in any manner affected by the provisions of any Act of the Parliament of Canada, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the company: Provided that this subsection shall remain in force only during the period of three years from and after the date of the passing of this Act.

326. (1) Every tariff superseding or intended to supersede any other tariff or tariffs, or any portion or portions thereof, shall specify the tariff or tariffs, or portion or portions thereof, which it supersedes or is intended to supersede, by giving the reference number or referring to the page and section or item in such a way as to facilitate an accurate and ready reference to what is superseded or intended to be superseded.

References
in super-
seding
tariffs.

(2) When any tariff is cancelled without being superseded by a tariff of like issue, a supplement shall be issued to such cancelled tariff and such supplement shall specify the tariff wherein the tolls may thereafter be found.

Supplements
to cancelled
tariffs.

327. (1) 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.

Fraction of
a mile.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "small's" 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.

Fraction of
five pounds
in weight.

(3) In estimating the tolls to be charged in passenger tariffs hereafter issued any amount not exceeding 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. R.S., c. 37, s. 324. Am.

Fraction of
five cents.

Freight Tariffs.

328. 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,—

Division of
freight
tariffs.

- (a) the standard freight tariff;
- (b) special freight tariffs; and,
- (c) competitive tariffs. R.S., c. 37, s. 325.

Standard.
Special.
Competitive.

329. (1) The standard freight tariff, or tariffs (where the company is allowed by the Board more than one

What
standard
freight tariff
to specify.

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.

Distances.

(2) 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.

What special freight tariffs to specify.

(3) 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; and greater tolls shall not be charged for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer.

What competitive tariffs to specify.

(4) 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. R.S., c. 37, s. 326. Am.

Standard freight tariff. Filing.

Approval.

Publication.

330. (1) Every standard freight tariff shall be filed with the Board, and shall be subject to the approval of the Board.

(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*.

Tolls specified to be the only lawful tolls.

(3) When the provisions of this section have been complied with, the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods.

No toll until compliance.

(4) Until the provisions of this section have been complied with, no toll shall be charged by the company.

Changes to be approved.

(5) No standard freight tariff shall be amended or supplemented except with approval of the Board. R.S., c. 37, s. 327. Am.

Special freight tariffs.

331. (1) Special freight 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.

If tolls previously in force are reduced.

(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 at least three days before its effective date, and shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of

such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file: Provided that the Board may by regulation or otherwise determine and prescribe any other or additional method of publication of such tariff during the period aforesaid.

Notice.

(3) 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 thirty days previously to the date on which such tariff is intended to take effect: Provided that where objection to any such tariff is filed with the Board, the burden of proof justifying the proposed advances shall be upon the company filing said tariff.

If previous
tolls
advanced.

(4) When the foregoing provisions have been complied with, any such special freight tariff, unless suspended or postponed by the Board, shall take effect on the date stated therein as the date on which it is intended to take effect, and the company shall thereafter, until such tariff is disallowed or suspended by the Board or superseded by a new tariff, charge the toll or tolls as specified therein, and such special freight tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

When tariff
effective.

(5) Until such special freight tariff comes into effect, no such special freight toll or tolls shall be charged by the company. R.S., c. 37, s. 328; 1911, c. 22, s. 11. Am.

No tolls
until tariff
in force.

332. 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: Provided that where it may be necessary to meet the exigencies of competition, or as the Board may deem expedient, the Board may make rules and regulations governing the filing or publication of such tariffs, 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, or may in any case make a special order or direction allowing any such tariff to go into effect as the Board shall appoint. R.S., c. 37, s. 329. Am.

Competitive
tariffs.

Filing.

Passenger Tariffs.

333. (1) 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,—

Division of
passenger
tariffs.

Standard.

(a) the standard passenger tariff; and,

Special.

(b) special passenger tariffs.

What standard passenger tariff shall specify.

(2) The standard passenger tariff, or tariffs (where the company is allowed by the Board more than one standard passenger tariff), shall specify the maximum mileage toll or tolls to be charged for passengers for all distances covered by the company's railway; and 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. R.S., c. 37, s. 330. Am.

Standard passenger tariff.

334. (1) A standard passenger tariff shall be filed, approved and published, and amended or supplemented, in the same manner as required by this Act in the case of a standard freight tariff.

Approved and published.

(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

(3) When the provisions of this section have been complied with, the tolls in the standard passenger tariff shall, except in the case of special passenger tariffs, be the only tolls which the company is authorized to charge for the carriage of passengers. R.S., c. 37, s. 331. Am.

Special passenger tariffs.

335. (1) The company shall file all special passenger tariffs with the Board at least three days before the effective date and shall, for three days previous to the date on which any such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each such tariff, at every station or office of the company where passengers are received for carriage thereunder, and also post up in a prominent place at each such office or station a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file: Provided that the Board may, owing to the exigencies of competition or otherwise, notwithstanding anything in this section contained, determine the time or manner within and according to which publication of any such tariff is to be made.

Notice.

(2) 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 therein.

Date and period.

(3) When the foregoing provisions have been complied with, any such tariff, unless suspended or postponed by the Board, shall take effect on the date stated therein as the date on which it is intended to take effect, and the company shall thereafter, until such tariff is disallowed or suspended by the Board or expires or is superseded by a new tariff,

When effective.

charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

(4) Until such tariff comes into effect no such toll or tolls shall be charged by the company. R.S., c. 37, s. 332. Am. No toll before tariff.

Joint Tariffs.

336. (1) Where traffic is to pass over any continuous route in Canada operated by two or more companies, the several companies shall 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. Continuous route in Canada.
Joint tariffs, shall be agreed upon.

(2) The names of the companies whose lines compose such continuous route shall be shown by such tariffs. Names of companies.

(3) If 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 inland water, between any places or ports in Canada, and if any such vessel carries traffic between a port in Canada reached by such company and a port in Canada reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Canada within the meaning of this section. R.S., c. 37, s. 333. Am. Continuous route in the case of carriage by water.

337. (1) In the event of failure by such companies to agree upon any such joint tariff as provided in the last 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 rate, 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. Where failure to agree Board may decide.

(2) Upon any such order being made the companies 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. Companies to comply.

(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 Power of Board.

amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge. R.S., c. 37, s. 334.

From Canada
to foreign
country.

338. When 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, and such route is 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. R.S., c. 37, s. 335.

From foreign
country to
Canada.

339. As respects all traffic which is 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. R.S., c. 37, s. 336.

Continuous
carriage not to
be prevented.

340. (1) No company shall, by any combination, contract or agreement, express or implied, or by other means or device, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

Break in
bulk, etc.

(2) No break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from 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. R.S., c. 37, s. 337.

Filing and
publication
of joint
tariffs.

341. (1) 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 by another tariff or 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.

Proviso.

Information
which Board
may require.

(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. R. S., c. 37, s. 338. Am.

Posting of Tariffs.

342. (1) 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 following places respectively,—

- (a) standard passenger and freight tariffs at every station or office of the company where passengers or freight, respectively, are received for carriage thereunder; Where to be posted.
- (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 such freight tariffs also at each of its stations or offices to which freight traffic is to be carried thereunder; Standard tariffs.
- (c) competitive tariffs, at each freight station or office of the company where goods are to be received and delivered thereunder; Special tariffs.
- (d) joint tariffs for traffic passing over any continuous route in Canada, operated by two or more companies, at each freight station or office where traffic is to be received, and at each freight station to which such tariffs extend; Competitive tariffs.
- (e) joint tariffs for traffic passing over any continuous route operated by two or more companies, whether Canadian or foreign, from a point in Canada through a foreign country into Canada, or from any point in Canada to a foreign country, 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 in Canada.
- (f) joint tariffs for traffic carried by any continuous route owned or operated by two or more companies, whether Canadian or foreign, from any point in a foreign country into Canada, or from a foreign country through Canada into a foreign country, at each freight station or office in Canada to which such tariffs extend. Joint tariffs.
- (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. From Canada to foreign country.
- (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. From foreign country to Canada.
- (4) Notwithstanding anything in this section, the Board may, in addition to or in substitution for the publication of any

Freight classifications.

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

Power of Board as to publication of tariffs.

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 for traffic carried by any continuous route,—

Exemptions.

From
Canada.

(a) operated by two or more companies, whether Canadian or foreign, from a point in Canada through a foreign country into Canada, or from any point in Canada to a foreign country; or,

From
foreign
countries.

(b) owned or operated by any two or more companies, whether Canadian or foreign, from any point in a foreign country into Canada, or from a foreign country through Canada into a foreign country. R. S., c. 37, s. 339. Am.

Presumption as to Legal Tolls.

Tariff.

343. If 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 if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the legal tolls chargeable by such company. R. S., c. 37, s. 78.

Presumed
legal as
against com-
pany.

Special rates for Specific Shipments.

Regulations
permitting.

344. (1) 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, if it considers that 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.

Notice to be
filed with
Board.

(2) 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. R. S., c. 37, s. 342.

Reduced Rates and Free Transportation.

For Govern-
ment, charity,
expositions,
etc.

345. (1) Nothing in this Act shall be construed to prevent,—

(a) the carriage, storage or handling of traffic, free or at reduced rates, for the Dominion, or for 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, or the carriage at one-half the regular single fare of ministers of religion or persons exclusively engaged in charitable, religious, or eleemosynary work;

- (b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates, of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;

Special tickets, immigrants, commercial travellers.

- (c) railways from giving free carriage or reduced rates to their own directors, officers, agents and employees, or their families, or to former employees of any railway, or for their goods and effects, or between points within the province to members of the provincial legislatures or to members of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to dependent members of the families of any persons who are entitled to free transportation under section three hundred and forty-six of this Act, and for their baggage, or to such other persons as the Board may approve or permit; or,

Railway employees, M.P.'s press, etc.

- (d) railways or transportation companies from exchanging passes or free tickets with other railways or transportation companies for their officers, agents and employees and their families, goods and effects, or from issuing passes or free tickets to officers and employees of the Department of Railways and Canals, or their families, and their goods and effects, or a similar interchange of passes, or franks with or by telegraph, telephone and cable companies;

Exchanging passes, etc.

- (e) railways from giving free carriage to the Governor General, and staff, and families, and baggage and equipment,

Governor General.

Provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board, and the Board, in or by any order or by general regulation, may prescribe the forms to be issued or used by the company for the carriage of traffic at free or reduced rates under this Act, and the terms and conditions applicable thereto, and the records to be kept by the company of all such traffic carried and of all passes, free and reduced rate transportation issued or given by the company, and shall require the making of periodical returns duly verified by affidavit to the Board in respect thereof; and it shall

Board may regulate carriage of traffic and prescribe forms, records and returns under this section.

be the duty of the Board to examine such returns with a view to seeing that the law has been observed.

Commutation tickets.

(2) Whenever the Board sees fit it may require the company to grant and issue commutation tickets at such rates and on such terms as the Board may order. R. S., c. 37, s. 341; 1910, c. 50, s. 11. Am.

Members of Parliament and Board, etc., free.

346. Members of the Senate and House of Commons of Canada, with their baggage, and members of the Board and such officers and staff of the Board as the Board may determine, with their baggage and equipment, shall, on production of cards, certifying their membership or right, which shall be furnished them by the Clerk of the Senate or the Clerk of the House of Commons or the Secretary of the Board, as the case may be, be entitled to free transportation on any of the trains of the company; and the company shall also, when required, haul free of charge any car provided for the use of the Board. R.S., c. 37, s. 343. Am.

No free passes, except as above provided.

347. Subject to the provisions of sections three hundred and forty-five and three hundred and forty-six of this Act, no company shall hereafter, directly or indirectly, issue or give any free ticket or free pass, whether for a specific journey or periodical or annual pass, and no company shall otherwise arrange for or permit the transportation of passengers except on payment of the fares properly chargeable for such transportation under the tariffs filed under the provisions of this Act, and at the time in effect: Provided that nothing in this Act shall affect the furnishing of free transportation where such is specifically required by any other public general Act of the Parliament of Canada. *New.*

Contracts, etc., Limiting Carriers' Liability.

Contracts, etc., impairing carriers' liability.

348. (1) 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, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice has 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.

Board may prescribe terms.

(3) The Board may by regulation prescribe the terms and conditions under which any traffic may be carried by the company.

(4) Railway companies shall print in both the English and French languages the bills of lading that are to be used along their lines within the limits of the province of Quebec. R. S., c. 37, s. 340; 1909, c. 32, s. 14. Am.

Bills of lading to be in French and English in Quebec.

Carrying Dangerous Commodities.

349. (1) No passenger shall carry, nor except in conformity with any order or regulation made by the Board in that behalf, shall the company be required to carry upon its railway, gunpowder, dynamite, nitroglycerine, or any other goods which are of a dangerous or explosive nature.

Dangerous goods.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the package containing the same, and otherwise give 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. R. S., c. 37, s. 286. Am.

Nature must be marked outside.

350. (1) The Company shall not carry any goods of an explosive or dangerous nature except in conformity with the regulations made by the Board in that behalf.

Carrying regulated by Board.

(2) The Company may refuse to take, except in conformity with any order or regulation made by the Board in that behalf, any package or parcel which it suspects to contain goods of an explosive or dangerous nature, or may require the same to be opened to ascertain the fact. R. S., c. 37, s. 287. Am.

Suspected parcels.

Carrying His Majesty's Mail and Forces.

351. 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 Minister of Militia or the Deputy Minister of Militia, or any person having the superintendence and command of any police force, respectively, be carried on the railway, and with the whole resources of the company if required, on such terms and conditions and under such regulations as the Governor in Council makes. R.S., c. 37, s. 289. Am.

Carriage of mails, troops, equipment, etc.

Regulations.

Checking Passengers' Baggage.

352. (1) A check shall be affixed by the company to every parcel of baggage, having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport; and a duplicate of such check shall be given to the passenger delivering the same.

Company to affix checks.

Excess
baggage.

(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. R. S., c. 37, s. 283.

Passenger Employees to wear Badges.

Not entitled
to exercise
office with-
out badge.

353. 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. R. S., c. 37, s. 280.

Passengers refusing to pay Fare.

Expulsion.

354. Every passenger who refuses to pay his fare or produce and deliver up his ticket upon the request of the conductor may, by 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: Provided that the conductor shall first stop the train and use no unnecessary force. R. S., c. 37, s. 281. Am.

Collection of Tolls.

May be
enforced in
any court.

355. 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. R. S., c. 37, s. 344.

Seizure and
sale of goods
subject to
tolls.

356. (1) The company may, instead of proceeding as aforesaid for the recovery of such tolls, 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.

Sale of goods.

(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 perish 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.

Application
of proceeds.

Surplus.

(3) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto and may recover the deficiency, if any, by action in any court of competent jurisdiction. R. S., c. 37, s. 345.

357. (1) 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. Unclaimed goods.

(2) 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. Sale.
Proceeds.
Balance.

(3) 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 for the public uses of Canada. If unclaimed.

(4) Such balance may be claimed by the person entitled thereto at any time within six years from the date of such deposit. Limitation of time for claim. R. S., c. 37, ss. 346, 347.

Traffic by Water.

358. The provisions of this Act shall, in respect of tolls, tariffs and joint tariffs, so far as deemed applicable by the Board, extend and apply to the traffic carried by any railway company by sea or by inland water, between any ports or places in Canada, if 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 such ports or places. When Act applies to. R. S., c. 37, s. 7 (1). Am.

Tolls and Traffic on Bridges and Tunnels.

359. The provisions of this Act in respect of tolls, tariffs and traffic shall, in so far as the Board deems them applicable, extend and apply to,— Provisions apply to—

- (a) any company which has power under any Special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway; and, Bridge or tunnel company.
- (b) the traffic so carried over, upon or through such structure. Traffic thereby. R. S., c. 37, s. 7 (2). Am.

EXPRESS BUSINESS.

*Express Tolls and Tariffs.*Approval of
tolls.**360.** (1) All express tolls shall be subject to the approval of the Board.Powers of
Board.

(2) The Board may disallow any express tariff or any portion thereof which it considers unjust or unreasonable, and shall have and may exercise all such powers with respect to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs; and all the provisions of this Act applicable to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and the five next following sections, shall apply to express tolls and tariffs. R. S., c. 37, s. 348.

Application
of Act.Tariff of
tolls.**361.** Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case, prescribes. R. S., c. 37, s. 349.Goods not to
be carried
until tariff is
filed, or after
disallowance.**362.** No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided; or, in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or in any case where such express toll in any tariff has been disallowed or suspended by the Board. R. S., c. 37, s. 350. Am.Tolls not to
be charged
until filed
and
approved.**363.** No express toll shall be charged in respect of which there is default in such filing, or which is disallowed or suspended by the Board. R. S., c. 37, s. 351. Am.*Board may define Carriage by Express.*Board may
define
carriage by
express.**364.** The Board may by regulation, or in any particular case, prescribe what is carriage or transportation of goods by express, or whether goods are carried or transported by express within the meaning of this Act, and may order that all such goods as the Board may think proper shall be carried by express. R. S., c. 37, s. 352. Am.*Contracts Limiting Liability of Express Companies.*Conditions
limiting
liability to
be approved
by Board.**365.** (1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing
560 restricting

restricting or limiting the liability of such company, person or corporation with respect to the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, shall have any force or effect unless first approved by order or regulation of the Board.

(2) The Board may in any case or by regulation,—

Regulation of
carriage by
express.

(a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited; and,

(b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. R.S., c. 37, s. 353. Am.

Returns by Companies Charging Express Tolls.

366. (1) Every company and every person and corporation charging express tolls shall make to the Board an annual return of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods, as the Board directs.

Annual
return by
company.

(2) Such return shall be made in such form, covering such period, and at such time, and shall be published in such manner, as the Board from time to time directs. R.S., c. 37, s. 354.

Form, etc.,
of return.

TELEGRAPHS, TELEPHONES, POWER AND ELECTRICITY.

Telegraphs and Telephones on Railways for Railway Purposes.

367. (1) The railway company may, as incidental to and as part of its undertaking, construct and operate telegraph and telephone lines upon its railway for the purposes of its undertaking.

Telegraph
and telephone
lines.

(2) The railway company may, for the purpose of operating such lines or exchanging and transmitting messages, enter into contracts with any companies having telegraph or telephone powers, and may connect its own lines with the lines of any such companies, or may lease its own lines to any such companies.

Arrange-
ments with
other com-
panies.

(3) Part II of the *Telegraphs Act* shall apply to the telegraphic business of the railway company. R.S., c. 37, s. 244. Am.

R.S., c. 126,
Part II to
apply.

Special Powers of Railway Companies

368. Whenever in any Special Act hereafter passed it is stated or provided that a railway company shall have

Electric and
other power.

power to acquire, transmit and distribute electric and other power or energy, such company, subject to the provisions of sections three hundred and seventy and three hundred and seventy-three of this Act, may for the purposes of its undertaking acquire, but not by expropriation, electric and other power or energy, and transmit and deliver the same to any place in the municipalities through which the railway is built, and receive, transform, transmit, distribute and supply such power or energy in any form; and may dispose of the surplus thereof, and collect rates and charges therefor, but no such rate or charge shall be demanded or taken until it has been approved of by the Board, and the Board may revise such rates and charges whenever it deems proper. *New.*

Telegraphs
and tele-
phones.

369. (1) Whenever in any Special Act hereafter passed it is stated or provided that a railway company shall have power to transmit telegraph and telephone messages for the public and collect tolls therefor, such company may, subject to the provisions of this Act, construct and operate telegraph and telephone lines upon its railway, and establish offices for and undertake the transmission of messages for the public, and collect tolls therefor; and for the purpose of operating such lines or exchanging or transmitting messages, may, subject to the provisions of this Act, 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.

Tolls subject
to Act.

(2) No toll or charge shall be demanded or taken for the transmission of any message or for leasing or using the telegraphs or telephones of such company except in accordance with section three hundred and seventy-six of this Act, and the said company and its said business and works shall in all respects be subject to the provisions of the said section.

R.S., c. 126,
Part II to
apply.

(3) Part II of the *Telegraphs Act*, except such portions thereof as are inconsistent with this Act, shall apply to the telegraphic business of such company. *New.*

Control of
municipality.

R.S., c. 126.

370. No power conferred as in the last two preceding sections mentioned and nothing in the said sections or in the *Telegraphs Act*, shall authorize such company to construct or operate any line along any highway or public place, without first obtaining the consent, expressed by by-law, of the municipality having jurisdiction over such highway or public place, nor without complying with any terms stated or provided for in such by-law, or authorize such company to sell, dispose of or distribute power or energy within or for use within the limits of any municipality, without the consent, expressed by by-law, of such municipality. *New.*

Telephone Connection with Railway Stations.

371. (1) Whenever any province, 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 a railway company in such district, and cannot agree with such company with respect thereto, such province, municipality, corporation or incorporated company may apply to the Board for leave therefor.

Municipal and other systems, connection with stations, etc.

(2) The Board may also upon the application of any interested party authorize any telephone company operated by any province, municipality or incorporated company to instal at its own expense telephone connection with any station of the company, the annual charge, if any, to be paid by the company for such service and all other terms or conditions connected therewith to be such as the Board may determine, having regard to all local conditions, but in no case is such charge to exceed the customary local rate.

Board may order upon terms.

(3) Notwithstanding anything in any Act contained, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement now or hereafter in force by which the railway company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. R.S., c. 37, s. 245. Am.

Contracts giving exclusive privileges not to be taken into consideration.

Putting Wires Across Railways or Other Wires.

372. (1) Lines, wires, other conductors, or other structures or appliances for telegraphic or telephonic purposes, or for the conveyance of power or electricity for other purposes, shall not, without leave of the Board, except as provided in subsection (5) of this section, be constructed or maintained,—

Leave of Board.

(a) along or across a railway, by any company other than the railway company owning or controlling the railway; or

(b) across or near other such lines, wires, conductors, structures or appliances, which are within the legislative authority of the Parliament of Canada.

(2) Upon any application for such leave, the applicant shall submit to the Board a plan and profile of the part of the railway or other work proposed to be affected, showing the proposed location and the proposed works.

Plans to be submitted.

(3) The Board may grant the application and may order the extent to which, by whom, how, when, on what terms

Powers of Board.

and conditions, and under what supervision, the proposed works may be executed.

Authority
for works.

(4) Upon such order being made the proposed works may be constructed and maintained subject to and in accordance with such order.

When leave
not required.

(5) Leave of the Board under this section shall not be necessary for the exercise of the powers of a railway company under section three hundred and sixty-seven of this Act, nor for the maintenance of works now authorized, nor when works have been or are to be constructed or maintained by consent and in accordance with any general orders, regulations, plans or specifications adopted or approved by the Board for such purposes. R.S., c. 37, s. 246; 1911, c. 22, s. 7; 1917, c. 37, s. 4. Am.

Putting Lines or Wires Across or Along Highways, etc.

Lines and
wires on
highways
and public
places.

373. (1) Subject to the provisions of the other subsections of this section, any company empowered by Special Act or other authority of the Parliament of Canada to construct, operate and maintain telegraph or telephone lines, may, for the purpose of exercising the said powers, enter upon, and, as often as the company thinks proper, break up and open any highway, square or other public place, provided always that,—

Conditions.
Travel and
access.

(a) such 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;

Height of
wires.

(b) in cities, towns and incorporated or police villages such company shall not permit any wire to be less than twenty-two feet, or less than any greater height which the Board may direct, above such highway or public place; nor shall it in any municipality permit any wire which crosses any highway or public place to be less than eighteen feet, or less than any greater height the Board may direct, above such highway or public place; nor shall it permit any wire which crosses or is adjacent to any private way, entrance or lane used for vehicular traffic to be less than seventeen feet or less than any greater height the Board may direct above such private way, entrance or lane; or erect more than one line of poles along any highway;

Poles.

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

Trees.

(d) such company shall not unnecessarily nor without giving at least ten days previous notice to the owner thereof or to the municipality, nor in any case where forbidden by the Board, cut down or mutilate any shade, fruit or ornamental trees, but the Board may when it deems proper dispense with such notice and may in any case make any order or direction it deems fit respecting such trees;

- (e) the opening up of any street, square, or other public place for the erection of poles, or for the carrying of 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.
- (f) 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, such 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 such company so doing such person may remove such wires and poles at the expense of such company; Where necessary to cut wires or remove poles.
- (g) such company shall be responsible for all unnecessary damage which it causes in carrying out, maintaining or operating any of its said works; Damage.
- (h) such 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; Wires cut in case of fire.
- (i) every person employed upon the work of erecting or repairing any line or instrument of such company shall have conspicuously attached to his dress a badge, on which are legibly inscribed the name of such company and a number by which he can be readily identified. Workmen to wear badges.
- (2) Notwithstanding anything in any Act of the Parliament of Canada or of the legislature of any province, or any power or authority heretofore or hereafter conferred thereby or derived therefrom, no telegraph or telephone line, within the legislative authority of the Parliament of Canada, shall except as hereinafter in this section provided, be constructed by any company upon, along or across any highway, square or other public place, without the legal consent of the municipality having jurisdiction over such highway, square or public place. Consent of municipality.
- (3) If any company cannot, in respect of any such line, obtain such consent from such municipality, or cannot obtain such consent otherwise than subject to terms and conditions not acceptable to the company, such 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. Leave of Board.
- (4) The Board may refuse or may grant such application in whole or in part, and may change or fix the route of such lines, Powers of Board.

lines, wires or poles, and may by order impose any terms, conditions or limitations in respect of the application which it deems expedient, having due regard to all proper interests.

Exercise of
powers.

(5) Upon such order being made, and subject to any terms imposed by the Board, such 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 one of this section, except in so far as the said provisions are expressly varied by order of the Board.

Putting wires
underground,
etc.

(6) Notwithstanding any power or authority heretofore or hereafter conferred upon any company by or under any Act of the Parliament of Canada or of the legislature of any province, or any other authority, the Board, upon the application of the municipality, and upon such terms and conditions as the Board may prescribe, may order any telegraph or telephone line, within the legislative authority of the Parliament of Canada, in any city or town, or any portion thereof, to be placed underground, and may in any case order any extension or change in the location of any such line in any city or town, or any portion thereof, and the construction of any new line, and may abrogate the right of any such company to construct or maintain, or to operate, or continue, any such line, or any pole or other works belonging thereto, except as directed by the Board; and where such a line or lines within the legislative authority of the Parliament of Canada and such a line or lines within the legislative authority of a province, run through or into the same city or town, and such municipality is desirous of having any such lines placed underground, and there exists in such province a provincial commission, public utilities or other board or body having power to order such a line within the legislative authority of such province to be placed underground, the Board and such provincial commission, or public utilities board or body, may by joint session or conference, or by joint board, order any such lines within such city or town, or any portion thereof, to be placed underground, and abrogate any right to carry the same on poles, and the provisions of subsection three of section two hundred and fifty-three of this Act, with the necessary adaptation, shall apply to every such case.

Joint order of
Board and
provincial
commission.

Existing lines.

(7) Except as provided in the last preceding subsection, nothing in this section shall affect the right of any telegraph or telephone company to operate, maintain, renew or reconstruct underground or overhead systems or lines, heretofore constructed.

Provisions
in special
Acts, etc.

(8) Nothing in this section shall authorize, or give power to authorize, any company to construct or operate any line or works along any highway or public place without the

consent of the municipality having jurisdiction thereover in any case where,—

(a) the Special Act applying to such company requires such consent; or,

(b) the provisions of section three hundred and sixty-eight, three hundred and sixty-nine or three hundred and seventy apply to such company and require such consent;

and where such consent is so required the provisions respecting the same shall be complied with. R.S., c. 37, ss. 247 *part*, 248 *part*. Am.

Price and Supply of Certain Power.

374. (1) In any case where water-power has been acquired under lease from the Crown for the development of electrical energy, and the lessee from the Crown of such water-power and the applicant for the purchase of electrical energy so developed cannot agree as to the quantity to be sold by the lessee to the applicant, and the price to be paid by the applicant to the lessee for such quantity, or either, as the case may be, the Board shall determine and fix the quantity and the price to be paid therefor, or either, as the case may be, and the lessee shall sell, supply and furnish, if the applicant shall then require it, such quantity, and at the price so determined and fixed, as the case may be.

In disputes between lessee of water-power and applicant for electricity Board may fix price.

(2) For the purpose of determining and fixing such quantity or such price, the Board may enter on and inspect the property leased from the Crown and all erections and machinery thereon, and may examine all papers, documents, vouchers, records and books of every kind, and may order and require the lessee and any other person to attend before the Board and be examined on oath and to produce all papers, documents, vouchers, records and books of every kind; and for the purpose aforesaid, the Board shall have all such powers, rights and privileges as are vested in a superior court.

Powers of Board for such purpose.

(3) This section shall not apply to any case where the water-power leased from the Crown, has been acquired for, and is used in the development of electrical energy for the direct and immediate industrial or manufacturing operations of the lessee. 1911, c. 22, s. 12.

Application of section limited.

Provisions Governing Telegraphs and Telephones.

375. (1) In this section unless the context otherwise requires,—

Interpretation.

“company” means a railway company or person authorized to construct or operate a railway, having authority

“Company.”

authority to construct or operate a telegraph or telephone system or line, and to charge telegraph or telephone tolls, and includes also telegraph and telephone companies and every company and person within the legislative authority of the Parliament of Canada having power to construct or operate a telegraph or telephone system or line and to charge telegraph or telephone tolls;

"Special Act."

"Special Act" means any Act under which the company has authority to construct or operate a telegraph or telephone system or line, or which is enacted with special reference to any such system or line, and any letters patent constituting a company's authority to construct or operate a telegraph or telephone system or line, granted under any Act, and the Act under which such letters patent were granted, and includes the *Telegraphs Act* and any general Act relating to telegraphs or telephones.

R.S., c. 126.

Tolls subject to approval.

(2) Notwithstanding anything in any Act heretofore passed, all telegraph and telephone tolls to be charged by the company, and all charges for leasing or using the telegraphs or telephones of the company, shall be subject to the approval of the Board, and may be revised by the Board from time to time.

Exception private wires.

The provisions of this subsection shall not apply to the use of telegraph or telephone wires where no toll is charged to the public.

Filing of tariffs.

(3) The company shall file with the Board tariffs of any telegraph or telephone tolls to be charged, and such tariffs shall be in such form, size and style, and give such information, particulars and details, as the Board, from time to time, by regulation, or in any particular case, prescribes, and, unless with the approval of the Board, the company shall not charge and shall not be entitled to charge any telegraph or telephone toll in respect of which there is default in such filing, or which is disallowed by the Board; provided that any company, previous to the first day of May, one thousand nine hundred and eight, charging telegraph or telephone tolls, may, without such filing and approval, for such period as the Board allows, charge such telegraph or telephone tolls as such company was immediately previous to the said date authorized by law to charge, unless where the Board has disallowed or disallows such tolls.

Proviso.

Provisions applying to tolls.

(4) Such telegraph and telephone tolls may be dealt with by the Board in the same manner as is provided by this Act with respect to standard freight tariffs, and all the provisions of this Act, except as to publication under section three hundred and forty-two applicable to companies thereunder with respect to standard freight tariffs and tolls, shall in so far as they are applicable, and not inconsistent with the provisions of this section, apply to the company with respect to such telegraph and telephone tariffs and tolls.

(5) The Board may permit the classification of telegraph, telephone and cable messages into such classes as it deems just and reasonable, and may permit different rates to be charged for such different classes.

Classification of messages.

(6) The Board may, by regulation or otherwise, determine and prescribe the manner and form in which any tariff or tariffs of telegraph or telephone tolls shall be published or kept open for public inspection.

Publication of tariffs.

(7) Whenever any company or any province, municipality or corporation, having authority to construct and operate, or to operate, a telephone system or line and to charge telephone tolls, whether such authority is derived from the Parliament of Canada or otherwise, is desirous of using any telephone system or line owned, controlled or operated by the company, in order to connect such telephone system or line with the telephone system or line operated or to be operated by such first mentioned company, or by such province, municipality or corporation for the purpose of obtaining direct communication, whenever required, between any telephone or telephone exchange on the one telephone system or line and any telephone or telephone exchange on the other telephone system or line, and cannot agree with the company with respect to obtaining such use, connection or communication, such first mentioned company or province, municipality or corporation may apply to the Board for relief, and the Board may order the company to provide for such use, connection or communication, upon such terms, including compensation if any, as the Board deems just and expedient, and may order and direct how, when, where, by whom, and upon what terms and conditions such use, connection, or communication shall be had, constructed, installed, operated and maintained.

Connections with other systems, power of Board to order.

(8) No order made under the next preceding subsection shall apply to the interchange of local conversations between persons using the telephones of two competing systems or lines where such systems or lines terminate upon switch-boards located within the municipal limits of the same city, town or village, except in the case of rural party line telephones in non-competitive areas, and then only when the Board deems such interchange to be desirable and practicable.

Local conversations over competing systems.

(9) Upon any such application the Board shall, in addition to any other consideration affecting the case, take into consideration the standards, as to efficiency and otherwise, of the apparatus and appliances of such telephone systems or lines, and shall only grant the leave applied for in case and in so far as, in view of such standards, the use, connection or communication applied for can, in the opinion of the Board, be made or exercised satisfactorily and without undue or unreasonable injury to or interference with the

Standards of apparatus to be considered.

telephone

telephone business of the company, and where in all the circumstances it seems just and reasonable to grant the same.

Application
of provisions
as to joint
tariff.

(10) Where the telephone system or line operated by the company is used or connected, for purposes of communication as aforesaid, with the telephone system or line operated by any other company or by any such province, municipality or corporation, whether the authority of such company, province, municipality or corporation to construct and operate or to operate such telephone system or line is derived from the Parliament of Canada or otherwise, and whether such connection or communication has been previously or is hereafter established either by agreement of the parties or under an order of the Board, the provisions of this Act with respect to joint tariffs, in so far as they are applicable and not inconsistent with this section or the Special Act, shall apply to such company or companies and to such province, municipality or corporation; and the Board shall have, for the enforcement of its orders in this respect, in addition to all other powers possessed by it therefor, the power to order a discontinuance of such connection or communication between such different telephone systems or lines.

Enforcement
of orders.

(11) All contracts, agreements and arrangements between the company and any other company, or any province, municipality or corporation having authority to construct or operate a telegraph or telephone system or line, whether such authority is derived from the Parliament of Canada or otherwise, for the regulation and interchange of telegraph or telephone messages or service passing to and from their respective telegraph or telephone systems and lines, or for the division or apportionment of telegraph or telephone tolls, or generally in relation to the management, working or operation of their respective telegraph or telephone systems or lines, or any of them, or any part thereof, or of any other systems or lines operated in connection with them or either of them, shall be subject to the approval of the Board, and shall be submitted to and approved by the Board before such contract, agreement or arrangement shall have any force or effect.

Working
agreements
to be
approved
by Board.

(12) Without limitation of the generality of this subsection by anything contained in the preceding subsections, the jurisdiction and powers of the Board, and, in so far as reasonably applicable and not inconsistent with this section or the Special Act, the provisions of this Act respecting such jurisdiction and powers, and respecting proceedings before the Board and appeals to the Supreme Court or Governor in Council from the Board, and respecting offences and penalties, and the other provisions of this Act, (except sections seventy-two to two hundred and seventy, two hundred and seventy-two to two hundred and eighty-two, two hundred and eighty-seven to three hundred and

Application
of provisions
of Act.

thirteen, three hundred and twenty-three, three hundred and forty-nine to three hundred and fifty-four, three hundred and sixty to three hundred and sixty-six, three hundred and ninety-four to four hundred and twenty-four, and four hundred and forty-nine to four hundred and fifty-seven, both inclusive in each case), shall extend and apply to all companies as in this section defined, and to all telegraph and telephone systems, lines and business of such companies within the legislative authority of the Parliament of Canada; and in and for the purposes of such application,—

- (a) "company" or "railway company" shall mean a company as in subsection one of this section defined; Interpretation.
"Company."
- (b) "railway" shall mean all property real and personal and works forming part of or connected with the telegraph or telephone system or line of the company; "Railway."
- (c) "Special Act" shall mean a Special Act as in subsection one of this section defined; "Special Act."
- (d) "toll" or "rate" shall mean telegraph or telephone toll; "Toll."
"Rate."
- (e) "traffic" shall mean the transmission of and other dealings with telegraphic and telephonic messages. 1908, c. 61, ss. 1-5; 1910, c. 50, s. 13. Am. "Traffic."

Marine Electric Telegraphs or Cables.

376. (1) After this section is brought into effect, section three hundred and seventy-five of this Act shall extend and apply to marine electric telegraphs or cables; and, Marine telegraphs and cables, when Act to apply to.
"Telegraph."

"telegraph" in the said section, unless the context otherwise requires, shall include marine electric telegraph or cable;

"telegraph toll" in the said section, unless the context otherwise requires, shall include any toll, rate or charge to be charged by the company to the public or to any person for the transmission of messages by any marine electric telegraph or cable system whereby messages are transmitted from, to or through Canada;

"traffic" in the interpretation provided for by paragraph (e) of subsection twelve of the said section, and as the application of the said section is extended by the coming into force of this section, shall include messages transmitted from Canada to any other country by means of any marine electric telegraph or cable line; or, to Canada from any other country by the like or similar means; or, through, or into, or from any part of Canada by means of any marine electric telegraph or cable lines acting in conjunction with land lines or by land lines acting in conjunction with marine electric telegraph or cable lines, by means of a through route or otherwise. "Telegraph toll."
"Traffic."

(2) Every company to which this section applies shall have four months after this section comes into force within which Four months to obtain approval of tariffs.

which to file and obtain approval of its tariffs and tolls; but the Board may, upon application and upon good and sufficient ground being shown, extend such time to a period not exceeding one year, including the said four months.

Coming into
force.

(3) This section shall come into force upon similar provision being made by the proper authority in the United Kingdom, and upon proclamation of the Governor in Council. 1910, c. 57. Am.

*Government Use and Construction of Telegraphs and
Telephones.*

Government
may have
exclusive use.

377. (1) Every railway, telegraph and telephone company, shall, when required so to do by the Governor in Council, or any person authorized by him, place at the exclusive use of the Government of Canada any electric telegraph and telephone lines, and any apparatus and operators which it has.

Compensa-
tion.

(2) Such company shall thereafter be entitled to receive reasonable compensation for such service. R. S., c. 37, s. 290.

Government
may erect
wires on
railway.

378. 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 any 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. R. S., c. 37, s. 291.

STATISTICS AND RETURNS.

Annual
returns.

379. (1) Every railway, telegraph, telephone and express company and every carrier by water shall annually prepare returns, in accordance with the forms and classifications for the time being required by the Board, of its capital, traffic and working expenditure and of all other information required.

Attestation.

(2) Such returns shall be dated and signed by and attested upon the oath of the secretary, or some other chief officer of the company or carrier by water, and shall also be attested upon the oath of the president, or, in his absence, of the vice-president or manager of the company or carrier by water, or shall be signed and attested by such other person or persons as the Board may direct.

Period
included.

(3) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company or carrier by water extend, or, if no such returns have been previously made, from the commencement of the operation of the railway, or other works, or undertaking, and ending with the last day of December in the year, or other interval, for which the returns are

to be made, or with such other date as the Board may direct.

(4) A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Dominion Statistician within one month after the first day of February in each year, or within one month after any other date directed by the Board under the next preceding subsection. 1909, c. 31, s. 2. Am.

Duplicate for
Minister.

380. (1) Every railway, telegraph, telephone and express company and every carrier by water, if required by the Board so to do, shall prepare returns of its traffic monthly, that is to say, from the first to the close of the month inclusive.

Traffic
returns,
monthly.

(2) Such returns shall be in accordance with the forms for the time being required by the Board.

Form.

(3) A copy of such returns, signed by the officer of the company or carrier responsible for the correctness of such returns, shall be forwarded by the company or carrier to the Dominion Statistician within seven days from the day to which the said returns have been prepared.

Copy to
Statistician.

(4) The Board may in any case extend the time within which such returns shall be forwarded. 1909, c. 31, s. 2. Am.

Extension
of time.

381. (1) Every railway, telegraph, telephone and express company and every carrier by water shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, or carrier, or of such other person as the Board may direct, a true and particular return of all accidents and casualties, whether to persons, or to animals or other property, which have occurred on the property or in connection with the operation of the undertaking of the company, or carrier, setting forth,—

Annual
returns of
accidents
showing—

(a) the causes and natures of such accidents and casualties;

Causes and
nature.

(b) the points at which such accidents and casualties occurred, and whether by night or by day; and,

Locality and
time.

(c) the full extent of such accidents and casualties and all the particulars thereof.

Extent and
particulars.

(2) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company or carrier extend, or, if no such returns have been previously made, from the commencement of the operation of the railway, or undertaking, and ending with the last day of December in the then current year.

Period for
which returns
made.

(3) A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company or carrier to the Dominion Statistician within one month after the first day of February in each year.

Copies of
returns.

(4)

Copies of
by-laws.

(4) Every such company and every carrier by water shall also, when required by the Board return a true copy of the existing by-laws of the company, or carrier, and of its rules and regulations for the management of the company or carrier, and of its railway, or of such other undertaking or business as it is authorized to carry on.

Form.

(5) The Board may order and direct the form in which such returns shall be made up. 1911, c. 22, s. 14. Am.

Board
may require
further
returns as
to accidents.

382. The Board may order and direct any railway company to make up and deliver to the Board, 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 Board deems necessary and requires for their information with a view to public safety. R.S., c. 37, s. 373. Am.

Returns
privileged.

383. All returns made in pursuance of any of the provisions of the four sections of this Act last preceding shall be privileged communications, and shall not be evidence in any court whatsoever, except in any prosecution for,—

Exceptions.

- (a) default in making such returns in accordance with the requirements of this Act;
 - (b) perjury in making any oath required by this Act in connection with such returns;
 - (c) forgery of any such return; or,
 - (d) signing any such return knowing the same to be false.
- R.S., c. 37, s. 374.

To the Board.

Board may
require
returns.

384. (1) The Board may, from time to time, by notice served upon any railway, telegraph, telephone or express company or any officer, servant or agent of such 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,—

Assets and
liabilities.
Stock.

- (a) the assets and liabilities of such company;
- (b) the amount of its stock issued and outstanding, and the date at which any such stock was so issued;

Considera-
tion for
stock.

- (c) the amount and nature of the consideration received by such company for such issue, and, in case the whole of such consideration was not paid to such company in cash, the nature of the service rendered to or property received by such company for which any stock was issued;

- (d) the gross earnings or receipts or expenditure by such company during any periods specified by the Board, and the purposes for which such expenditure was made; Earnings and expenditures.
- (e) the amount and nature of any bonus, gift, or subsidy, received by such 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; Bonuses and subsidies.
- (f) the bonds issued at any time by such company, and what portion of the same are outstanding and what portion, if any, have been redeemed; Bonds.
- (g) the amount and nature of the consideration received by such company for the issue of such bonds; Consideration.
- (h) the character and extent of any liabilities outstanding chargeable upon the property or undertaking of such company, or any part thereof, and the consideration received by such company for any such liabilities, and the circumstances under which the same were created; Liabilities.
- (i) the cost of construction of such company's railway or other works or any part thereof; Cost of construction.
- (j) the amount and nature of the consideration paid or given by such company for any property acquired by it; Cost of property.
- (k) the particulars of any lease, contract or arrangement entered into between such company and any other company or person; and, Leases and contracts.
- (l) generally, the extent, nature, value and particulars of the property, earnings and business of such company. Generally.
- (2) The Board may summon, require the attendance of and examine under oath, any officer, servant or agent of such 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 such company, or such officer, servant, agent or person. Board may require attendance and production.
- (3) 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. Information for use of Board only.
- (4) The Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in the manner aforesaid. And Governor in Council.
- (5) 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: Provided that if the information so proposed to be made public

by the Board, is of such character that such 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 such company and hearing any objection which such company may make to such publication. R.S., c. 37, s. 375.

ACTIONS FOR DAMAGES.

Breach of Duty under Act.

Damages
for breach of
duty under
Act.

385. Any company which, or any person who, being a director or officer thereof, or a receiver, trustee, lessee, agent, or otherwise acting for or employed by such company, does, causes or permits to be done, any matter, act or thing contrary to the provisions of this or the Special Act, or to the orders, regulations or directions of the Governor in Council, or of the Minister, or of the Board, made under this Act, or omits to do any matter, act or thing, thereby required to be done on the part of any such company, or person, shall, in addition to being liable to any penalty elsewhere provided, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages shall not be subject to any special limitation except as expressly provided for by this or any other Act. R.S., c. 37, s. 427 (2); 1910, c. 50, s. 12. Am.

Cattle Getting on Railway.

Damages
where
animals get
on railway.

Exceptions.

Gates not
kept closed.

Gates wil-
fully left
open.

386. (1) When any horses, sheep, swine or other cattle, whether at large or not, get upon the lands of the company and by reason thereof damage is caused to or by such animal, the person suffering such damage shall be entitled to recover the amount of such damage against the company in any action in any court of competent jurisdiction unless the company establishes that such damage was caused by reason of,—

- (a) any person for whose use any farm crossing is furnished, or his servant or agent, or the person claiming such damage or his servant or agent, wilfully or negligently failing to keep the gates at each side of the railway closed when not in use; or,
- (b) any person other than an officer, agent, employee or contractor of the company wilfully opening and leaving open any gate, on either side of the railway provided for the use of any farm crossing, without some one being at or near such gate to prevent animals from passing through the gate on to the railway; or,

- (c) any person other than an officer, agent, employee or contractor of the company taking down any part of a railway fence; or,
- (d) any person other than an officer, agent, employee or contractor of the company turning any such animal upon or within the enclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person using all reasonable care and precaution to avoid accidents; or,
- (e) any person other than an officer, agent, employee or contractor of the company, except as authorized by this Act, without the consent of the company, riding, leading or driving any such animal or wilfully suffering the same to enter upon any railway, and within the fences, guards and gates thereof.
- (2) Where any such animal, by reason of being at large within half a mile of the intersection of a highway with any railway at rail level contrary to the provisions of section two hundred and seventy-eight, is killed or injured by any train at such point of intersection, the owner of such animal shall not have any right of action against any company in respect of the same being so killed or injured; but contravention of the said section shall not in any other case, nor shall the fact that the company is not guilty of any negligence or breach of duty, prevent any person from recovering damage from the company under this section.
- (3) Nothing in this section shall be construed as relieving any person from the penalties imposed by section four hundred and six of this Act. R.S., c. 37, ss. 294 (3)-(5), 295; 1910, c. 50, ss. 8 and 9. Am.

Fence taken down.

Animals turned on railway.

Animals ridden, etc. on railway.

Animals killed or injured at highway crossing.

Penalty not affected.

Fires from Locomotives.

387. (1) Whenever damage is caused to any property by a fire started by any railway locomotive, the company operating the railway on which the locomotive is being used, whether guilty of negligence or not, shall be liable for such damage and may be sued for the recovery of the amount of such damage in any court of competent jurisdiction: Provided that if it be shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company under this section in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed five thousand dollars; provided also that if there is any insurance existing on the property destroyed or damaged, where the company has used modern and efficient appliances and has not otherwise been guilty of negligence, the total amount of damages sustained by any claimant in respect of the destruction

Liability for fire caused by locomotive.

Proviso.

Insurance.

destruction or damage of such property shall, for the purposes of this section, be reduced by the amount received or recoverable by or for the benefit of such claimant in respect of such insurance.

No action.

(2) No action shall lie against the company by reason of anything in any such policy of insurance.

Limitation.

(3) In any action or proceeding under this section the limitation of two years prescribed by section three hundred and ninety-one of this Act shall begin to run from the date of final judgment in any action brought by the assured to recover such insurance money, or, in the case of settlement, from the date of the receipt of such money by the assured, as the case may be.

Pro rata
apportionment.

(4) Where the amount recoverable from the company is limited to such five thousand dollars and such sum is not sufficient to pay all the claims in full, it shall be apportioned among the claimants *pro rata* according to the claims established.

Determination of claims
by judge.

(5) Where it is made to appear that the total amount of the claims may exceed the said sum, a judge of any superior court of competent jurisdiction may make such order as he deems fit for the proper determination and adjustment of all such claims and of the liability of the company, and, if he deems proper, may stay or consolidate any action or actions, and may direct advertisement for such claims and filing and adjudication thereof in such manner and before such tribunal, officer or person as he deems fit, and may order that after such advertisement or notice as he directs all claims not filed and established as directed shall thereafter be barred; and the costs of any such proceedings shall be paid as such judge directs.

Costs.

Restrictions.

(6) Except under or in pursuance of such an order, the company shall not be entitled to have any action under this section stayed or the amount recoverable therein lessened because of the limitation of its liability to five thousand dollars as aforesaid, nor shall any payment made by the company to any claimant otherwise than under or in pursuance of such an order prejudice the right of any other claimant to receive his due proportion of such five thousand dollars.

Exception.

(7) Nothing in the last two preceding subsections shall prevent or prejudice any action or claim against the company for failure to use modern and efficient appliances or for other negligence.

Insurable
interest in
property.

(8) The company shall have an insurable interest in all property upon or along its route, for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon in its own behalf. 1911, c. 22, s. 10 (1-3). Am.

Failure

Failure to Equip Trains Properly.

388. Every company which fails to comply with any requirement of this Act,—

- (a) with respect to providing and causing to be used on its trains modern and efficient apparatus, appliances or means, or any apparatus, appliance or means in this Act specified, for the providing of communication between the conductor and the engine driver, or for the checking of the speed of any train or the bringing of the same expeditiously to a standstill, or for the secure coupling and connecting of the cars and the engine composing the train; or,
- (b) with respect to equipping its box freight cars, for the security of its employees, with outside ladders and hand-grips, or, if the Board so requires, with any other improved side attachment required by the Board; or,
- (c) with respect to adopting and using upon its rolling stock draw bars of a height determined by the Board; shall, in addition to being liable to any penalty elsewhere provided, be liable to pay to all such persons as are injured by reason of the non-compliance with such requirements, 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 authorized by the law of the province in which it is made and by regulation of the Board. R. S., c. 37, s. 386. Am.

Failure to
equip trains
properly.

Box freight
cars.

Draw bars.

Penalty.

Infraction of Provision or Order respecting Tolls.

389. (1) Every company shall, in addition to any penalty in this Act provided in respect of any infraction by the company, or any officer, servant or agent of the company, of any provision of this Act, or of any order, direction, decision or regulation made or given by the Board under this Act, in respect of tolls, be liable, at the suit of any person injured by reason of any such infraction, to three times the amount of the actual damage which such person may be proved to have so sustained.

Infraction
of order
respecting
tolls.

Triple
damages.

(2) No action shall be commenced for the recovery of any such triple damages without the leave of the Board first being obtained. R. S., c. 37, s. 404. Am.

No action
without
leave of
Board.

Injuries on Platform, Buggage or Freight Car.

390. No person injured while on the platform of a car, or on any baggage, or freight ear, 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,

No claim
for injuries
in certain
cases.

sufficient for the proper accommodation of the passengers, was furnished at the time. R. S., c. 37, s. 282.

Limitation and Defences.

- Limitation.** **391.** (1) All actions or suits for indemnity for any damages or injury sustained by reason of the construction or operation of the railway shall, and notwithstanding anything in any Special Act may, be commenced within two years next after the time when such supposed damage is sustained, or, if there is continuation of damage, within two years next after the doing or committing of such damage ceases, and not afterwards.
- Exceptions—carriage of traffic, tolls.** (2) Nothing in subsection one of this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.
- Pleadings.** (3) Notwithstanding anything in any Special Act or elsewhere contained, the pleadings in any action or suit against the company shall be governed by the law or rules of procedure of the court in which such action or suit is brought, and the company shall not, unless permitted by such law or rules, be entitled to plead the general issue.
- Company not relieved by inspection, etc.** (4) No inspection under or by the authority of this Act, and nothing in this Act and nothing done, ordered or directed, or required or provided for, or omitted to be done, ordered or directed or required or provided for, under or by virtue of the provisions of this Act, shall, except in so far as a compliance with the Act or with such order or direction, or requirement or provision, constitutes a justification for what would otherwise be wrongful, relieve, or be construed to relieve, any company of or from, or in any wise diminish or affect, 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, negligence or default, misfeasance, malfeasance, or non-feasance, of such company. R.S., c. 37, s. 306; 1917, c. 37, s. 10. Am.

OFFENCES, PENALTIES AND OTHER LIABILITY.

Disobeying Orders of Board.

- Disobeying orders of Board.** **392.** (1) Every company and every municipal or other corporation which neglects or refuses to obey any order of
580 the

the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, shall for every such offence, be liable to a penalty of not less than twenty dollars nor more than five thousand dollars.

(2) Wherever it is proved that any company has neglected or refused to obey an order of the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, the president, the vice-president, each vice-president where there are more than one, and every director and managing director of such company shall each be guilty of an offence for which he shall be liable to a penalty of not less than twenty dollars and not more than five thousand dollars, or imprisonment for any period not exceeding twelve months, or both, unless he proves that, according to his position and authority, he took all necessary and proper means in his power to obey and carry out, and to procure obedience to and carrying out of, such order and that he was not at fault for the neglect or refusal to obey the same.

Liability
of officers of
company.

(3) Wherever it is proved that any municipal or other corporation has neglected or refused to obey any order of the Board made under the provisions of this Act, or any other Act of the Parliament of Canada, the mayor, warden, reeve or other head of such corporation, and every member of the council or other ruling or executive body of such corporation, shall each be guilty of an offence for which he shall be liable to a penalty of not less than twenty dollars and not more than five thousand dollars, or imprisonment for any period not exceeding twelve months, or both, unless he proves that, according to his position and authority, he took all necessary and proper means in his power to obey and carry out, and to procure obedience to and carrying out of, such order, and that he was not at fault for the neglect or refusal to obey the same.

Liability
of officers of
municipality
or corpora-
tion.

(4) Nothing in or done under this section shall lessen or affect any other liability of such company, corporation or person, or prevent or prejudice the enforcement of such order in any other way.

Other
liability
continues.

(5) No prosecution shall be had under this section except by leave or direction of the Board. *New.*

Prosecution.

Obstructing Inspecting Engineers.

393. (1) Every operator or officer employed in any telegraph office of the company, or under the control of the company, who neglects or refuses to obey, without unnecessary delay, all orders of any inspecting engineer for the transmission of messages shall, for every such offence, be liable on summary conviction to a penalty of forty dollars. R.S., c. 37, s. 405.

As to trans-
mission of
telegraph
messages

Penalty.

Obstructing
inspecting
engineer on
duty.

Penalty.

(2) Every person who wilfully obstructs any inspecting engineer in the execution of his duties shall be 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 appoints, to imprisonment with or without hard labour for any term not exceeding three months. R.S., c. 37, s. 406.

Purchase of Railway Securities.

Company not
to purchase.

Penalty.

Separate
offences.

Recovery
and
application.

394. (1) Every director of a railway company who knowingly permits the funds of any such company to be applied either directly or indirectly 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, or in the purchase or acquisition of any interest in any such stock, shares, bonds or other securities, contrary to the provisions of this Act or the Special Act, shall incur a penalty of one thousand dollars for each such violation.

(2) The acquisition of each share, bond or other security or interest as aforesaid shall be deemed a separate violation of this section.

(3) Such 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. R.S., c. 37, s. 376. Am.

Schemes of Arrangement with Creditors.

Failure of
company to
keep or sell
copies.

Penalty.

395. If any railway company fails to keep at all times, at its principal or head office, printed copies of any scheme of arrangement between the company and its creditors, after such scheme has been confirmed and enrolled as provided by this Act, or to sell such copies to all persons desiring to buy them at a reasonable price, not exceeding ten cents for each copy, the company shall incur a penalty not exceeding one hundred dollars, and a further penalty not exceeding twenty dollars for every day during which such failure continues after the first penalty is incurred. R.S., c. 37, s. 424.

Filing and Registry.

Company
neglecting
to file.

396. Every railway company, which fails or neglects, within six months after the completion of the undertaking, or within six months after beginning to operate any completed part of the railway, as the case may be, or within such extended or renewed period as the Board at any time directs,—

- (a) to file with the Board a plan and profile of its completed railway, or of any such part thereof as is completed and in operation, and of the land taken or obtained for the use thereof; or, Plan and profile.
- (b) to file in the registry offices for the respective districts and counties, in which the parts of such railway so completed, or completed and in operation, are situate, plans of the parts thereof and of the land taken or obtained for the use thereof, located in such districts and counties respectively, prepared on such a scale and in such manner, and form, and signed or authenticated in such manner, as the Board may from time to time by general regulation, or in any individual case, sanction or require; Plan of lands taken.
- shall incur a penalty of two hundred dollars, and a like penalty for each and every month during which such failure or neglect continues. R.S., c. 37, s. 378. Penalty.

397. Every registrar of deeds with whom it is by this Act required that any plan, profile, book of reference, certified copy thereof, or other document relating to the location or construction of any railway shall be deposited, who refuses or neglects,— Registrar of deeds neglecting his duty.

- (a) to receive and preserve in his office all such plans, profiles, books of reference, certified copies thereof, and other documents duly tendered to him for such deposit; or, Receiving and preserving documents.
- (b) to endorse thereon the day, hour and minute when the same were so deposited; or, Endorsements.
- (c) to allow any person to make extracts therefrom and copies thereof as occasion requires, upon payment of the fees in that behalf by this Act prescribed; or, Copies.
- (d) to certify, at the request of any person, in the manner and with the particulars by this Act required, copies of any such plan, profile, book of reference or document, or such portions thereof as may be required, upon being paid therefor at the rate provided by this Act; Certificates.
- 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 any such refusal or neglect. R.S., c. 37, s. 377. Penalty.

Removing Industrial Spurs.

398. Any company or person who, without consent or order of the Board, removes any spur or branch line constructed under or pursuant to this Act for the purpose of affording railway facilities to, or in connection with, any industry or business established or intended to be established, shall be liable on conviction to a penalty not exceeding one thousand dollars. Removing industrial spurs without leave.

Examining Mine Workings.

Refusing
to allow
examination
of mine
workings.

399. Any owner, lessee, or occupier of a mine lying under or near a railway or any of the works connected therewith, who, after the company owning or operating such railway has obtained the written permission of the Board and given twenty-four hours notice in writing in that behalf, refuses or neglects to allow any person appointed by such company for that purpose, to enter into and return from such mine or the works connected therewith and make use of any apparatus of such mine and all necessary means for discovering the distance from such railway or works connected therewith to the parts of such mine which are being worked, in order to ascertain whether such mine is being worked or has been worked so as to injure or be detrimental to such railway or works connected therewith, or to the safety thereof or of the public, shall for every such refusal or neglect be liable on summary conviction to a penalty not exceeding one hundred dollars. *New.*

Matters Incidental to Construction.

Failing to
comply with
directions
as to
construction
of bridges.

400. Every railway company which fails or neglects to comply with any direction of the Governor in Council, given upon the report of the Board, requiring such company within such time as the Governor in Council directs, to construct fixed and permanent bridges, or swing, draw or movable bridges, or to substitute any of such bridges for bridges existing on the line of the company's railway, shall, for every day after the expiration of the period so fixed, during which the company fails or neglects to comply with such direction, forfeit and pay to His Majesty the sum of two hundred dollars. R. S., c. 37, s. 379.

Penalty.

Structures
not in
conformity
with this
Act.

401. (a) If any bridge, tunnel or other erection or structure over, through or under which any railway passes is not so constructed, or reconstructed or altered, within such time as the Board may order, and thereafter 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; or,

Spaces
not in
conformity.

(b) If, except by leave of the Board, the space between the rail level and such beams, members, or portions of any such structure, constructed after the first day of February, one thousand nine hundred and four, is in any case less than twenty-two feet six inches;

Penalty.

the company or owner so constructing shall incur a penalty

not exceeding fifty dollars, for each day during which such company or owner wilfully refuses, neglects or omits to comply with the requirements of this Act, as to construction, reconstruction, alteration or maintenance, in this section mentioned: Provided that nothing in this section shall apply to any bridge, tunnel, erection or structure exempted by the Board from such requirements. R.S., c. 37, s. 382. Am.

Proviso.

402. Every company which erects, operates or maintains 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. R. S., c. 37, s. 396.

Structures in violation of this Act.

Penalty.

403. Every railway company which, except as authorized by Special Act of the Parliament of Canada, or amendment thereof, passed previously to the twelfth day of March, one thousand nine hundred and three,—

Improper use of highways.

- (a) carries its railway or causes or permits the same to be carried upon, along or across an existing highway without having first obtained leave therefor from the Board; or,
- (b) obstructs any such highway by its works before turning the highway so as to leave an open and good passage for carriages; or,
- (c) on completion of the works fails or neglects to restore the highway to as good a condition, as nearly as possible, as it originally had;

shall incur a penalty of not less than forty dollars nor more than five thousand dollars for each such offence. R. S., c. 37, s. 380. Am.

Penalty

404. Every railway company which fails or neglects to erect and maintain, at each crossing where a highway is crossed at rail level by the railway of the company, a signboard having the words *Railway Crossing* painted on each side thereof, in letters at least six inches in length, and, in the province of Quebec, in both the English and French languages, shall incur a penalty not exceeding forty dollars. R. S., c. 37, s. 381.

Failure to erect signboards at crossings.

Penalty.

Opening Railway for Traffic.

405. If any railway or portion thereof is opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, before leave therefor has been obtained from the Board as hereinbefore provided, 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 railway is or continues open without such leave. R. S., c. 37, s. 384.

Opening railway without leave of Board.

Penalty.

Safety and Care of Roadway, etc.

Leaving
gates open.

406. (1) Every person who,—

(a) wilfully leaves open any gate on either side of the railway, provided for the use of any farm crossing, without some person being at or near such gate to prevent animals passing through it on to the railway; or,

Taking down
fences.

(b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence; or,

Turning
animals
into
railway
inclosure.

(c) turns any horse, cattle or other animal upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person, using all reasonable care and precaution to avoid accidents; or,

Allowing
animals to
go upon
railway.

(d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, or other animal, or wilfully suffers any such horse or animal to enter upon the railway, and within the fences and guards thereof;

Penalty.

shall, on summary conviction, be liable to a penalty of twenty dollars for each such offence.

Damages to
the company.

(2) Every such person shall also be liable to the company for any damage to the property of the company, or for which the company may be responsible, by reason of any such act or omission.

Damages to
person
injured.

(3) Every person guilty of any offence under this section shall, in addition to the penalty and liability therein provided, be liable to pay to any person injured by reason of the commission of such offence all damages thereby sustained. R.S., c. 37, s. 407. Am.

Failure to
have weeds
removed
from right
of way.

407. (1) Every railway company which fails or neglects to cause the thistles and all noxious weeds growing on the right of way, and upon land of the company adjoining the railway, to be cut down, or to be rooted out and destroyed, each year, before such thistles or weeds have sufficiently matured to seed, or which fails or neglects to do anything which it is required by law to do for the purpose of cutting down, or rooting out and destroying such thistles and weeds before they have sufficiently matured to seed, shall incur a penalty of two dollars for every day during which such failure or neglect continues.

Penalty.

Municipal
officers may
remove.

(2) The mayor, reeve or chief officer of the municipality, township, county or district in which any portion of the right of way or land of the company lies, upon which the company has failed to cut down, or root out and destroy, such thistles and weeds as by law required, or to do anything which the company is by law required to do for the purpose aforesaid, or any justice of the peace in such municipality, township, county or district, may enter upon the portion of the right

of way and lands aforesaid, and, by himself and his assistants or workmen, cut down, or root out and destroy, such thistles or weeds, and for that purpose cause to be done all things which the company is by law required to do.

(3) Such mayor, reeve, chief officer or justice of the peace Expenses. may recover the expenses and charges so incurred, and the said penalty, with costs, in any court of competent jurisdiction.

(4) Such penalty shall be paid to the proper officer of the Payment. municipality. R. S., c. 37, s. 417.

408. Every person, not connected with the railway or Walking on track. employed by the company, who trespasses upon the yard or track of the company, except where the same is laid across or along a highway, is liable on summary conviction to a penalty not exceeding ten dollars. R. S., c. Penalty. 37, s. 408. Am.

409. Any person who uses any highway crossing at rail Using highway crossings on foot. level for the purpose of passing on foot along such highway across the railway, except during the time when such highway crossing is used for the passage of carriages, carts, horses or cattle along the said highway, is liable on summary Penalty. conviction to a penalty not exceeding ten dollars, if,—

- (a) the company has erected and completed, pursuant to order of the Board, over its railway, at or near or in lieu of such highway crossing, a foot bridge or foot bridges for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges; and, If there is a foot bridge.
- (b) such foot bridge is maintained or such foot bridges are Maintained. maintained by the company in good and sufficient repair. R. S., c. 37, s. 409.

410. (1) If any company refuses or neglects to comply with any order of the Board, made upon the report of the inspecting engineer, under the authority of this Act,— Non-compliance with order of Board.

- (a) directing any repairs, renewals, reconstruction, alteration or new work, material or equipment to be made, done or furnished by the company upon, in addition to, or in substitution for any portion of the railway; or, Works.
- (b) directing that, until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to the satisfaction of the Board, no portion of the railway in respect of which such order is made shall be used, or used otherwise than subject to certain restrictions, conditions and terms by such order imposed; or, Operation.
- (c) condemning and forbidding further use of any rolling Rolling stock. stock therein specified;

the company shall for each such refusal or neglect forfeit to Penalty. His Majesty the sum of two thousand dollars.

Aiding or
abetting.

(2) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall be liable therefor, upon conviction, to a penalty of not less than twenty dollars, and not more than two hundred dollars.

No prosecution
without
leave of
Board.

(3) No prosecution for any penalty under this section shall be instituted without the authority of the Board first obtained. R. S., c. 37, s. 383. *

Non-compliance with
notice of
engineer
forbidding
the running
of trains.

411. If any railway company refuses or neglects to comply with any notice in writing of any inspecting engineer, given under the authority of this Act, and duly served upon the company, forbidding the running of any train over the railway of the company, or any portion thereof, or requiring that trains be run only at such times, under such conditions and with such precautions as specified in such notice, or forbidding the running or using of any rolling stock specified in the notice, such company shall forfeit to His Majesty the sum of two thousand dollars. R. S., s. 37, s. 385.

Penalty.

Notification of Accidents.

Omitting to
give notice
of accident.

412. (1) Every railway company which wilfully or negligently omits to give immediate notice as by this Act required, with full particulars, to the Board 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 to any employee of the company, 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, shall forfeit to His Majesty the sum of two hundred dollars for every day during which the omission to give such notice continues. R. S., c. 37, s. 412.

Penalty.

Conductors,
etc., failing
to notify
Board by
telegraph.

(2) Every conductor or other employee who makes a report to the company of the occurrence of any such accident and fails, wilfully or negligently, to notify the Board of the same by telegraph as soon as possible after such accident, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars. *New.*

Penalty.

Operation and Equipment.

Violation of
by-laws and
rules.

413. 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: Provided that 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. R. S., c. 37, s. 416.

Printed copy
must be
posted.

414. Every railway company required by this Act,—

- (a) to provide and cause to be used on its trains modern and efficient apparatus, appliances and means, or any apparatus, appliances and means in this Act specified, for the providing of communication between the conductor and the engine driver, or for the checking of the speed of any train or the bringing of the same expeditiously to a standstill, or for the secure coupling and connecting of the cars and the engine composing the train; or,
- (b) to equip its box freight cars, for the security of its employees, with outside ladders and hand-grips, or if the Board so requires, with any other improved side attachment required by the Board; or,
- (c) to adopt and use upon its rolling stock draw bars of a height determined by the Board;

Failure of company to properly equip its trains.

Box freight cars.

Draw bars.

which fails to comply with any requirement of this Act in that behalf shall forfeit to His Majesty a sum not exceeding two hundred dollars for every day during which such default continues. R. S., c. 37, s. 386 (1). Penalty.

415. (1) (a) If any railway company upon whose railway there is a telegraph or telephone line in operation wilfully neglects, omits or refuses to 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 in which there is a telegraph or telephone office; or,

Blackboard.

- (b) if, 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, wilfully neglects, omits or refuses to write or cause to be written in 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; or,

Notice of overdue trains.

- (c) if, when there is any further change in the expected time of arrival, such station agent, or person in charge of the station, wilfully neglects, omits or refuses to 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;

Further notice.

such company shall be liable, upon summary conviction, to a penalty not exceeding five dollars for each such wilful neglect, omission or refusal. Penalty.

(2) Such station agent or person in charge at any such station shall likewise be liable to a penalty not exceeding five dollars for every wilful neglect, omission or refusal to Station master also liable.

write or cause to be written upon such blackboard any of such notices as hereinbefore required. R. S., c. 37, s. 395. Am.

Freight car
in rear of
passenger
car.

Penalty.

416. Every officer or employee of any railway company who directs or knowingly permits any freight, merchandise or lumber car to be placed in any passenger train, in the rear of any passenger car in which any passenger is carried, is guilty of an indictable offence. R. S., c. 37, s. 387.

Penalty for
not stopping
at swing
bridges.

417. (1) A company shall be liable to a penalty not exceeding four hundred dollars, if when the railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation, any train of the company upon such railway is not brought to a full stop before coming on or crossing over such bridge, or if such train thereafter proceeds before a proper signal has been given for that purpose.

Board may
permit.

(2) This section shall not apply in the case of any bridge over which, by order of the Board under the authority of this Act, engines and trains are permitted to pass without stopping. R. S., c. 37, s. 389.

Employee of
company
failing to
comply.

Penalty.

418. Every employee of the company who fails to comply with the rules of the company made for carrying into effect the provisions of this Act with regard to the stopping of trains before crossing any such draw or swing bridge, or for preventing such trains from proceeding over any such bridge before a proper signal has been given for that purpose, shall be liable to a penalty not exceeding four hundred dollars, or to six months' imprisonment, or to both. R. S., c. 37, s. 390.

Penalty for
failure.

419. (1) The company shall incur a penalty of eight dollars if, when any train of the company is approaching a highway crossing at rail level,—

To sound
whistle.

(a) the engine whistle is not sounded at least eighty rods before reaching such crossing; and,

And ring
bell.

(b) the bell is not rung continuously from the time of the sounding of the whistle until the engine has crossed the highway.

Damages.

(2) The company shall also be liable for all damage sustained by any person by reason of any failure or neglect to so sound the whistle or ring the bell.

Exception.

(3) Where a municipal by-law of a city or town prohibits such sounding of the whistle or such ringing of the bell in respect of any such crossing or crossings within the limits of such city or town, such by-law if approved by order of the Board shall, to the extent of such prohibition, relieve the company from any penalty or liability under this section. R. S., c. 37, s. 391. Am.

420. Every employee of the company whose duty it is to sound the whistle or ring the bell at any such highway crossing, who neglects to perform such duty as required by this Act, shall for each offence incur a penalty of eight dollars. R.S., c. 37, s. 392.

Employee neglecting to sound bell or whistle.
Penalty.

421. (1) The company shall incur a penalty of one hundred dollars if,—

Penalty for—

- (a) any train or engine of the company passes over any crossing where two main lines of railway, or the main tracks of any branch lines, cross each other at rail level, whether they are owned by different companies or by the same company, before 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; or,
- (b) any train of the company, before it passes over any such crossing, is not brought to a full stop, unless engines and trains are, by order of the Board under the authority of this Act, permitted to pass over such crossing without stopping; or,
- (c) any train of the company passes 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 to pass at greater speed is given by some regulation or order of the Board; or,
- (d) any train of the company passes over any highway crossing at rail level in any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions specially issued by the Railway Committee of the Privy Council or of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board; or,
- (e) any train of the company passes over any highway crossing at rail level at a speed greater than ten miles an hour, if at such crossing, subsequent to the first day of January, one thousand nine hundred and five, a person or vehicle using such crossing, or an animal being ridden or driven over the same, has been struck by a moving train, and bodily injury or death thereby caused to such person or to any other person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; or,
- (f) any train of the company passes at a speed greater than ten miles an hour over any highway crossing at rail

Crossing level railway crossing without signal.

Train not stopping.

Excessive speed in thickly peopled places where track not fenced.

Over highway crossings in thickly peopled places.

Over highway crossing where accident has happened.

Over highway crossing not rail

- protected as ordered. rail level in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with; or,
- Moving reversely without warning. (g) whenever in any city, town or village, any train of the company not headed by an engine is allowed to pass over or along a highway at rail level which is not adequately protected by gates or otherwise, the company does not station on that part of the train, which is then foremost, a person who shall warn persons standing on or crossing or about to cross the track of such railway.
- Electric railway companies. Crossing at rail level without signal from watchman. (2) Every company operating an electric street railway shall incur a penalty of one hundred dollars if,—
- (a) any electric car of such company passes over any crossing, where its line of railway crosses any line of railway subject to the provisions of this Act, at rail level, before a proper signal has been received by the conductor in charge of such electric car, from a competent person or watchman in charge of such crossing, that the way is clear; or,
- Or from conductor if no watchman. (b) if there is no competent person or watchman in charge of such crossing, the conductor, before crossing the same, does not go forward and see that the track to be crossed is clear, before giving the signal to the motor-man that the way is clear and to proceed; or,
- Not stopping. (c) any such electric car, before it passes over such crossing, is not brought to a full stop, unless electric cars are by order of the Board under the authority of this Act permitted to pass over such crossing without stopping. R.S., c. 37, s. 393; 1917, c. 37, s. 13. Am.
- Obstructing highway. **422.** (1) Whenever at any highway crossing at rail level any engine, tender or car, or any part thereof, is wilfully allowed by the company, its officers, agents or employees 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 one time, every officer, agent or employee of the company, who has directly under or subject to his control, management or direction any such engine, tender or car, shall be liable on summary conviction to a penalty not exceeding fifty dollars, and the company shall also be liable to a like penalty: Provided that, if the offence is in the opinion of the court excusable, the prosecution for the penalty may be dismissed and the costs shall be in the discretion of the court. R. S., c. 37, s. 394.
- Penalty. (2) No employee shall be liable to such penalty if he proves that the carrying out or observing of the rules of the company was the cause of such obstruction, and in such case the company and its superintendent or other officer in charge of the operation of the railway, or of the division
- When observing rules of company causes obstruction. thereof

thereof upon which such obstruction occurs, shall each be guilty of the offence mentioned in this section and liable to a penalty not exceeding two hundred dollars. 1917, c. 37, s. 14.

Intoxication of Employees.

423. Every conductor, locomotive engineer, train dispatcher, telegraph operator, station agent, switchman, signal man, bridge tender or any other person who is intoxicated, or under the influence of liquor, while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, is guilty of an offence, and shall be punished by fine, not exceeding four hundred dollars, or imprisonment, not exceeding five years, or both, 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 as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. R. S., c. 37, s. 413.

Intoxication
of railway
employees.

Penalty.

424. 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. R. S., c. 37, s. 414.

Selling liquor
to railway
employees on
duty.

Penalty.

Traffic, Tolls, and Tariffs.

425. (1) If any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting or employed by such company, either alone or with any other company or person,—

Contra-
ventions in
respect of
tolls.

- (a) wilfully does, or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls;
- (b) wilfully omits or fails to do any act, matter, or thing thereby required to be done; or,
- (c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be so done; or,
- (d) contravenes any such order, direction, decision or regulation, or any of the provisions of this Act, in respect of tolls;

such company, director, officer, receiver, trustee, lessee, agent or person shall for each such offence be liable to a penalty of not more than one thousand dollars, and not less than one hundred dollars.

Penalty.

Prosecution
by leave.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. *It. S., c. 37, s. 398.*

Giving free
passes, etc.

426. (1) Any company or any officer or agent thereof, or any person acting for or employed by such company, who, in contravention of the provisions of this Act, directly or indirectly, issues or gives any free ticket or free pass, whether for a specific journey or periodical or annual pass, or who arranges for or permits the transportation of passengers except on payment of the fares properly chargeable for such transportation under the tariffs filed under the provisions of this Act, and at the time in effect, shall for each offence be liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars, and any person other than as provided by this Act who uses any such free ticket or free pass, whether for a specific journey or periodical or annual pass, shall be subject to a like penalty.

Using free
passes.

Prosecution
by leave.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. *New.*

False billing,
etc., by
company.

427. (1) Any company or any officer or agent thereof, or any person acting for or employed by such company, who, by means of false billing, false classification, false report of weight, or by any other device or means, knowingly, wilfully or willingly suffers or permits 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 not exceeding one thousand dollars and not less than one hundred dollars.

Penalty.

Prosecution
by leave.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. *R.S., c. 37, s. 399.*

False billing
etc., by
any person.

428. (1) Any person, or any officer or agent of any incorporated company, who delivers goods for transportation to such company, or for whom as consignor or consignee the company transports goods, who 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, obtains, or knowingly or wilfully attempts to 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 not exceeding one thousand dollars and not less than one hundred dollars.

Penalty.

(2) The Board may make regulations providing that any such persons or company shall, in addition to the regular toll,

toll, be liable to pay to the company a further toll not exceeding fifty per centum of the regular charge. Further toll.

(3) 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 section has been violated. Opening of packages.

(4) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. Prosecution by leave.
R. S., c. 37, s. 400. Am.

429. (1) Any person or company, or any officer or agent of any company,— Unjust discrimination.

(a) who offers, grants or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force; or,

(b) for whom the company or any of its officers or agents, is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or,

(c) who aids or abets the company in any unjust discrimination;

shall for each offence be liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars. Penalty.

(2) No prosecution shall be had or instituted for any such penalty without the leave of the Board first being obtained. Prosecution by leave.
R. S., c. 37, s. 401.

430. (1) If 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 if the company participates in any such tariff, any departure from the tolls in such tariff, when so in force, shall, as against such company, its officers, agents or employees, be an offence under this Act. Departure from tolls in tariff.

(2) No prosecution shall be had or instituted in respect of any such offence without the leave of the Board first being obtained. Prosecution by leave.
R. S., c. 37, s. 402.

431. (1) All goods carried or being carried over any continuous route, from a point in Canada through a foreign country into Canada, operated by two or more companies whether Canadian or foreign, shall, unless such companies have filed with the Board a joint tariff for such continuous route, be subject upon admission into Canada, to Customs duties, as if such goods were of foreign production and coming into Canada for the first time. Neglect to file joint tariff.

(2) Such goods shall be subject to a Customs duty of thirty per centum of the value thereof, if they would not be subject to Customs duties. Goods subject to Customs duties.
VOL. I—38½ 595 30 per cent.

subject to any Customs duty in case they were of foreign production, and coming into Canada for the first time.

Payable by
company.

(3) If any such duty is paid by the consignor or consignee of such goods, the same shall be repaid on demand to the person so paying, by the company or companies owning or operating so much of such continuous line or route as lies within Canada. R.S., c. 37, s. 397.

Sending of
explosives.

432. Every person who,—

(a) sends by any railway any gunpowder, dynamite, nitroglycerine, or any other goods which are of a dangerous or explosive nature, without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice thereof 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

Taking them
on train.

(b) carries or takes upon any train any such goods for the purpose of carriage;

Penalty.

shall be liable on conviction to a penalty not exceeding two thousand dollars or imprisonment for any period not exceeding two years, or both. R.S., c. 37, s. 410. Am.

Carrying
dangerous
goods.

433. Every company which carries any goods of an explosive or dangerous nature except in conformity with the regulations, or an order, made by the Board in that behalf, shall for each such offence incur a penalty of five hundred dollars. R. S., c. 37, s. 411. Am.

Refusing to
check bag-
gage.

434. If any railway company improperly refuses upon demand to affix a check to any parcel of baggage, having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport, or to deliver a duplicate of such check to such passenger, the company shall be liable to such passenger for the sum of eight dollars recoverable in a civil action. R.S., c. 37, s. 388.

Penalty.

Opening
package with
intent to
steal con-
tents.

435. Every person who,—

(a) unlawfully bores, pierces, cuts, opens, enters or otherwise injures any car or any cask, can, bottle, box, case, sack, wrapper, package, container, or rolls of goods in or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any company;

(b) unlawfully breaks the seal upon any car on any railway; or,

Drinking or
wasting
liquor.

(c) unlawfully drinks or wilfully spills or allows to run to waste any liquids;

Penalty.

is liable, on summary conviction, to a penalty not exceeding five hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding one year, or to both. R.S., c. 37, s. 426. Am.

Express Business.

436. Every company which carries or transports, and every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express,—

Carrying by
express with-
out filing
tariff, etc.

(a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act;

or,

(b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or,

(c) in any case where such express toll in any tariff has been disallowed by the Board;

shall be liable to a penalty not exceeding one hundred dollars for each such offence. *Penalty.* R.S., c. 37, s. 403.

Statistics and Returns.

437. (1) Every railway, telegraph, telephone or express company that fails or neglects to prepare and furnish to the Board within such time and in such manner and form, and in accordance with such classifications, and with such particulars and verification, as by or under this Act are required or intended,—

Failure
to furnish
returns to
Minister.

(a) any return of its capital, traffic and working expenditure, or of any other information required as indicated in the forms for the time being required by the Board;

Capital,
traffic and
working ex-
penditure.

or,

(b) any monthly return of its traffic in accordance with the forms for the time being required by the Board, if such monthly return is required by the Minister; or,

Monthly
traffic.

(c) any other information which may be from time to time required by the Board under this Act;

Other infor-
mation.

shall incur a penalty not exceeding ten dollars for every day during which such default continues. *Penalty.*

(2) Every person who knowing the same to be false in any particular, signs any such return, is guilty of an offence punishable on summary conviction. R.S., c. 37, s. 419. *Am.*

Signing
false return.

438. Any railway, telegraph, telephone or express company that fails or neglects to deliver to the Dominion Statistician within the time provided in this Act or when required by the Board, and in the form ordered and directed by the Board, or specified in this Act,—

Returns to
Statistician.

(a) a true and particular return of all accidents and casualties, whether to persons, or to animals or other property, which have occurred on the property of the

Accidents.

	company, or in connection with the operation of the undertaking of the company setting forth the particulars and verified in manner as by this Act required; or,
By-laws, rules and regulations.	(b) if required by the Board, 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 or such other undertaking or business as it is authorized to carry on, within fourteen days after having been so required by the Board; or,
Additional returns of serious accidents.	(c) in the case of a railway company, any other or additional returns of serious accidents occurring in the course of the public traffic on the railway, if thereunto required with a view to public safety by the Board, within fourteen days after the same have been so required;
Penalty.	shall forfeit to His Majesty the sum of one hundred dollars for every day during which the company so neglects to deliver such return. R.S., c. 37, s. 420. Am.
Refusal to make returns required by Board.	439. (1) If the Board at any time, by notice served upon any railway, telegraph, telephone or express company or any officer, servant or agent of such company, requires such company or such officer, servant or agent to furnish to 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,—
Assets and liabilities. Stock.	(a) the assets and liabilities of such company;
	(b) the amount of such company's stock issued and outstanding and the date at which any such stock was so issued;
Consideration therefor.	(c) the amount and nature of the consideration received by such company for such issue, and in case the whole of such consideration was not paid to such company in cash, the nature of the service rendered to or property received by such company for which any stock was issued;
Receipts and expenditures.	(d) the gross earnings or receipts or expenditure by such company during any period specified by the Board, and the purposes for which such expenditure was made;
Bonus and subsidies.	(e) the amount and nature of any bonus, gift or subsidy received by such 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;
Bonds.	(f) the bonds issued at any time by such company and what portion of the same is outstanding, and what portion, if any, has been redeemed;
Consideration therefor.	(g) the amount and nature of the consideration received by such company for the issue of such bonds;

- (h) the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of such company, or any part thereof, and the consideration received by such company for such liabilities, and the circumstances under which the same were created; Liabilities.
- (i) the cost of construction of such company's railway or other works or of any part thereof; Cost of construction.
- (j) the amount and nature of the consideration paid or given by such company for any property acquired by it; Cost of property.
- (k) the particulars of any lease, contract or arrangement entered into between such company and any other company or person; and, Leases and contracts.
- (l) generally, the extent, nature, value and particulars of the property, earnings and business of such company; Generally.
- or,
- (m) any of the matters in this section mentioned; Any matter.
- and if such company, officer, servant or agent wilfully or negligently refuses to make such return when and as thereunto required by the Board, or fails to make any such return to the utmost of its or his knowledge, or means of knowledge, such 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. If wilful or negligent.
Penalty.
- (2) Each such officer, servant or agent so convicted shall, in addition to such penalty, be liable to imprisonment in the common gaol of the county in which such conviction is made, for any period not exceeding twelve months. R.S., c. 37, s. 421. Imprisonment for officer or servant.

440. (1) If any company or any officer, servant or agent of such company wilfully or negligently makes any such return to the Board falsely, or makes any false statement in any such return, such company and every such officer, servant or agent shall be severally liable on conviction to a penalty not exceeding one thousand dollars. Making false returns.
Penalty.

(2) Such officer, servant or agent shall also, on such conviction, be liable to imprisonment, for any period not exceeding twelve months, in the common gaol of the county where such conviction is had. R.S., c. 37, s. 422. Imprisonment.

441. If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes 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 gaol of the county where such conviction is had. R.S., c. 37, s. 423. Publishing information without leave.
Penalty.

Railway Constables Failing in Duty.

- 442.** (1) Every constable appointed under the authority of this Act who is guilty of any neglect or breach of duty in his office of constable shall be liable, on summary conviction, to a penalty not exceeding eighty dollars, or to imprisonment with or without hard labour for a term not exceeding two months.
- (2) Such penalty may, if the constable is in receipt of a salary from the company, be deducted from any such salary due to such offending constable.
- (3) Any offence under this section may be prosecuted and adjudged within any county, city, district, or other local jurisdiction of the province wherein the offence was committed. R.S., c. 37, s. 418. Am.
- Failure of constable in duty.
Penalty.
Deduction from salary of constable.
Venue.

Various Offences.

- 443.** Every person who,—
- (a) wilfully breaks down, injures, weakens or destroys any gate, fence, erection, building or structure of a company; or,
- (b) 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; or,
- (c) enters upon any railway train, with intent fraudulently to be carried upon the said railway without paying fare thereon; or,
- (d) wilfully obstructs or impedes any officer or agent of any company in the execution of his duty upon any train, or railway, or upon any of the premises of the company; or,
- (e) 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 on summary conviction to a penalty not exceeding fifty dollars, or in default of payment to imprisonment with or without hard labour for a term not exceeding two months. R. S., c. 37, s. 425. Am.
- Destroying or injuring structures.
Removing or defacing notices.
Fraudulently entering train.
Obstructing officer of company.
Trespass on property of company.
Penalty

Penalties not otherwise provided.

- 444.** Any company which, or any person who, being a director or officer thereof, or being a receiver, trustee, lessee, agent, or otherwise acting for or employed by such company,
- Company or officer doing or omitting to do anything against this Act.

pany, or being a contractor or other person having to do with the railway or other works of the company, does, causes or permits to be done, any matter, act or thing contrary to the provisions of this or the Special Act, or to the orders, regulations, or directions of the Governor in Council, or of the Minister, or of the Board, made under this Act, or omits to do any matter, act or thing, thereby required to be done on the part of any such company or person, shall, if no other penalty is provided in this or the Special Act for any such act or omission, be liable for each such 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. R.S., c. 37, s. 427 (1). Am.

Penalty.

Continuing Offences.

445. When the violation of or failure to comply with any provision of this Act, or with any regulation, order or direction of the Governor in Council, the Minister, the Board or any inspecting engineer, is made, by this Act or any regulation thereunder, an offence subject to penalty, each day's continuance of such violation, or failure, to comply, shall constitute a new and distinct offence. R.S., c. 37, s. 428.

Each day's violation of this Act a distinct offence.

Company Liable for Acts of its Officers and Agents.

446. (1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Governor in Council, the Minister, the Board, 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, shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of such company.

Company liable for act or omission of officer, etc.

(2) Anything done or omitted to be done by the company which if done or omitted to be done by any director, or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and, upon conviction of any such offence, the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons. R.S., c. 37, s. 429.

Company liable to same penalty as individual offender.

Penalties Constitute a First Charge.

447. If any 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. R.S., c. 37, s. 430.

Penalties a first charge on railway.

Procedure.

If penalty.
\$100 or less.

448. (1) If any penalty, prescribed for any offence under this Act, or under any order, rule or regulation of the Board, 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.

If more than
\$100 and less
than \$500.

(2) If 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.

Board may
require
Attorney
General to
proceed.

(3) Whenever the Board has reasonable ground for belief that any company, or any person or corporation is violating or has violated any of the provisions of this Act, or any order, rule or regulation of the Board, in respect of which violation a penalty may be imposed under this Act, the Board may request the Attorney General of Canada to institute and prosecute proceedings, on behalf of His Majesty, against such company or person or corporation 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 of Canada for the imposition and recovery of such penalty.

Leave
required
when
penalty
exceeds \$100.

(4) 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. R. S., c. 37, s. 431. Am.

RAILWAY CONSTABLES.

Appointment.

Who may
make
appoint-
ments.

449. (1) A superior or county court judge, two justices of the peace, or a stipendiary or police magistrate, in any part of Canada, a clerk of the peace, clerk of the Crown or judge of the sessions of the peace in the province of Quebec, within whose jurisdiction the railway runs, may, on the application of the company or any clerk or agent of the company, appoint any persons who are British subjects to act as constables on and along such railway.

Qualifica-
tions.

Oath to be
taken.

(2) 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:—

Form of
oath.

"I, A.B., having been appointed a constable to act upon and along (*here name the railway*), under the provisions of *The Railway Act*, do swear that I am a British subject; that

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; 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."

(3) 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 on such written appointment by the person administering such oath or declaration. 1917, c. 37, s. 9. Appointment in writing.

Territorial Limits and Powers.

450. (1) 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,— Territorial limits of constable.

- (a) on such railway, and on any of the works belonging thereto;
- (b) 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,
- (c) in all places not more than a quarter of a mile distant from such railway.

(2) Every such constable shall have all such powers, protection 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, as any constable duly appointed has within his constableness. R.S., c. 37, s. 301. Powers of constable.

451. (1) Any such constable may take such persons as are charged with any offence against the provisions of this Act, or any of the Acts or by-laws affecting the railway, punishable by summary conviction, before any justice or justices appointed for any county, city, town, parish, district or other local jurisdiction within which such railway passes. Justices.

(2) Every such justice may deal with all such cases, as though the offence had been committed and the persons taken within the limits of his jurisdiction. R.S., c. 37, s. 302.

Dismissal.

Dismissal
of constables
by judge or
magistrate.

452. (1) A superior or county court judge or a stipendiary or police magistrate, in any part of Canada, or a judge of the sessions of the peace in the province of Quebec, may dismiss any such constable who is acting within his jurisdiction.

By company
or agent.

(2) The company, or any clerk or agent of the company, may also dismiss any such constable who is acting on such railway.

Powers to
cease on
dismissal.

(3) Upon every such dismissal, all powers, protection and privileges, which belonged to any such person by reason of such appointment, shall wholly cease.

Reappoint-
ment.

(4) 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. R.S., c. 37, s. 303. Am.

Records and Evidence Respecting Appointment and Dismissal.

Company
to record
appoint-
ments and
dismissals
with clerk of
peace.

453. The company shall within one week after the date of the appointment or dismissal, as the case may be, of any such constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county, parish, district, or other local jurisdiction in which any such constable is so appointed,—

- (a) such appointment or a certified copy thereof;
- (b) the name and designation of any such constable;
- (c) the date of his appointment;
- (d) the name of the authority making such appointment; and, in the case of dismissal,
- (e) the fact of the dismissal of any such constable;
- (f) the date of any such dismissal; and,
- (g) the name of the authority making such dismissal.

R.S., c. 37, s. 304.

Book to be
kept by
clerk of
peace.

454. 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. R.S., c. 37, s. 305.

Records as
to railway
constables
to be
evidence.

455. The records relating to appointments and dismissals of railway constables, required by this Act to be kept by the respective clerks of the peace for the counties, parishes, districts or other local jurisdictions in which such constables are appointed, shall, without further proof than the mere production of such records, be *prima facie* evidence of the due appointments of such constables, of their jurisdiction to act as such, and of the other facts by this Act required to be so recorded. R.S., c. 37, s. 75.

MISCELLANEOUS.

Sunday Observance.

456. (1) Notwithstanding anything in this Act, or in any other Act, every railway, situate wholly within one province of Canada and declared by the Parliament of Canada to be either wholly 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 the same wholly or partly, in respect of such ownership, control or operation, shall be subject to any Act of the legislature of the province in which any such railway is situate which was in force on the tenth day of August, one thousand nine hundred and four, in so far as such Act prohibits or regulates work, business or labour upon the first day of the week, commonly called Sunday.

Railway to be subject to provincial legislation in force in 1904.

(2) Every such Act, in so far as it purports to prohibit, within the legislative authority of the province, work, business or labour upon the said first day of the week, is hereby ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been duly enacted by the Parliament of Canada.

Such legislation confirmed.

(3) The Governor in Council may, by proclamation, confirm, for the purposes of this section, any Act of the legislature of any province passed after the tenth day of August, one thousand nine hundred and four, in so far as such Act purports to prohibit or regulate, within the legislative authority of the province, work, business or labour upon the said first day of the week; and such Act shall, to the extent aforesaid, be by force of such proclamation, ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been enacted by the Parliament of Canada.

Subsequent legislation may be adopted by proclamation.

(4) Notwithstanding anything in this Act, or in any other Act, every railway, wholly situate within the province, and which has been declared by the Parliament of Canada to be in whole 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 the same wholly or partly, in respect of such ownership, control or operation, shall, from and after such proclamation, be subject to such Act in so far as it has been so confirmed.

Effect of proclamation.

(5) Nothing in this section shall apply to any railway or part of a railway,—

Exceptions.

- (a) which forms part of a continuous route or system operated between two or more provinces, or between any province and a foreign country, so as to interfere with or affect through traffic thereon; or,

- (b) between any of the ports on the Great Lakes and such continuous route or system, so as to interfere with or affect through traffic thereon; or,
 (c) which the Governor in Council by proclamation declares to be exempt from the provisions of this section. R.S., c. 37, s. 9. Am.

Ascertaining Grand Trunk Pacific Railway Earnings.

Ascertain-
ment of
true net
earnings of
G.T.P.R.

1904, c. 24.

Inquiry by
Board.

Government
interests.

1903, c. 71.

Net earn-
ings.

Apportion-
ment.

Appeal.

457. (1) In order to the ascertainment of the true net earnings of,—

- (a) the Eastern Division of the Grand Trunk Pacific railway, for the purposes of the scheduled agreements referred to in the Act passed in the fourth year of the reign of His late Majesty King Edward the Seventh, chapter twenty-four, intituled *An Act to amend The National Transcontinental Railway Act*; and,
 (b) 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 shall, upon the request of the Minister, inquire into, hear and determine any question as to the justness and reasonableness of 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 not as such subject to the legislative jurisdiction of the Parliament of Canada.

(2) In any such determination the Board shall have 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 in amendment thereof, and of the said scheduled agreements.

(3) Although, in any such case, the Grand Trunk Pacific Railway Company has agreed to any apportionment, the net earnings shall 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 Board, the said Company should have received under a just and reasonable apportionment; and such agreement shall be material evidence only and not conclusive.

(4) Either party to any such question may appeal from any such determination to the Supreme Court of Canada. R.S., c. 37, s. 27.

Regulations

Regulations and Orders of the Railway Committee of the Privy Council.

458. (1) All regulations and orders made by the Railway Committee of the Privy Council, under the provisions of *The Railway Act, 1888*, in force on the first day of February, one thousand nine hundred and four, shall continue in force until repealed, rescinded, changed or varied under the provisions of this Act.

Regulations and orders continued.

1888, c. 29.

(2) The Board shall have the like powers to repeal, rescind, change or vary such regulations and orders, as in the case of regulations or of orders which the Board may make under this Act. R.S., c. 37, s. 32.

Board may repeal.

459. (1) Notwithstanding the repeal of *The Railway Act, 1888*, the orders of the Railway Committee of the Privy Council in force on the first day of February, one thousand nine hundred and four, 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 nearly as may be, in the same manner as provided by this Act, in the case of similar orders by the Board.

Existing orders of Railway Committee.

1888, c. 29.

(2) 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 first day of February, one thousand nine hundred and four, in all respects, as nearly as may be, as if such regulation or order of the Railway Committee of the Privy Council were a regulation or order of the Board. R.S., c. 37, s. 33.

Penalties for disobeying.

460. (1) The Governor in Council shall continue to have authority and jurisdiction to sanction, confirm, rescind or vary, or to take any other action upon any report, order or decision of the Railway Committee of the Privy Council made before the first day of February, one thousand nine hundred and four, under *The Railway Act, 1888*, in as full and ample a manner as if the said Act had not been repealed and as if this Act had not been passed.

Powers of Governor in Council continued.

1888, c. 29.

(2) 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 first day of February, one thousand nine hundred and four. R.S., c. 37, s. 34.

Orders and decisions confirmed.

REPEAL.

Repeal.

461. The following Acts are hereby repealed to the extent and with the exceptions hereby set forth:—

Year.	Chapter.	Title.	Extent of Repeal.
<i>The Revised Statutes of Canada, 1906</i>	37	An Act respecting Railways.....	The whole, except section two hundred and forty-seven in so far as that section applies to any person or company having legislative authority from the Parliament of Canada to acquire, construct, operate or maintain works, machinery, plant, lines, poles, tunnels, conduits or other means for receiving, generating, storing, transmitting, distributing or supplying electrical or other power or energy, but not including a railway company or a telegraph company or telephone company.
1907	37	An Act in amendment of the Railway Act...	The whole.
1907	38	An Act to amend the Railway Act.....	The whole, except sections 3, 5, & 6.
1908	18	An Act to amend the Criminal Code and to repeal section 415 of the Railway Act.....	Section 15.
1908	60	An Act to amend chapter 38 of the statutes of 1907 in amendment of the Railway Act....	The whole.
1908	61	An Act to amend the Railway Act with respect to Telegraphs and Telephones and the jurisdiction of the Board of Railway Commissioners.....	The whole.
1908	62	An Act to amend the Railway Act as respects the constitution of the Board of Railway Commissioners.....	The whole.
1909	31	An Act to amend the Railway Act.....	The whole.
1909	32	An Act to amend the Railway Act.....	The whole.
1910	50	An Act to amend the Railway Act.....	The whole.
1910	57	An Act to control the rates and facilities of Ocean Cable Companies, and to amend the Railway Act with respect to Telegraphs and Telephones and the jurisdiction of the Board of Railway Commissioners.....	The whole.
1911	72	An Act to amend the Railway Act.....	The whole.
1913	44	An Act to amend the Railway Act.....	The whole.
1914	50	An Act to amend the Railway Act.....	The whole.
1916	2	An Act to amend the Railway Act.....	The whole.
1917	37	An Act concerning the payment of salaries or wages of employees of railway companies and to otherwise amend the Railway Act.	The whole.

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