

Company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing, and convenient operation of the said Railway, and shall also have the right to take, remove, and use for the necessary construction and repair of said Railway and appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such surveys, examinations or other arrangements may be made, or through which the said Railway may be explored, laid out, worked, made and constructed, or on which materials and other things shall be laid for the purposes of the said Railway; provided always, that the said land so taken shall not exceed six rods in width, except where greater width is necessary for the purpose of excavation or embankment; and where the said Railway shall pass through any wood lands, or forests, the said Company shall have the right to fell or remove any trees standing thereon, to the distance of six rods from either side of the said Railway, which by their liabilities to be blown down, or from their natural falling, might obstruct or impair said Railway; provided always, that in all cases the said Company shall pay for such lands or estate so taken or used, (in case the owner thereof demand it,) such price as the said Company and the owner or respective owners thereof may mutually agree upon; and in case the said parties should not agree, then it shall be lawful for the said Company to apply to three or more of the Commissioners to be appointed in manner hereinafter provided, who shall examine the site of the said Railway, and in case the said Railway shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such Commissioners or a majority of them; provided always, that not less than three Commissioners shall concur in such assessment; provided nevertheless, that the said Commissioners in assessing the said damages are authorized and empowered, and shall take into consideration the indirect as well as direct advantages which may accrue to the owner or respective owners, as such owner or respective owners, by the construction of such Railway, as by the enhancement in value of the land by the passage of the Railway, in regard to the increased facilities of access to the different stations and termini of the said Railway, in diminution of the damages; and in all cases where the Commissioners shall assess damages to be paid to the owner or owners of any land over which the said Railway may be laid out, the Commissioners so assessing shall lay the said assessment before the next annual meeting of the said Company under the authority of this Act, who are hereby required to pay the amount set forth in the said assessments into the hands of the persons for whom such damages may have been assessed, within twenty one days next after such annual meeting of the said Company, together with the reasonable costs and charges of assessing such damages; and in default of such payment, it shall and may be lawful for the said Commissioners or either of them, (in case of the absence or death of the others,) at the instance of the said party or parties to whom such damages are payable, by warrant under the hands and seals of the said Commissioners, or one of them, (in case aforesaid,) to levy the same with costs, by distress and sale of the goods and chattels of the said Company; provided also, that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within this Province, or to authorize the said Company to enter upon or take possession of any such lands without the previous permission of the Executive Government of the Province.

Take lands,

Materials.

Extent limited.

Company to pay for lands taken.

In case of disagreement, damages to be assessed by Commissioners.

Assessment to be laid before the next meeting of the Company, and amount paid.

On default, may be levied with costs.

XXVIII. And be it enacted, That when and so soon as the same may be deemed necessary the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Executive Council, shall appoint not less than five persons to be Commissioners for ascertaining and settling all disputes or difficulties with reference to the payment for land or materials taken or used by said Company under the twenty seventh, twenty ninth and thirtieth sections of this Act, or damages occasioned thereby; which said Commissioners shall be appointed during pleasure; and in case of vacancy by refusal to act, resignation, death, removal, incapacity, or absence from the Province, appointments shall be forthwith made as aforesaid for filling such vacancies; and said Commissioners shall be sworn to the faithful and impartial discharge of their duties before any Clerk of the Peace for any County in this Province, and the Clerk so administering such oath shall forthwith transmit a certificate of such oath having been duly administered to the office of the Secretary of the Province.

Executive Government to appoint Commissioners to settle all disputes as to lands and materials taken, &c., under sec. 27, 29, and 30.