

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1856. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1856.

19 Victoria – Chapter 17

An Act relating to Lands required for Railway purposes. Passed 12th April 1856.

Section.	Section.
1. Authority to take possession of lands for the track.	8. Claims to be in writing.
2. Authority to enter on lands to deposit and take materials, &c.	9. Discharges and valuations of lands of corporate bodies, &c.
3. Authority to construct temporary or permanent works.	10. Benefits to be considered in appraising.
4. Course of rivers or other waters may be altered.	11. Appraisements to be by a majority.
5. Conduits or drains may be formed.	12. Appraisements, transmission and payment of.
6. Appraisers to be appointed.	13. Remuneration of Appraisers.
7. Proceedings before Appraisers.	14. Fences to be kept along the line.
	15. Consent in case of Naval and Military lands.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The Commissioners for the management and construction of Railways, appointed under the authority of an Act passed during the present Session of the Legislature to authorize the construction of Railways in this Province, or any of them, by themselves and by their servants, are authorized to enter upon and take possession of any lands required for the track of the Railways, or for Stations; and they shall lay off the land by metes and bounds and record a description thereof in the Registry of Deeds for the County in which the lands are situate, and the same shall operate as a dedication to the public of such lands; the lands so taken shall not be more than six rods in breadth for the track, exclusive of slopes of excavation and of embankments, except when it may be deemed advisable to alter the line or level of any public or private carriage road, or divert any stream or river, in which case it shall be competent for the Commissioners to take such further quantity as may be found necessary for such purposes; also at each Station a sufficient extent for Depot and other Station purposes; but for any Depot or Station the quantity so appropriated shall not exceed five acres.

2. The Commissioners, by themselves and by their servants, and the Contractors with authority from the Commissioners, may enter with workmen, carts, carriages, teams, horses and oxen upon any lands, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood, or other materials found on the line of Railway, or works connected therewith, and for the purpose of surveying and locating the said Railway, and for the purpose of digging up, quarrying, and carrying away earth, stones, gravel, or other material, and cutting down and carrying away trees, bushes, logs, poles, and brushwood therefrom, for the making of such Railway, or for the purpose of cutting down trees in the wilderness lands which may be liable to fall on said Railways, and are

standing within six rods thereof, with right of ingress, egress, and regress into and upon the adjoining land for the purpose of repairing and preventing such accident, and to do such work as may be necessary, but that such works shall be as little injurious to the adjoining land as the nature of the operations will admit of, and shall be executed with all possible dispatch.

3. The Commissioners may make or construct in, upon, across, under and over any lands, streets, hills, vallies, roads, railroads, or tramroads, canals, rivers, brooks, streams, lakes, or other waters, such temporary or permanent inclined planes, embankments, cuttings, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, or other works as they may deem necessary for Railway purposes.
4. The Commissioners may alter the course of any river, canal, brook, stream, or water course, and divert or alter as well temporarily as permanently the course of any such rivers, streams of water, roads, streets, or ways, or raise or sink the level of the same, in order to carry them over or under, on the bed of, or by the side of the Railway, as they may think proper.
5. The Commissioners shall have power to make conduits or drains into, through, over or under any lands adjoining the Railway, for the purpose of carrying water from or to the Railway.
6. The Governor in Council may appoint not less than three persons to be Appraisers, for ascertaining and settling all disputes and difficulties relative to the payment for land and materials, or any claim for damages occasioned by the construction of any Railway constructed under the authority of the Board of Railway Commissioners, who shall be sworn to the faithful and impartial discharge of their duties before the Clerk of the Peace of any County in the Province, who is hereby authorized to administer the said oath, and forthwith transmit a certificate thereof to the Provincial Secretary.
7. Whenever a proprietor claims payment for lands, or damages done thereto by the Commissioners or any person acting under their authority, under the provisions of the first five Sections of this Act, and he cannot agree with the Commissioners upon the price to be paid therefor, such proprietor or Commissioners may apply to the Appraisers, who shall, after ten days notice in writing to the Commissioners or their Chairman, and such proprietor, his representatives or assigns, examine the site of the said Railway and lands entered upon, and assess the damages.
8. Every claim for damages shall be made in writing, and within six months from the entry on the said lands.
9. If any land or property be taken for Railway purposes, the property of any body corporate, guardians, committees, executors, administrators, or other trustees whatsoever, held for or on behalf of those whom they represent, whether corporations, infants, idiots, lunatics, feme covert, persons deceased or beyond seas, or other person or persons whomsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements, and sales of the said corporations, guardians, committees, executors, administrators, or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their

respective receipts shall be good and valid releases and dis-charges therefor; and they shall agree and settle with the said Commissioners for damages, if any, by reason of taking such land or property; in case of disagreement, the damages to be settled by the Appraisers as is prescribed in the seventh Section of this Act.

10. The Appraisers, in assessing the damages, shall take into consideration the benefit likely to accrue to the respective proprietors from the Railway running through or near their land, and the damages shall be reduced or extinguished accordingly.

11. The appraisalment shall be agreed to and signed by a majority of the Appraisers who may make the appraisalment; such majority in no case to be less than two.

12. The Appraisers shall transmit the appraisalment to the Governor in Council, who shall direct payment to be immediately made to the person entitled thereto, out of any moneys provided for the construction of Railways.

13. The Governor in Council shall determine the amount of remuneration to be paid to the Appraisers for their services.

14. The Commissioners shall erect and maintain sufficient fences along the line of Railway, where the public security may require the same, or where the safety of the proprietors through whose improved and cleared lands the Road may pass, require such protection from the working of such Railways.

15. Nothing in this Act contained shall authorize the Commissioners or contractors to enter upon any lands reserved for Naval or Military purposes, without the consent of Her Majesty.