

UNEDITED

The Saskatchewan Railway Act

being

Chapter 127 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 127

An Act respecting Railways

SHORT TITLE

Short title

- 1 This Act may be cited as *The Saskatchewan Railway Act*.

R.S.S. 1953, c.127, s.1.

INTERPRETATION

Interpretation

- 2 In this Act and in the special Act incorporating any railway company to which this Act applies:

“goods”

1. “**goods**” includes personal property of every description that may be conveyed upon the railway or upon steam or other vessels connected therewith;

“highway”

2. “**highway**” means a public road, street, lane or other public way or communication;

“inspecting engineer”

3. “**inspecting engineer**” means an engineer who is directed by the Lieutenant Governor in Council, or by the minister, to examine a railway, and includes two or more engineers when two or more are so directed;

“judge”, “judge in chambers”

4. “**judge in chambers**” and “**judge**” respectively mean a judge of the Court of Queen’s Bench sitting in chambers;

“justice”

5. “**justice**” means a justice of the peace in and for Saskatchewan residing near the place where the matter requiring the cognizance of a justice arises, and who is not interested in the matter;

“land” or “lands”

6. “**land**” or “**lands**” includes all real estate, messuages, lands, tenements and hereditaments of any tenure;

“lawful fences”

7. “**lawful fences**” means substantial fences not less than four feet high and consisting of not less than four strands of ordinary fence wire, the lower wire being not more than twelve inches above the ground; the posts in such fences to be placed not more than twenty-seven feet apart;

“lease”

8. “**lease**” includes an agreement for a lease;

“minister”

9. “**minister**” means the Minister of Highways and Transportation;

“owner”

10. **“owner”**, when under the provisions of this Act or the special Act notice is required to be given to the owner of lands or when an act is authorized or required to be done with the consent of such owner, means any corporation or person who, under the provisions of this Act or the special Act or any Act incorporated therewith, would be enabled to sell and convey lands to the company;

“prescribed”

11. **“prescribed”** means prescribed or provided for in the special Act;

“rolling stock”

12. **“rolling stock”** includes any locomotive, engine, motor car, tender, snow plow, flanger and every description of car or railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;

“shareholder”

13. **“shareholder”** means a subscriber to or holder of stock in the undertaking, and includes the personal representatives of the shareholder;

“special Act”

14. **“special Act”** means an Act under which the company has authority to construct or operate a railway or which is enacted with special reference to the railway;

“the company”

15. **“the company”** means the company or person or municipality authorized by the special Act to construct the railway, and includes all persons or corporations leasing or operating a railway;

“the lands”

16. **“the lands”** means the lands which by the special Act are authorized to be taken or used for the purposes thereof;

“the railway”

17. **“the railway”** means the railway or street railway which by the special Act the company is authorized to construct or operate, and includes all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property, real or personal, and works connected therewith, and also any railway bridge, tunnel or other structure which the company is authorized to construct;

“the undertaking”

18. **“the undertaking”** means the railway and works, of whatever description, by the special Act authorized to be executed;

“toll”

19. **“toll”** means any toll, rate, fare, charge or other payment made under this Act or the special Act for any passenger, animal, carriage, goods, merchandise, articles, matters or things conveyed on the railway, or for the collection, loading or unloading or delivery of goods, or for the warehousing or other services incidental to the business of a carrier;

“traffic”

20. **“traffic”** includes passengers, goods and rolling stock;

“train”

21. **“train”** includes an engine, locomotive and other rolling stock;

“working expenses”

22. **“working expenses”** means all expenses for maintenance of the railway and includes tolls, rents or annual sums paid in respect of property leased to or held by the company apart from the rent of any leased line or in respect of the hire of rolling stock let to the company; also rents, charges or interest on the purchase money of lands belonging to the company purchased but not paid for or not fully paid for; and also expenses incidental to the working of the railway and the traffic thereon, including necessary repairs and supplies of rolling stock while on the lines of another company; also rents, taxes, insurance and expenditure for accidents or losses; also salaries and wages of persons employed in and about the working of the railway and traffic and officers’ and managers’ expenses including directors’ fees, agency, legal and other like expenses; also costs and expenses of and incidental to the compliance by the company with any order of the minister under this Act, and generally such charges, not above otherwise specified, as in cases of English railway companies are usually carried to debit of revenue as distinct from capital account.

R.S.S. 1940, c.116, s.2; R.S.S. 1953, c.127, s.2.

APPLICATION

To all railways

3 The provisions of this Act apply to all railways authorized to be constructed by any special Act of the province, and the said provisions shall, in so far as they are applicable to the undertaking and unless they are expressly varied or excepted therefrom by the special Act, be incorporated with the special Act, form part thereof and be construed therewith as forming one Act:

Provided that sections 168, 172, 178, 179, 180, 184 and 228 do not apply to street railways.

R.S.S. 1940, c.116, s.3; R.S.S. 1953, c.127, s.3.

Exceptions

4 Any section of this Act may, by any special Act, be excepted from incorporation therewith or may thereby be extended, limited or qualified, and it shall be sufficient for the purposes of this section to refer to any section of this Act by its number merely; and, unless otherwise expressly provided in this Act, where the provisions of this Act and of any special Act of the province relate to the same subject matter, the provisions of the special Act shall be taken to over-ride the provisions of this Act in so far as is necessary to give effect to such special Act.

R.S.S. 1940, c.116, s.4; R.S.S. 1953, c.127, s.4.

INCORPORATION

Incorporation

5 Every company incorporated under any special Act shall be a body corporate under the name declared in the special Act, and shall be invested 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 are incident to such corporations or are expressed or included in *The Interpretation Act*.

R.S.S. 1940, c.116, s.5; R.S.S. 1953, c.127, s.5.

ORGANIZATION OF THE COMPANY OFFICES

Head office

6 The head office of the company shall be within the province in the place designated in the special Act, but the company may by bylaw from time to time change the location of its head office to any other place in the province, notice thereof to be given the minister, who shall keep a register for the purpose; the board of directors may establish such other offices as they deem advisable.

R.S.S. 1940, c.116, s.6; R.S.S. 1953, c.127, s.6.

PROVISIONAL DIRECTORS AND THEIR POWERS

Provisional directors

7 The persons mentioned by name as such in the special Act are hereby constituted provisional directors of the company, and of such provisional directors a majority shall be a quorum, and the said provisional directors shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions of stock for the undertaking and receive payments on account of stock subscribed and cause plans and surveys to be made, and deposit in any chartered bank in Saskatchewan money received by them on account of stock subscribed, which moneys shall not be withdrawn, except for the purposes of the undertaking or upon the dissolution of the company, for any cause whatever.

R.S.S. 1940, c.116, s.7; R.S.S. 1953, c.127, s.7.

Allotment of stock

8 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.S. 1940, c.116, s.8; R.S.S. 1953, c.127, s.8.

CAPITAL

Application of capital

9 The capital stock of the company, the amount of which shall be stated in the special Act, shall be divided into shares of \$100 each; and the money so raised shall be applied in the first place to the payment of all fees, expenses and disbursements for procuring the passing of the special Act and for making the surveys, plans and estimates of the works authorized by the special Act; and the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway and other purposes of the undertaking.

R.S.S. 1940, c.116, s.9; R.S.S. 1953, c.127, s.9.

First meeting of shareholders

10 When twenty-five per cent of the capital has been subscribed and ten per cent of the amount subscribed has been paid into a chartered bank having an office in the province to the credit of the company, the provisional directors shall call a meeting of the shareholders of the company at the place where the head office is situated, at such time as they think proper, giving such notice thereof as is hereinafter prescribed, at which meeting the shareholders who have paid at least ten per cent on the amount of stock subscribed for by them shall, from the shareholders possessing the qualifications hereinafter mentioned, elect the number of directors prescribed by the special Act.

R.S.S. 1940, c.116, s.10; R.S.S. 1953, c.127, s.10.

Increase of capital stock

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

R.S.S. 1940, c.116, s.11; R.S.S. 1953, c.127, s.11.

MEETINGS OF SHAREHOLDERS

Annual meetings

12 A general meeting of the shareholders for the election of directors and the transaction of other business connected with or incidental 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, and other general meetings to be called “**special meetings**” may be called by the directors, or by the shareholders representing at least one-fourth of the 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.S. 1940, c.116, s.12; R.S.S. 1953, c.127, s.12.

Where held

13 All general meetings, whether annual or special, shall be held at the head office of the company.

R.S.S. 1940, c.116, s.13; R.S.S. 1953, c.127, s.13.

Notice of meeting

14 At least four weeks' public notice of any meeting of the shareholders of the company shall be given by advertisement published in *The Saskatchewan Gazette*, and in at least one newspaper published in the place where the head office is situated, in which notice shall be specified the place, the day and the hour of meeting; all such notices shall be published weekly in such newspaper, and a copy of the *Gazette* containing the notice shall on production thereof be sufficient evidence of the notice having been given.

R.S.S. 1940, c.116, s.14; R.S.S. 1953, c.127, s.14.

Business transacted

15 Any business connected with or incidental to the 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; but no special meeting shall enter upon any business not set forth in the notice upon which it is convened.

R.S.S. 1940, c.116, s.15; R.S.S. 1953, c.127, s.15.

Votes on shares

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

R.S.S. 1940, c.116, s.16; R.S.S. 1953, c.127, s.16.

Voting by proxy

17(1) Shareholders, whether resident in this province or elsewhere, may vote by proxy if they see fit, provided such proxy produces from his constituent an appointment in writing in the words or to the effect following:

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

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

(2) Votes by proxy shall be as valid as if the constituents had voted in person.

R.S.S. 1940, c.116, s.17; R.S.S. 1953, c.127, s.17.

Majority vote

18 Every matter or thing proposed or considered at any meeting of the shareholders shall be determined by a majority of votes and proxies then present and given; and all decisions and acts of such majority shall bind the company and be deemed the decisions and acts of the company.

R.S.S. 1940, c.116, s.18; R.S.S. 1953, c.127, s.18.

Certified copy of minutes evidence

19 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 books kept by the secretary of the company and by him certified to be true copies, shall, when sealed with the company's seal, without proof of the signature of such secretary, be evidence of such proceedings and resolutions in any court.

R.S.S. 1940, c.116, s.19; R.S.S. 1953, c.127, s.19.

PRESIDENT AND DIRECTORS**Election of board of directors**

20(1) A board of directors of the company to manage its affairs, the number whereof shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting; and, if such election is not held on the day appointed therefor, the directors shall cause such election to be held at a special meeting duly called for that purpose with as short a delay as possible after the day so appointed.

(2) Of the directors of the company two at least shall be and, while holding office as such, shall continue to be residents of the province.

R.S.S. 1940, c.116, s.20; R.S.S. 1953, c.127, s.20.

Voters

21 On the day so notified no person shall be admitted to vote unless he would have been entitled to vote had the election been held on the day when it ought to have been held.

R.S.S. 1940, c.116, s.21; R.S.S. 1953, c.127, s.21.

Vacancies, how filled

22 Vacancies in the board of directors shall be filled in the manner prescribed in the bylaws.

R.S.S. 1940, c.116, s.22; R.S.S. 1953, c.127, s.22.

Qualifications for directors

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

R.S.S. 1940, c.116, s.23; R.S.S. 1953, c.127, s.23.

Term of office

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

R.S.S. 1940, c.116, s.24; R.S.S. 1953, c.127, s.24.

Appointment in case of vacancy

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

R.S.S. 1940, c.116, s.25; R.S.S. 1953, c.127, s.25.

Election of president and vice-president

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

R.S.S. 1940, c.116, s.26; R.S.S. 1953, c.127, s.26.

Quorum

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

R.S.S. 1940, c.116, s.27; R.S.S. 1953, c.127, s.27.

Majority of quorum

28 The act of a majority of a quorum of the directors present at any meeting regularly held shall be deemed the act of the directors.

R.S.S. 1940, c.116, s.28; R.S.S. 1953, c.127, s.28.

Directors have one vote

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

R.S.S. 1940, c.116, s.29; R.S.S. 1953, c.127, s.29.

Directors subject to control of shareholders

30 The directors shall be subject to the examination and control of the shareholders at their annual meetings and shall be subject to all bylaws of the company and to the orders and directions, not contrary to law, made at the annual or at any special meetings.

R.S.S. 1940, c.116, s.30; R.S.S. 1953, c.127, s.30.

Disqualifications

31 No person who holds any office, place or employment in, or is interested in a contract with the company, or is surety for a contractor with the company, shall be qualified to be a director, nor shall a director enter into or be personally interested, directly or indirectly, in any contract with the company other than a contract relating to the purchase of land required by the railway, or be or become a partner or surety for any such contractor.

R.S.S. 1940, c.116, s.31; R.S.S. 1953, c.127, s.31.

Bylaws

32 The directors may make bylaws or pass resolutions for the following purposes:

- (a) the management and disposal of the stock, property, business and affairs of the company, such bylaws to be not inconsistent with the laws of the province;
- (b) the appointment of all officers, servants and artificers, and prescribing their respective duties and the compensation to be made therefor.

R.S.S. 1940, c.116, s.32; R.S.S. 1953, c.127, s.32.

Appointment of officers

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

R.S.S. 1940, c.116, s.33; R.S.S. 1953, c.127, s.33.

Absence or illness

34 In case of the absence or illness of the president, the vice-president shall have all the rights and powers of the president and may sign all debentures and other instruments and perform all acts which, by the regulations and bylaws of the company or by the Act incorporating the company, are required to be signed, performed and done by the president.

R.S.S. 1940, c.116, s.34; R.S.S. 1953, c.127, s.34.

Secretary enters among proceedings such absence or illness

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

R.S.S. 1940, c.116, s.35; R.S.S. 1953, c.127, s.35.

Directors make account of money collected

36 The directors shall cause to be kept, and annually on the thirty-first day of December shall cause to be made up and balanced, a true, exact and particular account of all the money 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.S. 1940, c.116, s.36; R.S.S. 1953, c.127, s.36.

CALLS

Power of directors to make calls

37 The directors may from time to time as they deem necessary make calls upon the shareholders in respect of the amount of capital respectively subscribed or owing by them; and thirty days' notice shall be given of each call. No call shall exceed the prescribed amount determined in the special Act or be made at a less interval than two months from the previous call, nor shall a greater amount be called in any one year than the amount prescribed in the special Act; but nothing contained herein shall prevent the directors from making more than one call by one resolution of the board:

Provided that the intervals between such calls, the notices of each call and the other provisions of this Act and of the special Act in respect of calls are duly observed and given.

R.S.S. 1940, c.116, s.37; R.S.S. 1953, c.127, s.37.

Publication of notice of call

38 All notices of calls upon the shareholders shall be published as provided by section 14, and a copy of the *Gazette* as therein mentioned shall, on production thereof, be sufficient evidence in all courts of such notice having been given.

R.S.S. 1940, c.116, s.38; R.S.S. 1953, c.127, s.38.

Liability of shareholders

39 Every shareholder shall be liable to pay the amount of the call so made, in respect of the share held by him, to the persons and at the times and places from time to time appointed by the directors.

R.S.S. 1940, c.116, s.39; R.S.S. 1953, c.127, s.39.

Interest

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

R.S.S. 1940, c.116, s.40; R.S.S. 1953, c.127, s.40.

Action for recovery

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

R.S.S. 1940, c.116, s.41; R.S.S. 1953, c.127, s.41.

Pleadings in action

42 In any action or suit to recover money due upon a 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 arrears amount in respect of one call or more upon one share or more, stating the number and amount of each such call, whereby an action has accrued to the company.

R.S.S. 1940, c.116, s.42; R.S.S. 1953, c.127, s.42.

DIVIDENDS**Declaration of dividend**

43 The directors may, with the sanction of the shareholders of the company at a general meeting, declare a dividend to be paid out of the net profits of the undertaking.

R.S.S. 1940, c.116, s.43; R.S.S. 1953, c.127, s.43.

Rate per share

44 Such dividend shall be at the rate of so much per share upon the several shares held by the shareholders in the stock of the company.

R.S.S. 1940, c.116, s.44; R.S.S. 1953, c.127, s.44.

Capital not to be reduced

45 No dividend shall be declared or paid whereby the capital of the company is in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of a call in respect thereof until such call has been paid, but the directors may in their discretion, until the railway is completed and opened to the public, pay interest at the legal rate on all sums actually paid in cash in respect of the shares from the respective days on which the same have been paid; and such interest shall accrue and be paid at such times and places as the directors appoint for that purpose.

R.S.S. 1940, c.116, s.45; R.S.S. 1953, c.127, s.45.

Calls in arrears

46(1) No interest shall accrue to a shareholder in respect of a share upon which a call is in arrears or in respect of any other share held by the shareholder while such call remains unpaid.

(2) The directors may deduct from any dividend payable to a shareholder sums due from him to the company on account of any call or otherwise.

R.S.S. 1940, c.116, s.46; R.S.S. 1953, c.127, s.46.

SHARES

Power to transfer shares

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

R.S.S. 1940, c.116, s.47; R.S.S. 1953, c.127, s.47.

Form of transfer

48(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:

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

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

(2) In the case of fully paid shares the transfer may be in the form prescribed by the bylaws of the company.

R.S.S. 1940, c.116, s.48; R.S.S. 1953, c.127, s.48.

Stock personal property

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

R.S.S. 1940, c.116, s.49; R.S.S. 1953, c.127, s.49.

Transmission of stock other than by transfer

50 If a share in the capital stock of the company is transmitted by death, bankruptcy, last will, *donatio mortis causa*, the intestacy of a shareholder or any lawful means other than the transfer hereinbefore mentioned, the person to whom the share is transmitted shall deposit in the office of the company a statement in writing signed by him which shall declare the manner of such transmission together with a duly certified copy or probate of such will, or sufficient extracts therefrom and such other documents and proofs as are necessary; and without such proof the person to whom the share is so transmitted shall not be entitled to receive any part of the profits of the company or to vote in respect of any such share as the holder thereof.

R.S.S. 1940, c.116, s.50; R.S.S. 1953, c.127, s.50.

Company not bound to see to execution of trusts

51 The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any share or security issued by it is subject, and whether or not the company has had notice of the trust. It may treat the registered holder as the absolute owner of such share or security, and shall not be bound to recognize a claim on the part of any other person with respect thereto or to the dividend or interest payable thereon:

Provided that nothing contained herein prevents a person equitably interested in any such share or security from applying to the court to protect his rights.

R.S.S. 1940, c.116, s.51; R.S.S. 1953, c.127, s.51.

Certified stock *prima facie* evidence of title

52 The certificate of proprietorship of a share shall be admitted in all courts as *prima facie* evidence of the title of the shareholder, his executors, administrators or assigns or successors and assigns, as the case may be, to the share therein specified.

R.S.S. 1940, c.116, s.52; R.S.S. 1953, c.127, s.52.

Sale without certificate

53 The want of such certificate shall not prevent the holder of a share from disposing thereof.

R.S.S. 1940, c.116, s.53; R.S.S. 1953, c.127, s.53.

Forfeiture of stock for non-payment of calls

54 Every shareholder who makes default for the space of two months in the payment of a call payable by him, together with the interest, if any, accrued thereon after the time appointed for the payment thereof, shall forfeit to the company his share in the company and all the profit and benefit thereof.

R.S.S. 1940, c.116, s.54; R.S.S. 1953, c.127, s.54.

Method of forfeiture

55 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 the forfeiture has been incurred.

R.S.S. 1940, c.116, s.55; R.S.S. 1953, c.127, s.55.

Effect of forfeiture on liability

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

R.S.S. 1940, c.116, s.56; R.S.S. 1953, c.127, s.56.

Sale of forfeited shares

57 The directors may sell either by public auction or private sale shares so declared to be forfeited, upon authority therefor having first been given by the shareholders either at a general meeting at which the shares were declared to be forfeited or at a subsequent general meeting, and any shareholder may purchase any forfeited share so sold.

R.S.S. 1940, c.116, s.57; R.S.S. 1953, c.127, s.57.

Certificate of treasurer evidence of forfeiture and of title in purchaser

58(1) A certificate of the treasurer of the company that forfeiture of the shares was declared shall be sufficient evidence of the fact and of their purchase by the purchaser; and such certificate, with the receipt of the treasurer for the price of the shares, shall constitute a good title thereto.

(2) The certificate shall be registered by the treasurer 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. The purchaser shall thereupon be deemed the holder of the shares and shall not be bound to see to the application of the purchase money, and his title to the shares shall not be affected by any irregularities in the proceedings in reference to such sale.

R.S.S. 1940, c.116, s.58; R.S.S. 1953, c.127, s.58.

Interest on sum paid in advance

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

R.S.S. 1940, c.116, s.59; R.S.S. 1953, c.127, s.59.

Limit of shareholder's liability to creditors

60 Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him and until the whole amount of his stock has been paid up, but no shareholder shall be liable to an action in respect of his liability until an execution at the suit of a creditor against the company has been returned unsatisfied in whole or in part.

R.S.S. 1940, c.116, s.60; R.S.S. 1953, c.127, s.60.

Aliens have equal rights as shareholders

61(1) All shareholders in the company, whether British subjects or aliens or residents in Canada or elsewhere, shall have equal rights to hold stock in the company and to vote on the same and shall be eligible to hold office in the company.

(2) Nothing contained in this section shall be construed to do away with the requirements of subsection (2) of section 20.

R.S.S. 1940, c.116, s.61; R.S.S. 1953, c.127, s.61.

Record of shareholders

62 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.S. 1940, c.116, s.62; R.S.S. 1953, c.127, s.62.

BONDS, MORTGAGES AND BORROWING POWERS**Issue and disposal of bonds, etc.**

63(1) The directors of the company, under the authority of the shareholders given at any special meeting called for the purpose in the manner provided by section 14, or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting whether annual or special shareholders representing at least two-thirds in value of the subscribed stock of the company, who have paid all calls due thereon, are present in person or by proxy, may, subject to the provisions of this Act and the special Act, issue bonds, debentures, perpetual or terminal debenture stock or other securities signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved. Such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such rate of interest not exceeding five per cent per annum as the directors think proper.

(2) The directors may issue and sell or pledge all or any of the said securities at the best price and upon the best terms and conditions which at the time they are able to obtain, for the purpose of raising money for prosecuting the undertaking.

(3) No such security shall be for a less sum than \$100.

(4) The power of issuing securities conferred upon the company hereby, or under the special Act, shall not be construed as being exhausted by such issue; and such power may be exercised from time to time; but the limit to the amount of securities fixed in the special Act shall not be exceeded.

R.S.S. 1940, c.116, s.63; R.S.S. 1953, c.127, s.63.

Mortgage to secure bonds

64(1) The company may secure such securities by a mortgage deed creating such mortgages, charges or encumbrances upon the whole of the property, assets, rents and revenues of the company present or future, or both, as are described therein; but such property, assets, rents and revenues shall be subject in the first instance to the payment of any penalty then or thereafter imposed upon the company for noncompliance 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 the said mortgage the company may grant to the holders of such securities or the trustees named in the mortgage all the powers, rights and remedies granted by this Act in respect of the securities and all other powers, rights and remedies not inconsistent with this Act, or may restrict the holders in the exercise of any power, privilege or remedy granted by this Act; and all the powers, rights and remedies provided for in the mortgage shall be valid and binding and available to the holders in manner and form as therein provided.

Property excepted from operation of mortgage

(3) The company may except from the operation of the mortgage deed any assets, property, rents or revenues of the company, and may declare and provide that the mortgage shall apply to and affect only certain sections or portions of the railway or property of the company; but, where any such exception is made, the company shall in the mortgage deed expressly specify and describe, with sufficient particularity to identify the same, the assets, property, rents or revenues of the company or the sections or portions of the railway not intended to be included therein or conveyed thereby.

Mortgage deposited with Provincial Secretary

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

Evidence

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

R.S.S. 1940, c.116, s.64; R.S.S. 1953, c.127, s.64.

Bonds are first charges

65(1) The securities hereby authorized to be issued shall be a first preferential claim and charge upon the company and the franchise, undertaking, tolls and incomes, rents and revenues, real and personal property thereof at any time acquired, except as provided for in section 64.

Holder of bonds a mortgagee

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

R.S.S. 1940, c.116, s.65; R.S.S. 1953, c.127, s.65.

Rights of bondholders on default by company

66 If the company makes default in paying the principal of or interest on any of such securities at the time when the principal or interest becomes due and payable, then at the next annual general meeting of the company and at all subsequent meetings the holders of such securities so in default shall in respect thereof have and possess the same rights, privileges and qualifications for being elected directors and for voting at general meetings as would attach to them as shareholders if they had fully paid up shares in the company to a corresponding amount.

R.S.S. 1940, c.116, s.66; R.S.S. 1953, c.127, s.66.

Transfer of bonds

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

R.S.S. 1940, c.116, s.67; R.S.S. 1953, c.127, s.67.

Power to borrow money

68(1) The company may, for the purpose of the undertaking, borrow money by overdraft or upon promissory note, warehouse receipt, bill of exchange or otherwise upon the credit of the company and become party to promissory notes and bills of exchange; and every note or bill made, drawn, accepted or endorsed by the president or vicepresident or other officer authorized by the bylaws of the company, and countersigned by the secretary, shall be binding on the company.

(2) Every note or bill of exchange so made, drawn, accepted or endorsed shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown; and in no case shall it be necessary to have the seal of the company affixed to a promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer of the company so authorized be individually responsible for the same unless the promissory note or bill of exchange has been issued without proper authority.

(3) Nothing in this section shall be construed to authorize the company to issue a note or bill payable to bearer or intended to be circulated as money or as the note or bill of a bank.

R.S.S. 1940, c.116, s.68; R.S.S. 1953, c.127, s.68.

Time for construction/Penalty

69 If the railway authorized by the special Act to be constructed is of a length not greater than thirty miles, the company shall construct and put the same in operation within two years from the date of its incorporation. If the railway is of greater length than thirty miles, the company shall, in addition to the thirty miles which it is hereby required to construct and put in operation within two years from its date of incorporation, construct and put in operation at least thirty miles during each year immediately following the expiration of the said two years, if so much remains to be built, and shall complete the whole railway within five years from the date of incorporation; and if the company fails to comply with the provisions of this section then the powers granted by the special Act or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

R.S.S. 1940, c.116, s.69; R.S.S. 1953, c.127, s.69.

POWERS OF THE COMPANY

Powers

70 The company may, for the purpose of the undertaking, subject to the provisions of this Act and the special Act:

Enter upon lands

(a) enter into and upon lands of Her Majesty in right of the province as well as the lands of any person or corporation 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; but the company shall, before entering into or upon any lands of Her Majesty, the property of the province, first obtain licence or consent so to do from the Lieutenant Governor in Council, and, with such licence or consent, may take and appropriate but not alienate such of the said lands as may be necessary for the railway; nothing herein contained is to be construed as authorizing the company to enter into or upon any lands vested in the Crown and administered by the Government of Canada for the purposes of Canada; and the company shall not enter upon or occupy the streets of a city, town or village until authorized so to do by bylaw;

Receive grants of land

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

Purchase or sell land

(c) purchase, hold and take of and from any corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the railway and also alienate, sell or dispose of any lands or property of the company which for any reason are not required for the purposes of the railway;

Carry railway across lands

(d) make, carry or place the railway across or upon the lands of any person on the located line of the railway;

Unite railway with other railway

(e) subject to the provisions hereinafter contained, cross, intersect, join and unite the railway with any other railway at any point on its route and upon the lands of the owners of or used in connection with such other railway, with the necessary conveniences for the purposes of such connection; and the owners of both railways may unite in forming such intersection and grant the facilities therefor;

Construct and operate railways

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

Construct buildings, equipment, etc.

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

Construct branch lines;

(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;

Transport passengers, etc.

(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;

Remove trees

(j) fell or remove trees on either side of the right of way of the railway which are liable to fall across the railway track;

Construct embankments, etc.

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

Construct and acquire telegraph lines, etc.

(l) construct and acquire electric telegraph and telephone lines for the purposes of its undertaking;

Alter and substitute other works

(m) alter, repair or discontinue the before mentioned works or any of them and substitute others in their stead;

Do other necessary acts

(n) do all other acts necessary for the construction, maintenance and operation of the railway.

R.S.S. 1940, c.116, s.70; R.S.S. 1953, c.127, s.70.

Compensation for damages

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

R.S.S. 1940, c.116, s.71; R.S.S. 1953, c.127, s.71.

LOCATION OF LINE

Map

72(1) The company shall prepare a map showing the general location of the proposed line of the railway, the termini and the principal towns and places through which it is to pass, giving the names thereof, the railways and navigable streams, if any, to be crossed by it and such as may be within a radius of thirty miles, and generally the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the minister may require.

Application for approval of map

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

Approval

(3) Before approving the map and location the minister may, subject to the special Act, make such changes and alterations therein as he deems expedient, and upon being satisfied therewith he shall signify his approval upon the map, and when so approved the map and application shall be filed in the Department of Highways and Transportation and no change or alteration from the general location of the line of the railway, as approved by the minister, shall be allowed unless such change or alteration has been first approved by the minister.

Application of provisions

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

Plan, profile and book of reference

(5) Upon compliance with the preceding provisions of this section the company shall make a plan, profile and book of reference of the railway.

The plan shall show the right of way, with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines, owners' names, the areas and length and width of lands proposed to be taken, in figures, every change of width being given, and the bearings; also all open drains, watercourses, highways and railways proposed to be crossed or affected; and, in the case of a street railway, the part of the highway to be occupied by the railway, the location of poles supporting overhead work, if any, the location of conduits, pipe lines and other underground works, sidewalks, poles and pole lines, and other works liable to be affected or crossed by the railway.

The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses, and in the case of a street railway overhead work.

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

The minister may require any additional information for the proper understanding of the plan and profile.

Plan of section of railway

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

Street railways

(7) Subsections (1), (2), (3) and (4) of this section do not apply to street railways.

Same

(8) A street railway company shall in its special Act give a description of the general location of the line.

R.S.S. 1940, c.116, s.72; R.S.S. 1953, c.127, s.72.

Sanction by minister

73(1) The plan, profile and book of reference shall be submitted to the minister, who, if satisfied therewith, may sanction the same and by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof as shown in the plan, profile and book of reference, but not to have relieved the company from otherwise complying with this Act.

(2) Before sanctioning any plan, profile or book of reference of a section of the railway, the minister may require the company to submit the plan, profile and book of reference of the whole or any portion of the remainder of the railway or such further or other information as he deems expedient.

R.S.S. 1940, c.116, s.73; R.S.S. 1953, c.127, s.73.

Deposit of plan, etc.

74 The plan, profile and book of reference when so sanctioned shall be deposited in the Department of Highways and Transportation and each plan shall be numbered consecutively in the order of deposit; and the company shall also deposit copies thereof, or of such parts thereof as relate to each land registration district through which the railway is to pass, duly certified as copies by the minister, in the offices of the registrars for such land registration districts respectively.

R.S.S. 1940, c.116, s.74; R.S.S. 1953, c.127, s.74.

Certain errors not to affect construction

75(1) The railway may be made, carried or placed across or upon the lands of any person on the located line, although the name of such person has not been entered in the book of reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey or as interested in such lands.

Correction of errors, in plans, etc.

(2) Where any omission, misstatement or error is made in any plan, profile or book of reference so registered the company may apply to the minister for a certificate to correct the same. The minister may, in his discretion, require notice to be given to parties interested, and, if it appears to the minister that such omission, misstatement or error arose from mistake, may grant a certificate setting forth the nature of the omission, misstatement or error and the correction allowed; and, upon deposit of such certificate with the minister and of copies thereof certified as such by the minister with the registrars of the land registration districts respectively in which such lands are situated, 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.S. 1940, c.116, s.75; R.S.S. 1953, c.127, s.75.

Duties of registrars with respect to plans, etc.

76(1) Every registrar shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof and other documents required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited; and all persons may resort to the same and may make extracts therefrom and copies thereof as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted, and fifty cents for each copy made of any plan or profile. The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference or document so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with fifty cents for each certificate given by him.

Contents of certificate of registrar

(2) The certificate of the registrar shall set forth that the plan, profile or document, a copy of which or any portion of which is certified, is deposited in his office, and state the time when it was so deposited and that he has carefully compared the copy certified with the document on file and that the same is a true copy of such original.

Evidence

(3) Such certified copy shall in all courts be evidence that the original document was so deposited at the time stated and certified, and shall be *prima facie* evidence of the original and that the same was signed, certified, attested or otherwise executed by the persons by whom and the manner in which the same purports to be signed, certified, attested or executed as shown or appearing by the certified copy; and, in the case of a plan, that the plan is prepared according to a scale and in manner and form sanctioned by the minister.

R.S.S. 1940, c.116, s.76; R.S.S. 1953, c.127, s.76.

Plan and profile of completed line

77(1) A plan and profile of the completed railway, or of so much thereof as is completed and in operation, and of the land taken or obtained for the use thereof, shall within six months after completion of the undertaking, or within such extended or renewed period as the minister at any time directs, be made and filed with the minister, and plans of the parts thereof located in the different land registration districts, prepared on such a scale and in such manner and form, and signed or authenticated in such manner as may be designated by the minister, shall be filed in the land titles offices of the land registration districts in which such parts are respectively situated.

(2) Every company which neglects or fails to file such plans and profiles with the minister, or to file plans in land titles offices as hereinbefore provided, is liable to a fine of \$200 and a like fine for each month during which such failure or neglect continues.

R.S.S. 1940, c.116, s.77; R.S.S. 1953, c.127, s.77.

General provisions respecting plans, etc.

78(1) All plans and profiles required by law to be deposited by the company as hereinbefore provided shall be drawn to such scale, with such detail, upon such materials and of such character as the minister may, either by general regulation or in any particular case, require or sanction, and shall be certified and signed by the president or vice-president or general manager and also by the chief engineer of the company.

(2) Any book of reference required to be so deposited shall be prepared to the satisfaction of the minister and unless such plan, profile and book of reference are satisfactory to the minister he may refuse to sanction them or to allow them to be deposited.

(3) In addition to such plans, profiles and books of reference the company shall, with all reasonable expedition, prepare and deposit with the minister 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 minister may from time to time order or require.

R.S.S. 1940, c.116, s.78; R.S.S. 1953, c.127, s.78.

Deviations, changes or alterations

79(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 as aforesaid, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall in like manner as provided in section 73 be submitted for the approval of and may be sanctioned by the minister; and the same, when so sanctioned, shall be deposited and dealt with as provided in section 74, and the company may there upon make such deviation, change or alteration, and this Act shall apply to the portion of such line of railway so changed or proposed to be changed as to the original line.

(2) The minister 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 minister expedient, providing 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 minister under this Act; but nothing in this section shall be taken to authorize any extension of the railway beyond the terminal mentioned in the special Act.

R.S.S. 1940, c.116, s.79; R.S.S. 1953, c.127, s.79.

Works not commenced until certain provisions complied with

80 The company shall not commence the construction of the railway or any portion or section thereof until the provisions of sections 73 and 74 are fully complied with, and shall not make any change, alteration or deviation in the railway or any portion thereof until the provisions of section 79 are fully complied with.

R.S.S. 1940, c.116, s.80; R.S.S. 1953, c.127, s.80.

TAKING OR USING LANDS

Lands vested in Her Majesty

81 No company shall take possession of, use or occupy any lands vested in Her Majesty in right of the province without the consent of the Lieutenant Governor in Council but with such consent a company may, upon such terms as the Lieutenant Governor in Council prescribes, take and appropriate for the use of the railway, but not alienate, so much of the said lands lying along the route of the railway, which have not been granted or sold, as is necessary for the railway, and, when any such lands are vested in Her Majesty in right of the province for any special purpose or subject to any trust, the compensation money which the company pays therefor shall be held and applied by the Lieutenant Governor in Council for the like purpose or trust.

R.S.S. 1940, c.116, s.81; R.S.S. 1953, c.127, s.81.

Use of lands of other companies

82(1) The company may, for the purpose of obtaining a right of way over or through lands owned or occupied by any other company and for obtaining the use of the tracks, station grounds or stations of another company, or for the purpose of constructing and operating its railway, take possession of, use or occupy any lands belonging to any other railway company and use and enjoy such right of way, tracks, stations or station grounds, subject to the approval of the Lieutenant Governor in Council first obtained or to any order or direction which the Lieutenant Governor in Council may make with regard to the exercise, enjoyment or restriction of such powers or privileges.

(2) Such approval may be given upon application and notice, and after a hearing the Lieutenant Governor in Council may make such order, give such directions and impose such conditions or duties upon either party as to the Lieutenant Governor in Council may appear just or desirable having due regard for the public and all proper interests, and all provisions of the law at any time applicable to the taking of lands and their valuation and the compensation therefor and appeals from awards thereon shall apply to such lands, and in cases under this section where it becomes necessary for the company to obtain the approval of The Board of Transport Commissioners for Canada it shall do so in addition to otherwise complying with this section.

R.S.S. 1940, c.116, s.82; R.S.S. 1953, c.127, s.82.

LANDS AND THEIR VALUATION

Extent of lands taken without consent of owner

83(1) The lands which may be taken without the consent of the owner thereof for the right of way shall not exceed one hundred feet in breadth, except in places where the rail level is or is proposed to be raised more than five feet higher or cut more than five feet deeper than the surface of the adjacent lands, when such additional width may be taken as shall suffice to accommodate the slope and side ditches.

(2) For stations, depots and yards with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto the land which may be so taken shall not exceed one mile in length by five hundred feet in breadth, including the width of the right of way.

R.S.S. 1940, c.116, s.83; R.S.S. 1953, c.127, s.83.

Proceedings for obtaining extra land for certain purposes

84 When a company requires at any place on the line of its railway more ample space for the convenient accommodation of the public or of the traffic on the railway or for protection against snowdrifts than it then possesses or can take without the consent of the owners, the company may cause a map or plan and book of reference to be made of the additional lands required at such place for the said purposes.

R.S.S. 1940, c.116 s.84; R.S.S. 1953, c.127, s.84.

Application to the minister

85 The company may transmit the map or plan and the book of reference to the minister, with an application on behalf of the company supported by affidavit referring to such map or plan and book of reference and stating that certain lands shown therein are necessary for such purposes and that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights, and requesting the minister to authorize the taking thereof for such purposes under this Act.

R.S.S. 1940, c.116, s.85; R.S.S. 1953, c.127, s.85.

Notice to owner and certificate transmitted to minister

86 At least ten days' notice of such application shall be given to the owner or possessor of the property; and the correctness of the map or plan and book of reference and the truth of the allegations in the application shall be certified by the president or one of the directors of the company or by its general manager and by its engineer, and such map or plan and book of reference and statement shall be made and transmitted in duplicate to the minister.

R.S.S. 1940, c.116, s.86; R.S.S. 1953, c.127, s.86.

Power of minister to grant application

87 The minister shall inquire into the correctness of the map or plan and book of reference and the truth of the allegations in the application, and if satisfied therewith shall grant a certificate to that effect and declaring it to be necessary in the public interest that the land shown on such map or plan and book of reference or any less quantity should be acquired by the company; and the certificate shall be annexed to one of the duplicates of the map or plan and book of reference and statement, and the other duplicate shall remain in the office of the minister.

R.S.S. 1940, c.116, s.87; R.S.S. 1953, c.127, s.87.

Deposit of copy of plan, etc.

88 A copy of the duplicate of the map or plan and book of reference and statement and of the certificate shall be deposited in each of the land titles offices of the land registration districts respectively in which the lands lie.

R.S.S. 1940, c.116, s.88; R.S.S. 1953, c.127, s.88.

Powers of company on granting of certificate

89 Upon the granting of the certificate and by virtue thereof the company may, without the consent of the owners, take the land shown on the map or plan and book of reference as required for such purpose; and the company and all persons who could not otherwise convey the same to the company shall have with respect to any such land all the powers granted by this Act to companies and persons who could not otherwise convey the same with respect to lands which may be taken without the consent of the owners thereof; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation and the compensation therefor, shall apply to the lands mentioned in the certificate.

R.S.S. 1940, c.116, s.89; R.S.S. 1953, c.127, s.89.

Acquisition of lands for construction or repairing railway

90 The company, either for the purpose of constructing or repairing its railway or for the purpose of carrying out the requirements of the Lieutenant Governor in Council, or in the exercise of the powers conferred upon it by the Lieutenant Governor in Council, may enter upon any land which is not more than two hundred yards distant from the centre of the located line of the railway and may occupy the land as long as necessary for the said purposes; and all the provisions of law at any time applicable to the taking of land by the company and its valuation and the compensation therefor shall apply to the case of any land so required; but before entering upon the land for the said purposes the company shall, if the consent of the owner is not obtained, pay into the office of the local registrar of the Court of Queen's Bench for the judicial district in which the lands are situated such sum with interest thereon for six months as is, after two clear days' notice to the owner of the land or to the person empowered to convey the same or interested therein, fixed by a judge.

R.S.S. 1940, c.116, s.90; R.S.S. 1953, c.127, s.90.

Power to take materials for construction

91(1) When stone, gravel, earth, water or sand is required for the construction or maintenance of a railway or any part thereof, the company may, if it cannot agree with the owner of the land on which the same are situated for the purchase thereof, cause a land surveyor, duly licensed to act as such in the province, or an engineer to make a map and description of the property so required, and it shall serve a copy thereof with its notice of arbitration as in the case of acquiring the roadway, and all the provisions of this Act respecting expropriation of lands shall apply to the subject matter of this section and to the obtaining of materials as aforesaid; and such proceedings may be had by the company either for the right to the fee simple in the land from which the material is taken or for the right to take material for any time it thinks necessary; and the notice of arbitration if arbitration is resorted to shall state the interest and powers required.

Power to make sidings, conduits, etc.

(2) When any stone, gravel, earth, water or sand is so taken at a distance from the line of the railway, the company may lay down the necessary sidings, water pipes or conduits and tracks over or through any lands intervening between the railway and the land on which such material or water is found, whatever is the distance; and all the provisions of this Act, except such as relate to the filing of plans and publication of notice, shall apply and the powers thereby granted may be used and exercised to obtain the right of way from the railway to the land on which such material or water is situated; and such right may be acquired for a term of years or permanently as the company thinks proper, and the powers in this section and in section 90 contained may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the railway.

R.S.S. 1940, c.116, s.91; R.S.S. 1953, c.127, s.91.

Erection and removal of snow fences

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

R.S.S. 1940, c.116, s.92; R.S.S. 1953, c.127, s.92.

Conveyance of lands to company

93(1) All tenants for life, guardians, executors, administrators and trustees and all persons whomsoever not only for and on behalf of themselves, their heirs and successors but also for and on behalf of those whom they represent whether infants, issue unborn, lunatics, idiots or other persons seized, possessed of or interested in any land, may contract for, sell, transfer and convey the land or any part thereof unto the company.

(2) When such persons have no right in law to sell or convey the rights of property in the land, they may obtain from a judge after due notice to the persons interested the right to sell the land; and the 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 land.

R.S.S. 1940, c.116, s.93; R.S.S. 1953, c.127, s.93.

Effect of conveyance

94 Any contract, agreement, sale, conveyance and assurance so made hereunder shall be valid and effectual in law to all intents and purposes and shall vest in the company receiving the same the fee simple in the land in such deed thereof described, free and discharged from all trusts, restrictions and limitations whatever; and the person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act.

R.S.S. 1940, c.116, s.94; R.S.S. 1953, c.127, s.94.

Responsibility as to purchase money

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

R.S.S. 1940, c.116, s.95; R.S.S. 1953, c.127, s.95.

Contracts made before deposit of plans

96 Any contract or agreement made by any person authorized by this Act to convey land; either before the deposit of the plan, profile and book of reference or before the setting out and ascertaining of the land required for the railway, shall be binding at the price agreed upon for the land if it is afterwards so set out and ascertained within one year from the date of the contract or agreement and although the land has in the meantime become the property of a third person; and possession of the land may be taken and the agreement and price may be dealt with as if the price had been fixed by an award of arbitrators as hereinafter provided, and the agreement shall be in the place of an award.

R.S.S. 1940, c.116, s.96; R.S.S. 1953, c.127, s.96.

Rentals fixed when parties cannot sell

97 All persons who cannot in common course of law sell or alienate any land so set out and ascertained shall agree upon a fixed annual rent as an equivalent and not upon a principal sum to be paid for the land, and if the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

R.S.S. 1940, c.116, s.97; R.S.S. 1953, c.127, s.97.

Lien for payment of rent

98 Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of land, or for part of the purchase money of land which the vendor agrees to leave unpaid, shall be chargeable, as part of the working expenditure of the railway, upon registration of the instrument creating such charge and liability in the land titles office of the proper registration district.

R.S.S. 1940, c.116, s.98; R.S.S. 1953, c.127, s.98.

Expropriation proceedings after deposit of plan

99 After the expiration of ten days from the deposit of the plan profile and book of reference in the office of the registrar of land titles and after notice thereof has been given in at least one newspaper, if there is any there published, in each of the land registration districts through which the railway is intended to pass, application may be made to the owners of lands or persons empowered to convey lands or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway; and thereupon agreements and contracts may be made with such persons touching the said lands or the compensation to be paid for the same or for the damages or as to the mode in which such compensation shall be ascertained, as seems expedient to both parties; and in case of disagreement between them or any of them all questions which arise between them shall be settled as hereinafter provided.

R.S.S. 1940, c.116, s.99; R.S.S. 1953, c.127, s.99.

Filing of plan deemed general notice

100 The deposit of a plan, profile and book of reference and the notice of such deposit, shall be deemed a general notice to all parties of the lands which will be required for the railway and works; and the date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained.

R.S.S. 1940, c.116, s.100; R.S.S. 1953, c.127, s.100.

Contents of notice

101 Preliminary to proceeding to arbitration to fix compensation or damages the company shall serve upon the owners of lands or persons empowered to convey lands or interested in lands which may be taken or which may suffer damage from the taking of materials or the exercise of any of the powers herein granted, a notice hereinafter called a notice to treat which shall contain:

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

R.S.S. 1940, c.116, s.101; R.S.S. 1953, c.127, s.101.

Notice accompanied by certificate

102(1) The notice to treat shall be accompanied by the certificate of a Saskatchewan land surveyor who is a disinterested person, which certificate shall state:

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

(2) Where no land is taken and the company denies the owner's right to compensation, a surveyor's certificate shall be unnecessary.

(3) The notice to treat need not be under the corporate seal of the company.

(4) The company's arbitrator shall not be one of its own officers.

R.S.S. 1940, c.116, s.102; R.S.S. 1953, c.127, s.102.

Service by publication

103 If the person upon whom the notice to treat is required to be served is absent from the land registration district in which the lands lie or is unknown, an application for service by advertisement may be made to a judge.

R.S.S. 1940, c.116, s.103; R.S.S. 1953, c.127, s.103.

Procedure on service

104 The application for service by advertisement shall be accompanied by the certificate mentioned in subsection (1) of section 102 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 to treat ought to be served cannot be ascertained; and the judge shall order a notice to treat, but without such certificate, to be inserted three times in the course of one month in a newspaper published in the land registration district.

R.S.S. 1940, c.116, s.104; R.S.S. 1953, c.127, s.104.

Arbitration following failure to accept sum offered

105 If, within ten days after the service of the notice to treat or within one month after the first publication thereof, the opposite party does not give notice to the company that he accepts the sum offered by it or notify it of the name of a person whom he appoints as arbitrator, the judge shall on the application of the company appoint a competent and disinterested person to be sole arbitrator for determining the compensation to be paid as aforesaid. If the opposite party within the time aforesaid notifies the company of the name of his arbitrator, then the two arbitrators shall jointly appoint a third, or, if they cannot agree upon a third, the judge shall, upon the application of the party or of the company, previous notice of at least five clear days having been given to the other party, appoint a third arbitrator.

R.S.S. 1940, c.116, s.105; R.S.S. 1953, c.127, s.105.

Arbitrators' duties

106 The arbitrators or the sole arbitrator, as the case may be, shall be sworn before a justice of the peace faithfully and impartially to perform the duties of their or his office; and shall proceed to ascertain such compensation in such way as they or he or a majority of them deem best; and the award of such arbitrators, or of any two of them or of the sole arbitrator, shall be final and conclusive except as hereinafter provided; but no such award shall be made nor shall any official act be done by such majority except at a meeting held at a time and place of which the other arbitrator has had at least two clear days' notice or to which some meeting at which the third arbitrator was present had been adjourned.

R.S.S. 1940, c.116, s.106; R.S.S. 1953, c.127, s.106.

Increased value of remaining lands a set off

107 The arbitrators or 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 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 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.

R.S.S. 1940, c.116, s.107; R.S.S. 1953, c.127, s.107.

Costs

108 If by an award of arbitrators made under this Act the sum awarded exceeds the sum offered by the company the costs of the arbitration shall be borne by the company; but, if otherwise, they shall be borne by the person served with the notice to treat and shall be deducted from the compensation, and in either case the amount of such costs if not agreed upon may be taxed by the judge.

R.S.S. 1940, c.116, s.108; R.S.S. 1953, c.127, s.108.

Arbitrators' powers

109(1) The arbitrators or a majority of them or the sole arbitrator shall examine on oath or solemn affirmation the parties or such witnesses as appear before them or him.

(2) The arbitrators or arbitrator shall have and may exercise with respect to such arbitration the power to:

- (a) enter upon and inspect any place, building or works, the property or under the control of the company or of the person served with the notice to treat, the entry or inspection of which appears to them or him requisite;
- (b) inspect any works, structure, rolling stock or property of the company;
- (c) require the production of all books, papers, plans, specifications, drawings and documents relating to the matter before them or him;
- (d) administer oaths, affirmations or declarations.

(3) The arbitrators or arbitrator shall also have the like power in summoning witnesses and enforcing their attendance and compelling them to give evidence and produce books, papers and things which they are required to produce as is vested in any court in civil cases.

(4) Any person summoned to attend before the arbitrators or arbitrator shall be entitled to receive the like fees and allowances for so doing as if summoned to attend before the Court of Queen's Bench, and no person shall be excused from attending or testifying or from producing books, papers and documents on the ground that the testimony or evidence, documentary or otherwise required of him may tend to criminate or subject him to any proceeding or penalty; but no evidence so given 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 such evidence.

(5) The arbitrators shall take down in writing the evidence brought before them unless either party requires that it be taken by means of stenography in which case a stenographer shall be named by the arbitrators unless the parties agree upon one, and shall be sworn before the arbitrators or before any one of them before entering upon his duties; and the expense of such stenographer, if not determined by agreement between the parties, shall be taxed by the court or judge and shall in any case form part of the costs of the arbitration.

(6) After making their award, the arbitrators shall forthwith deliver or transmit by registered letter, at the request of either party in writing, the depositions together with the exhibits referred to therein and all papers connected with the reference, except the award, to the local registrar of the court, to be filed with the records of the court.

R.S.S. 1940, c.116, s.109; R.S.S. 1953, c.127, s.109.

Time limit for award

110(1) A majority of the arbitrators at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and if the same is not made on or before such day or some other day to which the time for making it has been prolonged, either by the consent of the parties or by resolution of the arbitrators, then the sum offered by the company as aforesaid shall be the compensation to be paid by the company.

Award not invalidated for want of form

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

R.S.S. 1940, c.116, s.110; R.S.S. 1953, c.127, s.110.

Vacancies in office of arbitrator

111 If an arbitrator appointed by the judge dies before the award has been made or is disqualified or refuses or fails to act within a reasonable time, the judge upon application of either party, of which application six days' notice shall be given to the opposite party, and, upon being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, shall appoint another arbitrator in the place of such arbitrator:

Provided that, in the case of an arbitrator, named by one of the parties and appointed by the judge, so dying or not acting, such party may upon the application name the arbitrator who shall be appointed by the judge in the place of the arbitrator so deceased or not acting; but no recommencement or repetition of the previous proceedings shall be required in any case.

R.S.S. 1940, c.116, s.111; R.S.S. 1953, c.127, s.111.

Abandonment of proceedings/Damages and costs

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

R.S.S. 1940, c.116, s.112; R.S.S. 1953, c.127, s.112.

When arbitrator interested in compensation

113 The person offered or appointed as valuator or as sole arbitrator shall not be disqualified because he is professionally employed by either party or has previously expressed an opinion as to the amount of compensation, or because he is related or of kin to any shareholder of the company, if he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against the arbitrator appointed by the judge after his appointment, but the objection shall be made before the appointment and its validity or invalidity shall be summarily determined by the judge.

R.S.S. 1940, c.116, s.113; R.S.S. 1953, c.127, s.113.

Appeal from award

114(1) If the award exceeds \$600 any party to the arbitration may, within one month after receiving a written notice from any one of the arbitrators or the sole arbitrator, as the case may be, of the making of the award, appeal therefrom upon any question of law or fact to the Court of Appeal, and upon hearing the appeal the court shall, if the same is upon a question of fact, decide the same upon the evidence taken before the arbitrators as in the case of original jurisdiction.

(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, subject to any general rules or orders from time to time made with respect thereto; which orders may amongst other things provide that any such appeal may be heard and determined by a single judge.

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

R.S.S. 1940, c.116, s.114; R.S.S. 1953, c.127, s.114.

When possession may be taken by company

115 Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same, or upon payment into court of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which the compensation or annual rent has been awarded or agreed upon; and, if any resistance or forcible opposition is made by any person to its so doing, the judge shall, on proof to his satisfaction of the award or agreement, issue his warrant to the sheriff of the judicial district or to a bailiff, as he deems most suitable, to put down such resistance or opposition and to put the company in possession; and the sheriff or bailiff shall take with him sufficient assistance for such purpose and shall put down such resistance or opposition and put the company in possession.

R.S.S. 1940, c.116, s.115; R.S.S. 1953, c.127, s.115.

Warrant for immediate possession in certain cases

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

R.S.S. 1940, c.116, s.116; R.S.S. 1953, c.127, s.116.

Procedure upon application for warrant

117 The judge shall not grant a warrant under section 116 unless ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land or interested in the land sought to be taken, or which may suffer damage from the taking of materials sought to be taken or the exercise of the powers sought to be exercised or the doing of the thing sought to be done by the company; and unless the company gives security to his satisfaction, by deposit in a chartered bank designated by him, to the credit of the company and such person or party jointly, of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration and not less than fifty per cent above the amount mentioned in the notice served under section 101.

R.S.S. 1940, c.116, s.117; R.S.S. 1953, c.127, s.117.

Costs of application

118 The costs of the application to and of the hearing before the judge shall be borne by the company unless the compensation awarded is not more than the company had offered to pay; and no part of such deposit, or of any interest thereon, shall be repaid or paid to such company or paid to such owner or party without an order from the judge which he may make in accordance with the terms of the award.

R.S.S. 1940, c.116, s.118; R.S.S. 1953, c.127, s.118.

Compensation to stand in place of land

119 The compensation for any land which may be taken without the consent of the owner shall stand in the stead of such land, and any claim to or encumbrance upon the land 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 when it has paid the compensation or any part thereof to a person not entitled to receive the same, saving always its recourse against such person.

R.S.S. 1940, c.116, s.119; R.S.S. 1953, c.127, s.119.

Payment of compensation into court in certain cases

120(1) If the company has reason to fear any claim, mortgage, hypothec or encumbrance, or if any person to whom the compensation or annual rent or any part thereof is payable refuses to execute the proper conveyances and guarantee, or if the person entitled to claim the same cannot be found or is unknown to the company, or if for any other reason the company deems it advisable, the company may pay such compensation into court with the interest thereon for six months, and may deliver to the local registrar of the court an authentic copy of the conveyance or of the award or agreement if there is no conveyance; and such conveyance or award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

Notice of payment

(2) A notice of such payment and delivery, in such form and for such time as the court appoints, shall be inserted in a newspaper, if there is any published in the land registration district in which the lands are situated, or, if there is no newspaper published in the said district, then in the *Gazette*, and also in a newspaper published in the nearest place to the lands in which a newspaper is published, which notice shall state that the title of the company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons claiming an interest in or entitled to the lands, or any part thereof, to file their claims to the compensation or any part thereof.

Effect of adjudication

(3) All such claims filed shall be received and adjudicated upon by the court, and the adjudication thereon shall forever bar all claims to the land or any part thereof, including any mortgage upon the same, and the court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all persons interested, as to right and justice and to law appertains.

Costs

(4) The costs of the proceedings in whole or in part, including the proper allowances to witnesses, shall be paid by the company or by any other person as the court orders, and, if the order for distribution, payment or investment is obtained in less than six months from the payment of the compensation into court, the court shall direct a proportionate part of the interest to be returned to the company, and if, from any error fault or neglect of the company, it is not obtained until after six months have expired, the court shall order the company to pay into court as part of the compensation the interest for such further period as is right.

R.S.S. 1940, c.116, s.120; R.S.S. 1953, c.127,
s.120.

BRANCH LINES**Power to construct branch lines**

121(1) The company may for the purposes of its undertaking construct, maintain and operate branch lines not exceeding in any one case six miles in length from the main line of the railway or from any branch thereof; before commencing to construct any such branch line the company shall obtain the authority of the minister and comply with the provisions hereinafter set out.

Deposit of plans in land titles offices

(2) The company shall make a plan, profile and book of reference showing the proposed location of the branch line and conforming to the requirements of section 72, and shall deposit the same, or such parts thereof as relate to each land registration district through which the branch line is to pass, in the land titles offices for such districts respectively.

Notice of application

(3) Upon such deposit the company shall give four weeks' public notice of its intention to apply to the minister under this section in a newspaper published in each land registration district through which the branch line is to pass, or, if no paper is published in such district, then for the same period in the *Gazette*.

Procedure

(4) After the expiration of the time fixed by the notice the company shall submit to the minister upon such application a duplicate of the plan, profile and book of reference so deposited; the minister, 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 the branch line and the grades and curves as shown on the plan, profile and book of reference, may in writing authorize the construction of the branch line in accordance with the plan, profile and book of reference or subject to such changes in location, grades and curves as the minister may direct, and such authority shall limit the time not exceeding two years within which the company shall construct and complete the branch line.

Deposit of authority

(5) There shall be deposited with the minister the authority and the duplicate of the plan, profile and book of reference together with such papers and plans as are necessary to show and explain any changes directed by the minister under the provisions of subsection (4); the company shall deposit in the land titles offices mentioned in subsection (2) copies, certified as such by the minister, of the authority and of the papers and plans showing the changes directed by him.

Application of Act

(6) Upon compliance with this section all the provisions, except sections 73 and 74, of this Act shall apply to the branch line so authorized and to the lands to be taken for the branch line.

No extension allowed

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

Extension of street railway

(8) A street railway company may for the purposes of its undertaking construct, maintain and operate an extension of its line beyond the limits of the municipality in which it was originally built, provided leave therefor has been first obtained from the Lieutenant Governor in Council in accordance with the provisions of this Act.

R.S.S. 1940, c.116, s.121; R.S.S. 1953, c.127, s.121.

RAILWAY CROSSINGS AND JUNCTIONS

Approval of Lieutenant Governor

122 The railway of any company shall not be crossed, intersected, joined or united by or with any other railway, nor shall any railway be intersected or crossed by any street railway, electric railway or tramway unless the place and mode of the proposed crossing, intersection, union or junction are first approved by the Lieutenant Governor in Council on application therefor, of which application ten clear days' notice in writing shall be given by the person or company desiring the approval, such notice to be sent by mail addressed to the president, general manager, managing director, secretary or superintendent of the company whose railway is to be so crossed, intersected, joined or united; and, in the case of crossing by street railways, electric railways or tramways, the Lieutenant Governor in Council shall have the same powers in all respects as to the protection of such crossing and otherwise as are given to him by this Act in regard to one railway crossing another.

R.S.S. 1940, c.116, s.122; R.S.S. 1953, c.127, s.122.

Power of Lieutenant Governor to make regulations

123 The Lieutenant Governor in Council may make such orders and give such directions, respecting the proposed crossing, intersection, junction or union and the works to be executed and measures to be taken by the respective companies, as to him appear necessary or expedient to secure the public safety.

R.S.S. 1940, c.116, s.123; R.S.S. 1953, c.127, s.123.

Power to order adoption of necessary apparatus

124 The Lieutenant Governor in Council may, on the application of a company whose railway at rail level crosses or is crossed by the railway of another company, direct such companies to adopt and put in use at such crossing, within a reasonable time to be fixed by the Lieutenant Governor in Council, such an interlocking switch and signal system or device as in the opinion of the Lieutenant Governor in Council renders it safe to permit engines and trains to pass over such crossing without being brought to a stop.

R.S.S. 1940, c.116, s.124; R.S.S. 1953, c.127, s.124.

Proportion of expenses paid by each company

125 The companies may agree with each other as to the compensation to be paid by one to the other in respect of any crossing, intersection, junction or union or the proportion to be borne by each of the costs of executing any work or taking any measure or the carrying out of any order of the Lieutenant Governor in Council; but, if they fail so to agree, the amount of such compensation or the proportion of such costs so to be borne by each shall be determined by the Lieutenant Governor in Council.

R.S.S. 1940, c.116, s.125; R.S.S. 1953, c.127, s.125.

Application of Dominion Act

126 In all cases under sections 122, 123, 124 and 125, if it is necessary for the company to obtain the approval of The Board of Transport Commissioners for Canada, it shall do so in addition to otherwise complying with the terms of the said sections.

R.S.S. 1940, c.116, s.126; R.S.S. 1953, c.127, s.126.

NAVIGATION, BRIDGES, ETC.

Navigation not to be obstructed

127 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.S. 1940, c.116, s.127; R.S.S. 1953, c.127, s.127.

Bridges properly floored

128 No company shall run its trains over any canal or over any navigable water without having first laid and without maintaining such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the minister 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.S. 1940, c.116, s.128; R.S.S. 1953, c.127, s.128.

Plan of bridges, etc., approved

129 No company shall construct any wharf, bridge, pier or other work upon or over any navigable river or lake or upon the beach or bed or lands covered with the waters thereof until it has first submitted the plan and proposed site of such work to the minister and the same has been approved and no deviation from such approved site or plan shall be made without the consent of the minister.

R.S.S. 1940, c.116, s.129; R.S.S. 1953, c.127, s.129.

Substitution of one form of bridge for another

130 The minister may authorize or require any company to construct fixed and permanent bridges or swing, draw or movable bridges or to substitute any of such bridges for existing bridges on the line of its railway within such time as the minister directs; and, for every day after the period so fixed during which the company fails to comply with the directions of the minister, it shall forfeit and pay to Her Majesty the sum of \$200; and no company shall substitute any swing, draw or movable bridge for any fixed or permanent bridge without the previous consent of the minister.

R.S.S. 1940, c.116, s.130; R.S.S. 1953, c.127, s.130.

CROSSINGS, CULVERTS AND APPROACHES

Railway on highway

131(1) The railway may be carried upon, along or across an existing highway upon leave therefor having been first obtained from the Lieutenant Governor in Council as hereinafter provided; but the Lieutenant Governor in Council shall not grant leave to any company to carry a street railway or tramway, or a railway operated or to be operated as a street railway or tramway, along a highway within a city or town until the company has first obtained consent therefor by a bylaw of the city or town.

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

(3) Every company which violates the provisions of this section shall incur a penalty of not less than \$40 for each such violation.

R.S.S. 1940, c.116, s.131; R.S.S. 1953, c.127, s.131.

Variation between rail and highway levels permitted

132 When the railway crosses a 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 railway, when the works are completed, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction, unless otherwise directed by the Lieutenant Governor in Council.

R.S.S. 1940, c.116, s.132; R.S.S. 1953, c.127, s.132.

Plan of crossing to be submitted to Lieutenant Governor

133(1) Upon an application for leave to construct the railway upon, along or across an existing highway or to construct a highway across an existing railway, the applicant shall submit a plan and profile of such crossing, showing the portion of highway or railway affected, to the Lieutenant Governor in Council. The Lieutenant Governor in Council may by order grant such application upon such terms and conditions as to the protection, safety and convenience of the public as he may deem expedient, or may order that the highway be carried over or under the railway or be temporarily or permanently diverted, and that such works be executed, watchmen or other persons employed or measures taken as under the circumstances appear to the minister best adapted to remove or diminish the danger or obstruction arising or likely to arise therefrom.

Details approved by minister

(2) When the Lieutenant Governor in Council orders that the highway be carried over or under the railway or any works to be executed, the minister may direct that the detailed plans, profiles, drawings and specifications of all necessary structures shall before construction be submitted to and approved by him.

Regulations

(3) The minister may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section.

R.S.S. 1940, c.116, s.133; R.S.S. 1953, c.127, s.133.

Height of bridge

134 The highway at any overhead railway crossing shall not be narrowed by means of an abutment or structure to an extent of less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure constructed after the twenty-sixth day of May, 1906, be less than fourteen feet unless otherwise directed or permitted by the minister.

R.S.S. 1940, c.116, s.134; R.S.S. 1953, c.127, s.134.

All structures to be safely constructed and maintained

135 Every structure by which a highway is carried over or under a 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.

R.S.S. 1940, c.116, s.135; R.S.S. 1953, c.127, s.135.

Inclination of highway

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

R.S.S. 1940, c.116, s.136; R.S.S. 1953, c.127, s.136.

Signboards at level crossings

137 Sign boards at every highway crossed at rail level by a railway shall be erected and maintained at each crossing and shall have the words “**railway crossing**” painted on each side of the signboard in letters at least six inches in length, and a company which neglects to comply with the requirements of this section shall incur a penalty not exceeding \$40.

R.S.S. 1940, c.116, s.137; R.S.S. 1953, c.127, s.137.

Farm crossings

138(1) Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for crossing the railway for farm purposes, but such crossings shall not be less than sixteen feet in width; in crossing with live stock the same shall be in charge of some competent person who shall use all reasonable care and precaution to avoid accidents.

Powers of minister

(2) The minister may upon the application of any land owner, order the company to provide and construct a suitable farm crossing across the railway wherever the minister deems it necessary for the proper enjoyment of the owner's land on either side of the railway and safe in the public interest; and may order and direct how, when, where, by whom and upon what terms and conditions such farm crossing shall be constructed and maintained.

R.S.S. 1940, c.116, s.138; R.S.S. 1953, c.127, s.138.

Crossings, culverts and approaches

139 At the intersection of the railway and cross streets or highways crossing or intersecting the highway upon which the railway is operated, the company shall construct and keep in repair crossings of a similar character to those adopted by the municipality, and shall construct underneath its track allowance such culverts and waterways as are in the opinion of the inspecting engineer necessary for drainage purposes, and shall, at the entrance to private properties abutting upon the railway, construct approaches satisfactory to the inspecting engineer.

R.S.S. 1940, c.116, s.139; R.S.S. 1953, c.127, s.139.

Use of highway

140 All persons using the highway shall be at liberty to travel upon any portion of the travelled roadway occupied by the company's railway and in the same manner as upon other portions of the highway, and vehicles of every description shall be allowed upon such portions of the highway; but the company's cars shall have the first right of way over the railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass, and any person refusing or neglecting to do so is guilty of an offence and liable on summary conviction to a fine of not more than \$10 and costs.

R.S.S. 1940, c.116, s.140; R.S.S. 1953, c.127, s.140.

TELEGRAPH AND TELEPHONE LINES**Power to construct**

141(1) Subject to the provisions of subsections (2) and (3), the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway and the branches thereof or any part of the railway or branches for the purposes of its undertaking:

Provided that no poles shall be erected in the construction of either of the said lines in or through any city, town or village without the consent of the municipal council;

Provided also that such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company.

Wires, etc., across railway

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

Plan submitted to minister

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

Municipal telephone systems, connections with

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

R.S.S. 1940, c.116, s.141; R.S.S. 1953, c.127, s.141.

DRAINAGE

Company to continue natural drainage

142 The company shall, in constructing the railway, make and maintain suitable ditches and drains along each side of and across and under the railway to connect with ditches, drains, drainage works and watercourses upon the lands through which the railway runs so as to afford sufficient outlet to drain and carry off the water and so that the then natural, artificial or existing drainage of the lands shall not be obstructed or impeded by the railway.

R.S.S. 1940, c.116, s.142; R.S.S. 1953, c.127, s.142.

FENCES, GATES AND CATTLE GUARDS

Fences, cattle guards, etc.

143(1) Lawful fences shall be erected and maintained on each side of the railway with openings or gates or bars or sliding or hurdle gates of sufficient width for the purposes thereof, but not less than sixteen feet, with proper fastenings at farm crossings of the railway; and also cattle guards at all highway crossings, suitable and sufficient to prevent cattle and other animals from getting on the railway.

(2) A hurdle gate has proper fastenings if it is fifteen inches longer than the opening and is supported at each end by two upright posts.

R.S.S. 1940, c.116, s.143; R.S.S. 1953, c.127, s.143.

Omission or neglect to make fences

144 If the company omits so to erect and complete a fence or cattle guard, or if after it is completed the company neglects to maintain the same as aforesaid, and if in consequence of such omission or neglect an animal gets upon the railway from an adjoining place where under the circumstances it might properly be, the company shall be liable to the owner of the animal for all damages in respect of it caused by any of the company's trains or engines; and no animal which is not liable to be impounded for running at large shall be held to be improperly on a place adjoining the railway merely for the reason that the owner or occupant of such place has not permitted it to be there.

R.S.S. 1940, c.116, s.144; R.S.S. 1953, c.127, s.144.

When company is exempted from liability

145 After such fences, gates and guards have been duly made and completed, and while they are duly maintained, no liability shall accrue for any damage referred to in section 144 unless the same is caused wilfully or negligently by the company or by its employees.

R.S.S. 1940, c.116, s.145; R.S.S. 1953, c.127, s.145.

Time for construction if land is occupied

146 If the land through or by which the railway passes is occupied at the time of the construction of the railway opposite thereto, the company shall make such fences, gates and cattle guards as they lay their rails.

R.S.S. 1940, c.116, s.146; R.S.S. 1953, c.127, s.146.

Fencing at crossing

147 At every public road crossing at rail level of the railway the fence on both sides of the crossing and on both sides of the track shall be turned into the cattle guards so as to allow of the safe passage of trains.

R.S.S. 1940, c.116, s.117; R.S.S. 1953, c.127, s.147.

Gate at farm crossing kept closed

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

R.S.S. 1940, c.116, s.148; R.S.S. 1953, c.127, s.148.

Penalty for leaving gates open

149 Every person who wilfully leaves any such gate open without some person being at or near it to prevent animals from passing through it on to the railway, or who takes down any part of a railway fence or turns any horse, cattle or other animal upon or within the enclosure of the railway, is guilty of an offence and liable on summary conviction to a fine of \$20 for each offence and shall also be liable to the railway company for any damage to the property of the company or for which the company is responsible by reason of the gate being so left open or the fence being so taken down or by the turning upon or within the enclosure of the railway of the horse, cattle or other animal; and no person whose cattle are killed by a train owing to the non-observance of this section shall have any right of action against the company in respect of the same.

R.S.S. 1940, c.116, s.149; R.S.S. 1953, c.127, s.149.

Application to street railways

150 Sections 143 to 149 do not apply to that part of a street railway constructed on a street or highway.

R.S.S. 1940, c.116, s.150; R.S.S. 1953, c.127, s.150.

BRIDGES, TUNNELS AND OTHER STRUCTURES

Headway respecting bridges and tunnels

151(1) Every bridge, tunnel or other erection or structure over, through or under which a railway passes shall be so constructed and, if need be, reconstructed or altered within such time as the minister may order, and shall thereafter be so maintained as to afford at all times an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members or portions of that part of the bridge, tunnel, erection or structure which is directly over the space liable to be traversed by such car in passing thereunder; but in no case shall the space between the rail level and such beams, members or portions of any such structure be less than twenty-two feet six inches unless by leave of the minister.

Powers of minister where owners refuse to permit compliance

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

Exceptions

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

Penalty

(4) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section.

R.S.S. 1940, c.116, s.151; R.S.S. 1953, c.127, s.151.

Bridges, etc., over eighteen feet long

152(1) With respect to bridges, tunnels, viaducts, trestles or other structures through, over or under which the company's trains are to pass, the span or proposed span or spans or length of which exceeds eighteen feet, the company shall not commence the construction or reconstruction of or any material alteration in any such bridge, viaduct, tunnel, trestle or other structure until leave therefor has been obtained from the minister, unless such construction, reconstruction or alteration is made in accordance with standard specifications and plans approved by him.

(2) Upon an application to the minister for such leave the company shall submit to him the detail plans, profiles, drawings and specifications of the work proposed to be constructed and such other plans, profiles, drawings and specifications as he may in any case or by regulation require.

R.S.S. 1940, c.116, s.152; R.S.S. 1953, c.127, s.152.

WAGES OF LABOURERS

Rates of wages on government subsidized lines

153 In every case in which the Legislature grants financial aid by way of subsidy or guarantee towards the cost of railway construction, mechanics, labourers or other persons who perform labour in such construction or in the operation of the railway, shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district then a fair and reasonable rate; and in the event of a dispute arising as to what is the current or a fair and reasonable rate it shall be determined by the minister whose decision shall be final.

R.S.S. 1940, c.116, s.153; R.S.S. 1953, c.127, s.153.

INSPECTING ENGINEERS

Appointment

154(1) Inspecting engineers may be appointed by the minister subject to the approval of the Lieutenant Governor in Council.

Duties of company respecting

(2) Every company and the officers and directors thereof shall afford to an inspecting engineer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to him all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the railway or any portion thereof.

Free transportation

(3) Every such inspecting engineer shall have the right while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph wires and machinery in the offices of or under the control of the company.

Transmission of telegrams

(4) The officers or operators employed in the telegraph offices of or under the control of the company shall, without unnecessary delay, obey all orders of an inspecting engineer for transmitting messages; and every operator or officer who neglects or refuses so to do is, for every such offence, liable on summary conviction to a fine of \$40.

Proof of engineer's authority

(5) The production of his appointment in writing, signed by the minister, shall be sufficient evidence of the authority of an inspecting engineer.

Penalty for obstructing

(6) Every person who wilfully obstructs an inspecting engineer in the execution of his duty is guilty of an offence and liable on summary conviction to a fine not exceeding \$40.

R.S.S. 1940, c.116, s.154; R.S.S. 1953, c.127, s.154.

INSPECTION OF THE RAILWAY BEFORE OPENING

Leave of minister before opening

155(1) No railway or 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 minister as hereinafter provided.

Proceedings

(2) When the company is desirous of opening its railway or any portion thereof, it shall make an application to the minister, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the minister, alleging that the railway or portion thereof desired to be so opened is in his opinion sufficiently completed for the safe carriage of traffic and ready for inspection, and requesting the minister to authorize the same to be opened for such purpose.

Inspection/When opening reported safe

(3) Before granting such application the minister shall direct an inspecting engineer to examine the railway or portion thereof proposed to be opened; and, if the inspecting engineer reports to the minister, after making such examination, that in his opinion the opening of the same for the carriage of traffic will be reasonably free from danger to the public using the same, the minister may make an order granting such application in whole or in part and may name therein the time for the opening; and thereupon the railway, or such portion thereof as is authorized, may be opened for traffic in accordance with such order.

When opening reported dangerous/Notice served on company

(4) If the inspecting engineer, after the inspection of the railway or portion thereof, reports to the minister that in his opinion the opening of the same would be attended with danger to the public using it, by reason of the incompleteness of the works or permanent way or the insufficiency of the construction or equipment, he shall state in his report the grounds for his opinion and the company shall be entitled to notice thereof and shall be served with a copy of such report and grounds, and the minister may refuse the application in whole or in part or may direct a further or other inspection and report to be made.

Provision for further inspection

(5) If thereafter, upon such further or other inspection, or upon a new application, the inspecting engineer reports that the railway or portion thereof may be opened without danger to the public, the minister may make the like order as provided in subsection (3), and thereupon the railway or such portion thereof as is authorized by the minister may be opened for traffic in accordance therewith.

Leave to carry freight traffic

(6) The minister, upon being satisfied that public convenience will be served thereby, may after obtaining a report of an inspecting engineer allow the company to carry freight traffic over any portion of the railway not open for the carriage of traffic in accordance with the preceding provisions of this section.

Opening without leave of minister

(7) If any railway or portion thereof is opened contrary to the provisions of this section, the company or person to whom the railway belongs shall forfeit to Her Majesty the sum of \$200 for each day on which the same is or continues open until an order is obtained under the foregoing provisions of this section.

Where railway out of repair

156(1) When a complaint is made to the minister, or the minister receives information, that any railway or portion thereof is dangerous to the public using it from want of renewal or repair or insufficient or erroneous construction or from any other cause, or when circumstances arise which in his opinion render it expedient, the minister may direct an inspecting engineer to examine the railway or any portion thereof; and upon the report of the inspecting engineer may order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done or furnished by the company upon, in addition to or in substitution for any portion of the railway which may from such report appear to the minister necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to his satisfaction no portion of the railway in respect of which the order is made shall be used or used otherwise than subject to such restrictions, conditions and terms as the minister may in his order impose; and the minister may by his order condemn and thereby forbid further use of any rolling stock which from such report he may consider unfit for repair or further use.

Penalty

(2) If after notice of such order the company uses any rolling stock after the same has been condemned by the minister, or disobeys or fails to comply with any order of the minister made under this section, the company shall for each act of disobedience forfeit to Her Majesty the sum of \$1,000; and any person wilfully and knowingly aiding or abetting any such violation is guilty of an offence and liable on summary conviction to a fine of not less than \$20 nor more than \$200.

R.S.S. 1940, c.116, s.156; R.S.S. 1953, c.127, s.156.

Power of inspecting engineer to issue prohibitions

157(1) If, in the opinion of an inspecting engineer, it is dangerous for trains to pass over a 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 engineer may by notice forthwith either forbid the running of any train over such railway or portion of railway or require that the same be run only at such times, under such conditions and with such precautions as he by notice specifies, and he may forbid the running or using of such rolling stock by serving upon the company owning, running or using the railway or any officer having the management or control of the running of trains on the railway a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every act of non-compliance therewith such company shall forfeit to Her Majesty the sum of \$1,000.

Report of engineer

(2) The inspecting engineer shall forthwith report the same to the minister who may either confirm, modify or disallow the act or order of the engineer, and notice of such confirmation, modification or disallowance shall be duly given to the company.

R.S.S. 1940, c.116, s.157; R.S.S. 1953, c.127, s.157.

Prosecution for penalties authorized

158 No prosecution for any penalty under sections 156 and 157 shall be instituted without the authority of the minister first had and obtained.

R.S.S. 1940, c.116, s.158; R.S.S. 1953, c.127, s.158.

TRAINS

Modern and efficient equipment

159(1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means:

Communications with engine driver

(a) to provide immediate communication between the conductor, while in any car of a passenger train, and the engine driver;

Speed

(b) to check at will the speed of the train, and bring it safely to a standstill, as quickly as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers on the train; and

Coupling

(c) to couple and connect securely the cars composing the train, and to attach the engine to the 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.

Locomotive brakes

(2) Such apparatus, appliances and means for the checking of speed or the stopping of a train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

Car brakes

(3) There shall also be a number of cars in every train equipped with power or train brakes so 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.

Automatic 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 shall be self-applying in the event of any failure in the continuity of their action.

Box freight cars equipment

(5) All box freight cars of the company built after the twenty-fifth day of May, 1906, shall be equipped with the following attachments for the security of railway employees:

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

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

Height of drawbars

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

Street railway cars equipment

(7) The cars of every street railway shall be equipped with efficient and servicable fender devices, headlights, gongs and sand boxes of approved design. Fenders shall not be used to carry advertising devices which may reduce their efficiency.

Heaters

(8) Heaters of approved type shall be used and the same shall be of sufficient capacity to keep the cars heated at a suitable temperature to be regulated as closely as possible to suit the condition of the weather and the comfort of passengers. Each car shall contain a standard thermometer appropriately placed to enable passengers to see that this provision is observed.

Penalty

(9) Every company which fails to comply with any of the provisions of this section shall forfeit to Her Majesty a sum not exceeding \$200 for every day during which such default continues and shall also be liable to pay to persons injured by reason of non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary unless such agreement is conformable to the law of the province and is authorized by regulation of the minister:

Provided that no proceedings shall be instituted to enforce or recover any forfeiture to Her Majesty under this section without the consent of the minister first obtained.

R.S.S. 1940, c.116, s.159; R.S.S. 1953, c.127,
s.159.

Powers of minister respecting train equipment

160(1) The minister may, upon application, order that any apparatus or appliance specified shall, when used upon the train in the manner and under circumstances in the order specified, be deemed a sufficient compliance with the provisions of section 159, but he shall not by his order allow any exception to or modification of the requirements of that section. The minister may, however, by general regulation, or in any particular case on good cause shown, from time to time extend the period within which such appliance shall be used.

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

R.S.S. 1940, c.116, s.160; R.S.S. 1953, c.127,
s.160.

Bell and whistle on locomotive

161 Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with steam whistle, and shall while in use be equipped with a proper headlight which shall be lighted half an hour before dark and kept lighted during darkness.

R.S.S. 1940, c.116, s.161; R.S.S. 1953, c.127,
s.161.

Accommodation for passengers and freight

162(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 the purpose, adequate and suitable accommodation for receiving and loading all traffic offered for carriage upon the railway;
- (b) furnish adequate and suitable accommodation for carrying, unloading and delivering such traffic;
- (c) without delay and with due care and diligence receive, carry and deliver such traffic; and
- (d) furnish and use all proper appliances, accommodation and means necessary therefor.

Payment of tolls

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

Right of action on default

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

Accommodation may be ordered by minister

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

R.S.S. 1940, c.116, s.162; R.S.S. 1953, c.127, s.162.

Regularity in train time

- 163** All regular trains shall be started and run as nearly as practicable at regular hours fixed by public notice.

R.S.S. 1940, c.116, s.163; R.S.S. 1953, c.127, s.163.

Officials to wear badges

- 164** Every servant of the company, employed in a passenger train or at a station for passengers, 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 meddle or interfere with any passenger or his baggage or property.

R.S.S. 1940, c.116, s.164; R.S.S. 1953, c.127, s.164.

Passengers refusing to pay fare

- 165** Any passenger refusing to pay his fare may, by the conductor of the train and the servants of the company, be expelled from and put out of the train with his baggage at any usual stopping place or near any dwelling house as the conductor elects; the conductor first stopping the train and using no unnecessary force.

R.S.S. 1940, c.116, s.165; R.S.S. 1953, c.127, s.165.

No claim for injuries in certain cases

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

R.S.S. 1940, c.116, s.166; R.S.S. 1953, c.127, s.166.

Position of passenger cars

167 No passenger train shall have any freight, merchandise or lumber car in the rear of a passenger car in which passengers are carried.

R.S.S. 1940, c.116, s.167; R.S.S. 1953, c.127, s.167.

Baggage checks

168(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, and a duplicate of such check shall be given to the passenger delivering the same.

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

(3) If such check is improperly refused on demand, the company shall be liable to such passenger for the sum of \$100 which shall be recoverable in a civil action.

R.S.S. 1940, c.116, s.168; R.S.S. 1953, c.127, s.168.

Transportation of dangerous goods

169 No passenger shall carry, nor shall the company be required to carry upon its railway, gunpowder, dynamite, nitro glycerine or any other goods of a dangerous or explosive nature, and any person who sends by the railway any such goods, without distinctly marking their nature on the outside of the package containing the same and otherwise giving notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered, or who carries or takes upon a train any such goods for the purpose of carriage, shall forfeit to the company the sum of \$500 for every such offence.

R.S.S. 1940, c.116, s.169; R.S.S. 1953, c.127, s.169.

Company may refuse to carry

170 The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact.

R.S.S. 1940, c.116, s.170; R.S.S. 1953, c.127, s.170.

Trains stop at swing bridges

171(1) When any railway passes over a navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation, every train shall, before coming on or crossing over such bridge, be brought to a full stop and shall not proceed until a proper signal has been given for that purpose, and in default the company is liable to a penalty not exceeding \$500. Any employee failing to comply with the rules of the company as to compliance with the provisions of this section is liable to the like penalty or to six months' imprisonment or to both.

Exceptions

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

R.S.S. 1940, c.116, s.171; R.S.S. 1953, c.127, s.171.

Use of bell and whistle

172(1) When a train is approaching a highway crossing at rail level, except within the limits of cities or towns where the municipal authority may pass bylaws prohibiting the same, the engine whistle shall be sounded at least eighty rods before reaching the crossing, and then the bell shall be rung continuously until the engine has crossed the highway; and the company shall for each neglect to comply with the provisions of this section incur a penalty of \$20, and shall also be liable for all damages sustained by any person by reason of such neglect; and every employee of the company who neglects to comply with this section shall for each offence be subject to a like penalty.

(2) For the better compliance with the provisions of this section, the company shall erect and maintain on its right of way and at points eighty rods on each side of all highway crossings, whistleposts, which shall be painted white and shall not be less than six feet high and on which shall be painted with black paint the letter "W", and such letter shall be not less than ten inches in length and the company shall also equip each of its engines with an automatic bell ringer.

R.S.S. 1940, c.116, s.172; R.S.S. 1953, c.127, s.172.

Signal at railway level crossings

173(1) No train or engine shall pass over any crossing where two main lines of railway cross each other at rail level until a proper signal has been received by the conductor or engineer in charge of the train or engine, from a competent person or watchman in charge of the crossing, that the way is clear:

Provided that, in the case of an electric street railway car about to cross a railway track not properly protected, the conductor before crossing shall go forward and see that the track to be crossed is clear before giving the signal to the motorman that the way is clear and to proceed.

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

R.S.S. 1940, c.116, s.173; R.S.S. 1953, c.127, s.173.

Stoppage of trains at rail level crossings

174 Every train shall, before it passes over any crossing referred to in section 173, be brought to a full stop; but, when there is in use at the crossing an interlocking switch and signal system or other device which in the opinion of the minister renders it safe to permit engines and trains or electric cars to pass over the crossing without being brought to a stop, the minister may by order permit such engines and trains and cars to pass over the crossing without stopping, under such regulations as to speed and other matters as he deems proper.

R.S.S. 1940, c.116, s.174; R.S.S. 1953, c.127, s.174.

Rate of speed in unfenced portions of city

175 No train shall pass in or through any thickly peopled portion of a 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 in this Act or unless permission is given by regulation or order of the minister; the minister may limit such speed in any case to any rate which he deems expedient.

R.S.S. 1940, c.116, s.175; R.S.S. 1953, c.127, s.175.

Reverse train movement in cities

176 When in a city, town or village a train is passing over or along a highway at rail level, and is not headed by an engine moving forward in the ordinary manner, the company shall station on the then foremost part of the train, or of the tender if that is in front, a person who shall warn persons standing on or crossing or about to cross the track of the railway; and, for every violation of this section or of section 173, 174 or 175, the company shall incur a penalty of \$100.

R.S.S. 1940, c.116, s.176; R.S.S. 1953, c.127, s.176.

Time limit for train stoppage at level crossings

177(1) When a railway crosses a highway at rail level, the company shall not nor shall its officers, agents or employees wilfully permit an engine, tender or car or portion thereof to stand on any part of the highway for a longer period than five minutes at one time, or, in shunting, to obstruct public traffic for a longer period than five minutes at any one time.

(2) In case of a violation of this section every such officer, agent or employee who has directly under or subject to his control, management or direction an engine, tender or car which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section, is liable on summary conviction to a fine not exceeding \$50 and the company is also liable for each violation to a like penalty:

Provided that, if such alleged violation is in the opinion of the court excusable, the action for the penalty may be dismissed and costs shall be in the discretion of the court.

R.S.S. 1940, c.116, s.177; R.S.S. 1953, c.127, s.177.

Interpretation: “packing”

178(1) In this section “**packing**” means a packing of wood or metal or some equally substantial or solid material of not less than two inches in thickness, extending to within one and a half inches of the crown of the rails, which packing shall be neatly fitted so as to come against the web of the rails, and shall be well and solidly fastened to the ties on which the rails are laid.

Packing at frogs, etc.

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

Packing at wing rails, etc.

(3) The spaces between any wing rail and any railway frog and between any guard rail and the track rail alongside of it shall be filled with packing at their splayed ends so that the whole splay shall be so filled where the width of the space between the rails is less than four inches; such packing not to reach higher than the under side of the head of the rail:

Provided that the minister may allow the filling and packing mentioned in this section to be left out from the month of December to the month of April in each year, both months included, or between such dates as the minister by regulation or in any particular case determines.

R.S.S. 1940, c.116, s.178; R.S.S. 1953, c.127, s.178.

Overdue trains

179(1) Every company shall have a blackboard put upon the outside of the station house over the platform of the station in a conspicuous place at each station where there is a telegraph office, and, when any passenger train is overdue according to the time table, the station agent or person in charge shall write or cause to be written with white chalk on the blackboard, a notice stating to the best of his knowledge and belief the time when the overdue train may be expected to reach the station.

(2) If there is any further change in the expected time of arrival, the station agent or person in charge 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 the overdue train may then be expected to reach the station.

(3) Every company, station agent or person in charge at a station is on summary conviction liable to a fine not exceeding \$5 for every wilful neglect, omission or refusal to obey the provisions of this section.

R.S.S. 1940, c.116, s.179; R.S.S. 1953, c.127, s.179.

Carriage of mail, troops with equipment, etc.

180 Her Majesty’s mail, Her Majesty’s naval, military or air forces or militia and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables or others travelling on Her Majesty’s service shall, at all times when required by the Postmaster General of Canada, the commander of the forces or any person having the superintendence and command of any police force respectively, and with the whole resources of the company if required, be carried on the railway on terms and conditions and under regulations prescribed by the Lieutenant Governor in Council.

R.S.S. 1940, c.116, s.180; R.S.S. 1953, c.127, s.180.

TELEGRAPHS AND TELEPHONES

Government may have exclusive use of wires

181 The company shall, when required to do so by the Lieutenant Governor in Council or any person authorized by him, place any electric telegraph or telephone lines in its possession and the apparatus and operators at the exclusive use of the Government of the province, receiving thereafter reasonable compensation for such service.

R.S.S. 1940, c.116, s.181; R.S.S. 1953, c.127, s.181.

Government may erect wires on right of way

182 The Lieutenant Governor in Council may cause a line or lines of electric telegraph or telephone to be constructed along the line of the railway for the use of the province, and may enter upon and occupy so much of the lands of the company as is necessary for the purpose.

R.S.S. 1940, c.116, s.182; R.S.S. 1953, c.127, s.182.

ACCIDENTS

Notice of accident

183(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 of an accident attended with serious personal injury to any person using the railway, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof with full particulars to the minister; and every company which wilfully and negligently omits to give such notice shall forfeit to Her Majesty the sum of \$200 for every day during which the omission continues.

Form of notice and investigation

(2) The minister shall by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which subsection (1) shall apply, and may declare any information so given to be privileged, and the minister may appoint such person or persons as he thinks fit to inquire into all matters and things which he 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 a railway, and into all particulars relating thereto.

Report

(3) The person or persons so appointed shall report fully in writing to the minister his or their doings and opinions on the matters respecting which he or they are appointed to inquire, and the minister may act upon such report and may order the company to suspend or dismiss any employee of the company whom he may deem to have been negligent or wilful in respect of such accident.

R.S.S. 1940, c.116, s.183; R.S.S. 1953, c.127, s.183.

CATTLE NOT ALLOWED WITHIN FENCES

No cattle taken on lines

184 Every person who rides, leads or drives any horse or any other animal upon a railway and within the fences and guards other than the farm crossings, without the consent of the company, is guilty of an offence and liable on summary conviction to a fine not exceeding \$40 and shall also pay to any person aggrieved all damages sustained thereby.

R.S.S. 1940 c.116, s.184; R.S.S. 1953, c.127, s.184.

Right of action negatived

185 If cattle at large upon a highway where it intersects a railway are killed or injured by a train at the point of intersection, the owner shall not have a right of action against the company in respect of his loss.

R.S.S. 1940, c.116, s.185; R.S.S. 1953, c.127, s.185.

Negligence of owner not presumed

186 When cattle or other animals are at large upon the highway or otherwise get upon the property of the company and are killed or injured by a train, the owner may recover the amount of his loss from the company by action in any court of competent jurisdiction unless the company establishes to the satisfaction of the court that the animals got at large through the neglect or wilful act or omission of the owner or his agent or of the custodian of the animals or his agent, but the fact that such animals were not in charge of some competent person shall not for the purpose of this section deprive the owner of his right to recover.

R.S.S. 1940, c.116, s.186; R.S.S. 1953, c.127, s.186.

PREVENTION OF AND LIABILITY FOR FIRES

Prevention of fires

187(1) The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary combustible matter.

Liability for fire caused by locomotive

(2) When damage is caused to crops, lands, fences, plantations or buildings and their contents by a fire started by a railway locomotive, the company making use of the locomotive, whether guilty of negligence or not, shall be liable for the damage, and may be sued for the amount thereof in any court of competent jurisdiction:

Provided that, if it is shown that the company has used modern and efficient appliances and has not otherwise been guilty of negligence, the total amount of compensation recoverable under this subsection, in respect of any one or more claims for damage from fire started by the same locomotive and upon the same occasion, shall not exceed \$5,000, and it shall be apportioned amongst the parties who suffered the loss as the court or judge may determine.

Company has insurable interest

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

R.S.S. 1940, c.116, s.187; R.S.S. 1953, c.127, s.187.

**PURCHASE OF RAILWAY BY PERSON WITHOUT CORPORATE
POWER TO OPERATE**

Non-corporate purchaser to obtain authority to operate

188(1) If a railway or any section of a railway is sold under the provisions of a deed or mortgage, or at the instance of the holders of a mortgage, bonds or debentures, for the payment of which a charge has been created thereon, or under any other lawful proceeding, and is purchased by a person not having corporate power to hold and operate the same, the purchaser shall not operate the railway until authority therefor has been obtained under the following provisions.

Proceedings

(2) The purchaser shall transmit to the minister an application in writing stating the fact of the 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 with such application he shall transmit a copy of any writing preliminary to the conveyance of such railway made as evidence of such sale and also a duplicate or authenticated copy of the deed of conveyance and such further details and information as the minister may require.

Order authorizing operation for certain periods

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

Application for corporate powers

(4) Such purchaser shall apply to the Legislature, at the next following session after the purchase, for an Act of incorporation or other legislative authority to hold and operate the railway, and, if such application is made to the Legislature and is unsuccessful, the minister may extend the period mentioned in the order until the end of the then next following session of the Legislature and no longer. If, during such extended period, the purchaser does not obtain the required authority, the railway shall be closed or otherwise dealt with by the minister as may be determined by the Lieutenant Governor in Council.

R.S.S. 1940, c.116, s.188; R.S.S. 1953, c.127, s.188.

RAILWAY CONSTABLES

Appointment

189(1) Any judge, police magistrate, or two justices of the peace within whose several jurisdictions the railway runs may on the application of the company or of a clerk or agent of the company, appoint any persons recommended for that purpose by the company, its clerk or agent, to act as constables on and along the railway; and every person so appointed shall take an oath, 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:

I, *A. B.*, having been appointed a constable to act upon and along (*here name the railway*) under the provisions of *The Saskatchewan Railway Act*, do swear that I will well and truly serve our Sovereign Lady the Queen in the said office of constable without favour or affection, malice or ill will, and that I will to the best of my power cause the peace to be kept and prevent all offences against the peace; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge the duties thereof faithfully according to law. So help me God.

Appointment in writing

(2) 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 shall be endorsed thereon by the person administering the oath.

Powers

(3) Every constable so appointed, who has taken the oath, may act as a constable for the preservation of the peace and for the security of persons and property against unlawful acts on the railway and on any of the works belonging thereto and on and about any trains, roads, wharfs, quays, landing places, warehouses, lands and premises belonging to the company, whether the same are in the city, town, district or other local jurisdiction within which he was appointed or in any other place through which the railway passes or in which it terminates or through or to which any railway passes which is worked or leased by the company, and in all places not more than a quarter of a mile distant from such railway; and shall have all the powers, protections and privileges for apprehending offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences and for keeping the peace, which any constable duly appointed has within his constableness.

Arrest of offenders

(4) Any constable may take such persons as are punishable by summary conviction for offences against the provisions of this Act, or any of the Acts or bylaws affecting the railway, before any justice or justices; and every justice may deal with all such cases as though the offence had been committed and the persons taken within the limits of his jurisdiction.

Dismissal of constables

(5) Any judge, police magistrate or two justices of the peace may dismiss any such constable who is acting within their several jurisdictions; and the company, or any clerk or agent of the company, may dismiss such constable who is acting on the railway; and upon dismissal all powers, protections and privileges which belonged to the constable by reason of his appointment shall cease; and no person so dismissed shall be again appointed or act as constable for the railway without the consent of the authority by whom he was dismissed.

Notice of appointment or dismissal to local registrar

190(1) The company shall, within one week after the date of the appointment or dismissal of any constable appointed at the instance of the company, cause to be recorded in the office of the local registrar of the Court of Queen's Bench for the judicial district in which the constable is to act or acted:

- (a) the name and designation of the constable;
- (b) the date of his appointment;
- (c) the appointment or a certified copy thereof;
- (d) the name of the authority making the appointment;
- (e) in the case of dismissal the fact of the dismissal, the date of dismissal and the name of the authority making the dismissal.

Registrar's records

(2) The local registrar shall keep a record of all such facts in a book which shall be open to public inspection, and he 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.

Certified copies

(3) A copy of such record, certified as such by the local registrar, shall be *prima facie* evidence in all courts of the due appointment of the constable or of his dismissal, as the case may be.

Neglect of duty by constable

(4) Every constable who is guilty of neglect or breach of duty in his office of constable is liable, on summary conviction within any city, town, district or other local jurisdiction wherein the railway passes, to a fine not exceeding \$80 or to imprisonment for a term not exceeding two months; and such fine may be deducted from any salary due to the offender if he is in receipt of a salary from the company.

R.S.S. 1940, c.116, s.190; R.S.S. 1953, c.127,
s.190.

LIMITATION OF ACTION FOR DAMAGES

Limitation of action

191(1) All actions for indemnity for damages sustained by reason of the construction or operation of the railway shall be commenced within one year after the damage was sustained, or if there is continuation of damage within one year after the doing or committing of such damage ceased, and not afterwards; and the defendants may plead the general issue and give this Act and the special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by the authority of this Act or of the special Act.

Exceptions

(2) Nothing in this section applies to an action brought against the company upon a breach of contract express or implied in the carriage of traffic, nor to an action against the company for damages under any section of this Act respecting tolls.

Inspection not to relieve company from liability

(3) No inspection had under this Act and nothing contained in this Act, and nothing done or ordered or omitted to be done or ordered under or by virtue of the provisions hereof, shall relieve or be construed to relieve a company of or from any liability or responsibility resting upon it by law either towards Her 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 the company or for any wrongful act, neglect or default, misfeasance, malfeasance or non-feasance of the company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of the company under the laws in force in the province.

R.S.S. 1940, c.116, s.191; R.S.S. 1953, c.127, s.191.

Certain regulations and contracts void

192(1) No company owning or operating a railway or street railway, in whole or in part, in this province shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold the company harmless on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belong, and any such rule, regulation, contract or agreement shall be void.

(2) No such company shall demand, accept, require or enter into any agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death thereafter arising; and all such agreements are void.

(3) Every company violating or aiding in the violation of this section is for each offence liable to a penalty not exceeding \$500, to be recovered in any court of competent jurisdiction by any person suing therefor.

R.S.S. 1940, c.116, s.192; R.S.S. 1953, c.127, s.192.

Guard wires

193 A street railway company, when operating any portion of its line across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires sufficient, as far as reasonably possible, to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact with or falling upon the wires conveying such electricity.

R.S.S. 1940, c.116, s.193; R.S.S. 1953, c.127, s.193.

Prevention of damage

194(1) A street railway company, when operating any portion of its line by means of electricity, shall use such means and appliances as may prevent, as far as possible, water pipes, gas pipes, cables and other things placed underground from being damaged in consequence of the escape or discharge of electricity into the ground.

Bonding of rails

(2) Unless otherwise ordered by the inspecting engineer, proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with the conditions of this section.

R.S.S. 1940, c.116, s.194; R.S.S. 1953, c.127, s.194.

Suspended wires

195 Feeder and transmission wires, not required to be placed underground, shall be suspended by insulators properly adjusted and maintained upon poles supporting the trolley wires or upon poles placed at the side of streets, alleys or other public ways in locations to be approved by the inspecting engineer.

R.S.S. 1940, c.116, s.195; R.S.S. 1953, c.127, s.195.

Vestibules

196 All street cars shall be equipped with enclosed vestibules to protect the motorman from wind and weather; such vestibules shall be suitably heated when necessary, and shall be so arranged and maintained as not to permit of obstruction to the motorman's range of vision.

R.S.S. 1940, c.116, s.196; R.S.S. 1953, c.127, s.196.

BYLAWS, RULES AND REGULATIONS

Power to make bylaws

197 The company may, subject to the provisions and restrictions in this and in the special Act contained, make bylaws, rules and regulations respecting:

Speed

(a) the mode by which and the speed at which any rolling stock used on the railway is to be moved;

Time labels

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

Loads

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

Freight

(d) the receipt and delivery of traffic;

Nuisances

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

Traffic and operations

(f) the travelling upon or the use or working of the railway;

Conduct of employees

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

Management

- (h) the due management of the affairs of the company.

R.S.S. 1940, c.116, s.197; R.S.S. 1953, c.127, s.197.

Essentials to validity of bylaw

198 All bylaws, 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.S. 1940, c.116, s.198; R.S.S. 1953, c.127, s.198.

Approval of Lieutenant Governor

199 All such bylaws, rules and regulations, except such as are of private or domestic nature not affecting the public generally, shall be submitted for approval to the Lieutenant Governor in Council who may, on the report of the minister, sanction them or any of them, and from time to time withdraw his sanction. No such bylaw, rule or regulation shall take effect until so approved.

R.S.S. 1940, c.116, s.199; R.S.S. 1953, c.127, s.199.

Publication

200(1) A printed copy of so much of any bylaw, 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.

(2) A printed copy of so much of any bylaw, 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.

R.S.S. 1940, c.116, s.200; R.S.S. 1953, c.127, s.200.

Binding when approved

201 Such bylaws, rules and regulations, when so approved, shall be binding upon and observed by all persons and shall be sufficient to justify all persons acting thereunder.

R.S.S. 1940, c.116, s.201; R.S.S. 1953, c.127, s.201.

Summary interference in certain cases

202 If the violation or non-observance of any bylaw, 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.S. 1940, c.116, s.202; R.S.S. 1953, c.127, s.202.

Evidence

203 A copy of any bylaw, rule or regulation certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company shall be evidence thereof in any court.

R.S.S. 1940, c.116, s.203; R.S.S. 1953, c.127, s.203.

TOLLS, BYLAWS**Tariffs of tolls**

204(1) The company or the directors of the company by bylaw, or any such officers of the company as are thereunto authorized by bylaw of the company or by the directors, may prepare and issue tariffs of the tolls to be charged as hereinafter provided for all traffic carried by the company upon the railway or in vessels, and may specify the person to whom, the place where and the manner in which such tolls shall be paid.

(2) All such bylaws shall be submitted to and approved by the minister.

(3) The minister may approve such bylaws in whole or in part or may change, alter or vary any of the provisions thereof.

(4) No tolls shall be charged by the company until a bylaw authorizing the preparation and issue of tariffs of such tolls has been approved by the minister, nor shall the company charge, levy or collect any money for any services as a common carrier except under the provisions of this Act.

R.S.S. 1940, c.116, s.204; R.S.S. 1953, c.127, s.204.

DISCRIMINATION**Discrimination prohibited**

205(1) Such tolls may be either for the whole or for any particular portions of the railway; but shall, under substantially similar circumstances and conditions, be charged equally to all persons and at the same rate whether by weight, mileage or otherwise in respect of all traffic of the same description and carried in or upon a like kind of cars passing over the same portion of the line of railway; and no reduction or advance in any toll shall be made either directly or indirectly in favour of or against any particular person or company travelling upon or using the railway.

Proportionate decrease in certain cases

(2) The tolls for larger quantities, greater numbers or longer distances may be proportionately less than the tolls for smaller quantities or numbers or shorter distances if such tolls are under substantially similar circumstances charged equally to all persons.

Unjust discrimination between localities prohibited

(3) No toll shall be charged which unjustly discriminates between different localities; the minister shall not approve or allow any toll which, for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, the shorter being included in the longer distance unless the minister is satisfied that owing to competition it is expedient to allow such toll; the minister may declare that any places are competitive points within the meaning of this Act.

Pooling prohibited

(4) No company shall, except in accordance with the provisions of this Act, directly or indirectly pool its freights or tolls with the freights or tolls of any other railway company or common carrier 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 such result, without leave therefor having first been obtained from the minister.

R.S.S. 1940, c.116, s.205; R.S.S. 1953, c.127, s.205.

Company to afford reasonable, fair and prompt facilities for all traffic

206(1) All companies shall, according to their respective powers, afford to all persons and companies reasonable and proper facilities for receiving, forwarding and delivering traffic upon and from their several railways, for the interchange of traffic between their respective railways and for the return of rolling stock; and no company shall:

- (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;
- (b) by unreasonable delay or otherwise, make any difference in treatment in receiving, loading, forwarding, unloading or delivering goods of a similar character, in favour of or against any particular person or company;
- (c) subject any particular person or company or any particular description of traffic to an undue or unreasonable prejudice or disadvantage;
- (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 Saskatchewan with which it connects.

(2) Every company which has or works a railway forming part of a continuous line of railway with, or which intersects, any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of another 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 unreasonable delay and without any preference or advantage or prejudice or disadvantage mentioned in subsection (1), and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and that all reasonable accommodation by means of the railways of the several companies is at all times afforded to the public in that behalf; and any agreement made between any two or more companies contrary to this section is null and void.

(3) The minister may determine as questions of fact whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has in any case been unjust discrimination or undue or unreasonable preference or advantage or prejudice or disadvantage within the meaning of this Act, or whether in any case the company has or has not complied with the provisions of this section and of section 205, and may by regulation declare what shall constitute substantially similar circumstances and conditions or unjust or unreasonable preferences, advantages, prejudices or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of this section and of section 205.

R.S.S. 1940, c.116, s.206; R.S.S. 1953, c.127, s.206.

Proof respecting unjust discrimination, etc.

207(1) If it is shown that a 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 class of persons or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or an unjust discrimination shall lie on the company.

Consideration by minister

(2) In deciding whether a lower toll or difference in treatment does or does not amount to an undue preference or unjust discrimination, the minister 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.

Apportionment of toll for carriage

(3) In any case in which the toll charged by the company for carriage partly by rail and partly by water is expressed in a single sum, the minister, 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 him, or may determine, what portion of such single sum is charged in respect of the carriage by rail.

R.S.S. 1940, c.116, s.207; R.S.S. 1953, c.127, s.207.

Toll charges: conditions

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

R.S.S. 1940, c.116, s.208; R.S.S. 1953, c.127, s.208.

Penalty for refusal to receive and convey goods

209 Every officer, servant or agent of a company, having the superintendence of the traffic at any station or depot thereof, who refuses or neglects to receive, convey or deliver at any station or depot of the company for which they are destined any passenger, goods or thing brought, conveyed or delivered to him or such company for conveyance over or along its railway from any other railway intersecting or near to such first mentioned railway, or who in any way wilfully violates section 205 or section 206, and the company first mentioned, are, for each such refusal, neglect or violation, guilty of an offence and severally liable on summary conviction to a penalty not exceeding \$50 over and above the actual damages sustained, which penalty shall be recoverable with costs by the railway company or any person aggrieved by such neglect or refusal or violation, and such penalty shall belong to the railway company or other person so aggrieved.

R.S.S. 1940, c.116, s.209; R.S.S. 1953, c.127, s.209.

EXPRESS COMPANIES**Equal facilities granted to express companies**

210 Every 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 or person demanding the same.

R.S.S. 1940, c.116, s.210; R.S.S. 1953, c.127, s.210.

COLLECTION OF TOLLS**Enforcing payment**

211(1) In case of refusal or neglect of payment on demand of any lawful tolls or any part thereof, the same shall be recoverable in any court of competent jurisdiction; or the agents or servants of the company may seize the goods for or in respect whereof such tolls are payable and may detain the same until payment thereof, and in the meantime the goods shall be at the risk of the owners thereof.

Sale of goods to recover

(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 if such goods are liable to be destroyed while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods and out of the money arising from the sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale, and shall deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto.

Unclaimed goods

(3) If any goods remain in the possession of the company unclaimed for the space of twelve months, the company may thereafter and on giving public notice thereof by advertisement for six weeks in the *Gazette* and in such other newspaper as it deems necessary, sell such goods by public auction at a time and place which shall be mentioned in the advertisement, and out of the proceeds pay such tolls and all reasonable charges for storing, advertising and selling the goods; and the balance of the proceeds, if any, shall be kept by the company for a further period of three months to be paid over to any person entitled thereto.

Unclaimed balances

(4) If such balance is not claimed before the expiration of the period last mentioned, the same shall be deposited with the Provincial Treasurer for the public use of the province but may be claimed by the person entitled thereto at any time within six years from the elate of such deposit.

R.S.S. 1940, c.116, s.211; R.S.S. 1953, c.127, s.211.

INTERCHANGE OF TRAFFIC**Traffic agreements between companies**

212(1) The directors of any railway company may enter into an agreement with any other company either in this province or elsewhere for the regulation and interchange of traffic passing to and from the railways of the companies and for the working of the traffic over the railways respectively, or for either of those objects separately, and for the division and appointment of tolls, rates and charges in respect of such traffic, and generally in relation to the management and working of the railways or any of them or any part thereof, and of any railway in connection therewith, for any term not exceeding twenty-one years, and to provide either by proxy or otherwise for the appointment of a joint committee or committees for better carrying into effect such agreement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two-thirds of the shareholders voting in person or by proxy, and subject further to the following provisions:

- (a) the proposed agreement shall not be inconsistent with the provisions of this or the special Act;
- (b) before the same can come into effect the sanction of the Lieutenant Governor in Council, upon the recommendation of the minister, shall be first obtained.

(2) The procedure for such sanction shall be as follows:

1. When the consent of the shareholders has been obtained as above set forth and the proposed agreement has been duly executed, it shall be submitted to the minister with an application for a recommendation to the Lieutenant Governor in Council for the sanction thereof;
2. Notice of the proposed application shall be published in the *Gazette* for at least one month prior to a time to be stated therein for the making of the application;
3. Upon such notice being given, the minister shall grant or refuse the application, but, if he grants the same, he shall make a recommendation to the Lieutenant Governor in Council for the sanction of the agreement; and upon the agreement being sanctioned the duplicate original shall be filed with the minister.

(3) The minister may, by order or regulation, exempt the company from complying with any of the foregoing conditions with respect to such agreement 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 minister to be unnecessary.

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

R.S.S. 1940, c.116, s.212; R.S.S. 1953, c.127, s.212.

OFFENCES AND PENALTIES

Liability of company for infringement of Act

213 Every company, director or officer doing, causing or permitting to be done any matter, act or thing contrary to the provisions of this Act or the special Act or the orders or directions of the Lieutenant Governor in Council or of the minister made hereunder, or omitting to do any matter, act or thing required to be done on the part of such company, director or officer, shall be liable to any person injured thereby for the full amount of damages sustained by such act or omission; and, if no other penalty is in this Act or the special Act provided for such act or omission, shall be liable for each offence to a penalty of not less than \$20 nor more than \$5,000 in the discretion of the court before which the same is recoverable.

R.S.S. 1940, c.116, s.213; R.S.S. 1953, c.127, s.213.

Damages for extortionate toll

214 Every person from whom a company exacts an unjust or extortionate toll, rate or charge shall, in addition to the amount so unjustly exacted, be entitled to recover from the company as damages an amount equal to three times the amount so unjustly exacted.

R.S.S. 1940, c.116, s.214; R.S.S. 1953, c.127, s.214.

Penalty for placing freight behind passenger cars

215 Every officer or servant of a company or a person employed by it who directs or knowingly permits a freight, merchandise or lumber car to be placed in the rear of a passenger car is guilty of an offence against this Act.

R.S.S. 1940, c.116, s.215; R.S.S. 1953, c.127, s.215.

Intoxication an offence

216 Every person who is intoxicated, while in charge of a locomotive engine or acting as the conductor of a car or train of cars is guilty of an offence against this Act.

R.S.S. 1940, c.116, s.216; R.S.S. 1953, c.127, s.216.

Penalty for selling liquor to employees

217 Every person who sells, gives or barter spirituous or intoxicating liquor to or with a servant or employee of a company while on duty, is guilty of an offence and liable on summary conviction to a fine not exceeding \$50, or to imprisonment for a period not exceeding one month, or to both.

R.S.S. 1940, c.116, s.217; R.S.S. 1953, c.127, s.217.

Penalty where violation results in, or increased risk of, injury

218(1) Every officer, servant or employee of a company who wilfully or negligently violates any of the provisions of this Act or any bylaw, rule or regulation of the company lawfully made and enforced, or any order or notice of the Lieutenant Governor in Council or of the minister, of which a copy has been delivered to him, or which has been posted up or open to his inspection in some place where his work or his duties or any of them are to be performed is, if such violation causes injury to any person or to any property or exposes any person or any property to the risk of injury or renders such risk greater than it would have been without such violation although no actual injury occurs, guilty of an offence against this Act and shall, in the discretion of the court before which the conviction is had and according as such court considers the offence proved to be more or less grave or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment or both; but no such fine shall exceed \$400 and no such imprisonment shall exceed the term of five years.

(2) Such fine shall belong to Her Majesty for the public uses of the province.

R.S.S. 1940, c.116, s.218; R.S.S. 1953, c.127, s.218.

Deduction of penalty from wages

219 The company may, in all cases under sections 217 and 218, pay the amount of the fine and costs and recover the same from the offender or deduct it from his salary or pay.

R.S.S. 1940, c.116, s.219; R.S.S. 1953, c.127, s.219.

General penalty for breach of bylaws

220 Every person who wilfully or negligently violates any bylaw, rule or regulation of the company, is liable for each offence to a fine not exceeding the amount therein prescribed or if no amount is so prescribed to a fine not exceeding \$20; but no such person shall be convicted of any offence unless, at the time of the commission thereof, a printed copy of such bylaw, rule or regulation was openly fixed 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.S. 1940, c.116, s.220; R.S.S. 1953, c.127, s.220.

For breach of Act

221 In case of a violation of any of the provisions of this Act for which no special penalty is provided, the person or company so violating any of the said provisions is liable to a fine of \$100 for each violation and for each day's continuation thereof.

R.S.S. 1940, c.116, s.221; R.S.S. 1953, c.127, s.221.

Application of fines and penalties

222 All the fines, forfeitures and penalties recoverable under this Act, the application whereof is not otherwise provided for, shall be paid to the Provincial Treasurer and shall form part of the consolidated fund.

R.S.S. 1940, c.116, s.222; R.S.S. 1953, c.127, s.222.

Collection of penalties

223 The collection of any of the penalties provided for in this Act, where the same are incurred by a railway company, may be enforced by a sale of any of the company's property notwithstanding the existence of a mortgage, lien, encumbrance or deed of trust to secure the payment of any liability.

R.S.S. 1940, c.116, s.223; R.S.S. 1953, c.127, s.223.

RETURNS AND STATISTICS

Annual and special returns

224(1) Every company shall annually prepare, in accordance with forms to be supplied by the minister, returns of its capital, traffic and working expenses and of all information required as indicated in such forms; and such returns shall be dated and signed by and attested upon the oath of the secretary of the company and of the president, or in his absence of the vice-president or manager of the company.

(2) Such returns shall be made for the period included from the date to which the then last yearly returns made by the company extended, or from the commencement of the operation of the railway if no such returns have been previously made, and in either case down to the last day of December in the preceding year.

(3) Such returns dated, signed and attested as required by subsection (1) shall be forwarded by such company to the minister within three months after the last day of December in each year.

(4) The company shall also, in addition to the information required to be furnished to the minister under this section, furnish any other information and returns required by the minister or ordered by the Legislative Assembly.

(5) The minister shall transmit the returns so made to the Lieutenant Governor in Council who shall lay the same before the Legislative Assembly within twenty-one days from the commencement of each session thereof.

R.S.S. 1940, c.116, s.224; R.S.S. 1953, c.127, s.224.

Returns of accidents made semi-annually

225 The company shall, within ten days after the first days of January and July in each year, make to the minister under the oath of the president, secretary or superintendant of the company a true and particular return of all accidents and casualties, whether to persons or property, which have occurred on the railway of the company during the half year next preceding each of the said periods respectively, setting forth:

- (a) the causes and natures of such accidents and casualties;
- (b) the points at which they occurred and whether by night or by day;

(c) the full extent thereof and all particulars of the same;

and shall also at the same time return a true copy of the existing bylaws of the company and of their rules and regulations for the management of the company and of the railway.

R.S.S. 1940, c.116, s.225; R.S.S. 1953, c.127, s.225.

Returns ordered by minister

226 The minister may prescribe the forms in which returns shall be made.

R.S.S. 1940, c.116, s.226; R.S.S. 1953, c.127, s.226.

Privileged communications

227 All returns relating to accidents made pursuant to the provisions of this Act shall be privileged communications, and shall not be evidence in any court except to enforce the penalties for failure or neglect to furnish such returns as required by this Act.

R.S.S. 1940, c.116, s.227; R.S.S. 1953, c.127, s.227.

Weekly returns of traffic

228 Every company shall weekly prepare returns of its traffic, that is to say, from the first to the seventh of the month inclusive, from the eighth to the fourteenth inclusive, from the fifteenth to the twenty-first inclusive and from the twenty-second to the close of the month inclusive; and such returns shall be in accordance with forms to be supplied by the minister. A copy of such returns signed by the officer of the company responsible for their correctness shall be forwarded by the company to the minister within seven days from the day to which the returns have been prepared; but the minister may in any case extend the time within which returns shall be forwarded.

R.S.S. 1940, c.116, s.228; R.S.S. 1953, c.127, s.228.

Returns of assets and liabilities, etc., on demand

229 The minister may, by notice served upon the company or any officer, servant or agent of the company, require it or such officer, servant or agent to furnish him, at or within a time stated in the notice, with a written statement or statements showing, in so far and with such detail and particulars as he requires:

- (a) the assets and liabilities of the company;
- (b) the amount of its stock issued and outstanding and the date at which such stock was so issued;
- (c) the amount and nature of the consideration received by the company for such issue, and where the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued;
- (d) the gross earnings or receipts or expenditure by the company during any periods specified by the minister and the purposes for which such expenditure was made;

- (e) the amount and nature of any bonus, gift or subsidy received by the company from any source, and the source from which and the time when and the circumstances under which the same was so received or given;
- (f) the bonds issued at any time by the company and what portion of the same are outstanding and what portion, if any, have been redeemed;
- (g) the amount and nature of the consideration received by the company for the issue of such bonds;
- (h) the character and extent of any liabilities outstanding chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for such liabilities and the circumstances under which the same were created;
- (i) the cost of construction of the company's railway or of any part thereof;
- (j) the amount and nature of the consideration paid or given by the company for any property acquired by it;
- (k) the particulars of any lease, contract or arrangement entered into between the company and any other company or person; and
- (l) generally the extent, nature, value and particulars of the property, earnings and business of the company.

R.S.S. 1940, c.116, s.229; R.S.S. 1953, c.127, s.229.

Powers of minister respecting returns

230 The minister may summon, require the attendance of and examine under oath any officer, servant or agent of the company, or any other person, as to any matters included in such return or which were required by notice under section 229 to be returned to the minister, and as to any matter or thing which in the opinion of the minister is relevant to such return or to any inquiry which the minister deems it expedient to make in connection with any of the matters mentioned in section 229; and for such purposes may require the production to him of any books or documents in control of the company or such officer, servant, agent or person.

R.S.S. 1940, c.116, s.230; R.S.S. 1953, c.127, s.230.

Refusal to make returns

231 If the company or any officer, servant or agent thereof wilfully or negligently refuses to make the returns required by this Act or by the minister under the authority thereof, when and as thereunto required by the minister, or fails to make any such return to the utmost of its or his knowledge or means of knowledge, the company and every such officer, servant or agent so in default are severally liable to a penalty not exceeding \$1,000.

R.S.S. 1940, c.116, s.231; R.S.S. 1953, c.127, s.231.

Penalty for false returns

232 If the company or any officer, servant or agent thereof wilfully or negligently makes a false return or a false statement in a return, the company and such officer, servant or agent are severally liable to a penalty not exceeding \$1,000, and such officer, servant or agent is also on summary conviction liable to imprisonment for any period not exceeding twelve months.

R.S.S. 1940, c.116, s.232; R.S.S. 1953, c.127, s.232.

ACQUISITION OF RAILWAYS BY THE PROVINCE**Power of Government to acquire railways**

233(1) Where the Government of Saskatchewan requires a railway or portion of a railway which is subject to the legislative authority of the province, and which is owned by any person, corporation or company, the acquisition of which is in the judgment of the Lieutenant Governor in Council necessary or proper in the public interest, such railway or any portion thereof may be acquired by the Government under agreement or contract with the owners, and if the Lieutenant Governor in Council fails to negotiate a satisfactory agreement with the owners for the acquisition of the same, he may, after giving one year's notice to the owners of his intention to do so, which notice shall be served upon the president, manager, secretary or agent of such railway within the province, enter into, take possession of, assume the ownership of and hold the said railway or any portion thereof; and, upon such entry, possession and assumption of ownership, the title to the railway so taken shall immediately and absolutely vest in Her Majesty in right of the province, and the same shall from and after such taking be under the management, administration and control of the minister.

Compensation

(2) The Government shall pay the owners as compensation the sum agreed to be paid in such agreement and shall pay the same in the manner and at the times therein set forth; and if the railway is taken without agreement, the Government shall pay the owners such compensation as shall be ascertained by the award of three arbitrators as hereinafter set forth.

R.S.S. 1940, c.116, s.233; R.S.S. 1953, c.127, s.233.

When arbitration applies

234(1) If the agreement does not specify the amount of the compensation to be paid but provides that the same be fixed or ascertained by arbitration, or if no agreement is entered into and arbitration becomes necessary under section 233, the Lieutenant Governor in Council may serve the company with a notice of arbitration in which notice shall be stated the name of the arbitrator appointed by the Lieutenant Governor in Council; and such notice shall be served on the owners and shall call upon the owners to name an arbitrator within four weeks from the time of such service.

(2) When the last mentioned notice has been given on the part of the Lieutenant Governor in Council and the owners of the railway refuse, or for four weeks after the service of such notice neglect, to name an arbitrator, then the arbitrator shall be appointed by a judge and shall for all purposes be considered and held to be the arbitrator appointed by or on behalf of the owners so notified.

R.S.S. 1940, c.116, s.234; R.S.S. 1953, c.127, s.234.

Third arbitrator

235 If the party to be the third arbitrator or umpire is not agreed upon and appointed in writing by the two arbitrators aforesaid, or if the appointment of the third arbitrator or umpire is not notified to the Lieutenant Governor in Council within thirty days after the second of the two arbitrators has been chosen or appointed and his appointment notified to the Lieutenant Governor in Council, then the third arbitrator shall be appointed by the chief justice of the Court of Queen's Bench.

R.S.S. 1940, c.116, s.235; R.S.S. 1953, c.127, s.235.

Procedure of arbitrators

236 The arbitrators shall be sworn before a judge faithfully and impartially to perform the duties of their office and shall proceed to ascertain such compensation in such way as they deem best; and the award of such arbitrators or any two of them shall be final and conclusive except as hereinafter provided; but no such award shall be made nor any official act be done by the majority except at a meeting held at a time and place of which the other arbitrator has had at least five clear days' notice, or to which some meeting at which the third arbitrator was present had been adjourned.

R.S.S. 1940, c.116, s.236; R.S.S. 1953, c.127, s.236.

Arbitrators, etc., entitled to travel on trains

237 Every arbitrator, and also a reasonable number of experts or other persons forming the staffs of the arbitrators, shall have the right at all times until the making and publication of the award of the arbitrators to travel on any trains which pass over any of the railways in respect of which such arbitrators are to make their valuation or award, free of charge, and shall be carried from station to station in such manner as to enable them to make full examination of such railways and all the appurtenances. A person or company refusing to the arbitrators or any of them or any of their attendants the facilities mentioned in this section is liable to a penalty of \$400 for each offence.

R.S.S. 1940, c.116, s.237; R.S.S. 1953, c.127, s.237.

Preceding arbitration provisions apply

238 The provisions of sections 108 to 114 in so far as applicable apply to and govern arbitration proceedings taken under sections 233 to 237.

R.S.S. 1940, c.116, s.238; R.S.S. 1953, c.127, s.238.

MISCELLANEOUS PROVISIONS

Defective equipment

239 No company owning or operating a railway or street railway shall knowingly or negligently use or operate any car, motor or locomotive that is defective or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective.

R.S.S. 1940, c.116, s.239; R.S.S. 1953, c.127, s.239.

Proper safety appliances

240 The company shall provide and at all times maintain appliances proper safety chains or other safety appliances between each of its engines and the accompanying tender sufficiently strong to withstand any usual strain which may be put upon the same by reason of the drawbar breaking. A company failing to comply with this section is, in addition to any claims for damages to which it may be liable by reason of injury to any of its employees lawfully upon such engine or tender, liable to a penalty not exceeding \$500.

R.S.S. 1940, c.116, s.240; R.S.S. 1953, c.127, s.240.

Dump ash pans on engines

241 All engines of the company shall be equipped with dump ash pans to enable the engine men to empty ashes without the necessity of going under the engine. A company failing to comply with this section is, in addition to any claims for damages by reason of injury to any engine man in the lawful pursuit of his duty, liable to a penalty not exceeding \$500.

R.S.S. 1940, c.116, s.241; R.S.S. 1953, c.127, s.241.

Position of stock chutes, etc.

242 Stock chutes, mail cranes and elevator spouts, if maintained along the company's right of way, shall not be maintained nearer than two feet from the side of the widest cab on any engine of the company. A company or person whose duty it is to observe the requirements of this section is, upon neglect or failure to do so, in addition to any claims for damages by reason of injury to any of the company's employees lawfully in pursuit of his employment, liable to a penalty not exceeding \$500.

R.S.S. 1940, c.116, s.242; R.S.S. 1953, c.127, s.242.

Double cab engines prohibited

243 The company shall not operate on its railway any engine known as a "**Mother Hubbard**" engine, by which term is meant an engine with two separate cabs, one for the driver and the other for the fireman, unless the company provides for the services of a third employee to be present in the driver's cab during all the times when the same is operated.

R.S.S. 1940, c.116, s.243; R.S.S. 1953, c.127, s.243.

Qualifications of engine drivers

244 The company shall not permit any person to have charge of any of its engines as a driver unless such person has had, in addition to the qualifications required of the company's employees under the general rules of the company, at least three years' experience as a locomotive fireman.

R.S.S. 1940, c.116, s.244; R.S.S. 1953, c.127, s.244.

Street cars not to operate on Sunday

245(1) No company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday except for the purpose of keeping the track clear of snow or ice or for the purpose of doing other work of necessity.

(2) For every train or car run or operated in violation of this section the company or municipal corporation shall forfeit and pay the sum of \$400, to be recovered in any court having jurisdiction in civil cases for the amount, by any person suing for the same under this section.

(3) The action for the recovery of the said sum shall be brought before a court having jurisdiction in the place from which such train or car started, or through which it passed or at which it stopped in the course of such operation.

(4) All moneys recovered under the provisions of this section shall be paid to the Provincial Treasurer and shall form part of the consolidated fund.

R.S.S. 1940, c.116, s.245; R.S.S. 1953, c.127, s.245.

Motorman and conductor on street cars

246 Every street car shall be in charge and under control of at least two competent men, a motorman and a conductor.

R.S.S. 1940, c.116, s.246; R.S.S. 1953, c.127, s.246.

Bylaw suspending previous section

247(1) The council of any city or town may pass a referred bylaw declaring that section 246 shall cease to apply to any street railway, tramway or electric railway operating within the municipality; and from the time when such bylaw comes into force the said section shall cease to apply to the operations of the street railway, tramway or electric railway, whether within or outside the municipality, until repealed pursuant to subsection (2).

(2) The council of any city or town may also pass a referred bylaw repealing any bylaw passed in accordance with subsection (1), and after such repealing bylaw comes into force section 246 shall again apply to every street railway, tramway or electric railway operating within the municipality.

(3) Every bylaw provided for by this section shall receive the assent of the majority of the persons voting thereon.

(4) The persons qualified to vote upon any such bylaw shall be the persons whose names appear on the last revised voters' lists of the municipality.

(5) All the provisions of *The City Act* or *The Town Act*, as the case may be, respecting bylaws requiring the assent of the electors, in so far as they are not inconsistent with the provisions of this section, apply mutatis mutandis to the proceedings upon a vote under the provisions of this section.

R.S.S. 1940, c.116, s.247; R.S.S. 1953, c.127, s.247.

Examination of motorman

248(1) No person shall be employed as a motorman until he has been subjected to a thorough examination by an examiner or examiners as to his intelligence, habits and physical ability.

(2) If the applicant upon such examination proves to be qualified he shall, before being appointed, be placed under tuition in the shops and on the cars of the company, and when the examiner is satisfied as to the applicant's capability for the position of motorman he may be so appointed. If appointed the applicant shall so far as reasonably possible first serve on the lines of least travel.

(3) The company shall pay for the services of the examiner.

R.S.S. 1940, c.116, s.248; R.S.S. 1953, c.127, s.248.

Employer's examination

249(1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless within two years next preceding his appointment he has been examined for colour blindness, and also as to his eyesight generally, by some competent person to be employed for the purpose by the company, and has received a certificate that he is not disqualified for such position by colour blindness or otherwise in respect of his eyesight.

(2) Nothing contained in this section prevents the company from continuing in its employment any employee having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the examiner.

(3) The company shall cause such employees to be reexamined for colour blindness and otherwise in respect of their eyesight at least once in every two years.

R.S.S. 1940, c.116, s.249; R.S.S. 1953, c.127, s.249.

Unclaimed lost property

250(1) Where unclaimed property is left in a street car the company shall ascertain if possible the owner of it and notify him of the fact by mail as soon as possible after such property comes into its possession and of the place where the property may be claimed.

(2) Every company which has such property, not being perishable property, in its possession for three months may sell the same at public auction, after giving notice by one publication at least ten days prior to the sale, in a daily newspaper published in the city or town in which the sale is to take place, of the time and place at which it will be held, and such sale may be adjourned from time to time until all the articles are sold.

(3) Perishable property so left may be sold immediately without notice.

R.S.S. 1940, c.116, s.250; R.S.S. 1953, c.127, s.250.

FOR HISTORICAL REFERENCE ONLY