

**Background**

This railway was built across the Kahnawake Reserve in the 1890s by the South Western Railway Company. It was most often referred to historically as the St. Lawrence and Adirondack Railway, even after being bought out by the New York Central Railway in 1905. This line was subsequently purchased by Con Rail and has recently passed to CSX Transportation.

The rail line comes from Valleyfield, entering the Kahnawake Reserve on its western boundary and joining the Canadian Pacific Railway (CPR)<sup>1</sup> at Adirondack Junction within the reserve. Trains travelling on the St. Lawrence and Adirondack line continued on to Montreal over the CPR track by agreement with that company.

**Summary**

Date	Transaction
1895	Order-in-Council P.C. 1895-3454 passed December 7, 1895 authorized disposition of land for railway right-of-way to South Western Railway Co. under s. 35 of the <u>Indian Act</u> , as amended by s. 5 of SC 1887 c. 33 (50-51 Vic). Letters Patent 11698 issued April 23, 1897, covering 63.175 arpents (approx. 53.38 acres).
1896	Order-in-Council P.C. 2055 passed June 12, 1896 authorized acquisition by South Western Railway Co. of 4.04 arpents for borrow pits and approaches. Lands included in Letters Patent 11698.
1903	Order-in-Council P.C. 459 was passed March 26, 1903 authorized the St. Lawrence and Adirondack Railway Company to acquire land for extension of a spur. Letters Patent 13489 issued April 29, 1903.

In November 1895 Caughnawaga Band members reported that the St. Lawrence and Adirondack Railway had started work on their reserve without making proper arrangements. The Deputy Superintendent General of Indian Affairs (DSGIA) ordered the Indian Agent to stop work as no arrangements had been made to compensate the affected parties. Consequently, on November 27, 1895 the solicitor for South Western Railway Co. supplied a plan and reference book to Indian Affairs, asking that an Order-in-Council (O.C.) be passed as soon as possible so that the work could continue.

The DSGIA immediately explained to the Superintendent General (SGIA) that in many instances railways had been allowed to go through reserves without any formal authority as was required by law and that the O.C. was often passed long after the work had been completed. Reed considered that the Department of Indian Affairs (DIA) should give the company approval to proceed with the work until formal permission was granted. The SGIA immediately submitted a request for an O.C. His Submission to Council recommended that a right-of-way be granted under s. 35 of the Indian Act.

Order-in-Council P.C. 3454, passed on December 7, 1895, granted authority for the disposition of the land required for the right-of-way under s. 35 of the Indian Act. The O.C. noted that the plan, profile and book of reference had been examined and certified as required under s. 125 of the Railway Act.

The issue of compensation and valuations was raised by the Agent, who reported that he had discussed compensation with individuals at a meeting, and compiled a list of properties

<sup>1</sup> CPR was a lessee of the Atlantic and North West Railway Co.

affected and the compensation demands of the owners. The Agent had not raised the issue with the Council as he felt Council's intervention would impede fair settlement of claims.

The railway company also applied to lease about 2.75 arpents of land for borrow pits and approaches to borrow pits in early 1896. One parcel which they wished to acquire was for an approach (also referred to as a siding) to allow CPR continued access to their borrow pit, which had been cut off by South Western's newly constructed line. Land for a borrow pit and an additional siding between CPR's rail line and South Western's were also applied for. A plan of the lands was submitted. The company later indicated their desire to acquire 1.29 arpents for a borrow pit in Lot 178, adjacent to their rail line. Order-in-Council P.C. 2055 was passed on June 12, 1896, approving of the taking of 4.04 arpents (approx. 3.41 acres) for a borrow pit and approaches to borrow pits under s. 35 of the Indian Act.<sup>2</sup> The O.C. stated that the Chief Engineer of Government Railways had examined the plans and indicated that the land was necessary for the proper operation and maintenance of the railway.

In the meantime, steps taken to have the lands for the main line appraised proceeded slowly. An independent valuator, J. P. Dawes, had been appointed in February 1896 because the Agent, Indian Affairs officials, and Chief Jacobs believed that the Agent's valuations would not be accepted by the band, and had recommended that an outside party perform the appraisals. The Agent indicated that the locatees had been almost unanimously in favour of the appointment of Dawes. Dawes met with the Indian Agent and P. G. Charlebois, the railway appraiser, prior to April 21, and submitted valuations that the two valuers had agreed to in August 1896. The appraisers were also responsible for valuing the lands which the railway company wished to acquire for the borrow pits and approaches.

Some of the affected band members protested the amount of the proposed compensation, referring to it as "awards of the arbitrators", however the DSGIA clearly stated that no arbitration, in the proper sense of the word, had taken place.

Charlebois and Dawes' final valuations were submitted in January 1897. These valuations were termed "awards" and included an additional \$10 per arpent for the band's interest in the land. The total amount payable was made up of the "award" submitted by Dawes (\$5,097.75), plus \$7.50 for a disputed lot and \$90.00 for material from a borrow pit in Lot 178.<sup>3</sup> After some corrections, the total amount of compensation arrived at was \$5,195.25 for 63.175 arpents (approx. 53.38 acres). An additional \$631.75 was added as the \$10 per arpent compensation to the band. The final total was \$5,827.<sup>4</sup>

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<sup>2</sup> The proposed 1.29 arpent borrow pit was later dropped, but another borrow pit in Lot 178 was included in the lands patented to the company, as was an additional pit in Lot 210. Despite these changes, the amount of land taken for borrow pits and the approaches appears to have totalled 4.04 arpents, being the amount stated in the O.C.

<sup>3</sup> The list of valuations indicated that two small parcels of land were also being taken for a road diversion. These lands were required to deviate two road crossings along the rail line. The statement also noted borrow pits in Lots 178 and 210.

<sup>4</sup> For a list of the lots, locatees, and compensation amounts, refer to Appendix A at the end of the report. This statement is reproduced from Dawes' list of the valuations.

By March 1897 most claimants had accepted the offered compensation, however some locatees continued to press for higher compensation.<sup>5</sup> The railway company refused to raise the compensation amounts, stating that they had been submitted to arbitration. One of the issues raised in these compensation disputes was the appointment of Dawes as arbitrator. Despite DIA's earlier contention that arbitration had not taken place, the Secretary of Indian Affairs responded that Dawes had been appointed by a letter from DIA, and that an O.C. was not required as the SGIA was authorized to appoint an arbitrator under s. 35 of the Indian Act.

The land for the line, borrow pits, approaches and road deviation was patented to the St. Lawrence and Adirondack Railway Co. in April 1897. Letters Patent 11698 stated that the right-of-way consisted of 63.175 arpents. Later that year locatees who had held out for increased compensation agreed to accept the amounts offered.

In 1902 the railway company reported that band members had requested that a spur line be constructed from Adirondack Junction to a road west of the junction. The company supplied a plan of the land and noted that they expected that the land would be deeded to them after compensation had been paid to the locatees. The plan and description of the lands required was submitted along with an offer to the affected locatees.<sup>6</sup>

After some confusion, it was ascertained that compensation for damages in connection with an already existing portion of the spur had been paid to M. Daillebout, holder of Lot 213, in 1897. With regards to the new extension of the spur, an agreement was reached, with the participation of Council, that the railway company would pay the locatee \$150, and that \$25 would be paid "for the land itself" (i.e. for the value of the lands taken in 1896 as well as the value of the lands for the new extension).<sup>7</sup>

DIA sent plans to the Chief Engineer of the Department of Railways and Canals for certification, and the SGIA made a submission to the Governor General in Council recommending that the total area of the spur, 0.74 acres, be transferred to the St. Lawrence and Adirondack Railway Co. under s. 35 of the Indian Act. An O.C. was passed on March 26, 1903 authorizing the railway company to "acquire" the land for railway purposes. Letters Patent 13489 was issued in April 1903. Note that both the O.C. and patent erroneously included the land which had already been patented to the railway company in 1897.

When the New York Central Railway Co. took over the St. Lawrence and Adirondack line in 1905 they discovered that the plans of the railway crossings had never been properly filed with the Board of Railway Commissioners. Three of the road crossings were on Caughnawaga Reserve, namely those at Primeau Road (Hwy. 138), Grand Trunk Highway (St. Isidore) and Viau Road. The company's attorney informed DIA that they were applying directly to the Board of Railway Commissioners for approval. The Board

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<sup>5</sup> In January 1897, the Indian Agent had given his opinion regarding the valuations and had found some of them to be too low; however, the agent had deemed the valuations of the locatees who would not settle as adequate, except for one case.

<sup>6</sup> Lot 209 P. Parquis, Lot 213 M. Daillebout.

<sup>7</sup> Note that in 1896, the plans noted that two locatees, the holders of Lots 213 and 213A, were affected by the spur, but that this was overlooked in 1897 when only one locatee was compensated. Similarly, in 1902, no distinction was made between the two lots; in other words, the two lots were considered to comprise Lot 213, thus, once again, the holder of Lot 213A was overlooked. The locatee for 213A (Martin) was ultimately paid \$25.

granted authority for the St. Lawrence and Adirondack Railway Co. to construct its railway crossings across designated highways in January 1909.

In 1910 the St. Lawrence and Adirondack Railway Company applied for permission to extend the side track from Adirondack Junction across Viau Road and the Grand Trunk Highway. The extension was within the existing right of way and no additional land was required. The Band Council passed a BCR asking Indian Affairs to ensure that the railway company paid compensation for loss of horses and cattle on the side track. The Board of Railway Commissioners approved the company's application to extend its side track across the roads on July 25, 1910.

Some requests for improved train service were also made. For example, in December 1911, Council passed a BCR to that effect which stated that reserve lands had been yielded to the railway companies at a very low cost in consideration of the benefit to be gained from rail services, and that the community was greatly inconvenienced by service reductions.<sup>8</sup>

The report also documents some complaints and requests related to flooding, damages, fencing and road crossings.

The rail line was bought out by the New York Central Railway in 1905 and was later taken over by Con Rail, probably in the 1970s. Conrail was purchased by CSX Corporation in 1997.

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<sup>8</sup> This specific request appears to have been turned down but later requests appear to have been granted.