CHAPTER 229
Lakes and Rivers Improvement Act

INTERPRETATION

1. In this Act,
   (a) "dam" means a dam or other work forwarding, holding back or diverting water;
   (b) "Ministry" means the Ministry of Natural Resources;
   (c) "floating of timber" includes transmission of timber;
   (d) "lake" includes a pond;
   (e) "Minister" means the Minister of Natural Resources;
   (f) "regulations" means the regulations made under this Act;
   (g) "river" includes a creek and a stream;
   (h) "timber" includes rafts and crafts, saw logs, posts, ties, cordwood, pulpwood, masts, staves, deals, boards, and all sawed and manufactured lumber. R.S.O. 1970, c. 233, s. 1; 1972, c. 4, s. 12.

GENERAL PROVISIONS

2. The purpose of this Act is to provide for the use of waters of the lakes and rivers of Ontario and to regulate improvements in them, and to provide for,
   (a) the preservation and equitable exercise of public rights in or over such waters;
   (b) the protection of the interests of the riparian owners;
   (c) the use, management and perpetuation of the fish, wildlife and other natural resources dependent on such waters;
(d) the preservation of the natural amenities of such waters and on the shores and banks thereof; and

(e) ensuring the suitability of the location and nature of improvements in such waters, including their efficient and safe maintenance and operation and, having regard to matters referred to in clauses (a), (b), (c) and (d), their operation in a reasonable manner.

1971, c. 50, s. 50 (1).

Regulations

3. — (1) The Lieutenant Governor in Council may make regulations,

(a) for the safe and orderly floating of timber down lakes and rivers, and for preventing the use of the lakes and rivers for navigation by vessels and boats being unnecessarily impeded or interfered with by the timber;

(b) respecting generally the use under this Act of lakes and rivers and waters therein. R.S.O. 1970, c. 233, s. 2 (1); 1971, c. 50, s. 50 (2).

Scope of regulations

(2) The regulations may be general in their application, or be applicable to any particular Part of this Act or to any particular lake or river or to any particular dam or work. R.S.O. 1970, c. 233, s. 2 (2).

Penalty

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable, where no other penalty is provided in this Act, to a fine of not more than $5,000. 1971, c. 50, s. 50 (3).

Compliance with Part V

4. Every person making use of a lake or river upon which works are constructed under this or any other Act for the purpose of floating timber shall comply with the requirements of Part V as to timber driving. R.S.O. 1970, c. 233, s. 3.

Where R.S.O. 1980, c. 148 applies

5. — (1) The Expropriations Act applies where anything done under this Act constitutes an expropriation or injurious affection within the meaning of that Act.

Arbitrations

(2) Where under this Act a claim or dispute that does not constitute an expropriation or injurious affection is to be determined by arbitration, a judge of the county or district court of the county or district in which the claim or dispute arises or, in the case of a claim under Part V, in which the timber in connection with which the claim or part of the claim is made or the greater part of such timber
is situate at the time of the service of the notice of claim, shall be the sole arbitrator for such purpose and the Arbitra-
tions Act otherwise applies. R.S.O. 1970, c. 233, s. 4.

6. Where land is overflowed or otherwise injured by the maintenance of a dam that was erected before the land was granted by the Crown and the grantee or any person under whom he derived title obtained a reduction in the price of the land on account of, or was otherwise indemnified for, its being overflowed or otherwise injured by the dam, no subsequent owner of the land is entitled to maintain an action against the owner or occupier of the dam for damages for any overflowing or injury to the land due to the continuance of the dam. R.S.O. 1970, c. 233, s. 5.

7. Nothing in this Act authorizes any person to obstruct any waters already navigable or to collect tolls other than those upon timber. R.S.O. 1970, c. 233, s. 6.

8. If, by reason of a dam erected for the floating of timber, any water power is created, the owner of the dam does not have any title or claim to the use of such water power, but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam, the claim shall be determined by arbitration and the arbitrator may take into account the increased value of his land by reason of the water power so created. R.S.O. 1970, c. 233, s. 7.

9.—(1) Any person heretofore or hereafter giving any approval or making any recommendation for approval authorized or required under this Act is not liable for any injury, including death, loss or other damage caused by or resulting from the giving of such approval or the making of such recommendation or the doing of or the failure to do any act in connection therewith. R.S.O. 1970, c. 233, s. 8.

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the Proceedings Against the Crown Act, relieve the Crown of liability in respect of a tort committed by any agent or servant of the Crown to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1971, c. 50, s. 50 (4).

10.—(1) Subject to subsection (2), where under this Act the approval of the Minister is required for any matter, or where under this Act the Minister is empowered to make an order directing the construction, repair, improvement or
removal of a dam in any lake or river or the doing of any other act or thing requiring the incurring of costs, the Minister shall, before refusing such an approval or making an order, give notice to the person seeking the approval or to the person to whom the proposed order will be directed of his intention to refuse the approval or to make the order, and if such person, within fifteen days of receipt of the notice, requests an inquiry, the Minister before refusing the approval or making the order shall cause an inquiry to be made under section 11.

(2) Where in the opinion of the Minister the making of an order referred to in subsection (1) is immediately necessary for the protection of persons from injury or property from damage or for the public safety and he so states in the order, the Minister may make such order without the holding of an inquiry. 1971, c. 50, s. 50 (5), part.

11.—(1) The Minister may appoint a person to hold an inquiry under section 10 and shall specify particulars of the inquiry and the person so appointed shall fix a time and place for the holding of the inquiry.

(2) The Minister and the person seeking the approval referred to in section 10 or to whom the proposed order referred to therein may be directed are parties to the inquiry, but any person having a direct interest in the subject-matter of the inquiry may notify the person holding the inquiry of his interest and become a party, and the person holding the inquiry may cause notice of the inquiry to be published or otherwise given in such manner as he considers reasonably adequate to inform all persons who may have direct interests in the subject-matter of the inquiry.

(3) At least five days before the date fixed for the hearing, the Minister shall serve upon each other party to the inquiry a notice indicating the grounds upon which he intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans that the Minister proposes to use at the hearing.

(4) The person holding an inquiry under this section shall hold a hearing as to whether the refusal of approval or the proposed order is fair, sound and reasonably necessary for the achievement of the purposes of this Act.

(5) A person holding an inquiry under this section shall report to the Minister pursuant to the inquiry giving a summary of the evidence and arguments advanced by the parties, his findings of fact and his opinion on the merits
of the granting of approval or of the proposed order with his reasons therefor, and shall furnish a copy of his report to the other parties.

(6) Sections 6 to 16 and 21 to 23 of the Statutory Powers Procedure Act apply with respect to a hearing under this section.

(7) The Minister shall consider a report made to him under this section and may grant or refuse the requested approval or refrain from making or make the proposed order, with or without such modifications as he considers proper having regard to the report, and the Minister shall give reasons for his decision to the parties. 1971, c. 50, s. 50 (5), part.

12. Upon the petition of a person who has been refused Appeal approval by the Minister of any matter or to whom an order is directed by the Minister after an inquiry under section 11 filed with the Clerk of the Executive Council within twenty-eight days after the date of the refusal or order, the Lieutenant Governor in Council may,

(a) confirm, vary or rescind the refusal or order; or

(b) require the Minister to cause a new inquiry to be held,

and the decision of the Minister after the new inquiry is not subject to petition under this section. 1971, c. 50, s. 50 (5), part.

PART I

CONSTRUCTION, REPAIR AND USE OF DAMS

13. In this Part,

(a) "engineer" means an engineer designated by the Minister;

(b) "owner" means an owner of a dam, and includes the person constructing, maintaining or operating it. R.S.O. 1970, c. 233, s. 9.

14.—(1) No person shall construct a dam on any lake Approvals or river,

(a) until the location of the dam has been approved in writing by the Minister; and
(b) until the plan and specifications thereof have been approved in writing by the Minister.

(2) An application for approval of the location of a dam shall be made in writing to the Minister and shall be accompanied by,

(a) a sketch showing the proposed location of the dam, the area to be flooded and the lands of persons other than the applicant that may be affected by the flooding;

(b) a statement showing the purpose, size and type of the dam, whether the dam will be of a temporary or permanent nature and the quantity of water, if any, to be taken from the headpond; and

(c) such other particulars as the Minister may require.

R.S.O. 1970, c. 233, s. 10 (1, 2).

(3) The Minister may refuse to give his approval under this section to the location of a dam where it appears to him that the construction of a dam at that location would be contrary to any of the purposes of this Act. 1971, c. 50, s. 50 (6).

(4) When the location of a dam has been approved by the Minister, an application for approval of the plan and specifications of the dam may be made in writing to the Minister and shall be accompanied by,

(a) three copies of the plan and specifications and a report showing full details of the construction of the sluicegates, spillways and other works connected with the dam and the height at which the water is to be held;

(b) a map showing the location and size of the watershed above the dam, the extreme high water mark and the normal regulated water level;

(c) particulars as to the nature of the bottom or foundation on which the dam is to be constructed with reports of all boring or test pits; and

(d) such other particulars as the Minister may require.

R.S.O. 1970, c. 233, s. 10 (4).

(5) The Minister may approve the plan and specifications of a dam as submitted to him or may approve them with such alterations as he considers advisable having regard to
the purposes of this Act, and without limiting the generality of the foregoing, may require that the dam shall be provided with a fishway that will permit the free and unobstructed passage of fish. 1971, c. 50, s. 50 (7).

(6) Nothing in this section prevents or applies to the construction of an emergency dam where such construction is considered necessary for the prevention of loss or damage to property, but in such case the owner shall immediately give notice to the Minister that he is proceeding with the construction of the dam and shall thereafter comply with any directions of the Minister as to the precautions to be taken in maintaining the dam or its removal when the purpose for which it was constructed has been served. R.S.O. 1970, c. 233, s. 10 (6).

15.—(1) Where a dam is under construction or has been constructed on a lake or river and the location or the plan and specifications thereof have not been approved by the Minister or an emergency dam has been constructed and the owner thereof has not given notice to the Minister under section 14, the Minister may appoint an officer or officers with such powers and duties as are considered expedient to be in charge of the lake or river or any works or improvements thereon and to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having conflicting interests on the lake or river a fair and reasonable use of the waters of the lake or river, but, where any alteration of the level of international boundary waters is involved, such regulation, powers and duties shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States. R.S.O. 1970, c. 233, s. 11 (1).

(2) The Minister may, where he considers it necessary for any of the purposes of this Act, order the owner of a dam to which subsection (1) applies to repair, reconstruct or remove the dam within the time specified in the order and, upon non-compliance with the order within the time limited, the Minister may repair, reconstruct or remove the dam to the extent that he considers it necessary to comply with the purposes of this Act, and the cost of any such work shall be a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (8).

16. Where a dam has heretofore been or is hereafter constructed in a lake or river and it is proposed to make
improvements to the dam, the improvements shall not be proceeded with until complete copies of the plans and specifications have been approved by the Minister as being in accordance with the purposes of this Act. 1971, c. 50, s. 50 (9).

17.—(1) Where a dam has heretofore been or is hereafter constructed in a lake or river and an engineer or other officer of the Ministry reports that by reason of the construction or condition of the dam water may be held, released or diverted in sufficient volume to cause personal injury or damage to property, the Minister may require the owner of the dam to furnish within a given time the plans and other particulars mentioned in subsection 14 (4). R.S.O. 1970, c. 233, s. 13 (1); 1972, c. 1, s. 1.

(2) Upon failure on the part of the owner to furnish plans and other particulars required under subsection (1) within the time specified, the Minister may require the engineer to make an examination and report on the dam, and the expenses incurred in making the examination and report shall be a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (10).

(3) For the purpose of making the report, the engineer shall have free access to all parts of the dam and to the adjoining or neighbouring lands and to all plans, books, accounts, documents and reports relating to the construction of the dam.

(4) On the report of the engineer, the Minister may make such order as he considers necessary to ensure the safety of the public or of persons whose lands or property may be endangered by the dam, and for such purpose may order the owner to repair, improve, open up or remove it, and may fix the time within which such repairs, improvements, opening up or removal are to be completed. R.S.O. 1970, c. 233, s. 13 (3, 4).

(5) Upon non-compliance with the order within the time limited or in case the Minister considers that the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister may repair, improve, open up or remove the dam in so far as he considers it necessary to ensure the safety of the public or of persons whose lands or property may be endangered by the dam, and the cost of any such work is a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (11).
(6) Where any dam heretofore constructed has not been provided with a fishway, the Minister may direct that the owner of the dam shall forthwith provide a fishway that will permit the free and unobstructed passage of fish up and down stream at any season of the year. R.S.O. 1970, c. 233, s. 13 (6).

18.—(1) Where water has been impounded for power development or storage purposes, the Minister may order the owner of any dam that impounds the water,

(a) to clear timber, slash or debris from the lands that are or were flooded; and

(b) to remove any timber, slash or debris that has escaped from the flooded lands to any lake or river, within the time specified in the order. R.S.O. 1970, c. 233, s. 14 (1).

(2) Where the owner of a dam fails to comply with an order made under subsection (1) within the time specified in the order, the Minister may cause to be done whatever work is necessary to comply with the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (12).

19.—(1) The Minister may authorize the engineer to inspect or cause an inspection to be made of any dam or other structure or work for the development, improvement or utilization of the waters of any lake or river and report in writing upon the state of repair of the dam or other structure or work. R.S.O. 1970, c. 233, s. 15 (1).

(2) If the Minister considers it necessary or expedient for the purposes of this Act, he may, after the receipt of the report of the engineer, order the owner of the dam or other structure or work to repair, reconstruct or remove it to the extent necessary to comply with such purposes within the time specified in the order.

(3) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may expropriate the site of the dam or other structure or work and all rights or interest incidental thereto on behalf of the Crown, and the Expropriations Act applies to such expropriation. 1971, c. 50, s. 50 (13), part. R.S.O. 1980, c. 148.
20.—(1) Every person who,

(a) constructs or maintains a dam in contravention of this Part; or

(b) hinders or obstructs the engineer or an officer, servant or agent employed by or under the direction of the Minister in the performance of his duties under this Part, or refuses or neglects to provide any plans, accounts, documents or report relating to the construction of a dam when required by such engineer, officer, servant or agent,

is guilty of an offence and on conviction is liable to a fine of not more than $500, and if after conviction such default continues, such person is liable to a further fine of $10 for each day upon which the default continues. R.S.O. 1970, c. 233, s. 16 (1); 1971, c. 50, s. 50 (14).

21. All plans, orders and reports furnished or made under this Part shall be kept on file in the Ministry. R.S.O. 1970, c. 233, s. 16 (2).

22.—(1) Where the Minister considers it expedient for the purposes of this Act or where a conflict or dispute arises between persons having a right to use a lake or river or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers to be in charge of the lake or river or any works or improvements thereon and the Minister may, on the recommendation of such officer or officers, make orders to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having diverse interests on the lake or river or in the works or improvements a fair and reasonable use of the waters of the lake or river, but where any alterations of the level of international boundary waters is involved, such orders shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States.
(2) Every person who contravenes any order made under Penalty this section is guilty of an offence and on conviction is liable to a fine of not more than $50 for each day that he contravenes the order. 1971, c. 50, s. 50 (15).

23.—(1) Where a dam or other structure or work has been heretofore or is hereafter constructed on a lake or river and the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides.

(2) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (16).

(3) This section does not apply to any lake or river over which the International Joint Commission established under the Boundary Waters Treaty of 1909 or any public authority exercising jurisdiction under the Parliament of Canada or The Lake of the Woods Control Board established under The Lake of the Woods Control Board Act, 1922 has jurisdiction with respect to the level of the water. R.S.O. 1970, c. 233, s. 19 (3).

24. Subject to compensation being made as provided by the Ministry of Government Services Act for any damage sustained by reason thereof, the Minister may authorize any engineer, agent, workman or servant employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he considers necessary or expedient for the achievement of any of the purposes of this Act. 1971, c. 50, s. 50 (17); 1973, c. 2, s. 2.

25.—(1) A judge of the county or district court of the county or district in which any part of any works used for floating timber is situate, on the complaint of any person interested in the floating of timber down any lake or river, through or over the works upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof.
26. Where a dam is now or is hereafter erected on or across any lake or river down which timber is usually floated, such dam shall at all times be provided with a slide or apron for the passage of timber of such description and dimensions as are approved by the Minister and such approval shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1970, c. 233, s. 22.
27. Every such apron shall be so constructed and maintained as to afford a depth of water sufficient to admit of the passage over it of such timber as is usually floated down the lake or river on which the dam is erected. R.S.O. 1970, c. 233, s. 23.

28.—(1) The owner and occupier of a dam who does not provide, maintain and keep in repair a slide or apron thereto in accordance with such description and dimensions as are approved by the Minister under section 26 is guilty of an offence and on conviction is liable to a fine of $50 for each day on which the default occurs or during which it continues.

(2) Where the apron is carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam is not liable to the fine provided by subsection (1) if the apron is repaired or reconstructed as soon as the state of the lake or river safely permits. R.S.O. 1970, c. 233, s. 24.

29. The Minister, an engineer and every officer, servant or agent of the Minister has the right, while in the performance of his duties under this Act, to enter into and upon any lands and premises, other than a private dwelling, store, storehouse, office or farm building. R.S.O. 1970, c. 233, s. 25.

PART II

PUBLIC RIGHTS IN LAKES AND RIVERS

30. This Part is subject to Part I. R.S.O. 1970, c. 233, Application s. 28.

31.—(1) Subject to this Part, all persons may float timber down all lakes and rivers during the spring, summer and autumn freshets.

(2) No person shall, by felling trees or placing any other obstruction in or across a lake or river, prevent the floating of timber.

(3) If it is necessary to remove an obstruction from a lake or river, or to construct a dam, apron, slide, gate, lock, boom or other work therein or thereon in order to...
facilitate the floating of timber down the lake or river, the person requiring so to float the timber may remove the obstruction, and may construct the dam, apron, slide, gate, lock, boom or other work, doing no unnecessary damage to the lake or river or to its banks.

(4) All persons driving timber down a lake or river have the right to go along the banks of the lake or river for the purpose of assisting and to assist the floating of the timber by all means usual with lumbermen, doing no unnecessary damage to the banks of the lake or river.

(5) All persons floating timber down a lake or river shall keep the timber under control and shall recover and remove from the lake or river any timber that drifts out of control or causes an obstruction or hazard in the lake or river. R.S.O. 1970, c. 233, s. 29 (1-5).

(6) Where the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of or the person who is responsible for driving any timber that has drifted out of control or that has caused an obstruction or hazard in a lake or river to recover and remove the timber within the time specified in the order and, in default thereof, the Minister may cause the timber to be recovered and removed, and the cost thereof is a debt due to the Crown by such owner or person and is recoverable with costs in any court of competent jurisdiction. 1971, c. 50, s. 50 (19).

32. A person who has constructed in or upon a lake or river, which was not navigable or floatable before the same was constructed, a dam, apron, slide, gate, lock, boom or other work necessary to facilitate the floating of timber down the lake or river, or blasts rocks or removes shoals or other impediments from or otherwise improves the floatability of the lake or river, does not have the exclusive right to the use of the lake or river or of the works or improvements, but all persons, subject to the payment of tolls fixed under Part IV, have the right during the spring, summer and autumn freshets to float timber down the lake or river and through and over such works and improvements, doing no unnecessary damage. R.S.O. 1970, c. 233, s. 30.

33. All the rights conferred by this Part extend and apply to all works and improvements heretofore or hereafter made, on a lake or river, whether the bed of the lake or river has been granted by the Crown or not. R.S.O. 1970, c. 233, s. 31.
34.—(1) Where the course of a river enters or widens into a lake or other considerable body of water, every person using the river for the purpose of floating timber shall provide proper and adequate means by a steam tug or otherwise to move his timber across the lake or body of water with expedition.

(2) The Minister may by his order in writing direct the kind of power or appliance that is to be used in moving timber across the lake or body of water from the place of entrance to the outlet.

(3) Every person who contravenes or neglects to obey the terms of such an order is guilty of an offence and on conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 233, s. 32.

35.—(1) Every person who cuts and fells, and the employer of every person who cuts and fells, any tree into a lake or river down which timber is usually floated, or upon such parts of the banks of it as are usually overflowed in the spring, summer or autumn freshets, without lopping off the branches of the tree and cutting up the trunk into lengths of not more than 5.5 metres before the tree is allowed to be floated or cast into the lake or river is guilty of an offence and on conviction is liable to a fine of not more than $10. R.S.O. 1970, c. 233, s. 33 (1); 1978, c. 87, s. 26.

(2) Subsection (1) does not apply to timber prepared for transportation to market. R.S.O. 1970, c. 233, s. 33 (2).

36.—(1) Where any tree, part of a tree, refuse, substance or matter has been thrown or deposited in a lake or river or on the shores or banks thereof in such a manner as, in the opinion of the Minister, impairs the natural beauty of the lake or river, the Minister may order the person who committed or caused the commission of such act to take such steps within the time specified in the order as are necessary to remove the tree, part of a tree, refuse, substance or matter from the lake or river or from the shores or banks thereof.

(2) Every person who fails to comply with an order under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $50 for each day that he does not comply with the order. 1971, c. 50, s. 50 (20).
37. In sections 38 and 39, "mill" means a plant or works in which logs or wood-bolts are processed, and includes a saw mill, a pulp mill, and a pulp and paper mill. R.S.O. 1970, c. 233, s. 35.

38.—(1) No person shall throw, deposit or discharge, or permit the throwing, depositing or discharging of, any refuse, sawdust, chemical, substance or matter from any mill into a lake or river, or on the shores or banks thereof.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than $200. R.S.O. 1970, c. 233, s. 36 (1, 2).

(3) Where the Minister finds that any refuse, sawdust, chemical, substance or matter from a mill is being thrown, deposited or discharged into a lake or river or on the shores or banks thereof, the Minister may order the owner or occupier of the mill to cause such throwing, depositing or discharging to cease and may in addition order, where in his opinion it is practicable to do so, that such owner or occupier take such steps within the time specified in the order as may be necessary to remove the refuse, sawdust, chemical, substance or matter from the lake or river or from the shores or banks thereof.

(4) Every owner or occupier who fails to comply with an order under subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than $50 for each day that he does not comply with the order. 1971, c. 50, s. 50 (21).

DISCRETIONARY POWER OF COURT

39.—(1) Where in an action or proceeding a person claims, and but for this section would be entitled to, an injunction against the owner or occupier of a mill for an injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing, depositing or discharging, or permitting the throwing, depositing or discharging of any refuse, sawdust, chemical, substance or matter from the mill or from it and other mills into a lake or river, or by reason or in consequence of any odour arising from any such refuse, sawdust, chemical, substance or matter so thrown, deposited or discharged or so permitted to be thrown, deposited or discharged, the court or judge may,
(a) refuse to grant an injunction if it is proved that having regard to all the circumstances and taking into consideration the importance of the operation of the mill to the locality in which it operates and the benefit and advantage, direct and consequential, which the operation of the mill confers on that locality and on the inhabitants of that locality, and weighing the same against the private injury, damage or interference complained of, it is on the whole proper and expedient not to grant the injunction; or

(b) grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as are considered proper; or

(c) in lieu of granting an injunction, direct that the owner or occupant of the mill take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of as are considered proper.

(2) Nothing in subsection (1) affects any right of the person claiming the injunction to damages against the owner or occupier of the mill for any such injury, damage or interference.

(3) Where damage from the same cause continues, the person entitled to the damages may apply from time to time in the same action or proceeding for the assessment of subsequent damages or for any other relief to which by subsequent events he from time to time becomes entitled.

(4) This section applies whether the injury, damage or interference is or is not a continuing one, and whether the person claiming the injunction in the action or proceeding is a plaintiff or is a defendant proceeding by way of counterclaim. R.S.O. 1970, c. 233, s. 37.

PART III

TIMBER SLIDE COMPANIES

40. In this Part,

(a) "charter" means letters patent of incorporation or articles of incorporation;

(b) "works" means a dam, slide, pier, boom or other work constructed or proposed to be constructed
in or upon a lake or river in order to facilitate the floating of timber down the lake or river and any improvements made or proposed to be made to the floatability of a lake or river by the blasting of rocks or dredging or the removal of shoals or other impediments or otherwise. R.S.O. 1970, c. 233, s. 38.

41. A company may be incorporated under the appropriate general legislation providing for incorporation for the purpose of acquiring or constructing and maintaining and operating works upon a lake or river in Ontario, and every such company thereupon becomes subject to this Part. R.S.O. 1970, c. 233, s. 39.

42. The application for incorporation shall give,

(a) a detailed description of the works proposed to be undertaken and an estimate of their cost; and

(b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the lake or river yearly after the works have been completed. R.S.O. 1970, c. 233, s. 40.

43. The charter incorporating a company for any of the purposes mentioned in section 41 shall not be issued until proof has been furnished to the Minister,

(a) that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking; and

(b) that notice of the application for the charter has been served upon all timber licensees and other persons known to be interested in the works proposed to be constructed,

nor until approval of the proposed work has been obtained under Part I, and the Minister has certified to the Minister issuing the charter that, in his opinion, it is proper that it should be issued. R.S.O. 1970, c. 233, s. 41.

44. The charter may state a rate of dividend, not exceeding 12 per cent per annum, that the company may
pay to the shareholders if the revenues of the company otherwise justify such payment. R.S.O. 1970, c. 233, s. 42.

45. The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the charter. R.S.O. 1970, c. 233, s. 43.

46. Upon the expiration of the period limited for the existence of the company, all the works constructed by it become the property of Her Majesty for the public uses of Ontario, and shall be under the control of the Ministry and the company, or the shareholders thereof, have no right to compensation therefor. R.S.O. 1970, c. 233, s. 44; 1972, c. 1, s. 1.

47. Notwithstanding the expiration of the period limited for the existence of the company, it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets and distributing them among its shareholders, and the company may, for those purposes, sue and be sued as if the period of its corporate existence had not expired, but after such period the words “in liquidation” shall be added to the name of the company and are a part of its name. R.S.O. 1970, c. 233, s. 45.

48. No distribution of capital shall be made under section 47 until three years after the expiration of the period limited for the existence of the company, but this does not prevent the distribution among the shareholders of the annual profits received from investments, and after such three years section 146 of the Business Corporations Act does not apply. R.S.O. 1980, c. 54

49. The directors of a company formed under this Part shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying,

(a) the cost of the works;

(b) the amount of all money expended;

(c) the amount of the capital stock, and the amount paid in;

(d) the whole amount of tolls expended on the works;

(e) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;
(f) the amount of dividends paid;

(g) the amount expended for repairs;

(h) the amount of the debts due by the company, stating the objects for which they were respectively incurred; and

(i) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof. R.S.O. 1970, c. 233, s. 47.

50. The company shall keep proper books of account containing full and true statements of,

(a) its financial transactions;

(b) its assets;

(c) the sums received and expended by it and the matters in respect of which the receipt or expenditure took place; and

(d) its credits and liabilities,

and such books shall be at all times open to the inspection and examination of any shareholder. R.S.O. 1970, c. 233, s. 48.

51. The company has the right to expropriate any land, right or easement requisite for the purpose of its undertaking. R.S.O. 1970, c. 233, s. 49.

52. No company formed under this Part shall construct its works over or upon or otherwise interfere with or injure any private property or the property of Her Majesty, without first having obtained the consent of the owner or occupier thereof, or of Her Majesty, except as is provided in this Part. R.S.O. 1970, c. 233, s. 50.

53.—(1) If there is already established by any person, other than a company formed under this Part or under any Act of the Legislature, any works on a lake or river for the improvement of which a company is formed under this Part, such company may with the approval of the Minister take possession of the works, and the owners thereof, or, if the works have been constructed on the property of Her Majesty, the person at whose cost they have been constructed, is entitled to compensation for the value of the works, either in money or in stock of the company,
at the option of the owner or the person at whose cost the works were constructed, and may become a shareholder in the company for an amount equal to the value of the works, such value to be ascertained by arbitration.

(2) Where the company purchases or takes possession of the works and does not make or construct any works other than those so acquired, the company shall furnish the Minister with a detailed description of such works and the amount of the purchase price or compensation. R.S.O. 1970, c. 233, s. 51.

54.—(1) Nothing in this Act authorizes a company formed under this Part to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber, and no such company shall commence any work that interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company. R.S.O. 1970, c. 233, s. 52.

55.—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the application for the charter, and for the completion of which the company is incorporated, in default of which the company is liable to forfeit the right to all the corporate and other powers and authority that it has acquired, and the Attorney General may cause proceedings to be taken in the name of Her Majesty to set aside the charter by serving notice upon the company, and the Lieutenant Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers cease and determine at a date to be named in the order in council. R.S.O. 1970, c. 233, s. 53 (1); 1972, c. 1, s. 9 (7).

(2) From and after that date, all the corporate powers of the company cease and determine unless, prior to the taking of proceedings by the Attorney General, further time is granted by the Minister or the completion of the works appears to be unnecessary and is dispensed with by him. R.S.O. 1970, c. 233, s. 53 (2); 1972, c. 1, s. 9 (7).

(3) If in the opinion of the Minister the company has abandoned for one year any works completed by it so that
the works are not in sufficient repair and cannot be used for the purpose for which they were undertaken, the Minister may by his order in writing declare that the corporate powers of the company cease and determine to the extent set out in the order. R.S.O. 1970, c. 233, s. 53 (3).

56. Any two companies formed for the construction of works on contiguous waters may unite and form one consolidated company on such terms as to them seem meet, and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and, when issued, the consolidated company may exercise and enjoy all the rights and is subject to all the liabilities of other companies formed under this Part, and which the separate companies had and enjoyed or were subject or liable to before their union. R.S.O. 1970, c. 233, s. 54.

57. The Minister may, with the approval of the Lieutenant Governor in Council, where the Lieutenant Governor in Council considers it expedient for the purposes of this Act, expropriate the works of any company formed under this Part. 1971, c. 50, s. 50 (22).

58. Where a company incorporated under chapter 153 of the Revised Statutes of Ontario, 1877, or under chapter 68 of the Consolidated Statutes of Canada, 1859, applies for the issue of articles of incorporation under the Business Corporations Act, articles of incorporation may, subject to the approval of the Minister, be issued conferring upon the company any of the powers authorized by this Part, and by such articles the term of existence of the company may be limited and the company is subject to this Part. R.S.O. 1970, c. 233, s. 56.

59.—(1) The term of existence of a company incorporated for a limited period may be extended for such a number of years as the Lieutenant Governor in Council, before the expiry of such period, may direct.

(2) Where the term of existence of a company incorporated for a limited period has expired but the company has continued to carry on business and it appears to the Lieutenant Governor in Council that the company has acted in good faith, the Lieutenant Governor in Council, notwithstanding the expiry of such period, may, by amend-ment to its charter, extend the term of existence of the company as from the date of the expiry, and thereupon the company shall be deemed to have continued in existence
from such date and the works constructed by the company shall not be deemed to have become the property of Her Majesty, but to have remained vested in the company for the period named in such amendment to the charter.

(3) Where any extension or improvement of the works or any new works proposed to be undertaken are approved by the Minister, the charter may be amended authorizing the construction of the extension or improvement or the new works, as the case may be. R.S.O. 1970, c. 233, s. 57.

PART IV

TOLLS

60. In this Part, (Interpretation)

(a) “operator” means the owner or occupier of the works;

(b) “works” means works as defined in Part III that have been constructed. R.S.O. 1970, c. 233, s. 58.

61. The operator may demand and receive the lawful tolls upon all timber passing through or over his works, and shall have free access to such timber for the purpose of measuring or counting it. R.S.O. 1970, c. 233, s. 59.

62.—(1) In each year, before the 1st day of March, the operator shall publish once a week for four successive weeks in a newspaper published in the county or district in which the works are situate, a schedule of the tolls proposed to be charged, together with a notice stating that on a day and hour named he will apply to a judge of such county or district for the approval of such tolls.

(2) Before publishing the schedule of tolls, the operator shall apply to a judge of such county or district to fix the time for the hearing of the application so that it may be inserted in the notice, and the judge shall at the time so fixed hear the application and approve of the schedule of tolls after making such changes therein as he thinks proper.

(3) In fixing the tolls, the judge shall have regard to and take into consideration the original cost of the works and improvements, the amount required to maintain them and to cover interest upon the original cost, as well as such other matters as under all the circumstances are considered just and equitable.
(4) The judge may on the hearing require the production of all books of account of the operator for the purpose of ascertaining the state of the affairs of the operator, and may, if he thinks it necessary, appoint some person to inspect such books and make a report to him on the affairs of the operator for the purpose of determining the tolls that should be charged.

(5) The schedule of tolls as approved by the judge are final and binding and there is no appeal from his decision.

(6) If the schedule of tolls is amended, then the tolls as so amended shall be published once a week for two successive weeks in a newspaper published in the county or district in which the works are situate. R.S.O. 1970, c. 233, s. 60 (1-6).

(7) The operator shall forthwith after the schedule of tolls has been approved by the judge send a copy of it certified by the judge to the Minister so that it may be filed in the Ministry, and, on failure to do so, he is guilty of an offence and on conviction is liable to a fine of not more than $20. R.S.O. 1970, c. 233, s. 60 (7); 1972, c. 1, s. 1.

63.—(1) The operator may demand from the owner of any timber intended to be passed over or through any part of the works, or from the person in charge of the timber, a written statement of the quantity of every kind of timber and of its destination, and of the parts of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, is liable to double toll.

(2) If any owner or person in charge of such timber knowingly or wilfully returns a larger quantity than it is his intention to pass over or through the works, the operator is entitled, in addition to any other remedy he may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. R.S.O. 1970, c. 233, s. 61.

64. If the tolls are not paid on demand, they may be recovered by action. R.S.O. 1970, c. 233, s. 62.

65. If timber has come through or over part only of the works, the owner of the timber is liable to pay tolls only for such parts of the whole works as he has made use of if, in the schedule of tolls, the works are divided into
parts, and if not, to pay such a portion of the whole
tolls as the distance the timber has come through or over
the works bears to the whole distance for which the works
extend. R.S.O. 1970, c. 233, s. 63.

66.—(1) The operator has a lien upon the timber pass-
ing through or over the works for the amount of the
tolls, ranking next after the lien of the Crown for dues in
respect of the timber.

(2) If the tolls are not paid, any justice of the peace
having jurisdiction within or adjoining the locality in which
the works are situate, upon the oath of the operator or of
his agent being made that the just tolls have not been
paid, shall issue a warrant for the seizure of the timber or
so much of it as he considers sufficient to satisfy the
tolls.

(3) The warrant may be directed to any constable or to
any person sworn as a special constable for that purpose
at the discretion of the justice, and it shall authorize the
person to whom it is directed, if the tolls are not paid
within fourteen days from the date of the warrant, to sell
the timber subject to any lien of the Crown for dues, and
out of the proceeds to pay the tolls, together with the costs
of the warrant and sale, rendering the surplus on demand
to the owner.

(4) A warrant shall not be issued after the expiration
of one month from the time of the passage of the timber
through or over any of the works. R.S.O. 1970, c. 233,
s. 64.

67.—(1) The operator may make rules for regulating the
safe and orderly floating of timber over or through the
works, but no such rules have any force or effect until
approved by the Minister who may alter or amend them
before giving his approval, and the Minister may revoke and
cancel any rules so made and approved, and from time to
time approve of new rules which the operator may make.

(2) Every person who resists or impedes the operator or
any of his servants in the floating of timber through or over
any such works, or in carrying out any such rules or resists
him or his servants who may require access to any timber
to ascertain the just tolls thereon, or in any way molests
him or his servants in the exercise of any rights conferred
upon them by this Part, is guilty of an offence and on
conviction is liable to a fine of not less than $1 and not more
than $10.
(3) In any prosecution under this section, the summons may be served either personally or by leaving a copy of it at the usual place of abode of the person named in it or with any adult person belonging to the raft to which the person named is attached.

(4) The fines when collected shall be paid to the operator for his own use. R.S.O. 1970, c. 233, s. 65.

PART V

DRIVING OF TIMBER

68. Any person putting or causing to be put timber into any water for the purpose of floating it in, upon or down the water shall make adequate provision and put on a sufficient force of men to break, and shall make all reasonable endeavours to break, jams of the timber and clear the timber from the banks and shores of the water with reasonable dispatch, and shall run and drive the timber so as not unnecessarily to delay or hinder the removal, floating, running or driving of other timber or unnecessarily to obstruct the floating or navigation of the water. R.S.O. 1970, c. 233, s. 66.

69. If any person neglects to comply with section 68, it is lawful for any other person desiring to float, run or drive timber in, upon or down such water, and whose timber would be obstructed by such jams, to cause them to be broken and the timber to be cleared from the banks and shores of the water, and to be floated, run and driven in, upon or down the water. R.S.O. 1970, c. 233, s. 67.

70.—(1) The person who causes the jams to be broken or timber to be cleared, floated, run or driven, under section 69, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber in the jams or upon the timber so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the timber, and may take and keep possession of it or so much thereof as is reasonably necessary to satisfy the amount of such charges and expenses pending the determination thereof by arbitration.

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may
securely boom and keep possession of it at or above such place.

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such charges and expenses, possession of the timber shall be given up. R.S.O. 1970, c. 233, s. 68.

71. When timber of any person upon or in any water or the banks or shores of the water are so intermixed with timber of another person that it cannot be conveniently separated for the purpose of being floated in, upon or down the water, the several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to break jams of the intermixed timber, and to clear it from the banks and shores of the water with reasonable dispatch, and to float, run and drive it in, upon or down the water, and the costs and expenses thereof shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. R.S.O. 1970, c. 233, s. 69.

72. If any person neglects to comply with section 71, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency and break jams of the intermixed timber and to clear it from the banks and shores of the water, and to float, run and drive all the intermixed timber in, upon or down the water. R.S.O. 1970, c. 233, s. 70.

73.—(1) The person supplying such deficiency and causing such jams to be broken, or such intermixed timber to be cleared, floated, run or driven, pursuant to section 72, shall do it with reasonable economy and dispatch, and shall take reasonable care not to leave timber on the banks or shores, and he has a lien upon the timber owned or controlled by the person guilty of such neglect for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed timber, and may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of such charges and expenses pending the determination of the amount by arbitration.

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may
securely boom and keep possession of it at or above such place.

(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. R.S.O. 1970, c. 233, s. 71.

74. Where timber of any person upon or in any water or the banks or shores of the water is intermixed with timber of another person, any of the persons whose timber is intermixed may at any time during the drive require his timber to be separated from the other timber at some suitable and convenient place, and after such separation he shall secure his timber at his own cost and expense in such manner as to allow free passage for the other timber, but when any timber reaches its place of original destination, if known, so intermixed, it shall be there separated from the other timber, and after such separation each owner shall secure his timber at his own cost and expense. R.S.O. 1970, c. 233, s. 72.

75. The several persons owning or controlling the intermixed timber shall respectively make adequate provision and put on a fair proportion of the men required to make the separation, and the cost and expense of such separation shall be borne by the parties in such proportions as they agree upon, and, in default of agreement, as are determined by arbitration. R.S.O. 1970, c. 233, s. 73.

76.—(1) If any person neglects to comply with section 75, it is lawful for any other person whose timber is intermixed to put on a sufficient number of men to supply the deficiency, and the timber owned or controlled by the person guilty of such neglect is subject to a lien in favour of the person supplying the deficiency for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such timber or so much thereof as is reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending determination of the amount by arbitration.

(2) The person taking possession of timber under this section shall use all reasonable care not to take it beyond the place of its original destination, if known, but may securely boom and keep possession of it at or above such place.
(3) The owner or person controlling such timber, if known, shall be forthwith notified of its whereabouts, and, if satisfactory security is given for the amount of such proportion of charges and expenses, possession of the timber shall be given up. R.S.O. 1970, c. 233, s. 74.

77. The security referred to in sections 70, 73 and 76 may be by bond in Form 1 or by deposit of money, or in such other way as the parties agree upon. R.S.O. 1970, c. 233, s. 75.

78. If it is determined by arbitration that any person acting under the assumed authority of this Part has without just cause taken possession of or detained or caused to be taken possession of or detained timber of another person, or has after offer of security that the arbitrator thinks should have been accepted, detained such timber, or has through want of reasonable care left timber of another person on the banks or shores of a lake or river, or has taken timber of another person beyond the place of its original destination contrary to sections 70, 73 and 76, such first-mentioned person shall pay to such last-mentioned person such damages as the arbitrator determines. R.S.O. 1970, c. 233, s. 76.

79. The lien given by sections 70, 73 and 76 is subject to the lien, if any, of any person for tolls for the use of any works or improvements made use of in running or driving timber. R.S.O. 1970, c. 233, s. 77.

80. Nothing in this Part affects the lien or rights of the Crown upon or in respect of any timber. R.S.O. 1970, c. 233, s. 78.

81. All claims, disputes and differences arising from any act or omission under this Part or by reason of failure to perform any duty or obligation imposed by this Part shall be determined by arbitration and not by action. R.S.O. 1970, c. 233, s. 79.

82. The person claiming that another person has not complied with this Part, or claiming payment of any charges or expenses under this Part, or claiming a lien upon any timber, or claiming damages under section 78, shall give to such other person notice in writing stating the substance and amount of the claims made. R.S.O. 1970, c. 233, s. 80.
83. The person on whom a claim is made, at any time before the arbitration is entered upon or with leave of the arbitrator during the arbitration, may give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Part that such person may have against the claimant, and such counterclaim, unless barred under section 86, shall be determined in the arbitration. R.S.O. 1970, c. 233, s. 81.

84.—(1) The person having a lien upon timber by virtue of this Part may with the approval of the arbitrator sell the timber or a sufficient part thereof in order to realize the amount of the lien, and of the costs, charges and expenses connected with the sale.

(2) The arbitrator shall determine either by the award or by a separate document the time, place and manner of the sale, and may from time to time give directions in writing respecting the sale and the realization of the lien and of the costs, charges and expenses connected therewith. R.S.O. 1970, c. 233, s. 82.

85. Any party to an arbitration under this Part may appeal from the award or directions in writing of the arbitrator to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 80 (23).

86.—(1) All claims arising under this Part shall be made within one year after they have arisen, otherwise they shall be barred, but in the event of such claims arising between the same parties in two successive seasons, they shall be so made within one year after the last of such claims has arisen.

(2) Where a claim is submitted to arbitration and a counterclaim is set up, the counterclaim shall be deemed to have been brought at the date of the service of the claim. R.S.O. 1970, c. 233, s. 84.

87. The Lieutenant Governor in Council may from time to time declare that any part of Ontario or any water therein is, until further declaration, exempt from the operation of this Part, and thereupon the same is exempt accordingly. R.S.O. 1970, c. 233, s. 85.

88. Any part of Ontario or any water exempted by declaration, from the operation of this Part may, by declaration, be again brought within its operation until further declaration, and so on from time to time. R.S.O. 1970, c. 233, s. 86.
PART VI
WATER PRIVILEGES

89. This Part is subject to Part I. R.S.O. 1970, c. 233, Application s. 87.

90. In this Part, "occupied water privilege" means a mill privilege, or water power, that has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are **bona fide** in course of construction. R.S.O. 1970, c. 233, s. 88.

91. An occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Part without the consent of the owner. R.S.O. 1970, c. 233, s. 89.

92. A person desiring to use or improve a water privilege, of which or a part of which he is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes by erecting a dam and creating a pond of water, increasing the head of water in any existing pond or extending its area, diverting the waters of any stream, pond or lake into any other channel, constructing any raceway or other erection or work that he requires in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, may enter upon any land that he considers necessary to be examined and to make an examination and survey thereof, doing no unnecessary damage and making compensation for any actual damage done. R.S.O. 1970, c. 233, s. 90 (1).

93. A person to whom section 92 applies may expropriate land for the purposes mentioned in section 92. 1971, c. 50, s. 50 (24), **part**.
FORM 1

(Section 77)

Know all men by these presents that we (here insert names of obligors, being the owner of the timber and at least one sufficient surety or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties) are held and firmly bound unto A.B. (here insert the name of the person claiming the lien) in the penal sum of (double the amount of the claim) $.......................... to be paid to the said A. B. his executors, administrators and assigns for which payment well and truly to be made we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this .................., 19....

Whereas the said A.B. claiming to act under Part V of the Lakes and Rivers Improvement Act has taken possession of certain (timber) owned or controlled by.................. and claims a lien thereon for the sum of $.................., under section 70, 73 or 76 (as the case may be) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act, and of any costs and expenses of the arbitration that may become payable to him.

Now the condition of the above obligation is such that if the said .................., his executors or administrators to pay to the said A. B., his executors, administrators or assigns, such sum as is determined by arbitration pursuant to the said Act to be payable to the said A. B., his executors, administrators or assigns for charges and expenses, and also such sum as become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

C.D. (Seal)

F.G. (Seal)

Signed, sealed and delivered } in the presence of
X.Y.