

panied by a plan and specifications shewing the nature of the work or of the improvement (*as the case may be*), and the land which will be affected by such work, has been forwarded to the Minister of Lands and Forests, and that a duplicate of such plan and specifications has been deposited at the registry office of the registration division of

The application contained in the petition will be taken into consideration by the Lieutenant-Governor in Council on or after the tenth day following the date of the publication of this notice in the *Quebec Official Gazette*.

Petitioner.

CHAP. 70

An Act respecting reservoirs for the storing of the water of lakes, ponds, rivers and streams

[Assented to 9th February, 1918]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

R. S., 7305e
et seq.,
enacted.

1. The following subsection and articles are inserted in the Revised Statutes, 1909, after article 7305d thereof, as enacted by the act 4 George V, chapter 56, section 4, to wit:

“§ 3.—*The construction and maintenance of reservoirs for the storage of the water of lakes, ponds, rivers and streams*

Allowed to
store waters
of lakes, &c.
for certain
purposes.

“**7305e.** Subject to the provisions of this subsection, of other special and general acts, and to any conditions the Lieutenant-Governor in Council may be pleased to determine, it shall be allowed to keep stored up, in all seasons, the waters of lakes, ponds, rivers and streams, with the object of conserving them so as to regulate their flow, either by their natural outlets or by a deviation therefrom, and thus to ensure a uniform supply to water-works systems and mills, and a constancy of hydraulic power, and, for that object, to construct and maintain dams, dikes, embankments and accessories, and other necessary or useful works.

Approval of
Lt.-Gov. in
C. for plan

“**7305f.** No work mentioned in article 7305e of which the construction or maintenance necessitates the taking

possession or occupation of public property or of that of and speci-
 a third person, or prejudicially affects either of such pro- cations.
 perties, or any rights of a third person or of the Province,
 either by the backing up of the water or otherwise, may
 be constructed or maintained unless the plan and speci-
 fications relating thereto have previously been approved by
 the Lieutenant-Governor in Council.

"7305g. If any such work is constructed without such On penalty
 approval, or if, after having been constructed, it is not of demoli-
 kept up in accordance with the plan and specifications tion.
 which have been so approved, the demolition of such work,
 and the restoration of such lands, either public or private,
 to their original condition or to a condition as nearly as
 possible approaching thereto, may be ordered, by any
 court of competent jurisdiction, upon an ordinary action
 instituted by the Crown or by any interested party,
 according as the land taken, occupied or affected is public
 or private property, without prejudice to any other re-
 course at law.

"7305h. Any corporation, partnership or person in- Application
 tending to construct any such work, must apply by peti- by petition.
 tion to the Lieutenant-Governor in Council, and forward
 such petition to the Minister of Lands and Forests, with a
 plan, specifications and a memorandum, shewing:

- a. The description of the land where the proposed work Contents.
 will be constructed;
- b. The area, the description and the nature of the lands,
 as well as the other rights which will be affected by the
 backing up of the water;
- c. The area of the basin drained by the lake, the pool,
 the river or the stream, and the tributaries thereof, which
 will be affected;
- d. The nature and approximate cost of the proposed
 work;
- e. The increase in the volume of water which will result
 therefrom;
- f. The total quantity of the flow, and of the volume of
 water which such lake, pool, river or stream, so improved,
 will produce.

"7305i. If any part of the lands or rights taken, In case of
 occupied or affected belongs to an individual, it shall individual.
 likewise be obligatory to:

- a. Deposit a duplicate or a copy of the plan and speci- Deposit.
 fications mentioned in article 7305h at the registry office of

the registration division where it is intended to carry on the work, where they may be examined by any person during office hours; and

Notice.

b. Give a notice, in accordance with the form A, of the application and of the deposit of such plan and specifications, by advertisement published in one issue of the *Quebec official Gazette*, and also, in the locality where it is intended to carry on the work, in the manner in which municipal public notices are there published; provided that, if the work is to be carried on in a territory not yet organized, the notice in the *Quebec Official Gazette* shall be sufficient.

Approval by
Lt.-Gov. in
C.

"7305j. The Lieutenant-Governor in Council may approve, purely and simply, any plan and specifications submitted for approval under this subsection, or may approve them subject to such modifications and conditions as he may deem useful or expedient, or may refuse to approve them.

Expropriation of private property in certain cases.

"7305k. If it is indispensable, for the construction and maintenance of any such work, to take or occupy any part whatever of a private property, or if such work must have the effect of flooding or otherwise prejudicially affecting such property or any other right belonging to a third party, proceedings must be taken, failing an agreement, for the expropriation of the land absolutely necessary, and, in every case, for the appraisal of the damages caused by the construction or the maintenance of the work.

Provisions applicable.

The offer of compensation, the appointment of arbitrators, the proceedings in expropriation, the fixing of the compensation, and all other formalities shall be subject to the analogous provisions of the Provincial Railway Act, in force at the time of the expropriation.

Possession.

The expropriating party may not take possession until after the award is rendered and the compensation paid, but the Superior Court of the district, or a judge of that court, may grant, at any time, on petition, immediate possession of the land to be expropriated, in accordance with the provisions of article 6579, and on such other conditions as he may deem just.

Purposes for which expropriation may take place.

No expropriation may be held under this article, save for the construction or maintenance of a work coming within the scope of this article, which is intended, either alone or with other works, to supply a fall or a rapid giving a natural power of at least two hundred horse-power, or a waterworks system for domestic or industrial purposes,

and may not, in any case, be held to the prejudice of any industry already established, of a waterworks system supplying, either wholly or partially, a municipality, nor of any privilege granted by a special act.

“7305l. If the construction and maintenance of any such work necessitates the taking possession or occupation of any public lands, or if such work must have the effect of flooding or otherwise prejudicially affecting such public lands or any other rights of the Province, it shall be necessary to obtain from the Lieutenant-Governor in Council, in advance, in addition to the approval referred to in article 7305j, in consideration of an annual rental or other remuneration, a concession of the lands or the public rights which will be so taken, occupied or affected.

Concession to be obtained in certain case.

“7305m. The owner of any work constructed or maintained to facilitate the transmission of timber, in accordance with the provisions of article 7297 and following, may make use thereof—with or without any alterations—for the purpose of storing the water at all seasons for any of the objects set out in article 7305e, on compliance with the provisions of this subsection, which shall thereafter apply to such work, as well as to the corporation, partnership or person owning, possessing or operating the same, as if such work had been originally constructed for the storage of water in all seasons.

Works already constructed may be used.

“7305n. The Lieutenant-Governor in Council may, on the report of the Minister of Lands and Forests, on the petition of any corporation, partnership or person owning, possessing or operating a reservoir formed by any work coming within the scope of article 7305e, establish a tariff fixing the amount which third persons must pay periodically to the said owner, possessor or person operating such reservoir for the use they make of any quantity of water stored in excess of the volume which such lake, pool, river or stream would have furnished if such work had not been constructed.

Tariff may be established by Lt.-Gov. in C.

Such tariff shall be based on the total value of the work and improvements, on the cost of maintenance and on any other consideration which may be deemed just and equitable.

Basis of tariff.

All expenses incurred with a view to arrive at and fix the said tariff shall be at the charge of the person applying for the same.

Expenses.

“7305o. The Lieutenant-Governor in Council may

Tariff of fees.

make, amend or repeal any tariff of fees, as he may deem just, in regard to the approval of plans and specifications submitted under article 7305*h*, and the examination and study found necessary.

Lt.-Gov. in C. may acquire by purchase any such work. Purchase price.

“**7305*p***. The Lieutenant-Governor in Council may, at any time, when he deems it in the public interest, acquire by agreement any work coming within the scope of this subsection.

The purchase price of such work, as well as the costs of such purchase, shall be taken out of the funds which are from time to time voted for that purpose by the Legislature.

Coming into force.

2. This act shall come into force on the day of its sanction.

FORM A.—(*Article 7305*i**)

Public notice is hereby given in accordance with article 7305*i* of the Revised Statutes, 1909, that of the _____ of _____, in the county of _____, intends to execute the following work (*state here the nature of the work*), to store at all seasons the waters of (*here indicate the lake, pool, river or stream in question*), with the object of conserving them so as to regulate their flow, and thus to ensure a uniform supply to waterworks systems and to mills, and a constancy of hydraulic power.

Notice is also given that a petition to that effect, accompanied by a plan and specifications shewing the site and the nature of the work or of the improvement (*as the case may be*), and the land which will be affected by such work, has been forwarded to the Minister of Lands and Forests, and that a duplicate of such plan and specifications has been deposited at the registry office of the registration division of _____

The application contained in the petition will be taken into consideration by the Lieutenant-Governor in Council on or after the tenth day following the date of the publication of this notice in the *Quebec Official Gazette*.

Petitioner.