

18. Any damages awarded to any owner of the lands or other persons in connection with the expropriation by this Act authorized, or any damages which the Crown may suffer by reason of the flooding of any lands as mentioned in the said agreement, shall be a first lien and charge upon the lands, premises and works of the said Jenison, whether in his own hands or in the hands of any person to whom the same may be assigned.

Damages to be a charge on land mentioned in contract.

19. In case the arbitrator determines that the said Jenison should be authorized to expropriate any portion of lot 10 X, he shall also determine and fix by his award the minimum quantity of water which shall at all times flow over the Falls, so as to protect as far as practicable the rights of the said company as owners of a water privilege on said River below that of said Jenison. And the said Jenison, his heirs and assigns, and all other parties interested, shall be bound by the determination and award of the said arbitrator.

Arbitrator to fix minimum quantity of water to flow over the falls.

20. In fixing the damages the arbitrator shall do so upon the basis that the said company has the right to use and carry the water over and across the strip of one chain in width along the banks of the river on the said lot No. 10 X, or that they are the owners of the water power or privilege on or connected with said lot No. 10 X subject to any encumbrances thereon.

Fixing damages matters to be considered

21. In the event of the arbitrator determining that the said electric works should be erected by the said Jenison at or near Ecarte Falls above lot 10 X, he shall further find and determine what benefit the said company will derive therefrom in case they use the said water, having regard to the quantity they could obtain without the additional works, and to the quantity they use in excess of such last mentioned quantity; and he shall fix the value to be paid by the said company for the use thereof when they shall so use the same, estimated either in bulk or horse power; and the said company shall pay to the said Jenison, his heirs or assigns, the sum so fixed either once a year or oftener as may be determined by the said award. And the said arbitrator shall, in arriving at a conclusion, further have regard to the cost of construction of the works and appliances for storing the waters of the lakes and river above said lot 10 X, and the use and right to use the said waters by the said Jenison, and to the fact that the works were or are to be constructed by Jenison primarily and principally for his own use, and such other facts and circumstances as to him shall seem meet and proper, and the arbitrator may be called upon to make and may make as many awards and at such times as may in his opinion be necessary to carry out the object and intent of this Act.

Other matters to be dealt with by arbitrator.