

OF THE

COMMISSIONERS

FOR THE

QUEEN-VICTORIA NIAGARA FALLS PARK

1899

PRINTED BY ORDER OF
THE LEGISLATIVE ASSEMBLY OF ONTARIO.



TORONTO;
WARWICK BRO'S & RUTTER, PRINTERS
1900.

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FOURTEENTH ANNUAL REPORT

OF THE

COMMISSIONERS

FOR THE

QUEEN VICTORIA NIAGARA FALLS PARK

*To the Honourable SIR OLIVER MOWAT, K.C.M.G.,
Lieutenant-Governor of the Province of Ontario.*

MAY IT PLEASE YOUR HONOR:—

The Commissioners for the Queen Victoria Niagara Falls Park beg to submit their Fourteenth Annual Report, accompanied with the usual statement of receipts and expenditures, being for the year ending 31st December, 1899.

In their last annual report the Commissioners made an extended reference to the delays which had occurred in commencing the works for the developing of the water power of the Falls for manufacturing purposes, and set forth the temporary arrangement which had been entered into for the supply of electricity to meet the immediate requirements of local users from the surplus hydraulic power generated in the power houses of the Niagara Falls Park and River Railway.

As public sentiment distinctly appeared to favor the cancellation of the monopoly clause in the Canadian Niagara Power Company's agreement and the granting of equal rights to other companies desirous of using the water power of the Falls for commercial purposes, the Legislature at its last session passed an Act (62 Vic 2, chap. II, par. 35) conferring upon the Commissioners authority to negotiate with the Canadian Niagara Power Company for the surrender and abandonment of the sole or exclusive right to use the waters of the Niagara River within the limits of the Park, granted by the agreement of April, 1892, upon such terms and conditions as might appear to be necessary in the public interest.

After protracted negotiations the Commissioners, with the approval of the Government, on July 15th last, entered into a new agreement by which the exclusive right in the waters of the Niagara River within the Park, heretofore enjoyed by the company, was abandoned, and the time for commencing and completing the initial development of 25,000 hydraulic and 10,000 electrical horse power was extended. Approval was also given the specifications and revised plans of works which the company require in the carrying out of their enterprise in the Park.

In order to secure the abandonment of the monopoly clause on the part of the company, it was found necessary to make some concession in the rental, which would facilitate the financing of the enterprise, until a market for a reasonable amount of the product could be found and the business of the company placed upon a secure basis. The Commissioners are convinced that the principle adopted in the new agreement of paying a fixed rental for the first 10,000 horse power generated and disposed of, and thereafter a charge for every additional horse power sold, will produce a much larger revenue to the Commissioners in the course of a few years, and will assist greatly in inducing other capitalists to engage in developing other and competitive power projects, to the great and permanent gain of the community and the best interests of the Park and of the Province.

The terms of this agreement will be found in the appendix to this report.

Since the execution of the agreement, the Company have been engaged in making core test holes at several points along the line of its proposed works, in order to determine the nature of the rock in which their excavations and tunnels will be constructed.

By the Act 62 Vic. (2) chap. 11. par. 35, above referred to, authority was conferred upon the Commissioners, subject to the approval of the Lieutenant-Governor in Council, to enter into agreements with any other persons or companies for using the waters of the Niagara or Welland Rivers to generate electric or other power at certain points, within or without the park, upon such terms and conditions as might be agreed upon. Under the provisions of this authority the Commissioners have concluded an agreement with the Ontario Power Company, a company holding a charter under the Dominion Government, to utilize the waters of the Welland River for power purposes.

Under this agreement, the text of which will be found in the appendix to this report, the Ontario Power Company propose to develop power under two heads. In the first instance the waters of the Welland River will be conducted in an open canal or head race to a power house located in the park immediately behind the present gravel pit; and after passing through the water wheels will be discharged directly into the Niagara River, at a point a short distance up stream from the proposed intake of the Canadian Niagara Power Company. At this power house a head of over forty feet may be utilized. In the event of the power generated at the first power house being insufficient to meet the demands of customers, the Company have the right to conduct the spent water from the tail race of the first development by means of an open channel within the park to within a short distance of the Table Rock House; thence by means of a covered forebay or underground channel to a second power house situate on the talus in the gorge below the Falls, where the full available hydraulic head of the Horse-shoe Falls may be obtained.

The rental to be paid by this Company for the rights granted is identical with that fixed by the new agreement with the Canadian Niagara Power Com-

pany, viz., a fixed rental of \$15,000 a year for the first 10,000 electrical horse power generated and disposed of, and an additional charge for every horse power disposed of beyond the first ten thousand. The sum of \$30,000, being the amount of two years' rental, has been paid to the Commissioners. The time limit and the other requirements of the agreement are practically identical with those stipulated for in the new agreement with the Canadian Niagara Power Company.

By an accidental contact of the wires connecting the large new generators placed in the power house of the Niagara Falls Park and River Railway Company to supply electricity to local users for manufacturing purposes, this substantial structure, together with all the electrical apparatus and appointments contained therein, were destroyed by fire on the night of September 4th last. By the destruction of this power station all the industries which had been using electrical power were at once crippled, and some of them which had no other means of obtaining power were compelled to close up.

On representations being made to the Commissioners and the Government that many interests were suffering for want of this power, and that some time must necessarily elapse before the generating station of the railway company could be restored, and there being at the present time no other available source from which a supply could be obtained, authority was granted by the Commissioners to the Canadian Niagara Power Company to bring over from the American side sufficient electricity to supply the Niagara Falls Park and River Railway and the industries which were under contract with that Company for the delivery of power at the time of the fire. But this authority was granted on the distinct understanding that it was for temporary purposes only, and was in no sense to delay the carrying out of the works of the Company under their agreement, and that the privileges may be abrogated at any time by the Commissioners or by the Government.

The Fort Erie Ferry Railway Company owning and operating the short line of railway, extending from Fort Erie southward along the lake shore to a pleasure resort, having obtained legislative authority to extend their line in a northerly direction to or near the Village of Chippawa, made application for a right of way upon the lands of the Commissioners, known as the Chain Reserve, which lies along the west bank of the Niagara River, in front of the Villages of Fort Erie and Bridgeburg and the Townships of Willoughby and Bertie, and upon which a public road is constructed. As much of this reserve has been narrowed in by the erosion of the river, and as in front of certain farms no reserve was made when the original patents were granted, it became necessary to acquire additional lands in order to provide sufficient room for both the highway and railway.

By the terms of the agreement made with this Company they are to secure all the additional lands required, and vest the same in the Commissioners, form a suitable highway of prescribed width, provide all the necessary drainage, bridges, etc., on the west side of the acquired lands, after which a single or double track

railway, to be propelled by electricity, may be constructed along the water's edge, from the present northerly terminus of the Company's line at the International Ferry in Fort Erie to Slater's Point, the present southerly terminus of the Niagara Falls Park and River Railway.

The rental which the Company is to pay to the Commissioners for the rights granted is at the rate of \$1,000 a year for the first seven years, \$1,200 a year for the following three years, \$1,500 a year for the next five years, and \$2,000 a year for the balance of the twenty-one years' period.

In their last report the Commissioners referred at length to the continued defacement of the historic grounds around old Fort Erie, and to the desirability of having the ordnance lands at this place transferred to them, so that the properties may be preserved and developed as a part of the Niagara Falls Park system. In addition a full report of the Superintendent of the Park on the method of treatment proposed for improving the property was given.

The Commissioners regret to learn that an effort is being made to lease this historic ground for a term of years to a number of Buffalo gentlemen for a golf ground, and that it is proposed to erect thereon a club house and other buildings. There are not many places in Ontario more closely associated with its early struggles than Fort Erie; and we cannot refrain from expressing our hope that a more honorable and worthy disposition shall yet be made of this hallowed ground, the scene of many sanguinary battles in 1812-14 and where many of our honored dead still lie buried.

On the 21st of July the International Bridge at Queenston Heights, which has been erected on the site of the former carriage suspension bridge, built in 1850 and destroyed by a storm a few years later, was formally opened for traffic. It is a very substantial structure, with a central track for the interchange of traffic between the Niagara Falls Park and River Railway and the Gorge Electric Railway, and two carriage ways for vehicular traffic.

In last year's report a number of important permanent improvements were enumerated, which the Commissioners considered to be urgently required in the park, and a small additional issue of park debentures was recommended in order to secure their execution. The recommendation was not acted upon; but owing to the increased revenue which we have been able to secure, through the granting of the rights and privileges above referred to, provision for some of these works can now be made out of income. There are, however, several very important improvements which the Commissioners are desirous of carrying into effect this year that will require an expenditure beyond what can possibly be obtained from revenue account; and they, therefore, again recommend that authority be given to issue park debentures to the amount of twenty-five thousand (\$25,000) dollars, in order that early provision may be made for these important improvements. The debentures to bear interest at the rate of three and one-quarter per cent., and to mature at the same date as the previous issues.

A detailed description of the works undertaken and accomplished during the year will be found in the report of the superintendent of the park, which is appended hereto. •

The following statement will show the receipts and expenditure for the year :

RECEIPTS.

Rental from the Canadian Niagara Power Company	\$20,000 00	
Rental from the Niagara Falls Park & R. Ry. Co.	10,000 00	
Rental from Zybach & Co	8,200 00	
Rental from the Maid of the Mist Steamboat Co	300 00	
From tolls on islands and at Brock's Monument	1,808 20	
From sales of materials, etc.....	480 72	
“ Imperial Bank, interest on balances..	38 19	
“ “ “ overdraft on December 31st, 1899	6,790 75	
	<hr/>	\$47,617 86

EXPENDITURE.

Paid Imperial Bank overdraft on January 1st, 1899.....	\$ 729 71	
Capital account—		
Paid for permanent improvements, including cost of materials.....	\$ 6,040 53	
“ wages of mechanics and laborers	2,010 00	
“ miscellaneous, including legal expenses	180 00	
	<hr/>	8,230 53
Maintenance account—		
Paid salaries and wages, including wages of laborers, teams, etc.	11,948 40	
“ cost of materials	1,760 38	
“ office expenses, etc.	213 23	
“ Commissioners' expenses	178 24	
“ miscellaneous “	243 00	
“ interest on bank overdrafts.....	139 18	
	<hr/>	\$14,482 43
“ coupon interest on bonds and bank charges	24,175 19	
	<hr/>	\$47,617 86

All of which is respectfully submitted,

J. W. LANGMUIR,
Chairman.
GEORGE W. WILKES.
B. E. CHARLTON.
JAS. BAMPFIELD.
A. M. CAMPBELL.

Niagara Falls, April 13th, 1900.

APPENDIX A.

REPORT OF THE PARK SUPERINTENDENT.

To the Commissioners for the Queen Victoria Niagara Falls Park:

GENTLEMEN,—I beg to submit the following report of the works done in connection with the Niagara Falls Park, during the year ending 31st December, 1899.

GENERAL MAINTENANCE

Notwithstanding the unusual severity of the winter, the spring of 1899 opened favorably, and the customary cleaning up and other works included under this heading were early begun. The Board having enjoined the strictest economy in expenditure, these works were necessarily confined to the improved portions of the park at Niagara Falls and Queenston Heights, and but little could be done to the many outlying points where improvements have been commenced.

In last year's report the works necessary for the reclaiming and improving of the unsettled portions of the park system were referred to as being steadily carried on from year to year, and it is greatly to be regretted that circumstances should prevent this principle from being adhered to, even for one year, as there is much territory remaining practically uncared for, which it is most desirable to have improved at the earliest possible moment.

THE DRIVEWAY.

As it had been found impossible to maintain a good surface to the principal driveway through the park by means of the gravel found on the premises, it was decided to re-surface the whole of the road extending from the Mowat Gate to Table Rock, including the several turnouts, with macadam. The foundation for this roadway having been substantially constructed in the first instance, comparatively little work beyond rolling was required to prepare a proper bed for the broken stone. This was procured from the St. Davids and Hagersville quarries; and after the road bed had been thoroughly consolidated by the steam roller, the stone dressing was applied in successive layers, compacted and brought to a hard, smooth and well formed surface, the whole having been completed before the opening up of the summer travel.

In order to secure a better grade for the upper end of the road, it was necessary to raise the sidewalk and railing between the Restaurant and Table Rock, and to define the easterly margin of the driveway with curb stone. As this portion of the driveway is continuously drenched with spray, additional cross drainage was put in so as to afford a ready means for the removal of surface water. The improvement to this portion of the park is very marked, and an opportunity will be given to test the permanence of the macadam under the severe conditions obtaining in this vicinity.

The pathways on either side of the main driveway from the Mawat Gate to the Pic-nic grounds were raised to correspond to the new road levels, by applying a heavy coating of cinders and surfacing with selected and screened gravel.

A few low and wet spots in the driveway south of Table Rock were filled up with macadam; but as the traffic on this part of the road is comparatively light, repairs where needed were made in the usual way with ordinary pit gravel.

TREES, SHRUBS AND PLANTS.

A very good collection of flowering shrubs was secured from the Font Hill Nurseries and put out in good season, and a few choice conifers for specimen trees and for screens, where desired, were added to our stock, but the necessity for economy in expenditure prevented as large an addition as was desirable.

The exceptionally severe weather experienced last winter did some slight damage to the more tender varieties of trees and shrubs which had been previously put out. The abnormal conditions consisted not only in low temperature but in absence of snow, sudden changes from low to high temperature, sleet storms, etc.; so that an excellent opportunity has been afforded of testing the hardihood of plants not indigenous, but which we are most desirous of having in the park; and the fact that out of our collection of sixty-two of the finest varieties of lilacs, imported from France and set out last year, only three have perished, and the safe wintering of Azalias of the Mollis and Ghent varieties, Rhododendrons, Chinese magnolias, Paulonia Imperialis, Forsythias and the tender varieties of the Duetzia, without any kind of winter protection, afford a striking proof of the suitability of the park for the cultivation of delicate and half hardy stock which cannot be safely grown in other parts of Ontario.

CONSERVATORY.

A small addition was made to the collection of flowering plants in the Conservatory, which continues to attract much attention from both citizens and visitors. A large stock of choice bedding and flowering plants for outside service is propagated annually, in order to brighten the pic-nic grounds and other points in the park, where the use of flowers is permissible. A good beginning has also been made in setting out a large variety of bulbs for early spring blooming.

SHORE PROTECTION.

The portion of Riverside Ramble extending from the electric railway bridge to the summer house under Clark Hill, which had not been completed in 1898, was properly filled up with stone and surfaced with gravel. The whole length of this shore protection work is now railed and finished, and forms a shady and much appreciated promenade. The renewing of the cribwork which also forms the walk along the south side of the Dufferin Islands, should have been attended to this year, but of necessity had to be left over until next year.

BRIDGES AND BUILDINGS.

Only the most necessary repairs were made to the park bridges during the year. The foot suspension bridge leading to the Dufferin Islands is past repair, and requires to be wholly rebuilt. The two driveway suspension bridges require extensive renewals and repairs both to the chords and the needle beams before the seasons opens, in order so make them safe for traffic. At the best these suspension structures are unsatisfactory.

The stability of the anchorage on which the safety of the bridge depends is not definitely known, and on busy days the stoppage of traffic caused by the single way is annoying to visitors, while the bridge structures are costly to maintain. They should be replaced as soon as possible by rigid double way bridges of steel, suitably designed and of a high degree of permanence.

The gate man's dwelling at the Dufferin Gate was put in a good state of repair during the season. The valley in the roof was taken out and a high pitch roof substituted, which admitted of two more bed rooms being provided up stairs and other needed accommodations arranged for.

LAWN TENNIS COURTS.

An urgent request was made in the spring, by a number of the leading citizens, for a portion of the park to be set apart for a lawn tennis. A two court ground was selected, graded and sodded which proved to be a desirable addition to the facilities for enjoyment already afforded by the park. Suitable water supply is, however, needed for sprinkling the courts in dry weather.

The grading and surfacing of the front of the park, which was begun in 1898, could not for economical reasons be carried on during the year.

ICE BRIDGE.

The unusual severity of the winter was clearly demonstrated by the enormous flow of ice in the river. This jammed at the narrows immediately below the upper steel arch bridge, and formed an ice bridge of more than usual grandeur. The constant stream of ice appeared to have difficulty in finding a passage under the ice bridge in the narrowest part of the gorge, and in consequence the water level south of this point was at times raised to an unusual height. On the 24th of January for instance it was thirty feet above ordinary summer level, while in the spring when the ice bridge gave way, the mounds of ice piled up to such an extent as to rub against the spandrels of the steel arch bridge in passing down stream. As a result of this great accumulation and movement of ice, the wharves of the Maid of the Mist Steamboat Co. on both sides of the river were destroyed; and at many points along the shore the heavy masses of rock forming the talus were shoved out of place, and trees and vines growing above the ordinary water mark were torn up and carried away.

WHIRPOOL POINT AND NIAGARA GLEN.

The filling up of a portion of the grounds at Whirpool Point with soil, referred to in last year's report, afforded an opportunity of setting out some good foliage trees and shrubs on this very bare but much frequented part of the park system. Good shade and a rustic shelter are badly needed at this point.

At Niagara Glen an improved pathway leading to the spring was made; and the immense overhanging boulder which partially blocked the way was blasted off. The first link in the pathway designed to skirt the water's edge, from the spring southwards to Fisherman's Eddy, was also constructed. This path will command a close view of the majestic sweep of the rapids, and the short portion already made has been much appreciated by visitors.

QUEENSTON HEIGHTS.

During the year no new works of importance were attempted at Queenston Heights. The dense growth of cedar on the slope of the Heights and in the grove west of the monument was thinned out and all dead wood removed. The

delicious cool water from Brock's Spring was carried to a point near the keeper's lodge, and facilities for drawing and draining it off provided. The path leading to Brock's Cenotaph was gravelled and the ground kept in nice order.

The construction of approaches to the new suspension bridge and the transport of heavy materials for the structure involved much cutting up of the ground between the highway and the bridge. Until this damage is repaired and the new earthwork is covered with foliage or grass the scenic effects must be objectionable. A great deal of cleaning up and thinning out is needed in this portion of the park grounds to make it attractive.

NEW SUSPENSION BRIDGE.

The beautiful suspension bridge erected by the Queenston Heights Bridge Co. on the site of the former structure, was formally opened for traffic on July 21st. The dinner given to celebrate the event was served upon the Heights, and a distinguished company from both sides of the Niagara assembled to honor the occasion.

The ordnance lands west of Brock's Spring and extending along the Heights to the second concession, which are now under the control of the Commissioners, require to be fenced off and the property made accessible to visitors, but this like many other very necessary works has had to be deferred.

The whole respectfully submitted,

JAMES WILSON,
Superintendent.

NIAGARA FALLS, 31st December, 1899.

APPENDIX B.

This agreement made this fifteenth day of July, 1899, between the Commissioners for the Queen Victoria Niagara Falls Park, acting herein on their own behalf and with the approval of the Government of the Province of Ontario, and hereinafter called the Commissioners of the first part, and the Canadian Niagara Power Company, of the second part.

Whereas by the Act of the Legislature of Ontario passed at a session held in the sixty-second year of Her Majesty's reign, chaptered 11, and by section 35, it is enacted as follows :

"The Commissioners of the Queen Victoria Niagara Falls Park, with the approval of the Lieutenant-Governor in Council, and the Canadian Niagara Power Company may enter into an agreement for the surrender and abandonment of the sole or exclusive right to use the waters of the Niagara River within the limits of the said Park granted by the agreement bearing date the seventh day of April, 1892, between the Commissioners of the Queen Victoria Niagara Falls Park acting herein on their own behalf and with the approval of the Government of the Province of Ontario and therein called the Commissioners of the first part, and Albert D. Shaw of Watertown, in the State of New York, Francis Lynde Stetson and William B. Rankine of the City of New York, in the State of New York, therein called the company of the second part, and set out in chapter 8 of the Statutes of Ontario, 1892, upon such terms and conditions as to abatement of rent, the extension of time for the completion of the contract under the said agreement or any variation of the said contract and for other purposes in

connection therewith as may to such Commissioners and to the Lieutenant-Governor in Council appear to be necessary or in the public interest, and any such agreement so entered into shall be binding and effectual according to its terms."

Now therefore this agreement witnesseth and it is hereby agreed by the parties to these presents as follows, that is to say :

1. The location of buildings and power houses as defined by paragraph 1 of the agreement of the 7th April, 1892, above recited, is changed to the location shewn on the plan annexed marked A, and the points of intake and discharge indicated and laid down on such plan are hereby declared to be the locations settled according to the provisions of the agreement of the 7th April, 1892, as if the same had been described and selected in terms of said agreement with the approval of the Commissioners.

(a) And these presents testify approval by the Commissioners of the location of the building and works with their accompanying requirements to be done and executed by the Company in respect of the powers to be exercised within the Park which, by paragraph 14 of the agreement of the 7th April, 1892, are to be subject to the approval of the Commissioners.

(b) The expression "general plans and specifications or general specifications" mean, and are to be taken to mean, the plans and specifications submitted by the Company to the Commissioners for approval, of which one complete set will remain in the possession of the Commissioners and the other in the possession of the Company; and both duly identified at the time of the execution of these presents, under the corporate seals of the respective parties hereto, as also under the hands of the head officers thereof.

(c) Such general plans and general specifications shall form part of this agreement and are as to their approval by the Commissioners to be controlled by the designs and changes therefrom appearing upon the annexed plan marked "A" and the terms in these presents set forth, which plan and terms shall be taken as varying the said general plans and specifications and the agreement of the 7th April, 1892.

(d) As to the provisions of paragraph 14, sub-section A of the agreement of the 7th April, 1892. "In respect of the excavation of the channels to lead the waters of the Niagara from the point or points of intake to the location of the power houses, including the precautions necessary in relation to making openings under the railway for the admission of the waters of the river, including the wheel pits, tunnels and portals to discharge the same, and the point of such discharge below the Falls."

The Commissioners hereby approve of the location of the said works described in the above sub-section as indicated upon the plan hereto attached, to be constructed in detail as in the general plans and specifications of works to be done, as by the plan hereto attached are changed or varied.

Provided, that the Company do obtain an instrument under the corporate seal of the Niagara Falls Park and River Railway Company granting to the Company, with the approval of the Commissioners signified as parties thereto, the right to make openings at the points of intake under the railway in accordance with the plan marked "A" hereunto attached and having relation to the general plans and specifications above mentioned, and also that the Company do obtain the approval of the proper authority for the construction of bridges to carry the railway over such openings, and that in respect of such works as affect the railway or any damages sustainable thereto, the agreement shall provide that the Railway Company shall have no recourse against the Commissioners.

(e) As to the provisions of subsection (b) of paragraph 14: the site of the building and power house as laid down on the plan annexed, to be in accordance with the general design and form as in general plans and general specifications.

(f) As to the provisions of subsection (c) of paragraph 14: the construction of the conduits to convey electricity or pneumatic power without the Park in furtherance of paragraph 7 of the agreement of the 7th April, 1892, shall be conveyed only by means of conduits beneath the Park at such depth as the Commissioners may from time to time determine.

(g) The Company shall remove all surface soil from the site or sites of the work, and deposit the same as when and where directed by the Commissioners.

Such surface soil shall be available for any purposes within the Park for which the Commissioners may have use as they may be necessary or convenient, and they may use and apply the same to such uses, without any compensation being made to the company therefor, nor shall the company be thereby relieved from the covering up and filling with good soil as a top dressing of any of the refuse or excavated materials which the Company are by these presents required to distribute and cover up with good soil.

(h) The removal and distribution of excavated or refuse material from the excavations of the channels from the point or points of intake for the foundations, construction of the building and power house, wheel pits, sluiceway, tunnel and portal to discharge the waters at foot of the cliff below the Falls, conduits within the Park to convey the electricity or pneumatic power to places beyond the Park, and from any other works which are agreed to be done by the Company, by these presents, or by the agreement of the 7th April, 1892, shall be distributed and deposited wholly or in part as the Commissioners may from time to time require and point out at the localities hereinafter specified.

(1) Either by way of extension of the foreshore of the Niagara River in an easterly direction from the edge of the Horse Shoe Fall southward along the river bank, in accordance with the alignment shown by red lines on the annexed plan marked "new shore line to which excavated material shall be deposited." Such material along such line shall be protected at the base or where in contact with the water by massive stone riprap.

(2) Or in filling up the natural stream of the Niagara River flowing between Cedar Island and the mainland or any part thereof.

(3) Or in raising the level of the west bank or shore of Cedar Island.

(i) And all the area or space over which such material shall be distributed shall be covered over with good soil, and put in condition for sowing grass seeds or planting.

(j) If there be any material which the Commissioners deem to be in excess of their requirements of distribution or the requirements of the Company, it shall be taken away by the Company and disposed outside the park limits.

(k) The excavated or refuse material taken out at the portal at foot of the cliff below the Falls and not required by the company, shall be distributed at some point or points below the cliff as the Commissioners may from time to time point out, but shall not require to be covered with good soil.

(l) Tramways for construction purposes shall be placed or changed only on the approval of the Commissioners; steam power for drilling, excavating or hauling materials, or driving machinery shall not be used on the surface of the park, but below the cliff only, but steam power may be used on the surface of the park for furnishing compressed air for drilling and other purposes connected with the works.

(m) So soon as the Commissioners deem that in the execution of any of the works to be by the Company done or performed, or preparations for the same, the main travel driveway through the park, or other Park Road, or pathway now in use, is or about to be incommoded or interfered with, the company shall forthwith make such deviations of the said driveway or other ways as the Commissioners shall direct and require, although such deviation of the driveway may require a bridge to be built from Cedar Island to the mainland. The safety of

any bridge to be built, and provisions for the public safety at such deviations shall not be inferior to those of other bridges or ways presently in use within the park.

(n) Whereas by paragraph 6 of these presents the period of time in paragraph 10 of the agreement of the 7th April, 1892, relating to the completion of water connections for the development of 25,000 horse power and having actually for use, supply and transmission 10,000 developed horse power is extended to the first day of July, 1903, and subject in the case of non-completion on the said day last mentioned to the forfeiture of all licenses and powers as by said paragraph 10 is provided; such provisions for forfeiture in said paragraph 10 being wholly irrespective of the provisions for forfeiture provided by paragraph 4 of the agreement of the 7th April, 1892, in case matters might arise giving occasion for the exercise of forfeiture; and whereas time is made of the essence of the contract for the observance by the company of the several provisions contained in both said paragraphs 10 and 4 and each of them, it is hereby further agreed that in respect of all other matters by the company agreed to be done by the period hereinafter limited such as distribution and removal of excavated or refuse material and finish and ornamentation of surfaces, including the perfected condition of the roads, bridges, and other works, not necessarily affecting the development and transmission of the electrical or pneumatic power above described as the Commissioners may require to be done, completed, and made perfect in accordance with the general specifications as varied by the plan hereto annexed, shall be done and completed by the first day of July, 1904, in every respect in perfect condition.

(o) If the company should not complete the works lastly mentioned, namely, distribution and removal of excavated or refuse material and finish and ornamentation of surfaces, including the perfected condition of the roads and bridges and other works lastly mentioned, and deliver them over to the Commissioners in good and complete order and condition to their satisfaction, on or before the 1st day of July, 1904, the company shall pay to the Government of Ontario, by way of ascertained damages, the several sums hereinafter mentioned, that is to say, the sum of five hundred dollars per week, for each week that the same, or any parts of said works, remain incomplete after such time, whether the contract has been forfeited by the several conditions in these presents or in the agreement of the 7th of April, 1892, or abandoned by the company or not.

(p) In the event of the works as hereinbefore specially specified in the preceding subsection lettered (o) not being completed within twelve months after the 1st day of July, 1904, the company shall pay the sum of ten thousand dollars (\$10,000), in addition to the sum of five hundred dollars for each and every week as aforesaid. Such sums of five hundred dollars per week and the sum of ten thousand dollars shall be considered as ascertained and liquidated damages.

2. The said agreement of the 7th April, 1892, in respect of the amount of rentals and period for which the same is payable is hereby amended by providing that from and after the first day of May, 1899, the rent payable under the said agreement in lieu of that specified in paragraph 4 thereof shall be up to the first day of May, 1949, the sum of fifteen thousand dollars per annum, payable half-yearly on the same days and times as specified in said paragraph 4 of said agreement and in addition thereto payment at the rate of the sum of one dollar per annum for each electrical horse power generated and used and sold or disposed of over ten thousand electrical horse power up to twenty thousand electrical horse power and the further payment of the sum of seventy-five cents for each electrical horse power generated and used and sold or disposed of over twenty thousand electrical horse power up to thirty thousand electrical horse power and the further payment of the sum of fifty cents for each electrical horse power generated and used and sold or disposed of over thirty thousand electrical horse power; that is to say, by way of example, that on generation and use and sale

or disposal of thirty thousand electrical horse power the gross rental shall be \$32,500 per annum payable half-yearly, and so on in case of further development as above provided, and that such rates shall apply to power supplied or used either in Canada or the United States. Such additional rentals as shall be payable for and from such generation and sale or other disposition as aforesaid to the Commissioners shall be payable half-yearly at the rate above specified on the first days of November and May in each year for all power sold in the said several half-yearly periods from the day of sale; and within ten days after said first days of November and May in each year on which such additional rentals shall be payable respectively the treasurer, or if no treasurer the head office of the company shall deliver to the Commissioners a verified statement of the electrical horse power generated and used and sold or disposed of during the preceding half year and the books of the company shall be open to inspection and examination by the Commissioners or their agent for the purpose of verifying or testing the correctness of such statement: and if any question or dispute arises in respect of such return or if any statement delivered at any time by the company to the Commissioners of the quantity or amount of the electrical horse power generated and used and sold or disposed of or of the amount payable for such additional rentals the High Court of Justice of Ontario shall have jurisdiction to hear and determine the same and to enforce the giving of the information required.

3. All the provisions of the agreement of the 7th April, 1892, applicable to the rent thereby reserved, including the proviso in paragraph 4, relating to the re-entry and forfeiture in case of rent being in arrear, shall be applicable to the rentals payable under these presents.

4. After the first day of May, 1949, the same rentals as are hereby reserved shall continue to be paid by the said company unless the Lieutenant-Governor-in-Council shall desire a readjustment of the said rent, in which case the rentals for a further period of twenty years shall be readjusted by agreement and in the absence or failure of agreement by the parties hereto then the rentals for such further term shall be ascertained by three arbitrators, or a majority of them, one of whom shall be named and appointed by the Commissioners, another by the company and the third by the Chief Justice or senior presiding Judge of the Provincial Court of Ultimate Appellate Jurisdiction for Ontario, and the award of such arbitrators shall be subject to the same provision of law as if the said arbitrators had been appointed by the said parties upon a voluntary reference under the Revised Statute of Ontario respecting arbitrators and references, and the Lieutenant-Governor-in-Council may in the like manner for two further periods of twenty years each, require a readjustment of said rentals, in which case the same shall be determined as aforesaid, and at the expiration of such three periods of twenty years each the term so limited by these presents shall determine and end in accordance with all provisions contained in paragraph 5 of the agreement of the 7th April, 1892. Either party to such arbitration may appeal from any such award upon any question of law or fact to the said Provincial Court of Ultimate Appellate Jurisdiction for Ontario, and the said Court shall have the same jurisdiction therein as a judge has on an appeal from a report or certificate under section 4 of the aforesaid Revised Statute respecting arbitrators and references. And it is hereby further agreed that at any time not less than three years before the period at which such third renewal of twenty years shall terminate the Lieutenant-Governor-in-Council, and notice thereof to the company given, may require the company to continue its operations for a further period of twenty years, to commence from the termination of such third renewal, at the same rentals as shall have been paid during the said third renewal period of twenty years, or at a readjustment of said last mentioned rentals for such further period of twenty years by agreement, and in the absence or failure of agreement by the parties hereto, then the rentals for such further term of twenty

years shall be ascertained by arbitration in manner and form according to the provisions for arbitration hereinbefore contained, and in the event of such option being so exercised the terms and provisions of the agreement of the 7th April, 1892, and of these presents shall extend and bind the parties hereto until the said period of twenty years shall have elapsed and expired, but the exercise of such option requiring such further renewal by the Lieutenant-Governor-in-Council shall not change, alter or affect the provisions in respect of the termination of the liberties, licenses, powers and authorities contained in paragraph 5 of the agreement of the 7th April, 1892, and so declared applicable at the termination of the said last mentioned or fourth renewal.

5. Paragraph 9 of the agreement of the 7th April, 1892, shall hereafter and henceforth be null and of no effect, it being agreed that the Commissioners will not themselves engage in making use of the water to generate electric or pneumatic power except for the purposes of the park, and saving the provisions contained in paragraph 12 of the agreement of the 7th April, 1892. Provided that in case the said Commissioners shall have granted to any other person or corporation license to use the waters of said Niagara or Welland rivers and by reason of failure of such person or corporation to carry on the work so licensed the said Commissioners find it necessary to forfeit said license and take over said works, this clause shall not prohibit said Commissioners from operating such works for the generation and transmission, sale or lease of electricity or power.

6. The provisions in paragraph 10 for the completion of the works therein specified are extended to the First day of July, 1903, and if not then completed the Lieutenant-Governor-in-Council may declare the agreement of the 7th April, 1892, and its variations by these presents, and also these presents, the liberties, licenses, powers and authorities so granted and every of them to be forfeited and void, and thenceforth after such declaration the same shall cease and determine and be utterly void and of no effect whatever.

7. So long as the agreement of the 7th April, 1892, as varied hereby, and these presents are in force, the Commissioners undertake and agree that the amount of rentals which may be fixed and charged for the right to use the waters of the Niagara or Welland Rivers within the Park for the purpose of generating electricity by any other company or person shall not be at less rentals than is provided and reserved by these presents, and, further, that any such company shall be subject to the like restrictions as in paragraph 11 of the said agreement of the 7th April, 1892. Provided, however, that notwithstanding anything in this paragraph contained, the rentals so to be fixed and charged against any other company or person may be reduced below the rentals provided and reserved by these presents so far only as such reduction may fairly and reasonably be allowed in respect of the increased cost of the construction of the canal or of canal and tunnel within the Park, by reason of its greater length or other ground of expense in its or their construction, whether required for supply or waste, through the Park to the point of discharge into Niagara River in excess of the distance between the power house of the Niagara River Power Company and the point of discharge into the Niagara River, such reduction not to be an amount sufficient to give any undue advantage as against the parties of the second part except by reason of such increased cost of canal or tunnel or both, as the case may be.

8. The Commissioners agree to grant as may be requested by the Company and the Niagara Falls Park and River Railway Company the right to use the waters of the Niagara River up to the 1st day of July, 1903, to generate electricity from the plant of the said railway company, or such other plant as the company may substitute for or add thereto under the agreement with the said railway company to be used beyond the Park and in such manner as is provided by the agreement of the 27th November, 1897, made between the party hereto of

