

1970

## c 136 Drainage Act

Ontario

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### Bibliographic Citation

*Drainage Act*, RSO 1970, c 136

### Repository Citation

Ontario (1970) "c 136 Drainage Act," *Ontario: Revised Statutes*: Vol. 1970: Iss. 2, Article 10.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1970/iss2/10>

## CHAPTER 136

## The Drainage Act

## I. In this Act,

Inter-  
pretation

- (a) "benefit" means the benefit to any land from the construction, improvement or maintenance of a drainage works;
- (b) "construction" means the original opening, making, excavating, building or completing of a drainage works;
- (c) "county" includes a provisional judicial district;
- (d) "county court" includes a district court;
- (e) "court of revision" means a court of revision constituted under this Act;
- (f) "Department" means the Department of Municipal Affairs;
- (g) "drainage works" includes a drain constructed by any means, including the improving of a stream, creek or watercourse, and includes works necessary to control the water table or level within or on agricultural lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof;
- (h) "engineer" means an engineer registered as a professional engineer under *The Professional Engineers Act*, or a surveyor registered under *The Surveyors Act*; R.S.O. 1970,  
cc. 366, 452
- (i) "initiating municipality" means the local municipality undertaking the construction, improvement or maintenance of a drainage works to which this Act applies;
- (j) "injuring liability" means the part of the cost of the construction, improvement or maintenance of a drainage works required to relieve the owner of any land or road from liability for injury caused by water artificially made to flow from such land or road upon any other land or road;
- (k) "judge" means a judge of the county or district court of the county or district in which the municipality assessing lands or roads for a drainage works is situate;
- (l) "maintenance" means the preservation and keeping in repair of a drainage works;

- (m) "Minister" means the Minister of Municipal Affairs;
- (n) "outlet liability" means the part of the cost of the construction, improvement or maintenance of a drainage works that is required to provide such outlet or improved outlet;
- (o) "owner" includes a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (p) "public utility" means a person having jurisdiction over any waterworks, sewage works, electric heat, light and power works, telegraph and telephone lines, or gasworks, including works for the production, transmission, distribution and supply of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing;
- (q) "referee" means the referee appointed under this Act;
- (r) "sufficient outlet" means a point at which water can be discharged safely so that it will do no injury to lands or roads. 1962-63, c. 39, s. 1; 1968, c. 33, s. 1; 1968-69, c. 32, s. 1.

Mutual  
agreement  
re drainage  
works

**2.—(1)** When two or more owners of land desire to construct or improve a drainage works on any of their lands and are willing to pay the cost thereof, they may enter into a written agreement for the construction, improvement, financing and maintenance of such drainage works, which shall include the following:

R.S.O. 1970,  
c. 136

1. A reference to *The Drainage Act*.
2. Descriptions of the lands of the parties to the agreement sufficient for the purposes of registration in the proper registry or land titles office.
3. The estimated cost of the drainage works.
4. A description of the drainage works, including its location and nature.
5. The proportion of the cost of the construction, improvement and maintenance of the drainage works that is to be borne by each of the owners of the lands.
6. The date the agreement was entered into.
7. An affidavit of a subscribing witness to the execution of the agreement by the parties as required by section 25 of *The Registry Act*.

R.S.O. 1970,  
c. 409

Filing of  
agreement

(2) A copy of the agreement and the plans and schedules, if any, of the proposed drainage works may be filed with the clerk of

the local municipality in which the land or any part thereof is situate, and the agreement or an executed copy thereof may be registered in the proper registry or land titles office.

(3) An agreement made under this section shall, upon registration in the proper registry or land titles office of the agreement or an executed copy thereof, be binding upon the heirs, executors, administrators, successors and assigns of each of the parties to the agreement.

Registered  
agreement  
binding on  
successors

(4) The subsequent provisions of this Act do not apply to any drainage works constructed under this section. 1962-63, c. 39, s. 2.

Exception

**3.**—(1) Subject to subsection 4, upon the petition in Form 1 of the majority in number of the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in the area requiring drainage as described in the petition within any local municipality, to the council thereof, for the drainage of the area by means of a drainage works, the council, not sooner than thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, may by by-law or resolution appoint an engineer to make an examination of the area, to prepare a report, including plans, specifications, estimates of the drainage works, and an assessment against the lands and roads within the area requiring drainage and of any other lands and roads liable to be assessed for the drainage works, stating as nearly as may be, in his opinion, the proportion of the cost of the drainage works, including fees of the engineer and of the clerk, to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability. 1968, c. 33, s. 2.

Drainage  
works con-  
structed on  
petition

R.S.O. 1970,  
c. 78

(2) Where a drainage works is required for the drainage of a road or a part thereof, the council of the local municipality in which the road or part thereof is situate may proceed under subsection 1 upon a petition,

Initiating  
proceedings  
for the  
drainage of  
a road

(a) where the road or part thereof is under the jurisdiction of the Province of Ontario or of a township or county, signed by the engineer or road superintendent appointed under *The Highway Improvement Act* by the Department of Highways, county, township or commission having control over the road or part thereof; and

R.S.O. 1970,  
c. 201

(b) where the road or part thereof is under the jurisdiction of a city, town or village, signed by the engineer or road superintendent of the municipality.

(3) In no case shall the construction of a drainage works by means of the improvement of a creek, stream or natural water-course include a covered drainage works, unless the part of the

Providing  
capacity for  
covered  
drainage  
works

drainage works in which the covered drainage works is included provides capacity for all the surface water from the lands and roads draining naturally towards and into it and for all the waters from all the lands and roads assessed for the drainage works.

Petition  
when  
pumping,  
embanking  
required

(4) Where a drainage works can only be effectually constructed by embanking, pumping or other mechanical operation, the council of the initiating municipality may proceed with the construction thereof or assume such a drainage works only upon the petition of at least two-thirds of the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in the area requiring drainage as described in the petition.

Petition  
where area  
lies on  
each side of  
boundary  
road

(5) Where it is desired to construct a drainage works for the drainage of an area composed of lands or roads lying on each side of a boundary line between two local municipalities, the council of either local municipality may proceed upon a petition as required by this Act in all respects, including the sending of notices, as if such area were entirely within the limits of the municipality. 1962-63, c. 39, s. 3 (2-5).

Drainage  
works  
constructed  
on requisition

**4.—**(1) Where it is necessary, for the proper drainage of any agricultural land, that a drainage works should be constructed thereon or constructed thereon and through the land of one or more adjacent owners, the owner of the land requiring or to be benefited by such drainage may file with the clerk of the local municipality in which his land is situate a requisition in Form 2 requesting that an engineer be appointed.

Deposit for  
expenses

(2) Upon filing the requisition, the owner shall deposit with the clerk of the local municipality the sum of \$100 to be used toward defraying the expenses incurred consequent thereon, which sum shall be taken into consideration by the engineer in apportioning costs.

Limit of  
cost

(3) No drainage works, the whole cost of which will exceed \$2,500, shall be constructed under this section.

Limit of  
area to be  
assessed

(4) Only land lying within 150 rods from the sides of the drainage works and land lying within 150 rods from the point of commencement of the drainage works may be assessed under this section.

Sufficient  
outlet

(5) Every drainage works constructed under this section shall be continued to a sufficient outlet.

Duty of  
council

(6) The council of the local municipality, upon the filing of the requisition, shall, by by-law or resolution, appoint an engineer to make an examination of the area requiring drainage and to report as to the need for such drainage, the value of such drainage to the land to be served by the drainage works, the damage that will be done to the lands through which the drainage works may be



constructed, the amount that should be paid to each owner of land that would be damaged by the drainage works, the estimated cost, and the amount that, in his opinion, should be assessed against every parcel of land and road for benefit, outlet liability and injuring liability.

(7) The engineer shall, before making his examination and report, cause the clerk of the local municipality to send to each owner of land that will be affected by such drainage works seven days written notice in Form 3, by prepaid mail, addressed to each such owner at his address as shown by the last revised assessment roll, of the date, time and place of his examination.

Notice of  
examination  
of area

(8) Notwithstanding sections 27, 40 and 42, unless the requisition for a drainage works under this section is withdrawn, the council of the municipality shall, subject to any appeals, adopt the report and proceed to implement it in accordance with this Act.

Adoption  
of report

(9) Every ditch constructed under *The Ditches and Watercourses Act* shall be maintained in accordance with the award of an engineer providing for such maintenance until such ditch is brought under the provisions of this Act. 1962-63, c. 39, s. 4.

Present  
award  
ditches  
R.S.O. 1960,  
c. 109

**5.** The engineer shall, to the best of his skill, knowledge, judgment and ability, honestly and faithfully, and without fear of, favour to or prejudice against any person, perform the duty assigned to him in connection with any drainage works and make a true report thereon. 1962-63, c. 39, s. 5.

Duties of  
engineer

**6.—**(1) The engineer and his assistant when engaged in the performance of their duties during or after the examination of the locality may enter, measure along, ascertain the bearings of any line, plant the stakes that they consider necessary for the performance of the work and take levels on the land of any person.

Power to  
enter lands

(2) Every person who wilfully interferes with or obstructs the engineer or any of his assistants in the exercise of the powers conferred by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1962-63, c. 39, s. 6.

Offence for  
interference  
with  
engineer

**7.—**(1) The council of the initiating municipality may instruct the engineer to make one report with respect to two or more petitions requiring drainage in two or more adjoining areas that require drainage.

One report  
on two  
or more  
petitions

(2) The engineer appointed shall make a report, including such plans, profiles, specifications, estimates of the drainage works to be constructed and assessments as may be considered necessary.

Duty to  
make plans,  
specifica-  
tions and  
estimates

Duties  
re survey

(3) The engineer in making his survey shall establish sufficient bench marks or permanent levels by which a drainage works may be governed, and shall in his report record the description, location and elevation of every bench mark or permanent level.

Offence for  
interference  
with bench  
marks, etc.

(4) Every person who interferes with, removes or destroys any bench mark or permanent level established under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1962-63, c. 39, s. 7.

Report re  
disposal of  
material  
taken from  
drainage  
works

**8.**—(1) The engineer in his report shall determine in what manner the material taken from any drainage works in the construction, improvement or maintenance thereof shall be disposed of, and the amount to be paid to the respective persons entitled to damages, if any, to lands and crops occasioned thereby, and shall include such sums in his estimates of the cost of the construction, improvement or maintenance of the drainage works.

Bridges and  
culverts on  
roads

(2) The engineer in his report shall provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage works rendered necessary by the drainage works crossing any public road or part thereof, and he shall in his assessment apportion, as appears just, the cost of bridges and culverts between the drainage works and the municipality or municipalities having jurisdiction over such public road.

By-law as  
to assess-  
ments for  
bridges,  
culverts  
on roads

(3) A local municipality may by by-law assume, as a charge upon the general funds of the municipality, the whole or such part, as the by-law may determine, of the cost of construction, improvement and maintenance of all bridges and culverts rendered necessary by a drainage works crossing any public road or part thereof within the municipality, and, when such a by-law has been passed, it shall not be repealed except with the permission of the referee, and, so long as the by-law remains unrepealed, the engineer shall, in his assessment, apportion the cost of such bridges and culverts in accordance with the by-law or direct that such drainage works be done by and at the expense of the municipality.

Construction  
of access  
bridges

(4) The engineer in his report shall provide for the construction or the replacement, enlargement or other improvement of bridges and culverts required to afford access from any land to the travelled portion of a public road, and he shall include the cost of the construction or the replacement, enlargement or other improvement of such bridges and culverts in his assessment for the construction, improvement or maintenance of the drainage works, and they shall, for the purposes of maintenance, be deemed part of the drainage works.

Construction  
of farm  
bridges

(5) The engineer in his report shall provide for the construction or the replacement, enlargement or other improvement of bridges

and water gates rendered necessary by the drainage works upon any land, and the land assessed for the drainage works shall not be nor shall any municipal corporation be liable for keeping such bridges and water gates in repair, but, if the engineer considers it just that any of such bridges or water gates be maintained as part of the drainage works, he may so provide.

(6) If the engineer thinks it expedient to make an allowance for severance to an owner instead of providing for the construction or the replacement, enlargement or other improvement of a bridge as provided by subsection 4 or 5, he shall in his report provide for payment to the owner of such amount as appears just by way of allowance for severance.

Allowance  
for  
severance

(7) Where an existing drain that was not constructed on petition under this Act or any predecessor of this Act is incorporated in whole or in part in a drainage works or is used in connection therewith, the engineer in his report shall estimate and allow in money to the owner of such drain or part the value to the drainage works of such drain or part.

Allowance  
for private  
drains

(8) The engineer in his report shall estimate and allow in money to the owner of any land that it is necessary to use,

Allowance  
for right  
of way, etc.

- (a) for the construction or improvement of a drainage works;
- (b) for the disposal of material removed from a drainage works;
- (c) as a site for a pumping station to be used in connection with a drainage works; or
- (d) as a means of access to any such pumping station, if, in the opinion of the engineer, such right of way is sufficient for the purposes of the drainage works,

the value of any such land or the damages, if any, thereto.

(9) Where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing the works to such an outlet, or making it of such capacity, he may include in his estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in his report he shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries.

Allowance  
for damage  
due to in-  
sufficient  
outlet

(10) If the engineer finds that a drainage works is not required or is impractical, or cannot be constructed under this Act, he shall forthwith file with the clerk of the initiating municipality a report

Engineer's  
finding,  
drainage  
works not  
required,  
etc.



to that effect, stating his reasons therefor, the amount of his fees and other charges and by whom they shall be paid, and the clerk shall forthwith send a notice of the filing of such report, by prepaid mail, to all persons who signed the petition or requisition, as the case may be, and the matter shall not be further proceeded with unless the decision of the engineer is reversed on appeal. 1962-63, c. 39, s. 8.

Assessing  
land in  
neighbour-  
ing municipi-  
ality

**9.** Where any lands or roads in or under the jurisdiction of a local municipality, other than the local municipalities into or through which the drainage works passes, are, in the opinion of the engineer of the initiating or other municipality doing the work or part thereof, benefited by the drainage works or provided with an improved outlet or relieved from injuring liability, he may assess the cost of the construction, improvement or maintenance of the drainage works in the same manner as is provided in section 10. 1962-63, c. 39, s. 9; 1968, c. 33, s. 3.

Continuing  
drainage  
works  
beyond the  
limits of  
municipality

**10.—(1)** Where it is considered necessary to continue a drainage works beyond the limits of the initiating municipality, the engineer employed by the council of such municipality may continue the drainage works on or along or across any road allowance or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet, and in every such case he may assess, regardless of municipal boundaries, all lands and roads that, in his opinion, should be assessed for benefit, outlet liability or injuring liability, with such proportion of the cost of the drainage works as appears just, and in his report thereon he shall estimate separately the cost of the drainage works within each municipality and upon the road allowances or other boundaries.

When  
drainage  
works  
not deemed  
out of  
initiating  
municipality

**(2)** A drainage works shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage works or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. 1962-63, c. 39, s. 10.

Interpro-  
vincial  
drainage  
works, from  
Ontario into  
adjoining  
province

**11.—(1)** Where it is considered necessary or expedient to extend a drainage works constructed under this Act from Ontario into or through lands in an adjoining province, or to extend a drainage works from an adjoining province into or through lands in Ontario, the Lieutenant Governor in Council may authorize the Minister to enter into an agreement with a designated officer of the adjoining province as to the proportion of the cost of the drainage works in the adjoining province to be borne and paid by Ontario and as to the proportion of the cost of the drainage works in Ontario to be borne and paid by the adjoining province.

(2) Where such a drainage works extends from Ontario into or through lands in an adjoining province, the Minister may order a local municipality in Ontario in which the lands affected by the drainage works are situate to provide funds to pay for the proportion of the cost of the drainage works in the adjoining province to be borne and paid by Ontario, and thereupon this Act applies *mutatis mutandis* to such drainage works.

Apportionment of cost

(3) Where a drainage works extends from an adjoining province into or through lands in Ontario, the Minister may order a local municipality into which the drainage works extends to provide for the construction of the necessary drainage works, and thereupon this Act applies *mutatis mutandis* to such drainage works, and the contribution to the drainage works from the other province shall be paid to such local municipality on the completion of the drainage works. 1962-63, c. 39, s. 11.

Extension of drainage works from adjoining province

**12.**—(1) The council of a local municipality by by-law may appoint one or more commissioners,

Commissioner, appointment and duties

(a) to assist the engineer in the construction or improvement of a drainage works; and

(b) to supervise the maintenance of any drainage works,

and require him or them to report annually on the state of repair of all drainage works under his supervision.

(2) The commissioner has the same powers as to entry on land as are given to an engineer under section 6. 1962-63, c. 39, s. 12.

Powers of commissioner

**13.** The engineer, in assessing the lands and roads requiring drainage or otherwise liable for assessment under this Act, shall show in his report the approximate number of acres affected by the drainage works in each parcel of land assessed for the drainage works. 1962-63, c. 39, s. 13.

Assessment of affected land

**14.** The assessment upon any land or road for a drainage works may be shown by the engineer placing sums of money opposite the land or road, and it is not necessary to insert the fractional part of the whole cost to be borne by the land or road. 1962-63, c. 39, s. 14.

Assessment may be shown in money

**15.**—(1) The engineer in his report shall assess for benefit, outlet liability and injuring liability, and shall insert in an assessment schedule, in separate columns, the sums assessed for each opposite each parcel of land and road liable therefor.

Engineer to distinguish assessments

(2) In fixing the sum to be assessed upon any land or road, the engineer may take into consideration any prior assessment on the same land or road for the construction, improvement or maintenance of a drainage works and make such allowance therefor as appears just, and in his report he shall state the allowance so made. 1962-63, c. 39, s. 15.

Prior assessments to be taken into consideration

Outlet  
liability,  
lands  
assessed for

**16.**—(1) Lands and roads that use a drainage works as an outlet, or for which, when the drainage works is constructed or improved, an improved outlet is provided either directly or indirectly through the medium of any other drainage works or of a swale, ravine, creek or watercourse, may be assessed for outlet liability.

Injuring  
liability,  
lands  
assessed for

(2) If, from any land or road, water is artificially caused by any means to flow upon and injure any other land or road, the land or road from which the water is caused to flow may be assessed for injuring liability with respect to a drainage works to relieve the injury so caused to such other land or road.

Basis of  
assessment

(3) The assessment for outlet liability and injuring liability provided for in subsections 1 and 2 shall be based upon the volume and rate of flow of the water artificially caused to flow upon the injured land or road or into the drainage works from the lands and roads liable for such assessments.

Certain  
owners not  
to count  
for or  
against  
petition

(4) The owners of the lands and roads made liable to assessment only under subsection 1 or 2 shall neither count for nor against the petition required by subsection 1 of section 3 unless within the area therein described. 1962-63, c. 39, s. 16.

Engineer to  
list  
separately  
excepted  
lands and  
lands in  
different  
municipi-  
palities

**17.** The engineer in his report shall list separately the lands in each municipality that are assessed for a drainage works and shall indicate the assessment of the cost of lateral drains and the assessments of lands that are not agricultural lands. 1962-63, c. 39, s. 17.

Variations  
in assess-  
ments for  
maintenance

**18.** Where the engineer considers it equitable that the cost of the maintenance of a drainage works be assessed upon a basis different from that upon which the cost of its construction or improvement is assessed, he shall determine and report the basis upon which the cost of maintenance of the drainage works or of any part or parts thereof shall be assessed. 1962-63, c. 39, s. 18.

Subsequent  
subdivision  
of land

**19.**—(1) Where a parcel of land has been assessed by an engineer and, after the final revision of the assessment, the parcel is divided by the change in ownership of any part, the clerk of the local municipality in which the parcel is situate shall direct an engineer in writing to apportion the assessment charged against the parcel among the parts into which it is divided.

Notice to  
affected  
owners

(2) The clerk of the local municipality shall forthwith send a copy of the direction by prepaid mail to the owners of the parts into which the parcel is divided.

Apportion-  
ment of  
assessment

(3) The engineer in making the apportionment shall have regard to the part of the parcel affected by the drainage works, and shall make the apportionment in writing and file it with the

clerk of the local municipality who shall attach it to the original assessment and shall send, by prepaid mail, a copy thereof to each of such owners, and, subject to subsection 5, the apportionment is binding upon the lands assessed.

(4) The costs, including the fees of the engineer and of the clerk of the local municipality, shall be borne and paid by the parties in the manner fixed or apportioned by the engineer or, on appeal, by the judge.

Costs of  
engineer  
and clerk

(5) Any such owner who is dissatisfied with such apportionment and who is assessed for a sum greater than \$200 may appeal to the judge within thirty days after the date a copy of the apportionment is sent to him by the clerk. 1962-63, c. 39, s. 19.

Appeal of  
apportion-  
ment

**20.**—(1) Where an owner of land that is not assessed for a drainage works subsequently connects the land with the drainage works for the purpose of drainage or where the nature or extent of the use of a drainage works by land assessed for the drainage works is substantially altered, an engineer appointed by the initiating municipality for the purpose shall make a report and assess the land for a just proportion of the drainage works, regard being had to any compensation paid to the owner of such land in respect of the drainage works, but no person shall connect such land to the drainage works without the approval of the council of the municipality.

Subsequent  
connections  
with  
drainage  
works

(2) The amount collected under subsection 1 shall be paid into a special bank account and used only for the future improvement or maintenance of the whole or any part of the drainage works. 1962-63, c. 39, s. 20.

Use of  
amount  
collected

**21.**—(1) Where a drainage works or a part thereof is to be constructed, improved or maintained upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility, the public utility may construct, improve or maintain such drainage works or part.

Public  
utility,  
option to  
construct  
drainage  
works

(2) Where the public utility does not exercise its powers under subsection 1 or does not complete such drainage works or part within a reasonable time and without unnecessary delay, such drainage works or part may be completed by the initiating municipality in the same manner as any other drainage works.

Non-  
exercise by  
public  
utility

(3) In addition to all other sums lawfully assessed against the property of the public utility under this Act, and even if the public utility is not otherwise assessable under this Act, the public utility shall be assessed for and shall pay all the increase of cost of such drainage works or part caused by the existence of the works of the public utility. 1962-63, c. 39, s. 21.

Increased  
cost, how  
borne



Time for  
filing report

**22.—**(1) The report of the engineer shall be filed with the clerk of the initiating municipality as soon as completed or in any event within six months after his appointment, or within such further time as may be extended before or after the expiry of such six-month period by the council of the municipality.

Engineer  
may forfeit  
compensa-  
tion and  
council  
appoint  
another

(2) If the engineer neglects to make his report within the time limited by or extended under this section, he shall forfeit all claim for compensation for the work done by him upon the drainage works, and the council of the local municipality may appoint some other engineer.

By-law not  
invalid by  
reason  
report not  
filed in  
six months

(3) A by-law passed by the council of any local municipality for the construction of a drainage works under this Act shall not be quashed by reason only that the report of the engineer was not filed within the time limited by or extended under this section. 1962-63, c. 39, s. 22.

Fees of  
engineer  
part of  
drainage  
works  
Account of  
engineer

**23.—**(1) The fees and expenditures of the engineer form part of the cost of the drainage works.

(2) The account of the engineer shall be set out in such detail as the council of the local municipality that appointed him may require.

Review by  
judge

(3) The council of the local municipality may apply, within sixty days after the engineer's account is presented to the clerk of the municipality, to the judge, who shall review the account and make any alteration he considers just, and the clerk shall give at least thirty days notice by prepaid mail to the engineer and to the head of the municipality of the appointment for such review.

Appeal to  
referee

(4) Where the account of the engineer exceeds \$500, the decision of the judge may be appealed to the referee within thirty days after the date of the decision of the judge. 1962-63, c. 39, s. 23.

Copy of  
report  
to other  
municipi-  
alities  
affected,  
etc.

**24.—**(1) Upon the filing of the engineer's report, the council of the initiating municipality, if it intends to proceed with the drainage works, shall send a copy of the report,

- (a) to the clerk of every other local municipality in which any land or road that is assessed for the drainage works is situate;
- (b) to the secretary-treasurer of each authority under *The Conservation Authorities Act* that has jurisdiction over any land affected by the report;
- (c) to any railway company or public utility affected by the report, other than by way of assessment; and
- (d) to the Minister of Lands and Forests where land under his jurisdiction may be affected by the report.

R.S.O. 1970,  
c. 78

1962-63, c. 39, s. 24 (1); 1968, c. 33, s. 4 (1).

(2) The clerk of the initiating municipality shall send a notice by prepaid mail to the owners, as shown by the last revised assessment rolls to be the owners of lands and roads assessed for the drainage works in the area found by the engineer to require drainage, and to all other owners of lands and roads in the initiating municipality assessed for the drainage works and to each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, stating the date of the filing of the report, the name or other designation of the drainage works and its estimated cost, the amount that is assessed against the owner's land, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (2); 1968, c. 33, s. 4 (2).

Clerk of initiating municipality to notify parties assessed

(3) The clerk of every other local municipality in which any land or road that is assessed for the drainage works is situate shall send a notice by prepaid mail to the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in such municipality assessed for the drainage works, and to each authority under *The Conservation Authorities Act* that has jurisdiction over any of such lands, stating the date of the filing of the report, the name or other designation of the drainage works and its estimated cost, the amount that is assessed against the owner's land, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (3); 1968, c. 33, s. 4 (3).

Clerk to notify parties assessed

R.S.O. 1970, c. 78

(4) The clerk of each local municipality in which any land or road that is assessed for the drainage works is situate shall send a notice by prepaid mail to each owner of land in the municipality in respect of which the report provides for compensation and other allowances, if any, stating the date of the filing of the report, the amount of compensation and allowances awarded to the owner, and the date of the council meeting at which the report will be considered. 1962-63, c. 39, s. 24 (4).

Clerk to notify owners to be compensated

(5) The clerk of the initiating municipality and the clerk of every other local municipality shall send a copy of the report with each notice that is sent under subsections 2, 3 and 4, provided that where a copy of the report is sent under subsection 1 it is not necessary to send a further copy to the same party under this subsection. 1970, c. 130, s. 1.

Copy of report to accompany notice

(6) The date of the council meeting at which the report will be considered shall not be less than ten days after the last notice has been mailed under subsection 2, 3 and 4. 1962-63, c. 39, s. 24 (5).

Council meeting for consideration of report

**25.** The council of the initiating municipality shall, at the meeting mentioned in the notices under section 24, consider the report, and, where the drainage works is requested on petition,

Consideration of report

shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing it and filing it with the clerk, and shall also give those present owning lands within the area requiring drainage who have not signed the petition an opportunity so to do, and, should any of the lands or roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature counts as that of one person in favour of the petition. 1962-63, c. 39, s. 25; 1970, c. 130, s. 2.

Sufficiency  
of petition

**26.**—(1) If the petition at the close of such council meeting contains a sufficient number of names to comply with subsection 1 or 4 of section 3, as the case may be, the council may proceed to adopt the report, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw.

Liability of  
persons who  
have with-  
drawn where  
petition  
insufficient

(2) If, after striking out the names of the persons withdrawing, the names remaining on the petition, including the names, if any, added as provided by section 25, do not comply with the requirements of subsection 1 or 4 of section 3, as the case may be, the persons who have withdrawn from the petition are on their respective assessments in the report, with 100 per cent added thereto, together with the other original petitioners on their respective assessments in the report, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the persons liable, and shall be collected in the same manner as real property taxes 1962-63, c. 39, s. 26.

Adoption  
of report

**27.** A report may be adopted by by-law in Form 4 and, when such by-law is given two readings by council, the report shall be deemed to be adopted and the by-law shall be known as a provisional by-law. 1962-63, c. 39, s. 27.

Referring  
report back  
to engineer

**28.** The council of the initiating municipality, at any time before passing the by-law, if it appears that there are or may be errors in the report of the engineer or that for any other reason the report should be reconsidered, may refer the report back to him for reconsideration, and the engineer shall thereupon reconsider his report and shall further report to the council, which report has the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report. 1962-63, c. 39, s. 28.

Copy of  
by-law to  
be sent to  
local muni-  
cipalities  
and to  
owners

**29.** The council of the initiating municipality shall, within five days after the adoption of the report, cause a copy of the provisional by-law and a notice of the sitting of the court of revision to be sent by prepaid mail to every other local municipal-

ity in which any land or road is assessed for the drainage works, and the council of the initiating municipality and every such other local municipality shall, within thirty days after the adoption of the report, cause a copy of the provisional by-law and a notice of the sitting of the court of revision to be sent by prepaid mail to each owner, as shown by the last revised assessment roll to be the owner of land in the municipality assessed for the drainage works, and to each person entitled to notice under subsection 4 of section 24. 1965, c. 34, s. 1.

**30.**—(1) The court of revision shall consist of three or five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide. 1968-69, c. 32, s. 2, *part*; 1970, c. 130, s. 3.

Court of  
revision

(2) Every such member shall be a person eligible to be elected a member of the council or shall be a member of the council. 1968-69, c. 32, s. 2, *part*.

Qualifica-  
tion

**31.**—(1) Any owner of land, or, where roads in the local municipality are assessed, any ratepayer, who complains that his or any other land or road has been assessed too high or too low or that any land or road that should have been assessed has not been assessed, or that due consideration has not been given or allowance made as to type of use of land, may personally, or by his agent, give notice in writing to the clerk of the municipality that he considers himself aggrieved for any or all such causes.

Appeal to  
court of  
revision

(2) The trial of complaints shall be had in the first instance by and before the court of revision of the local municipality in which the lands and roads assessed are situate, and the first sitting of the court shall be held on a day not earlier than twenty nor later than thirty days from the date of completing the mailing of the copies of the provisional by-law.

Time for  
holding  
court

(3) Every notice of appeal to the court of revision shall be given to the clerk of the local municipality at least ten days before the first sitting of the court, but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as appear just. 1962-63, c. 39, s. 30 (1-3).

Notices of  
appeal

(4) Except as otherwise provided in this Act, the provisions of *The Assessment Act* as to the powers of and trial of complaints by the Assessment Review Court apply *mutatis mutandis* to trials by the court of revision under this Act, except that where the assessment commissioner or regional registrar is referred to, such reference shall be deemed to refer to the clerk of the municipality. 1968-69, c. 32, s. 3 (1).

Powers of  
court of  
revision,  
etc.  
R.S.O. 1970,  
c. 32



Adjourn-  
ment of  
court to  
notify  
persons  
affected by  
alterations

**32.** When the ground of complaint is that lands or roads are assessed too high and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced and there is no evidence to indicate that the amount of such reduction should be levied against lands or roads whose owners are parties to appeals then pending before the court of revision or judge, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by prepaid mail such persons as the appellant may specify who are shown by the last revised assessment roll to be owners of land affected of the date to which the hearing is adjourned, and the clerk shall so notify all such persons, and at such adjourned hearing the court or judge shall dispose of the matter of appeal and, where appropriate, redistribute the assessments in such manner as appears just. 1962-63, c. 39, s. 31.

Appeal to  
County judge

**33.—**(1) An appeal from the court of revision lies to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court of revision to hear or decide an appeal. 1962-63, c. 39, s. 32 (1).

Application  
of  
R.S.O. 1970,  
c. 32

(2) The provisions of *The Assessment Act* as to appeals to the judge under section 55 of that Act apply *mutatis mutandis* to an appeal under subsection 1, except that the notice of appeal shall be given to the clerk of the municipality in lieu of the assessment commissioner and the clerk upon receipt of such notice shall thereupon perform the duties of the regional registrar. 1970, c. 130, s. 4.

Time for  
giving  
judgment

(3) At the court so held, the judge shall hear the appeal and may adjourn the hearing from time to time, but shall give his decision not later than thirty days after the hearing.

Decision to  
be final

(4) The decision of the judge is final. 1962-63, c. 39, s. 32 (2, 3).

Clerk to  
alter  
assessments

**34.** Any change in an assessment made by the court of revision or by the judge shall be given effect to by the clerk of the local municipality altering the assessments and other parts of the schedule to comply therewith and sending notice thereof to the owners affected, and the provisional by-law shall, before the passing thereof, be amended to carry out any changes so made by the court of revision or by the judge. 1962-63, c. 39, s. 33.

Appeal by  
conservation  
authority  
having  
jurisdiction  
R.S.O. 1970,  
c. 78

**35.** Where the proposed drainage works is to be undertaken within a watershed in which a conservation authority under *The Conservation Authorities Act* has jurisdiction, the conservation authority may appeal from the report of the engineer to the referee on the ground that the drainage works will injuriously affect a scheme undertaken by the authority under such Act, and

the provisions of section 36 respecting the notice of appeal, the powers of the referee and the decision of the referee apply to any such appeal. 1962-63, c. 39, s. 34; 1968, c. 33, s. 5.

**36.** Any owner of land or any public utility affected by a drainage works, if dissatisfied with the report of the engineer on the ground that it does not comply with the requirements of this Act, or that the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof, or that the drainage works should be modified, on grounds to be stated, may appeal therefrom to the referee, and in every such case a written notice of appeal shall be served upon the head of the council of the initiating municipality or the clerk thereof within thirty days after the date of mailing of the copy of the provisional by-law under section 29, and the referee may hear and determine the appeal in a summary manner on his own view of the premises and after hearing the parties and, if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this section may make such order as appears just. 1962-63, c. 39, s. 35.

Appeal  
from report  
to referee

**37.** Where the engineer reports that the drainage works is not required or is impractical or cannot be constructed under section 3 or 4, as the case may be, any owner affected by the report, within twenty-one days from the date of the mailing of the notice under subsection 10 of section 8, may appeal therefrom to the referee whose decision is final. 1962-63, c. 39, s. 36.

Appeal  
where  
report  
indicates  
drainage  
works not  
required

**38.**—(1) The council of any local municipality to which a copy of the report was sent under subsection 1 of section 24 may, within six weeks after the report is sent to the clerk, appeal to the referee from the report by serving the clerk of the initiating municipality and the clerk of every other municipality assessed by the engineer with a written notice of appeal setting forth the reasons for such appeal.

Appeal by  
municipality

(2) The reasons for appeal may be the following, or any of them,

Grounds  
for  
appeal

- (a) that the proposed drainage works as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
- (b) that the course of the drainage works or any part thereof should be altered;
- (c) that the drainage works does not provide a sufficient outlet;
- (d) that the drainage works should be carried to an outlet in the initiating municipality or elsewhere;

- (e) that a petition has been received by the council of the appealing municipality, as provided by subsection 1 of section 3, for the enlargement by the appealing municipality of any part of a drainage works lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;
- (f) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. 1962-63, c. 39, s. 37.

Powers of  
referee  
on appeal

**39.** Upon an appeal under section 38, the referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality in which any land or road is assessed for the drainage works, and he may give to any municipality, through or into which the proposed drainage works will be continued, leave to enlarge the drainage works, pursuant to petition in that behalf and according to the report of an engineer appointed by the referee for that purpose, and may make such order as appears just. 1962-63, c. 39, s. 38.

Construction  
or im-  
provement  
by-law

**40.** Where an initiating municipality has adopted a report for the construction or improvement of a drainage works, after the time for appealing has expired and there are no appeals or after all appeals have been decided, the council of the municipality may pass the provisional by-law, thereby authorizing the construction or improvement of the drainage works. 1962-63, c. 39, s. 39.

Muni-  
cipalities  
required  
to raise  
cost

**41.—(1)** The council of each local municipality to which a copy of a report is required to be sent under subsection 1 of section 24 shall raise and pay over to the treasurer of the initiating municipality its proportion of the cost of the construction and improvement of the drainage works within a reasonable time after the time fixed by subsection 2 for the passing of the by-law.

Imposition  
of special  
assessment

**(2)** The council of each local municipality that is required to raise the whole or any part of the cost of the construction or improvement of the drainage works shall, forthwith after the time for appealing has expired and there are no appeals or after all appeals have been decided, by by-law impose upon the land assessed for the construction or improvement of the drainage works the assessment with which it is chargeable, and the amount so imposed is payable in such instalments as the council may prescribe.

Commu-  
tation of  
special  
assessment

**(3)** The council of any local municipality may provide that persons whose lands are assessed may commute for a payment in cash the assessments imposed thereon and may prescribe the terms and conditions thereof.

(4) Where the assessment against any parcel of land is \$25 or less, the council of any local municipality may provide that the assessment shall be paid out of the general funds of the municipality or that the assessment shall be paid in the first year in which the assessment is imposed upon the land assessed.

Assessments  
of \$25  
or less

(5) The assessments and rates imposed under this Act shall be deemed to be taxes, and the provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply. 1962-63, c. 39, s. 40.

Application  
of R.S.O.  
1970,  
c. 284

(6) Notwithstanding the provisions of any general or special Act, land exempt from taxation is for all purposes, except petitioning for or against undertaking a drainage works, subject to the provisions of this Act and shall be specially assessed, and the special assessments so imposed that fall due while such land remains exempt from taxation shall be paid by the municipality that imposed the assessments, provided that such special assessments imposed upon land on which a church or place of worship is erected and that is used in connection therewith, land of a university, college or seminary of learning, whether vested in a trustee or otherwise, and land of a board of an elementary or secondary school as defined in *The Schools Administration Act*, shall be paid by the owners of the land. 1968, c. 33, s. 6 (1); 1970, c. 130, s. 5.

Land  
exempt  
from  
taxation  
to be  
specially  
assessed

R.S.O. 1970,  
c. 424

(7) Subsection 6 applies to all drainage works in respect of which an engineer's report is adopted after the 23rd day of July, 1968. 1968, c. 33, s. 6 (2), *amended*.

Application  
of subs. 6

**42.** A by-law authorizing the construction, improvement or maintenance of a drainage works may be repealed at any time before the work is commenced and before any assessment has been levied against the land assessed, and in such case the council of the initiating municipality shall pay all expenses in connection therewith out of the general funds of the municipality. 1962-63, c. 39, s. 41.

Abandon-  
ment of  
work by  
initiating  
municipality

**43.** The council of a local municipality may by by-law provide for the payment to the clerk of the municipality of reasonable fees or other remuneration for services performed by him in carrying out the provisions of this Act. 1962-63, c. 39, s. 42.

Fees of  
clerk

**44.** If no notice of intention to make application to quash a by-law is served upon the clerk of the municipality within ten days after the passing of the by-law or, where a notice of intention has been given, if an application to quash is not made to the referee within three months after the passing of the by-law, the by-law, or so much thereof as is not the subject of or is not

Quashing  
of by-law



quashed upon any such application, is valid and binding according to its terms, so far as it ordains, prescribes or directs anything within the proper competence of the council. 1962-63, c. 39, s. 43.

Municipality may sue for damages to drainage works

**45.** A municipality in which a drainage works or part thereof is situate may bring an action for damages against any person who destroys or injures in any way a drainage works, including any bench mark or permanent level established under subsection 3 of section 7, and any damages ordered by the court to be paid shall be paid to the municipality and used for the construction, improvement or maintenance of the drainage works. 1962-63, c. 39, s. 44.

Expenses to be deemed part of the cost of drainage works

**46.** Except where otherwise provided by this Act or by a decision on an appeal, the cost of and incidental to the passing and serving of by-laws or to any reference or appeal or the construction, improvement and maintenance of a drainage works shall form part of the cost of the drainage works. 1962-63, c. 39, s. 45.

Tenant's covenant to pay taxes, when to include drainage assessments

**47.** Any agreement on the part of a tenant to pay the rates or taxes in respect of the demised land does not include the charges and assessments for a drainage works unless the agreement in express terms so provides, but, in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for a drainage works, in connection with which proceedings were commenced under this Act after the date of the contract or lease and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase, but the amount still unpaid on the cost of the drainage works and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. 1962-63, c. 39, s. 46.

Amendment of by-law when insufficient funds provided

**48.—(1)** Any by-law heretofore or hereafter passed by the council of a local municipality for the assessment upon the lands and roads liable to contribute for a drainage works and that has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage works or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable

**(2)** Where in any such case lands and roads in another municipality are assessed for the drainage works, the council of the initiating municipality shall appoint an engineer to make an examination of the drainage works and to report upon it with an estimate of the cost of completion for which sufficient funds have

not been provided under the original by-law, and shall notify the heads of the other local municipalities as in the case of the original report, and the council of any municipality so notified has the same right of appeal to the referee as to the improper expenditure or illegal or other application of the drainage money already raised and is subject to the same duty, as to raising and paying over its share of the money to be raised, as in the case of the original by-law.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage works acted upon by the completion of the drainage works that provides more than sufficient funds for the completion of or proper contribution towards the drainage works or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and, if lands and roads in any other municipality are assessed for the drainage works, the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the drainage works in each and every year after the completion of the drainage works, and, in case such assessment upon any land has been commuted or anticipated by payment in full, payment shall be made to the owner of such lands as shown by the last revised assessment roll of the municipality in all respects as if such assessment had not been so commuted or anticipated. 1962-63, c. 39, s. 47.

Amendment  
of by-law  
when  
excessive  
funds  
provided

**49.** Any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, relating to the construction or improvement of a drainage works by local assessment, shall be maintained by each local municipality through which it passes, to the extent that such drainage works lies within the limits of such municipality, at the expense of the lands and roads in any way assessed for the construction or improvement of the drainage works and in the proportion determined by the then current by-law pertaining thereto until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer in a report for the maintenance of the drainage works or on appeal therefrom. 1962-63, c. 39, s. 48.

Maintenance  
of drainage  
works  
and cost

**50.—(1)** The council of any local municipality undertaking the repair of a drainage works shall, before commencing the repairs,

- (a) give two readings to a by-law for undertaking such repairs, which by-law shall recite the description, extent and estimated cost of the repairs to be done and the amount to be contributed therefor by each local municipality affected by the drainage works and shall be known as a provisional by-law; and

Service  
of by-law  
on municipa-  
lity  
liable for  
contribu-  
tion, and  
appeal

- (b) serve upon the head or clerk of any municipality liable to contribute any portion of the cost of such repairs a copy of the provisional by-law,

and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage works has never been completed through the default or neglect of the municipality whose duty it was to do the work, and the referee on such appeal may confirm such provisional by-law, or may direct that it be amended or that it not be passed, as appears just.

Council  
served to  
furnish  
amount  
required

(2) The council of every municipality served with a copy of the provisional by-law shall, forthwith after the time for appealing from such by-law has expired and there are no appeals or after all appeals have been decided, pass a by-law to raise the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as determined on appeal therefrom, and shall pay over such amount within a reasonable time to the treasurer of the initiating municipality. 1962-63, c. 39, s. 49.

Varying  
original  
assessments  
for main-  
tenance

**51.**—(1) The council of any local municipality liable for contribution to a drainage works in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the assessment for maintenance of the drainage works may make an application to the referee, of which notice has been given to the head of every other municipality affected by the drainage works, for permission to procure a report of an engineer to vary the assessment, and, in the event of such permission being given, such council may appoint an engineer for such purpose and may adopt the report, but, if all the lands and roads assessed or intended to be assessed lie within the limits of one local municipality, the council of that municipality may procure and adopt such report without such permission.

Proceedings  
on report of  
engineer

(2) The proceedings upon such report shall be the same, as nearly as may be, as upon the report for the construction of the drainage works.

Appeal from  
report of  
engineer

(3) Any council served with a copy of such report may appeal to the referee from the finding of the engineer as to the portion of the cost of the drainage works for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeal to the referee.

Appeal to  
court of  
revision

(4) Any owner of land, and any ratepayer in a municipality in which roads are assessed for such maintenance, may appeal from the assessment in the report in the manner provided in the case of the construction of the drainage works.



(5) Such assessment as so varied shall thereafter, until it is further varied, form the basis of any assessment for maintenance of the drainage works affected thereby. 1962-63, c. 39, s. 50.

Basis of  
future  
assessments

**52.**—(1) The council of any local municipality, whose duty it is to maintain a drainage works for which only lands and roads within or under the jurisdiction of the municipality are assessed, may, after the completion of the drainage works, without the report of an engineer, upon a *pro rata* assessment on the lands and roads as last assessed for the construction or maintenance of the drainage works, make improvements thereto by deepening, widening or extending the drainage works to an outlet, provided the cost of such deepening, widening and extending is not more than one-fifth of the cost of the construction, and does not in any case exceed \$1,500.

Deepening,  
widening or  
extending  
without  
report of  
engineer

(2) Where the Province of Ontario or any municipality or suburban road commission desires to relocate a drainage works or part thereof that is on or adjacent to a road under its jurisdiction, upon the report of an engineer appointed by the municipality whose duty it is to maintain the drainage works that the drainage works or part thereof can be moved to a specified new location without impairing the capacity or efficiency of such drainage works or adversely affecting any person or property, the council of a local municipality may authorize such relocation within the boundaries of the municipality at the expense of the Province, municipality or commission, as the case may be. 1962-63, c. 39, s. 51.

Moving  
drainage  
works  
off road

**53.**—(1) Where, for the better use or maintenance of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs and other protective works as ancillary to the drainage works, or to otherwise improve, extend or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain the drainage works or any part thereof may, without the petition required by subsection 1 of section 3 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report. 1962-63, c. 39, s. 52 (1).

Improving,  
upon ex-  
amination  
and report  
by engineer

(2) Except where emergency work is required to be performed, an engineer shall not be appointed under subsection 1 until thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each

Notice to  
conservation  
authorities



R.S.O. 1970,  
c. 78

authority under *The Conservation Authorities Act* that has jurisdiction over any of the lands that would be affected. 1968, c. 33, s. 7.

Powers and  
duties of  
engineer

(3) The engineer has all the powers and shall perform all the duties of an engineer appointed with respect to the construction of a drainage works under this Act.

Proceedings  
on report  
and appeals

(4) All proceedings, including appeals, with respect to a report under subsection 1 and the assessments therein shall be the same as on a report for the construction of a drainage works and the assessments therein. 1962-63, c. 39, s. 52 (2, 3).

Power to  
compel  
repairs

**54.**—(1) Upon thirty days notice in writing served by any person whose property is injuriously affected by the condition of a drainage works, upon the head or clerk of the local municipality whose duty it is to maintain and keep in repair the drainage works, the municipality is compellable by mandamus issued by the referee or a court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by this Act as to maintenance, or such of the powers as to the referee or court appears proper, and the municipality is liable in damages to the owner whose property is so injuriously affected.

Municipality  
liable for  
damages  
caused by  
non-repair

(2) Notwithstanding subsection 1, the local municipality whose duty it is to maintain a drainage works shall not become liable in damages to any person whose property is injuriously affected by reason of the non-repair of the drainage works until after service by or on behalf of such person of the notice referred to in subsection 1 upon the head or clerk of the municipality, describing with reasonable certainty the alleged lack of repair of the drainage works.

No liability  
where  
drainage  
works  
blocked by  
ice or snow

(3) The local municipality whose duty it is to maintain a drainage works is not liable in damages for any injury caused by reason of a drainage works being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the municipal corporation. 1962-63, c. 39, s. 53.

Persons  
responsible  
for  
obstruction  
to remove  
it on notice

**55.**—(1) When a drainage works becomes obstructed by a dam, low bridge, fence, washing out of a private drain, or other obstruction, for which the land adjoining the drainage works or the owner or occupant thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council of the local municipality whose duty it is to maintain the drainage works or by a commissioner appointed by the council, remove such obstruction and, if it is not so removed within the time specified in the notice, the council or the commissioner shall forthwith cause it to be removed, and the cost thereof is payable to the municipality by the owner or occupant of the land.

(2) If the cost of removing the obstruction is not paid to the local municipality by the owner or occupant of the land forthwith after the completion of the work, the council may pay the cost, and the clerk of the municipality shall place the amount of cost upon the collector's roll against such land and such amount shall be collected in the same manner as real property taxes. 1962-63, c. 39, s. 54.

Collection of cost of removal by municipality

**56.** The council of a local municipality may by by-law direct that the commissioner appointed by it shall from time to time remove from any drainage works all weeds and brushwood, fallen timber or other minor obstruction for which the owner of the lands adjacent to the drainage works or the owner or occupant thereof may not be responsible, and the cost of such work is chargeable as part of the cost of maintenance of the drainage works. 1962-63, c. 39, s. 55.

Removal of minor obstructions

**57.** It is not necessary to assess and levy the amount charged for maintenance more than once in every five years unless in the meantime the total expense incurred exceeds the sum of \$1,000. 1962-63, c. 39, s. 56.

When levy for maintenance necessary

**58.** Every person who obstructs, fills up or injures or destroys by any means any drainage works is guilty of an offence and on summary conviction, in addition to his liability in civil damages, is liable to a fine of not less than \$10 and not more than \$100 or to imprisonment for a term of not more than thirty days, or to both. 1962-63, c. 39, s. 57.

Penalty for injury to drainage works

**59.** For the better maintenance of drainage works by embanking, pumping or other mechanical operations, the council of the municipality initiating the drainage works may pass by-laws for appointing a commissioner or commissioners with power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating the drainage works and for keeping the embankment thereof in repair, as may be set forth in the by-law appointing them, and for defraying the annual cost of maintaining and operating the drainage works by assessment upon the lands and roads in any way liable to assessment therefor. 1962-63, c. 39, s. 58.

Appointment of commissioner for pumping drainage works

**60.—(1)** Except as authorized by a by-law of the initiating municipality approved by the Ontario Water Resources Commission, no person shall discharge or deposit or permit to be discharged or deposited into any drainage works any liquid, material or substance other than unpolluted drainage water.

Pollution of drains prohibited

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. 1962-63, c. 39, s. 59.

Fine

Abandonment of all or part of drainage works

**61.**—(1) Upon the written request of three-quarters of the owners of land assessed for benefit in respect of a drainage works, who, according to the last revised assessment roll, own not less than three-quarters of the area assessed for benefit as shown in the by-law or by-laws under which the drainage works exist, asking for the abandonment of such drainage works or a part thereof, the council of the initiating municipality shall forthwith notify all owners of land assessed for the drainage works by prepaid mail, at their addresses as shown in the last revised assessment roll, of its intention to abandon such drainage works, or such part thereof as is specified in the notice, unless any owner, within ten days of the mailing of such notice, gives to the clerk of the municipality written notice that he requires a report of an engineer to be made on such proposed abandonment, or the council of the initiating municipality may give such notice of its intention to abandon a drainage works or such part thereof as is specified in the notice without any written request. 1966, c. 47, s. 1.

Engineer's report may be required

(2) If, within such period of ten days, any owner notifies the clerk, the council shall appoint an engineer to examine the drainage works and report his recommendations as to the proposed abandonment, any necessary work in connection therewith, the sale of any assets, the cost of abandonment and all other appropriate matters and shall assess all costs, including his own compensation, and damage allowances against persons liable to assessment in connection with the drainage works in such proportions as appear just.

Procedures on report

(3) All proceedings, including appeals, with respect to a report under subsection 1 shall be the same *mutatis mutandis* as on a report for the construction of a drainage works.

Abandonment by council

(4) If no notice is mailed to the clerk in accordance with subsection 1 or if the engineer's report, as it may be altered on appeal, recommends the abandonment of the drainage works, the council may by by-law abandon the drainage works, and thereafter the municipality has no further obligation with respect to the drainage works.

Disbursement of remaining funds

(5) Any money remaining to the credit of the drainage works after it is abandoned shall be divided *pro rata* among the owners of lands and roads assessed therefor. 1962-63, c. 39, s. 60 (2-5).

Provincial grants

**62.**—(1) Grants may be made in respect of assessments made under this Act upon lands used for agricultural purposes provided the drainage works were undertaken in accordance with section 3, 49 or 53 and a report of an engineer has been adopted in accordance with this Act.

Exceptions

(2) Grants shall not be made in respect of assessments made under this Act upon lands owned by Canada, Ontario or a municipality or in respect of the assessment of the cost of lateral drains. 1968, c. 33, s. 8.

**63.**—(1) Where a provisional by-law has been passed under section 40 and assessments in respect of the proposed drainage works are eligible for a grant under this Act, the council of the initiating municipality shall forward to the Department before the construction or improvement of the drainage works is commenced a notice in such form as is prescribed by the Department advising of the proposed works and of the intention to apply for a grant in respect thereof.

Notice of  
proposed  
drainage  
works

(2) Notwithstanding subsection 1, where it is necessary for a local municipality to perform emergency work under this Act before it is possible to obtain and adopt an engineer's report, the council may forward the notice required by subsection 1 after the commencement of the work if the Department has been given notice of the emergency work within ten days after the commencement thereof. 1968, c. 33, s. 9, *part*.

Emergency  
work

**64.**—(1) Upon the practical completion of the drainage works and after the time for appealing against assessments has expired and there are no appeals or after all appeals against assessments have been decided, the council of the initiating municipality shall forward to the Department an application for a grant in such form as is prescribed by the Department.

Application  
for grant

(2) The Minister, upon receipt of a duly completed application for a grant, may pay out of such moneys as are appropriated therefor by the Legislature to the treasurer of the initiating municipality a grant of,

Payment  
of grant

- (a) where the drainage works is in a county, 33  $\frac{1}{3}$  per cent of the assessments eligible for a grant under section 62; or
- (b) where the drainage works is in a municipality in a territorial district or a provisional county, 66  $\frac{2}{3}$  per cent of the assessments eligible for a grant under section 62.

(3) Where the drainage works is in two or more municipalities the grant shall be distributed by the treasurer of the initiating municipality among all such municipalities in the proportion that the total of the assessments eligible for a grant in each municipality bears to the total of all assessments eligible for a grant in all of the municipalities.

Distribution

(4) The treasurer of each municipality shall apply the amount of the grant received by that municipality to reduce the assessment on each parcel of land in the municipality eligible for a grant in the proportion that each such assessment bears to the total of the assessments eligible for a grant in the municipality. 1968, c. 33, s. 9, *part*.

Grant to  
be applied  
to reduce  
assessments

**65.**—(1) The Minister in his discretion and from time to time may prescribe the manner in which a drainage works shall be initiated and carried out in territory without municipal organiza-

Initiation of  
drainage  
works in  
unorganized  
territory



tion and the manner in which and the terms and conditions under which grants may be given under subsection 2. 1962-63, c. 39, s. 65 (1).

Grants in  
unorganized  
territory

(2) Where a drainage works is in territory without municipal organization, an amount not exceeding 80 per cent of the assessments eligible for a grant under section 62 in respect of such drainage works may be paid by the Minister out of the moneys appropriated therefor by the Legislature. 1968, c. 33, s. 10.

Referee,  
appoint-  
ment

**66.**—(1) The Lieutenant Governor in Council may appoint a referee for the purposes of this Act.

Appoint-  
ment of  
acting  
referee

(2) The Lieutenant Governor in Council from time to time may appoint an acting referee or referees for the purposes of this Act, and an acting referee has the same powers and duties as the referee.

Qualifica-  
tion

(3) The referee or an acting referee shall be a justice of the Supreme Court, a judge of a county court or a barrister of at least ten years standing at the bar of Ontario.

Referee  
not to  
practise  
under Act

(4) No referee or acting referee shall practise as a solicitor or barrister in any matter arising under this Act or act as legal agent or adviser in any such matter. 1962-63, c. 39, s. 66 (1-4).

Salary

(5) Notwithstanding any other Act, the referee or an acting referee shall be paid such remuneration as the Lieutenant Governor in Council may determine, together with his reasonable travelling expenses and expenses for secretarial services. 1962-63, c. 39, s. 66 (5); 1966, c. 47, s. 2; 1968, c. 33, s. 11.

Powers of  
referee

**67.**—(1) In respect of all applications and proceedings before him, the referee has the powers of a judge of the Supreme Court, including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings, and he may correct errors or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do justice between the parties, and he may also grant an injunction or a mandamus in any matter before him under this Act.

Power to  
determine  
validity  
of proceed-  
ings and  
amend  
report

(2) The referee has power to determine the validity of all petitions, resolutions, reports and provisional or other by-laws, whether or not objections thereto have been stated as grounds of appeal to him, and to amend and correct any provisional by-law in question, and, with the engineer's consent and upon evidence given, to amend the report in such manner as appears just, and

upon such terms as to notice or otherwise as may be considered proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a judge. 1962-63, c. 39, s. 67.

**68.**—(1) The referee at any time after an appeal or reference is made to him may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but, unless the parties otherwise consent, the hearing shall be in the county or one of the counties in which the drainage works or proposed drainage works is or is to be situate or in which lands are assessed therefor.

Referee  
to direct  
procedure

(2) The clerk of the county court shall be the clerk of the court of the referee and shall take charge of and file all the exhibits, and is entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

Clerk of  
court

(3) The clerk of the court is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

Fees of  
clerk

(4) In the absence of the clerk of the county court, the referee may appoint some other person to act as clerk of the court of the referee for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed while so acting has the same power as the clerk of the county court and is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

Referee's  
clerk

(5) Subpoenas for the attendance of witnesses at the hearing, tested in the name of the referee, may be issued by the clerk of the county court of the county in which the case is to be heard.

Subpoenas

(6) The referee may from time to time employ stenographic reporters to report hearings and trials before the referee and fix their fees, and such fees shall be included in the costs and shall be borne and paid as the referee may direct. 1962-63, c. 39, s. 68.

Steno-  
graphic  
reporters

**69.** When an appointment is given by the referee for the hearing of any matter under this Act in any municipality wherein a court house is situated, he has in all respects the same authority as a judge of the Supreme Court with respect to the use of the court house or other place or apartments set apart in the county for the administration of justice. 1962-63, c. 39, s. 69.

Use of  
court  
house

Sheriffs,  
etc., to  
assist  
referee

**70.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid by the county or counties interested such fees as they are entitled to for similar services at the sittings of the Supreme Court for the trial of causes. 1962-63, c. 39, s. 70.

Notice of  
appeal from  
report or  
provisional  
by-law  
to be filed

**71.** A copy of the notice of appeal by any municipality from the report of an engineer or from a provisional by-law, with an affidavit of service thereof, shall, within the time limited by this Act for the service of the notice, be filed in the office of the clerk of the county court of the county or union of counties in which the initiating municipality is situate. 1962-63, c. 39, s. 71.

Amendment  
of by-law  
to carry out  
decision of  
referee

**72.—**(1) The provisional by-law or the by-law of the initiating municipality and of any other municipality interested shall be amended so as to incorporate and carry into effect the decision of the referee or such decision as varied on appeal, as the case may be.

Jurisdiction  
of referee  
on appeal

(2) Upon an appeal to the referee, he shall hear and adjudicate upon all questions raised in the notice of appeal and make such order as appears just, and may direct that the report appealed from be amended.

Costs  
of appeal

(3) The costs of such an appeal are in the discretion of the referee. 1962-63, c. 39, s. 72.

Applications  
to set aside  
by-law,  
report  
heard

**73.** Subject to section 76, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, provisional by-law or by-law relating to a drainage works, as well as all proceedings to determine claims and disputes arising in respect of anything done or required to be done under this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the referee, who shall give his decision and his reasons therefor. 1962-63, c. 39, s. 73.

Proceedings  
instituted  
by notice

**74.—**(1) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, shall be instituted by serving ten clear days notice setting forth the grounds of the claim upon all persons concerned.

Notice  
filed in  
county  
court

(2) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the initiating municipality is situate, and the notice shall be filed and served within two years from the time the cause of complaint arose. 1962-63, c. 39, s. 74.

**75.** All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not fewer than five days before the return day of the motion. 1962-63, c. 39, s. 75.

Affidavits  
filed before  
motion

**76.**—(1) Where an action is brought or is pending and the court in which the action is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that it may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as appear just, and the referee shall thereafter give directions for the continuance of the action before him.

Actions  
may be  
transferred  
to referee

(2) This section applies only where the action is brought within the period limited by this Act for taking proceedings on notice. 1962-63, c. 39, s. 76.

Limitation

**77.**—(1) Except as provided by subsections 2, 3 and 4, all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied upon the lands and roads in any way assessed for the drainage works for construction, improvement or maintenance, in such manner as the referee or court may determine, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act. 1962-63, c. 39, s. 77 (1); 1966, c. 47, s. 3 (1).

Assessing  
damages  
and costs  
payable  
by municipi-  
palities

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction, improvement or maintenance of the drainage works or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof. 1962-63, c. 39, s. 77 (2).

Municipi-  
pality in  
default  
ordered to  
pay costs

(3) Where in any such proceedings by or against a municipality a settlement is made, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee or court, and in making such direction the referee or court shall have regard to the provisions of subsection 2. 1962-63, c. 39, s. 77 (3); 1966, c. 47, s. 3 (2).

In cases  
of settle-  
ment

(4) Where, in the opinion of the referee or court, damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage works and it is necessary in order to prevent a continuance of such damage to improve the drainage works, the referee or court may permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, and in such case the

Where  
extension  
of drainage  
works  
necessary



engineer shall include the amount of such damages and costs in his estimate of the cost of the improvement of the drainage works. 1962-63, c. 39, s. 77 (4); 1966, c. 47, s. 3 (3).

When  
referee  
proceeds  
on view

**78.** When the referee proceeds partly on view or on any special knowledge or skill possessed by him, he shall put in writing a statement thereof sufficiently full to allow the Court of Appeal to form a judgment of the weight that should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. 1962-63, c. 39, s. 78.

Clerk to  
forward  
notice of  
filing

**79.** The decision of the referee, with the evidence, exhibits and statement, if any, of inspection or of technical knowledge and the reason for his decision, shall be filed in the office of the clerk of the county court in the county in which the initiating municipality is situate, and notice of the filing shall forthwith be given by the clerk, by prepaid mail, to the solicitors of the parties appearing by solicitor and to the other parties not represented by a solicitor, and also to the clerk of each municipality affected. 1962-63, c. 39, s. 79.

Decision  
to be sent  
to  
Minister  
and municipa-  
lities

**80.** A copy of the decision certified by the referee or clerk of the court shall be sent or delivered,

- (a) to the Minister without charge; and
- (b) to the clerk of every municipality interested in the drainage works in question upon receipt of the sum chargeable therefor. 1962-63, c. 39, s. 80.

Decision,  
manner of  
delivery

**81.** The decision of the referee shall be delivered in the same manner as decisions by the judges of the Supreme Court. 1962-63, c. 39, s. 81.

Interlocu-  
tory  
applications

**82.** All interlocutory applications for any of the purposes mentioned in subsection 1 of section 67 shall be made to the referee and his order thereon is final. 1962-63, c. 39, s. 82.

Appeal  
from  
decision  
of referee

**83.**—(1) Except as otherwise provided in this Act, the decision of the referee or acting referee may be appealed from to the Court of Appeal within thirty days after the filing thereof with the county court clerk or within such further time as the referee or Court of Appeal or a judge thereof may allow.

Procedure

(2) The decision may be appealed against to the Court of Appeal in the same manner as a decision of a judge of the Supreme Court sitting in court. 1962-63, c. 39, s. 83.

Evidence  
taken need  
not be  
filed or  
written  
out

**84.** In cases brought before the referee, the evidence taken need not be filed, and shall be written out at length by the stenographic reporter only if required by the referee or by the

parties to the reference, and, if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the referee. 1962-63, c. 39, s. 84.

**85.** Except as otherwise provided in this Act, the rules and practice for the time being of the Supreme Court shall be followed so far as they are applicable. 1962-63, c. 39, s. 85. Rules and practice

**86.** The referee may, with the approval of the Lieutenant Governor in Council, make rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and may prescribe tariffs of fees. 1962-63, c. 39, s. 86. Referee may make rules

**87.** In the absence of other provisions, the tariff of costs in any application or proceeding under this Act shall be that of the court that would have jurisdiction to try a civil action involving a similar amount of money or type of proceeding. 1962-63, c. 39, s. 87. Tariff of costs

**88.** Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed or by a taxing officer of the Supreme Court. 1962-63, c. 39, s. 88. Taxation of costs

## FORM 1

(Section 3)

## PETITION FOR DRAINAGE WORKS

We, being owners, as shown by the last revised assessment roll, of lands in the ..... of .....  
 (Insert name of municipality or names of municipalities)  
 required drainage, hereby petition that the area more particularly described as follows:

(Describe the area)

may be drained by means of a drainage works.

Signature Part Lot Con. or Plan Municipality

1962-63, c. 39, Form 1.

## FORM 2

(Section 4 (1) )

## REQUISITION FOR EXAMINATION BY ENGINEER

To .....

Clerk of the ..... of .....

Sir,—

I am the owner of the following land:

(Describe the land)

and I require the construction (or improvement, as the case may be) of a drainage works, and the following lands and roads will be affected:

(Describe each parcel of land to be affected  
 and state the name of the owner thereof)

and I request that an engineer be appointed by the council of the municipality and that he appoint a time and place at which he will attend and examine the area in order to make a report.

Dated this ..... day of ....., 19 .....

.....  
 (Signature of party or parties)

1962-63, c. 39, Form 2.

## FORM 3

(Section 4 (7) )

NOTICE OF APPOINTMENT FOR  
EXAMINATION BY ENGINEER

To: (Name of owner)

(Address)

Sir,—

You are hereby notified that the engineer appointed by the council of the..... of..... under section 4 of *The Drainage Act* has, in answer to a requisition, fixed the hour of..... o'clock in the..... noon of the..... day of....., 19....., to attend at (name the place appointed) and to examine the area and site of the proposed drainage works, being:

(Here describe the area and site)

and you, as an owner of land affected, are required to attend at such time and place.

Dated this..... day of....., 19...

.....  
(Signature of Clerk)

1962-63, c. 39, Form 3.



## FORM 4

(Section 27)

## FORM OF BY-LAW

A by-law to provide for a drainage works in the .....  
 of ..... in the County of ..... , and  
 for borrowing on the credit of the municipality the sum of \$ .....  
 for completing the drainage works (or the sum of \$ ..... , the  
 proportion to be contributed by the municipality for completing the drainage  
 works).

Whereas the requisite number of owners, as shown by the last revised  
 assessment roll, of the property hereinafter set forth requiring drainage have  
 petitioned the council of the ..... of .....  
 praying that the following lands and roads may be drained by a drainage works:

*(Set out description of lands and roads)*

And whereas the council has procured a report made by .....  
 ..... and the report is as follows:

*(Here set out the engineer's report)*

And whereas the council is of opinion that the drainage of the area described is  
 desirable;

Therefore the council of the ..... of .....  
 pursuant to *The Drainage Act* enacts as follows:

1. The report is hereby adopted, and the drainage works as therein indicated  
 and set forth are hereby authorized and shall be completed in accordance  
 therewith.

2. The Corporation of the ..... of .....  
 may borrow on the credit of the Corporation the sum of \$ ..... ,  
 being the funds necessary for the drainage works not otherwise provided for (or  
 being the municipality's proportion of the funds necessary for the drainage  
 works); provided that such sum shall be reduced by the amount of grants and  
 commuted payments with respect to lands and roads assessed, and may issue  
 debentures of the Corporation to that amount in sums of not less than \$50 each,  
 and payable within ..... years from the  
 date of such debentures with interest at the rate of ..... per cent  
 per annum:

*(Insert the manner of payment annually and whether with or without  
 coupons, and, if the latter, omit the last lines of this paragraph)*

such debentures to be payable at ..... , and to have  
 attached to them coupons for the payment of interest.

3. For paying the sum of (\$410), the amount charged against such lands and  
 roads for benefit, and the sum of (\$108), the amount charged against such lands  
 and roads for outlet liability, and the sum of (\$135), the amount charged against  
 such lands and roads for injuring liability, apart from lands and roads belonging to  
 or controlled by the municipality and for covering interest thereon for . . . years, at  
 the rate of ..... per cent per annum, the following total special rates over  
 and above all other rates shall be assessed, levied and collected (in the same  
 manner and at the same time as other taxes are levied and collected) upon and

from the undermentioned parcels of land and parts of parcels and roads, and the amount of the total special rates and interest against each parcel or part of parcel respectively shall be divided into ..... equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for ..... years, after the passing of this by-law, during which the debentures have to run, provided that no greater amount shall be levied than is required after taking into account and crediting the amount of grants under subsection 3 of section 64 of *The Drainage Act*, the amount of moneys paid under a by-law passed under subsection 4 of section 41 of that Act and commuted payments with respect to lands and roads assessed.

Concession	Parcel of land or part thereof	Acres affected	Benefit assessment	Outlet liability assessment	Injuring liability assessment	Estimated grant	To cover interest for ..... years at ..... per cent	Total special rate	Annual assessment during each year for ..... years
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00					
10	S. $\frac{1}{2}$ 6	100	50 00	10 00					
10	N. $\frac{1}{4}$ 6	50	30 00	5 00					
10	S. $\frac{1}{2}$ 8	100	80 00	13 00					
10	S. $\frac{1}{2}$ & N.W. $\frac{1}{4}$ 9	150	150 00	20 00					
10	4	76	.....	24 00					
10	S. $\frac{1}{2}$ 3	100	.....	13 00					
9	W. $\frac{1}{2}$ 5	100	.....	.....	40 00				
9	N. $\frac{1}{4}$ 6	50	.....	.....	25 00				
9	N. $\frac{1}{2}$ & S.E. $\frac{1}{4}$ 7	150	.....	.....	70 00				
Total for benefit .....			410 00	108 00	135 00				
" outlet .....			108 00						
" injuring .....			135 00						
Roads (and lands) of municipality .....			100 00						
TOTAL .....			\$753 00						

4. For paying the sum of (\$100), the amount assessed against such roads and lands of the municipality, and for covering interest thereon

for ..... years at the rate of ..... per cent per annum, a special rate, sufficient to produce the required yearly amount therefor, shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole

rateable property in the ..... of

..... in each year for ..... years, after the passing of this by-law, during which the debentures have to run.

5. This by-law comes into force on the passing thereof, and may be cited as the “.....By-law”.

FIRST READING.....

SECOND READING.....

THIRD READING.....

ENACTED this.....day of....., 19.....

.....  
(Head of Municipality)

.....  
(Clerk)

1962-63, c. 39, Form 4.

\_\_\_\_\_