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c 338 Public Works Act

Ontario

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CHAPTER 338
The Public Works Act

1. In this Act,

(a) "Board" means the Ontario Municipal Board;
(b) "conveyance" includes a surrender to the Crown;
(c) "Department" means the Department of Public Works;
(d) "judge" means the judge of the county or district court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under this Act is situate, or a judge of the High Court;
(e) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
(f) "lease" includes an agreement for a lease;
(g) "Minister" means the Minister of Public Works;
(h) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
(i) "public work" means the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, government railways, canals, locks, drydocks, and all other property belonging to Ontario, and includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;
(j) "registry office" includes land titles office and means the registry or land titles office for the registry division or locality in which the land is situate;

(k) "superintendent" means the superintendent of the public work of which he has, under the Minister, the charge and direction;

(l) "surrender" includes a conveyance to the Crown, or to the Minister, or to any officer of the Department, in trust for or to the use of the Crown. R.S.O. 1950, c. 323, s. 1.

2. The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 323, s. 2.

3. A Deputy Minister of Public Works shall be appointed by the Lieutenant Governor in Council who shall perform such duties as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 323, s. 3.

4. The Lieutenant Governor in Council may appoint an architect, an engineer, a secretary, a solicitor, an accountant, and as many other officers and servants as from time to time are deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control, and all such officers and servants have such powers and shall perform such duties as are assigned to them by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 323, s. 4.

5.—(1) The Minister may enter into any contract or agreement that he deems advisable in carrying out this Act, but no contract or agreement is binding upon the Crown or shall be deemed to be the act of the Minister unless it is signed by him and sealed with the seal of the Department.

(2) The Minister shall, by public advertisement, invite tenders for the construction or repair of all public works, except in cases of pressing emergency where delay would be injurious to the public interest or where from the nature of the work it can be more expeditiously or economically executed by the officers and servants of the Department or by day labour.

(3) Where a public work is being carried out by contract, the Minister shall take reasonable care that security be given to and in the name of Her Majesty for the due performance of the work within the amount and time specified for its completion, and in all cases where the Minister deems it inex-
pedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant Governor in Council before passing by a lower tender, but no sum of money shall be paid to a contractor, nor shall any work be commenced on a contract until the contract has been signed by all the parties thereto, nor until the requisite security has been given.

(4) The Minister may require any account sent in by any person employed by the Department to be attested on oath.

(5) The Minister may send for and examine on oath all such persons as he deems necessary touching any matter upon which his action is or may be required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and every such person shall attend at the summons of the Minister after due notice and in default is guilty of an offence and on summary conviction is liable to a fine of not more than $20.

(6) The Minister shall submit to the Lieutenant Governor an annual report of all the works under the control of the Department, showing the state of each work, the amounts expended in respect thereof, and such further information as is requisite to enable the Assembly to judge of the work of the Department.

(7) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next session.

R.S.O. 1950, c. 323, s. 5.

6. Where a payment is to be made by the Minister under this Act, it shall be made out of the money appropriated by the Legislature for that purpose, and not otherwise, and the Minister is not personally liable therefor or for any proceedings had or taken by virtue of this Act. R.S.O. 1950, c. 323, s. 6.

7. All public works constructed or completed at the expense of Ontario, all land, streams, watercourses and property, real or personal, acquired for the use of public works, and

(a) all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;

(b) all slides, dams, piers, booms and other works for facilitating the transmission of timber;

(c) all hydraulic powers created by the construction of any public works;
(d) all roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired, constructed, repaired, equipped, maintained or improved at the expense of Ontario,

not under the control of the Government of Canada, unless otherwise provided by law, are vested in the Crown and under the control of the Department. R.S.O. 1950, c. 323, s. 7.

8.—(1) Any real property no longer required for the purposes of a public work may be leased for any term by the Minister or may be sold or otherwise disposed of under the authority of the Lieutenant Governor in Council.

(2) Any personal property no longer required for the purposes of a public work may be sold or otherwise disposed of by the Minister. 1957, c. 105, s. 1.

9. Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, enure to the benefit of the Crown and may be enforced as if entered into with the Crown under this Act. R.S.O. 1950, c. 323, s. 9.

10. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney General. R.S.O. 1950, c. 323, s. 10.

11. The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to a public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1950, c. 323, s. 11.

12. The Minister may himself, or by his engineers, superintendents, agents, workmen or servants, for any purpose relative to the use, construction, maintenance or repair of a public work or for obtaining better access thereto and without the consent of the owner,

(a) enter into and upon any land to whomsoever belonging, and survey and take levels of the land, and
make such borings, or sink such trial pits as he deems necessary;

(b) enter upon, take and use any land, stream, water or watercourse;

(c) enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stone, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;

(d) make and use all such temporary roads to and from such timber, stone, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;

(e) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any part thereof, he shall substitute another convenient railway or road in lieu thereof, and the land theretofore used for the railway or road, or part of a railway or road so discontinued belongs to the Crown and may be disposed of as to the Minister seems proper; and

(f) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric wire or pole. R.S.O. 1950, c. 323, s. 12.

13. The Minister may for and in the name of Her Majesty Power to purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land that he deems necessary for,

(a) the public purposes of Ontario; or

(b) the use or purposes of any department of the Government thereof. R.S.O. 1950, c. 323, s. 13.

14. Where it is deemed necessary in the building, maintaining or repairing of a public work to take down or remove any wall or fence of any owner of land adjoining the public
work or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity that caused its taking down or removal has ceased, and, after such wall or fence has been so replaced or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed or such ditch or drain had always existed.

R.S.O. 1950, c. 323, s. 14.

15.—(1) Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be, and all the provisions of this Act, except such as relate to the filing of plans and descriptions, apply to obtaining the right of way from the public work to the land on which the materials are situate, and such right may be acquired for a term of years, or permanently, as the Minister thinks proper.

(2) The powers conferred by this section may be exercised after the public work is constructed for the purpose of repairing and maintaining it. R.S.O. 1950, c. 323, s. 15.

16.—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by the Crown for a public work.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer.

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and the boundaries had been established and the monuments planted by an Ontario land surveyor.

(4) Such boundaries shall be held to be the true and unalterable boundaries of the property,

(a) if they are so established, and the monuments of iron or stone so planted, after due notice of the intention to establish and plant them has been given in writing to the proprietors of the land thereby affected; and
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(5) It is not incumbent on the Minister or those acting for him to have boundaries established with the formalities mentioned in this section, but it may be resorted to whenever the Minister deems it necessary.  R.S.O. 1950, c. 323, s. 16.

17.—(1) Where the Minister desires to expropriate land under the power conferred by this Act, he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and the land thereupon vests in the Crown.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, vests in the Crown.

(3) In case of any omission, misstatement or erroneous description in any plan and description, a correct plan and description may be deposited with like effect.

(4) A plan and description of any land at any time in the occupation or possession of the Crown and used for the purposes of a public work may be deposited at any time in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein.

(5) In all cases when any such plan and description purporting to be signed by the deputy minister or by the superintendent of the public work or by an engineer of the Department, or by an Ontario land surveyor is so deposited, it shall be deemed to have been deposited by the direction and authority of the Minister and as indicating that in his judgment the land therein described is necessary for the purposes of the public work, and the plan and description shall not be
18. Where land appropriated for a public work is Crown land under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands and Forests. R.S.O. 1950, c. 323, s. 18.

19.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown, and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

(2) Where there is no guardian or other person to represent a person under disability, the judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. R.S.O. 1950, c. 323, s. 19.

20.—(1) If any resistance or opposition is made by any person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the judge may, on proof of the execution of a conveyance of the land to the Crown, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district in which the land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof, and shall forthwith make return to the court of such warrant, and of the manner in which he executed it. R.S.O. 1950, c. 323, s. 20.
21. The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage that the owner may derive from the contemplated work, and any claim for such compensation not mutually agreed upon shall be determined as hereinafter provided. R.S.O. 1950, c. 323, s. 21.

22. Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act, the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

(a) if the owner is known and his residence is known, by serving upon or by sending by registered mail addressed to him at his last known place of residence a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after such registration, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to him; or

(b) if the owner is unknown or his residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having general circulation in the county or district in which the land affected is situate. R.S.O. 1950, c. 323, s. 22.

23. Where the Minister has exercised any of the compulsory powers conferred by this Act other than the power to expropriate land, he shall, within sixty days after the exercise of such power, give notice similar to and in like manner as is provided for in section 22 and the provisions of section 26 as to claims to and for the determination of the compensation apply. R.S.O. 1950, c. 323, s. 23.

24. Where the notice provided for by section 22 or 23 has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under this Act unless the claim and the particulars
Power to take whole lot when part only required

To determine amount of compensation

Appointment before judge

Appointment before Ontario Municipal Board

Proceedings before judge

Proceedings before Board

Appeal to Court of Appeal

.capacity of the Minister, in the case of land taken, within six months after the registration of the plan, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to the claimant. R.S.O. 1950, c. 323, s. 24.

25. If the Minister is of opinion that he can obtain the whole of a lot or parcel of land of which a part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring part only, he may expropriate the whole of the lot or parcel and also any right of way thereto if the right of way is separated from the public work, and may afterwards sell and convey the land or right of way or any part thereof as he deems expedient. R.S.O. 1950, c. 323, s. 25.

26. The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of the compensation to be determined by arbitration under this Act. R.S.O. 1950, c. 323, s. 26.

27. Subject to section 24, the judge, upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of the compensation and may give such directions for the service of the appointment and as to the persons to be served as he deems proper. R.S.O. 1950, c. 323, s. 27.

28. Where the Minister gives notice to the owner either before or after the service of the appointment upon him that he desires the compensation to be determined by the Board instead of by the judge, the chairman of the Board shall give the appointment upon the like application and has power to give like directions as the judge might have given under section 27 and the proceedings shall thereafter be taken before the Board. R.S.O. 1950, c. 323, s. 28.

29. Except as otherwise provided by this Act, The Arbitrations Act applies to the proceedings taken under this Act before the judge. R.S.O. 1950, c. 323, s. 29.

30. The Ontario Municipal Board Act applies to proceedings taken before the Board under this Act. R.S.O. 1950, c. 323, s. 30.

31.—(1) Where the amount of the claim exceeds $500, the Minister or the claimant may by leave of the Court of
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Appeal, appeal to that court from any determination or order of the judge or of the Board under this Act as to compensation.

(2) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the court deems just.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same mutatis mutandis as upon an appeal from a county court.

(4) The decision of the Court of Appeal is final.

(5) Section 95 of The Ontario Municipal Board Act does not apply to an appeal under this section. R.S.O. 1950, c. 323, s. 31.

32. The compensation agreed upon or adjudged for any land or property acquired, taken, or used in or injuriously affected by the exercise of any of the powers conferred by this Act stands in the stead of the land or property, and any claim to or encumbrance thereon, as respects the Crown, converted into a claim to or upon the compensation, and no longer affects the land or property so acquired, taken or used. R.S.O. 1950, c. 323, s. 32.

33.—(1) Where at any time before the compensation has been actually ascertained or determined land taken for a public work or any part thereof is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon,

(a) the land declared to be abandoned revests in the person from whom it was taken or in those entitled to claim under him; or

(b) in the event of a limited estate or interest therein being retained by the Crown, the land so revests subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken and all the other circumstances of the case shall be taken into account in determining the amount to be paid to a person claiming compensation.
(3) Where the whole of the land taken is abandoned, the person from whom it was taken is entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and, if a reference as to compensation is pending, shall be determined on such reference. R.S.O. 1950, c. 323, s. 33.

34. If the compensation agreed upon or adjudged does not exceed $100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to the compensation as against the person receiving it. R.S.O. 1950, c. 323, s. 34.

35.—(1) In the cases provided for in section 19, the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at 5 per cent for six months.

(2) A notice in such form and for such a time as a judge of the High Court directs shall be published in such newspaper as the judge orders, stating that the land is purchased, acquired or taken by the Crown under this Act and calling upon all persons entitled to the land or to a part thereof to file their claims to the compensation or a part thereof, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into Court, the judge may direct a proportionate part of the interest to be returned to the Minister, and, if it is not obtained until after six months have expired, the judge may order the Minister to pay interest for such further period as is deemed just.

(4) Where unborn issue or an unascertained person or class are interested in the compensation, the judge may appoint such person as is deemed proper to represent or act for them, and any order made is binding on them. R.S.O. 1950, c. 323, s. 35.

36. Every person who has an estate or interest in land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made
therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate or interest and of every charge, lien or encumbrance to which it is subject, and of the claim made by such person in respect of it. R.S.O. 1950, c. 323, s. 36.

37. If the injury to any land or property alleged to be injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. R.S.O. 1950, c. 323, s. 37.

38.—(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation from the time when the land or property was taken, used or injuriously affected, but no person to whom a sum equal to or greater than the compensation has been offered in writing shall be allowed interest thereon for any time subsequent to the date of the offer.

(2) If the judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. R.S.O. 1950, c. 323, s. 38.

39.—(1) If a person has a claim arising out of or connected with the execution or fulfilment or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of a public work entered into with the Minister, either in the name of Her Majesty or in any other manner, the person may give notice in writing of his claim to the Minister stating the particulars thereof and how the claim has arisen.
(2) The claim may be referred by the Minister to the Board for determination under this Act, but no claim shall be referred or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment, made on account thereof, full particulars of the claim have been filed with the secretary of the Department.

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the contract are to be decided by the Minister or by a person named in the contract. R.S.O. 1950, c. 323, s. 39.

40. The Treasurer of Ontario may pay to any person out of the Consolidated Revenue Fund any sum to which he is entitled as compensation or for costs under this Act. R.S.O. 1950, c. 323, s. 40.

41.—(1) All lands, streams, watercourses and property acquired for any public work are vested in the Crown and, when not required for the public work, may be sold, leased or otherwise disposed of under the authority of the Lieutenant Governor in Council.

(2) All hydraulic powers created by the construction of a public work or by the expenditure of public money thereon are vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant Governor in Council. R.S.O. 1950, c. 323, s. 41.

42. The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and the engineers and surveyors shall be under the direction of the Department and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the land, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R.S.O. 1950, c. 323, s. 42.

43. The Minister shall submit to the Lieutenant Governor in his annual report to be laid before the Assembly a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands so as to render them available for cultivation, with his recommendation respecting the same. R.S.O. 1950, c. 323, s. 43.

44. The Minister may make contracts in the manner hereinbefore prescribed for the construction and repair of
drains, bridges, roads, dams, dykes, slides and other works that he deems necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the land available for cultivation. R.S.O. 1950, c. 323, s. 44.

45.—(1) Where it has been ascertained on the report of an engineer that there exists, or is being or has been constructed, across a river, stream, or watercourse, any mill-dam, embankment or obstruction that impedes, or that, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop its construction, or cause it to be removed, or a slide to be constructed, as in his opinion is most advisable, and if the owner of the mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction, or of its removal, or of the construction of a slide under this section, he is entitled to compensation to be agreed upon or determined under this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction, and the compensation shall be paid within six months after it has been agreed on or determined.

(2) Every such slide shall be under the control of the Department, and the Minister, his engineers and agents, are entitled to free access to the slide at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. R.S.O. 1950, c. 323, s. 45.

46. Nothing in this Act authorizes the Minister to incur any expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demand. R.S.O. 1950, c. 323, s. 46.

47. The Ontario Drainage Act, being Chapter 36 of the Revised Statutes of Ontario, 1887, does not apply to expenditure under sections 42 to 45 upon lands in a provisional judicial district. R.S.O. 1950, c. 323, s. 47.

48. This Act applies to public works constructed, operated or maintained by a commission appointed by or under the authority of the Legislature or to any such commission, and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it, and in the application of this Act thereto where the word “Minister” or the word “Department” occurs, it means such commission. R.S.O. 1950, c. 323, s. 48.