CHAPTER 166

The Highway Improvement Act

PART I

INTERPRETATION

1. In this Act,

(a) "approved" means approved by the Minister or of a type approved by the Minister;

(b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;

(c) "Department" means Department of Highways;

(d) "Deputy Minister" means Deputy Minister of Highways;

(e) "Fund" means Highway Improvement Fund;

(f) "highway" and "road" mean a common or public highway and include a street, bridge, and any other structure incidental thereto;

(g) "Minister" means Minister of Highways;

(h) "road authority" means the Department, a municipal corporation, board, commission or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor;

(i) "roadway" means that part of the highway designed or intended for use by vehicular traffic. R.S.O. 1937, c. 56, s. 1; 1944, c. 23, s. 1; 1947, c. 44, s. 1; 1950, c. 24, s. 1.

ADMINISTRATION

2. The Department shall be continued and shall be presided over by the Minister. R.S.O. 1937, c. 56, s. 2.

3. The Lieutenant-Governor in Council may from time to time appoint a Deputy Minister of Highways who shall
perform such duties in the Department as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1937, c. 56, s. 3.

4. The Deputy Minister shall, before entering upon the duties of his office, take an oath faithfully to discharge the same, which oath shall be administered by the Minister or by any person appointed by the Lieutenant-Governor in Council for that purpose. R.S.O. 1937, c. 56, s. 4.

5. The Lieutenant-Governor in Council may appoint a secretary of the Department and such engineers, surveyors and other officers, clerks and servants of the Department as may be deemed necessary and may prescribe their duties and fix their salaries or other remuneration which shall be payable out of any moneys appropriated by the Legislature for that purpose. R.S.O. 1937, c. 56, s. 5.

6. The Lieutenant-Governor in Council may enter into an agreement with the Governor in Council, or with any member of His Majesty’s Privy Council for Canada acting for and on behalf of the Governor in Council, for the application to the cost of any work under this Act, of such subsidy or subsidies, or any part of such subsidy or subsidies as may be appropriated for highway improvement by the Parliament of Canada, and the Minister may vary the proportionate amounts to be paid by Ontario and by municipalities under this Act, by reason of such subsidy or subsidies, and may vary the conditions under which payment shall be made for construction, repair or maintenance, in consequence of such agreement. R.S.O. 1937, c. 56, s. 6.

HIGHWAY IMPROVEMENT FUND

7. There shall be a fund known as the “Highway Improvement Fund” and there shall be kept on the books of the Treasurer of Ontario an account known as the “Highway Improvement Fund Account”. R.S.O. 1937, c. 56, s. 7.

8.—(1) In addition to all sums of money heretofore set apart and appropriated by the Legislature for the improvement of public highways there shall be placed to the credit of the Fund in the account,

(a) a sum in every fiscal year equal to the gross receipts of the Province from motor vehicle permits and licences and all other sources of revenue under The Highway Traffic Act;

(b) a sum equal to all repayments to the Province on
account of amounts chargeable to or received from municipalities, individuals, companies or corporations by reason of any work performed or expenditures incurred or materials or property sold or fees or fines imposed under any of the provisions of this Act and the regulations made thereunder;

(c) a sum equal to any subsidy or payments received from the Government of Canada under The Canada Highways Act;

(d) a sum equal to any revenue collected by the Province under The Gasoline Tax Act and the regulations made thereunder;

(e) a sum equal to all revenues collected under the Acts administered by the Department or under the regulations passed under such Acts. R.S.O. 1937, c. 56, s. 8 (1).

(2) The sums mentioned in the clauses of subsection 1 shall be credited to the Fund annually as of the 1st day of April in each year and shall be computed upon the gross receipts from the sources designated in such clauses in the next preceding fiscal year. R.S.O. 1937, c. 56, s. 8 (2); 1939, c. 19, s. 1.

(3) Whenever directed so to do by the Lieutenant-Governor in Council the Treasurer of Ontario shall place to the credit of the Fund such additional amounts as may be required from time to time to meet the payments which may be authorized to be made out of the Fund, but such amounts shall not at any time exceed in the whole the sum which might be repaid with interest and sinking fund charges by an annual payment for twenty years of the sum of $2,000,000. R.S.O. 1937, c. 56, s. 8 (3).

(4) All payments which shall be made under this Act, The Highway Traffic Act, The Gasoline Tax Act and any other Acts administered by the Minister, except those for which an annual appropriation is made by the Legislature, shall be payable out of the Consolidated Revenue Fund and shall be chargeable to the Fund and be debited to the Highway Improvement Fund Account. 1947, c. 44, s. 2.

9. There shall be laid before the Assembly by the Treasurer of Ontario at the commencement of each session, a statement showing all sums credited to the Fund and all payments chargeable thereto during the fiscal year next preceding and the balance at the credit of the Fund at the close of such fiscal year. R.S.O. 1937, c. 56, s. 9.
SPECIAL INSTRUCTION

10. The Minister may arrange for special instruction or publicity in respect to highway improvement, and the cost of such service, including travelling and other expenses incidental thereto, or such part thereof as the Minister may approve, shall be payable out of any funds appropriated by the Legislature for the special instruction of superintendents, overseers and patrolmen. R.S.O. 1937, c. 56, s. 11.

PART II

COUNTY ROAD SYSTEMS

11.—(1) Subject to the approval of the Lieutenant-Governor in Council as hereinafter provided, the council of a county may by by-law adopt a plan of county road improvement and establish a county road system throughout the county by assuming roads in any municipality in the county and may include in the system such boundary line roads or portions thereof between the county and any other county, or between the county and a city or separated town, as may be agreed upon by the municipalities interested and the by-law shall designate the roads to be assumed or improved or intended to form or be added to the county road system. R.S.O. 1937, c. 56, s. 12 (1); 1944, c. 23, s. 2 (1).

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of any municipality from the roads included in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of any municipality so exempt shall not vote upon any by-law passed under this Part, and for the purposes of section 12 the equalized assessment of any municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

(3) All moneys raised under the by-law shall be applied in the construction, improvement, maintenance and superintendence of roads included in the county road system and to any expenditure properly chargeable to county road systems under this Act. R.S.O. 1937, c. 56, s. 12 (2, 3).

(4) Where a county road system is established under this Act the council shall appoint by by-law three or five persons who are residents of the county but who need not be
members of the council, who shall constitute a committee for the purpose of directing the work to be done on the county road system.

(5) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years, and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and shall hold office for a term of three years, and where the committee consists of five members, one member shall be appointed and hold office for a term of five years, one member shall be appointed and hold office for a term of four years, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and shall hold office for a term of five years.

(6) A member of the committee shall be eligible for re-appointment upon the expiry of his term of office.

(7) A member of the committee may be removed by a vote of two-thirds of the members of the council present and voting thereon at any regular meeting of the council.

(8) Where a member of the committee is so removed or dies or resigns his office, the council may appoint some other person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed.

(9) The warden of the county for the time being shall be a member of the committee and may sit and vote thereon. R.S.O. 1937, c. 56, s. 12 (4); 1945, c. 9, s. 1 (1).

(10) Where a county road system is established in a county in which a suburban roads commission has been appointed in the manner provided by subsection 3 of section 40, the council of the county may by by-law provide that the members of the suburban roads commission, from time to time, shall constitute the committee for the purpose of directing the work to be done on the county road system and in such case subsections 4 to 9 shall not apply. 1945, c. 9, s. 1 (2).

(11) The administration and management of the county road system shall be vested in an officer appointed by by-law of the county and known as the county road superintendent, who shall be an engineer approved by the Minister, and the
county road superintendent shall act under the direction of the county road committee.

(12) Every county road superintendent hereafter appointed shall be a professional engineer registered as a civil engineer under The Professional Engineers Act.

(13) Where a vacancy occurs in the position of county road superintendent the county council shall advertise for applicants stating the salary and allowances which shall be paid and such salary and allowances shall be set by the county council and approved by the Minister.

(14) A copy of the by-law appointing the county road superintendent shall be transmitted to the Department within thirty days of the passing thereof and such appointment shall be subject to the approval of the Minister, and when so approved shall not be repealed or amended without the consent in writing of the Minister.

(15) No member of the council of the county and no member of the council of any local municipality in the county shall be appointed as county road superintendent, or be employed by the county road superintendent in any capacity, and any such member who is appointed, or who acts or is employed in contravention of this section shall forfeit his seat and be disqualified from sitting or voting in the council of which he was a member at the time of his appointment or employment. 1944, c. 23, s. 2 (2).

(16) The disbursement of all moneys for works on or pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof. R.S.O. 1937, c. 56, s. 12 (6).

(17) Where a by-law has been passed for the purpose of establishing a county road system, the council of the county with the approval of the Lieutenant-Governor in Council may amend the by-law by adding roads to or removing roads from the county road system, or in any other manner.

(18) Where a road is removed from a county road system pursuant to subsection 17, the road shall thereupon revert or be transferred to the corporation of the local municipality in which it is situate. 1948, c. 38, s. 1.

12.—(1) Where a by-law passed under section 11 has received the assent of two-thirds of the members of the council of the county present and voting thereon, representing at
least one-half of the total equalized assessment of the county, it shall not be necessary to submit the same to the electors of the county, but if before the final passing of the by-law the same has been submitted to and has received the assent of the electors of the county qualified to vote on money by-laws such by-law may be finally passed by a majority of the members of the council present and voting thereon, and a by-law so submitted to the electors may after such submission or after the final passing thereof be amended by the council in order to comply with any direction or requirement of the Minister, and it shall not be necessary to submit any such amending by-law to the electors.

(2) Where two or more members of the council represent one local municipality and do not vote in the same manner for or against the by-law the equalized assessment of such municipality shall be proportionately divided in ascertaining the amount of the equalized assessment represented by members of the county council assenting to such by-law.

R.S.O. 1937, c. 56, s. 13.

13.—(1) Subject to subsection 2, the council of any county may pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by The Municipal Act, such sums as may be necessary to meet the actual expenditure for the construction and improvement of highways under this Act not exceeding five per cent of the equalized assessment of the county, or the council may by by-law provide that the required amount shall be raised in equal annual instalments by a general county rate levied in each successive year for a period not exceeding ten years but such amount shall not exceed five per cent of the equalized assessment of the county and this Act shall apply to any money heretofore or hereafter so provided as fully as if debentures had been issued whether a by-law transferring such money to a special account under Part II and Part III of this Act has or has not been passed.

(2) Where the council of a county has paid over moneys raised on sinking fund account to the Treasurer of Ontario under sections 327 and 328 of The Municipal Act, the amount to be raised for the construction and improvement of highways under subsection 1 may be a sum not exceeding the total amount so in the hands of the Treasurer of Ontario with five per cent of the equalized assessment of the county added thereto. R.S.O. 1937, c. 56, s. 14 (1, 2).

(3) Where a by-law to raise money by the issue of debentures or by an annual rate for a term of years has received the consent of two-thirds of the members of the council present
and voting thereon it shall not be necessary to submit the same to the electors of the county as required by The Municipal Act. R.S.O. 1937, c. 56, s. 14 (3) amended.

(4) The council of the county may agree with any chartered bank or loan or trust corporation or with any person for temporary advances to meet the cost of the work in progress, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the corporation of the county, together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part III, and the council of the county may pass by-laws to raise by debentures in the same manner as provided in subsection 1, such sums as may be necessary to repay such temporary advances.

(5) In addition to or in substitution for any amount which may be raised under subsection 1, the council of a county may raise in any year by general county rate such sums as the council may deem necessary for the purposes mentioned in such subsection.

(6) The limitation of county debentures which may be issued under subsection 1 to five per cent of the equalized assessment of the county shall apply only as to the amount of debentures outstanding at any time and such limitation shall be exclusive of debentures the proceeds of which are applied to expenditure within the limits of an urban municipality.

(7) Money raised by the issue of debentures for road construction under this Act shall be applied solely for that purpose, and shall not be used in paying any part of the current or other expenditure of the corporation, or for road repair or maintenance and if the council applies any of such money in paying current or other expenditure, or for road repair or maintenance, the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

(8) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

(9) The members who vote for such application shall be disqualified from holding any municipal office for two years, R.S.O. 1937, c. 56, s. 14 (4-9).
14. The corporation of the county shall submit the by-law for the improvement of county roads or the establishment of a county road system to the Minister for approval by the Lieutenant-Governor in Council and upon receipt of the application for such approval the Minister may obtain such report upon the plan adopted by the county council as he may deem necessary and may hear the council of any local municipality which may be dissatisfied therewith before presenting the application for consideration to the Lieutenant-Governor in Council. R.S.O. 1937, c. 56, s. 15.

15. The Lieutenant-Governor in Council may approve the by-law in whole or in part and where the by-law is so approved in part only, it shall be enforced and take effect so far as approved, but it shall not be necessary for the council of the county to pass any further by-law amending the original by-law or repealing any portion thereof which has not been so approved. R.S.O. 1937, c. 56, s. 16.

16. Where the Minister is of the opinion that any highway or section of a highway assumed by a county council under this Act, has ceased to be or for some other reason is not of sufficient importance to be constructed and maintained as a county road, such highway or section thereof may be struck off the approved plan of county roads by the Lieutenant-Governor in Council, and such highway or section thereof shall thereupon revert or be transferred to the corporation of the local municipality in which it is situate. 1944, c. 23, s. 3.

17.—(1) The corporation of the county shall submit a by-law covering the estimated expenditure on roads for the calendar year to the Department for the Minister's approval, not later than the 31st day of January of the year in which the expenditure is to be made and such by-law shall include expenditures to be made by the suburban roads commission in the county. R.S.O. 1937, c. 56, s. 17 (1); 1944, c. 23, s. 4.

(2) No subsidy shall be granted by the Department to any county for work undertaken by the county which has not been provided for by a by-law duly approved by the Minister. R.S.O. 1937, c. 56, s. 17 (2).

18.—(1) Where a plan of highway improvement approved by the Lieutenant-Governor in Council under this Act is being carried out the county council shall annually and may with the consent of the Minister at any time during the progress of the work submit to the Minister,

(a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
(b) a declaration of the county road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Department;

(c) a declaration of the treasurer of the county that the statement of receipts and expenditures is correct; and

(d) a petition for the payment of the grant, authorized by resolution of the council or in the case of an interim statement, by resolution of the county road committee. 1944, c. 23, s. 5, part; 1945, c. 9, s. 2.

(2) Upon receipt of the statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the county treasurer out of the Fund of an amount equal to fifty per cent, or in the case of a bridge or culvert an amount not exceeding eighty per cent, of the amount of the expenditure which is properly chargeable to road improvement and in all cases of doubt or dispute the decision of the Minister shall be final. 1944, c. 23, s. 5, part; 1947, c. 44, s. 3.

19. No expenditure towards which a special contribution has been or may be made from any source shall be included in a statement submitted under section 18 except with the consent of the Minister. 1944, c. 23, s. 6.

20. All highways designated and assumed by a county council in accordance with section 11 shall be maintained and kept in repair by the corporation of the county in which they are situate, and in all cases of doubt or dispute as to what constitute works of maintenance or repair, and what constitute works of construction and the purchase and maintenance and repair of road machinery, plant and equipment, properly chargeable under this Act, the decision of the Minister shall be final. R.S.O. 1937, c. 56, s. 20.

21. Every highway constructed or repaired as part of a county road system under this Act shall be so constructed and repaired in accordance with the requirements of the Minister. R.S.O. 1937, c. 56, s. 21; 1944, c. 23, s. 7.

22. Expenditure for which the corporation of any county may be entitled to aid to county roads under this Act, may include the maintenance by the county of a ferry service which forms a connecting link of a county road system, or
forms a link between county road systems of adjacent counties, and may also include the cost of purchasing, establishing and equipping such ferry service, but when so aided, the equipment, service, and tolls therefor, shall be subject to the approval of the Minister. R.S.O. 1937, c. 56, s. 22; 1944, c. 23, s. 8.

23.—(1) Where under The Municipal Act the council of a county has jurisdiction over any bridge which is over 20 feet in span and is not included in the county road system, the expenditure involved in the replacing, maintaining or improving of such bridge under the supervision of the county road superintendent in accordance with plans approved by the Department shall be deemed to form part of the expenditure in carrying out the plan of highway improvement within the county, and debentures issued by the corporation of any county, since the 8th day of April, 1926, for the purpose of constructing, replacing or improving any such bridge shall be legal, valid and binding upon the corporation of the county and the ratepayers thereof notwithstanding that the by-law authorizing the issue thereof has not been submitted to and did not receive the assent of the ratepayers in accordance with The Municipal Act. 1944, c. 23, s. 9, part.

(2) The Minister may direct the payment to the corporation out of the Fund of an amount not exceeding eighty per cent of the cost of constructing, maintaining, replacing or improving any such bridge over 20 feet in span in accordance with plans approved by an officer of the Department designated by the Minister. 1944, c. 23, s. 9, part; 1947, c. 44, s. 4.

(3) The council of a county may by by-law provide that jurisdiction over all bridges of 20 feet or less in span which are not included in the county road system shall be transferred to the local municipalities in which they are situate, and thereupon all the property rights, liabilities and obligations of the county with respect to such bridges shall be transferred to and shall be vested in and imposed upon such local municipalities.

(4) The council of a county, where it deems it expedient and with the approval of the Lieutenant-Governor in Council, may by by-law provide for the closing of any bridge over which the county has jurisdiction under The Municipal Act, or the substitution therefor of any other structure and for that purpose shall possess and may exercise as to such bridge or other structure and the approaches thereto all the powers of the council of a county as to highways and bridges included in a county road system. 1944, c. 23, s. 9, part.
24. Where a county road intersects a highway which is not a county road the continuation of the county road to its full width across the road so intersected, including the bridges and culverts thereon or touching thereon, shall be a part of the county road system except in the case of an intersection by a county road of the King’s Highway, and in that case the full width of the intersection shall be deemed to be part of the King’s Highway. R.S.O. 1937, c. 56, s. 24.

25. The corporation of a county shall not by reason of assuming a highway under this Act be liable for the building, maintenance or repair of sidewalks on any county road or portion thereof. R.S.O. 1937, c. 56, s. 25.

26. When any highway leading or adjacent to any city or separated town is or is to be assumed, purchased, expropriated, widened, straightened, reconstructed or otherwise improved or requires the expenditure of a greater amount for maintenance and repair to meet the requirements of increased, heavy, constant or other extraordinary traffic to or from the city or town, beyond the requirements which, but for the existence of such city or town, would be deemed those of a standard highway for the locality, the corporation of the city or town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the corporation of the county to contribute such additional cost, or a proper proportion of the cost, or that the amount of the contribution of the city or town shall be determined by arbitration under The Municipal Act, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the corporation of the county for the payment of such amounts in annual instalments to be raised by annual special rate upon the rateable property in the city or town. R.S.O. 1937, c. 56, s. 26; 1945, c. 9, s. 3.

27.—(1) The council of a local municipality which is not separated from the county may enter into agreement with the council of the county or with the suburban roads commission providing for the widening of any county or suburban road in the local municipality or for the construction of a pavement wider than 22 feet or other special construction thereon and for the maintenance and repair of such pavement or other special construction.

(2) The agreement shall provide which of the parties is to do the work and the manner in which and the time or times at which the other party is to pay its share of the
expenditure made by the party doing the work, but no work shall be done until the written agreement executed by both parties has been submitted in triplicate to the Minister for his approval and until his written approval has been obtained.

(3) Where the agreement provides that the land required for the widening of the road is to be acquired by the local municipality, the council of the local municipality, notwithstanding section 425 of The Municipal Act, may pass by-laws for widening the road and acquiring by purchase or otherwise or expropriating such land, and the provisions of The Municipal Act as to the acquiring, occupying and taking of land for municipal purposes shall apply to the acquiring, occupying or taking of land under any such by-law.

(4) The local municipality shall convey the land so acquired to the county and thereupon the land shall become a part of the road and shall be included in the county road system and where the road has been designated and approved as a suburban road under Part III the land shall become part of the suburban road.

(5) In the case of the construction of a pavement wider than 22 feet the agreement shall provide the proportion in which the cost thereof is to be borne by the respective parties but such cost shall not include the cost of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

(6) The proportion of the cost of constructing such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement 22 feet in width to the total area of such pavement, and where any portion of the roadway that is to be paved is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of constructing such track allowance including the paving thereof shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area.

(7) Where there is an existing pavement less than 22 feet in width on the county or suburban road and a wider pavement is agreed upon, the proportion of the cost of constructing the additional width of pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of that part of such additional width which together with the existing pavement would provide a total paved width of 22 feet to the total area of such additional width of pavement.
(8) Where there is an existing pavement 22 feet or more in width on the county or suburban road and a wider pavement is agreed upon, the agreement may provide that the cost of constructing the additional width of pavement is to be borne entirely by either of the parties or in any agreed proportion by each of them.

(9) In the case of the maintenance of a pavement wider than 22 feet the agreement shall provide the proportion of the cost thereof, including the removal of snow and the application of chemicals or abrasives and the removal thereof, that is to be borne by the respective parties, but such cost shall not include the cost of maintaining curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

(10) The proportion of the cost of maintaining such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement 22 feet in width to the total area of such pavement, and where any portion of the paved roadway is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of maintaining such track allowance shall be excluded from the total cost and the area thereof shall be excluded from the total area.

(11) Where the council of the local municipality or the council of the county or the suburban roads commission are unable to agree upon any term or condition of an agreement authorized by this section or where either council or the commission refuses to enter into such an agreement, the Minister may prescribe such term or condition or may require such an agreement to be entered into.

(12) The council of the local municipality may pass by-laws to raise by debentures such sum as may be necessary to meet the local municipality’s share of the cost of the widening of the road or the construction of a pavement under an agreement entered into under this section and it shall not be necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by The Municipal Act, or such share may be assessed under The Local Improvement Act according to the report of an engineer.

(13) Where the Minister has approved an agreement under this section the cost of the widening of the road, the construction of a pavement, the maintenance of a pavement,
the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement which is borne and paid by the local municipality in accordance with the agreement may, for the purpose of determining the grant payable to the local municipality out of the Fund, be included in the statement of expenditures on roads under the jurisdiction of the council of the local municipality submitted to the Minister under this Act, but the cost of constructing any sanitary or storm sewer or drain shall not be included in such statement.

(14) Where the agreement provides that the pavement or any part thereof is to be maintained and kept in repair by the local municipality and where the local municipality makes default in so doing and the county or the suburban roads commission becomes liable under section 453 of The Municipal Act for damages suffered by or occasioned to any person in consequence of such default the county or the suburban roads commission shall be entitled to the remedy over against the local municipality provided for by section 460 of The Municipal Act. 1950, c. 24, s. 2.

28.—(1) Where a street in any urban municipality not separated from the county is not part of the county road system but is an extension of or connects roads included in the county road system, and where it is in the public interest that such street, including the bridges thereon, should be constructed or rebuilt, an agreement for the performance of the work shall be entered into between the corporation of the county and the corporation of the urban municipality upon such terms, subject to such conditions and in such form as the Minister may prescribe or approve.

(2) Where the council of a county and the council of an urban municipality are unable to agree whether it is in the public interest that a street referred to in subsection 1, including the bridges thereon, should be constructed or rebuilt, the Minister may decide the issue and his decision shall be final.

(3) Where the council of a county and the council of an urban municipality are unable to agree upon any term or condition or the form of any agreement required to be entered into under subsection 1, or where either council refuses to enter into such an agreement the Minister may prescribe the terms, conditions or form thereof, or all of them, and such agreement may be enforced in the same manner as an agreement duly executed on behalf of both councils.

(4) The agreement mentioned in subsection 1 shall provide that the cost of the work to the extent of 20 feet in width...
of the travelled portion of the roadway shall be paid by the county and the expenditure so made to the extent approved by the Minister shall form part of the expenditure of the county for the purpose of ascertaining the amount of aid which may be granted to the county under this Act.

(5) A street shall not by reason of its having been constructed pursuant to this section become the property of the county but shall, after its construction, be under the jurisdiction of, and shall be maintained and kept in repair by the urban municipality.

(6) Where the roadway on a street referred to in subsection 1 exceeds 20 feet in width, all expenditure thereon rendered necessary by such excess width and by all other special work on the street shall be borne by the urban municipality, and the council of the urban municipality, with the approval of the Minister, may by by-law provide for the issue of debentures to provide for the payment of such excess cost, and it shall not be necessary to obtain the assent of the electors to any such by-law nor to observe the other formalities in relation thereto prescribed by The Municipal Act, or the work may be undertaken as a local improvement under The Local Improvement Act. 1944, c. 23, s. 11, part.

29.—(1) Sections 462 and 464 of The Municipal Act shall not apply to a bridge or highway crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case have adopted a plan for the improvement of highways under this Act, and such plan includes such bridge or highway.

(2) Whenever there is a difference between two or more municipalities in respect of any such bridge or highway as to the corporation upon which the obligation rests, as to the building, maintaining or keeping in repair of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the councils of two or more municipalities are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Ontario Municipal Board upon an application by any corporation interested in such bridge or highway.

(3) The Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality interested and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such
bridge or highway, and the Board may make such order in regard to the same as it may deem just and proper, and may by the order fix and determine the amount or proportion which each municipality shall pay or contribute toward the building, maintaining and keeping in repair of such bridge or highway.

(4) An order made by the Board under this section shall be and remain binding upon all the municipalities interested for such period as the Board may determine, and shall be final and conclusive and not subject to any appeal. R.S.O. 1937, c. 56, ss. 30, 89.

30. The corporation of the county shall, in respect to the roads included in the county road system, have all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the corporation of the local municipality or the corporations of the local municipalities which had jurisdiction over the roads before they were assumed by the corporation of the county, and the corporation of the county may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the local municipality or municipalities might have done if the roads had not been adopted as county roads. R.S.O. 1937, c. 56, s. 32.

31. Where, in the exercise of its powers or in the performance of its obligations under this Act, the corporation of a county finds that it is necessary to expropriate land for the purpose of opening up, widening, improving, protecting from erosion, altering or diverting a county highway, the corporation may, instead of the procedure provided by The Municipal Act, proceed in the manner provided by The Public Works Act in the case of lands taken by the Minister of Public Works for the purposes of Ontario without the consent of the owner of such lands, and the provisions of The Public Works Act shall mutatis mutandis apply, and the powers and duties of the Minister of Public Works as set out in The Public Works Act may be exercised and performed in the name of the corporation of the county. R.S.O. 1937, c. 56, s. 33; 1939, c. 19, s. 3.

32. The plan and description of the lands taken, required by section 17 of The Public Works Act to be deposited in the registry office, shall be signed by the warden and clerk of the county and by an Ontario land surveyor, and upon the deposit of the plan and description the land shall become and be vested in the corporation of the county. R.S.O. 1937, c. 56, s. 34; 1944, c. 23, s. 12.
33. The Minister may arrange with the Indian Affairs Branch of the Department of Mines and Resources (Canada) for the construction and improvement under the supervision of the Department of Highways and in accordance with the requirements of the Minister of a road in any township or any portion of a township constituting an Indian reserve where the road forms an extension of or connecting link in a county road system and for the payment, upon the certificate of the Minister, of fifty per cent of the cost of any work done under such arrangement, such payment to be chargeable to the Fund in the same manner and subject to the like provisions as are set out in section 18. 1944, c. 23, s. 13.

PART III

SUBURBAN ROADS

34.—(1) The Lieutenant-Governor in Council, upon application of the council of any county having or adopting a county road system under this Act, may direct that a commission or commissions be appointed as in section 40 provided, in the case of each city or town situate within the county but separated therefrom for municipal purposes, and, subject to the approval of the Minister, each commission may designate and define roads or portions of roads in the county road system as suburban roads and the city or town shall contribute towards the construction and maintenance of such roads or portions of roads in accordance with this Part. 1944, c. 23, s. 14, part; 1945, c. 9, s. 4.

(2) A plan and description of the system of suburban roads designated by a commission shall be deposited by the commission with the Department within six months from the date of the Order in Council directing the appointment of such commission, and after the approval thereof by the Minister no alterations or amendments thereof shall be made by the commission until approved in like manner. 1944, c. 23, s. 14, part.

35.—(1) Roads designated as "suburban roads" shall continue to be county roads under the jurisdiction and control of the county council, the work thereon to be under the supervision of the county engineer or road superintendent but subject to the direction of the commission appointed for that purpose, and the sums expended for construction, maintenance and superintendence may be included in the statements of expenditure as provided in section 18, upon which the grants payable by the Province will be determined and paid. R.S.O. 1937, c. 56, s. 37 (1); 1944, c. 23, s. 15 (1).
(2) The work on suburban roads may be carried on under the supervision of a qualified engineer employed for that purpose by the commission in place of the county road superintendent, and all the provisions of this Act shall apply to such engineer in the same manner as to a county road superintendent, and the declaration of such engineer with respect to work and expenditure upon suburban roads shall be accepted in lieu of the declaration of the county road superintendent as required by section 18. R.S.O. 1937, c. 56, s. 37 (2); 1944, c. 23, s. 15 (2).

36.—(1) Roads designated and approved as suburban roads shall from the time of such designation and approval, be constructed, maintained and repaired under the direction of the commission, and the expenditures thereon shall be borne by the county, the city or town and the Province in the proportion of twenty-five per cent by the county, twenty-five per cent by the city or town and fifty per cent by the Province, but where expenditure is made on a bridge or culvert the Minister may direct that the Province shall bear a greater proportion, not exceeding eighty per cent thereof, in which case the balance of the expenditure shall be divided equally between the county and the city or town. 1944, c. 23, s. 16, part; 1945, c. 9, s. 5; 1947, c. 44, s. 7.

(2) An appropriation for the purposes mentioned in this section may be made annually by resolution of the council of the county, and may be made before the designation by the commission of the roads upon which the appropriation is to be expended.

(3) The amount to be provided by the city or town shall not exceed the proceeds of a rate of one-half mill on the dollar of the value of the rateable property of the city or town, according to the last revised assessment roll, unless in any year by agreement with the council of the county, the council of the city or town shall by by-law passed by a vote of at least two-thirds of the members present and voting thereon appropriate for work on suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar of the value of such rateable property but such by-law shall not be passed until the council of the county has appropriated an equal amount for the like purposes to be expended in the same year. 1944, c. 23, s. 16, part.

37. It shall be the duty of the clerk of the county to notify the city or town of the amount appropriated by the county for construction and maintenance not later than the 1st day of March in each year, and the treasurer of the city
or town shall transmit the equivalent amount, not later than
the 1st day of November following, to the treasurer of the
county by whom it shall be paid to the order of the commission.
R.S.O. 1937, c. 56, s. 39.

38.—(1) It shall be the duty of the council of each city
or town to provide annually or from time to time an amount
equal to that appropriated by the council of the county for
construction and maintenance of such suburban roads, and
such amount shall be a debt due to the county by the city
or town.

(2) For the purposes of this section the city or town shall
have authority to raise from time to time such sums as may
be required for construction by the issue of debentures, as in
section 13 provided, but all sums required for the purposes of
maintenance and repair shall be provided from the current
revenue of the municipality. R.S.O. 1937, c. 56, s. 40 (1, 2).

(3) Where it appears that the rate of one-half mill on
the dollar provided for in subsection 3 of section 36 is not
sufficient to carry out permanent or extensive work, the council
of the city or town with the approval of the Minister may
raise such further sums by the issue of debentures as may be
deemed necessary, and may apply a portion of the proceeds
of the annual rate of one-half mill on the dollar, on paying
off such debentures. R.S.O. 1937, c. 56, s. 40 (3); 1944,
c. 23, s. 17.

(4) It shall not be necessary to obtain the assent of the
electors to any by-law for the issue of debentures under this
section, nor to observe the other formalities in relation
thereto prescribed by The Municipal Act. R.S.O. 1937,
c. 56, s. 40 (4).

39. No error or omission or insufficiency in the procedure
provided for by this Act shall relieve a corporation of a county
or of a city or separated town from liability to contribute
towards the construction and maintenance of suburban roads
designated by the commission as provided by this Act, and
the treasurer of a city or town which is liable to contribute
towards the construction and maintenance of suburban roads
as provided in this Act shall, not later than the 1st day of
November in every year, forward to the treasurer of the county
an amount equal to the amount appropriated by the council
of the county for the construction and maintenance of
such suburban roads in that year; but the amount of such
contribution shall be limited as provided by section 36.
R.S.O. 1937, c. 56, s. 41.
40.—(1) The laying out, construction, maintenance and repair of suburban roads designated and approved as in section 34 provided and the expenditure thereon shall be directed by a commission representing the county and the city or town and appointed as hereinafter provided. R.S.O. 1937, c. 56, s. 42 (1); 1944, c. 23, s. 18 (1).

(2) In the case of a town or of a city having a population of less than 50,000, the commission shall be composed of three persons, one to be appointed by the council of the city or town, one by the council of the county, and the third to be agreed upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant-Governor in Council.

(3) In the case of a city having a population of 50,000 or over, the commission shall be composed of five persons, two to be appointed by the council of the city, two by the council of the county and the fifth to be agreed upon by the four members so appointed, and in default of such agreement to be appointed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 56, s. 42 (2, 3).

(4) The councils of the city, town and county shall make their appointments of members of the commission within thirty days after the passing of the Order in Council. R.S.O. 1937, c. 56, s. 42 (4); 1944, c. 23, s. 18 (2).

(5) The members so appointed to a commission shall hold office for a term of five years from the date of the Order in Council authorizing the commission and no longer, and at the expiration of the period and thereafter at the expiration of every period of five years, the members of the commission shall be appointed as in this section provided, but any member of the commission shall be eligible for reappointment.

(6) Where the council of a city, town or county fails to make any appointment of a commissioner as in this section provided, such appointment may be made by the Lieutenant-Governor in Council.

(7) A member of the commission appointed by the council of the county, city or town, may be removed and another commissioner appointed in his place by a vote of two-thirds of the members of the council present and voting thereon at any regular meeting of the council, provided that notice of the intention of the council to determine the question of the removal has been given at the next preceding meeting of the council. R.S.O. 1937, c. 56, s. 42 (5-7).
(8) Where a member of the commission dies, or resigns, or is removed, the body or authority by which the member was appointed shall appoint some other person to fill the vacancy for the remainder of the term for which the person so dying, resigning or removed was appointed. R.S.O. 1937, c. 56, s. 42 (8); 1944, c. 23, s. 18 (3).

(9) Every commission constituted under this section or under section 34 shall be a body corporate, and the name by which each such commission is to be designated shall be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 56, s. 42 (9).

41. Notwithstanding anything contained in The Municipal Act, or in any other general or special Act, or in any municipal by-law, a person who is a member or an official of a municipal council or a member of the Assembly shall not be a member of any commission appointed under section 40. R.S.O. 1937, c. 56, s. 43; 1944, c. 23, s. 19.

42. In the case of a city having a population of not less than 50,000, the suburban road system may be extended beyond the county in which the city is situate and may include roads outside of the county the improvement of which will be of benefit to the city. R.S.O. 1937, c. 56, s. 44; 1944, c. 23, s. 20.

PART IV

TOWNSHIP ROADS

43.—(1) The council of every township in which statute labour has been abolished by by-law shall, by by-law, appoint a township road superintendent who, subject to the direction of the council, shall lay out and supervise all work and inspect all roads within the exclusive jurisdiction of the township council, and the Minister may direct that out of the Fund fifty per cent, or such greater proportion as he may deem requisite, of the salary and expenses of such superintendent paid by the township shall be reimbursed by the Province. R.S.O. 1937, c. 56, s. 45 (1); 1944, c. 23, s. 21 (1).

(2) A copy of the by-law making such appointment shall be transmitted to the Department within thirty days of the passing thereof, and shall be subject to the approval of the Minister and when so approved shall not be repealed or amended without the consent in writing of the Minister. R.S.O. 1937, c. 56, s. 45 (2).
(3) The township road superintendent shall conform to such requirements as the Minister may prescribe. R.S.O. 1937, c. 56, s. 45 (3); 1944, c. 23, s. 21 (2).

(4) The council of any township in which statute labour has been abolished by by-law may annually submit to the Department a statement showing the amount of salary or wages paid under this section, together with the declaration of the treasurer that the statement is correct and also the declaration of the township road superintendent that he has bona fide performed the duties of the superintendent, and on receipt of the statement and certificates, certified by the proper officer of the Department, the Minister may direct the Treasurer of Ontario to pay to the corporation of the municipality the amount to which the municipality may be entitled under this Act. R.S.O. 1937, c. 56, s. 45 (4).

(5) A member of the council of the township shall not be appointed or act as township road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed or who acts or is employed in contravention of this section shall forfeit his seat and be disqualified from sitting in the council of which he was a member at the time of his appointment or employment. R.S.O. 1937, c. 56, s. 45 (5); 1944, c. 23, s. 21 (3).

(6) Where a township receives aid from the Province in excess of sixty per cent of the cost of the work done upon any township road, the Minister may, if he deems it expedient so to do, appoint a road superintendent for the purpose of overseeing the work to be undertaken and in that case it shall not be necessary for the council of the township to appoint a road superintendent and the superintendent appointed by the Minister shall possess and exercise as to the work all the powers of a township road superintendent appointed in accordance with subsection 1. R.S.O. 1937, c. 56, s. 45 (6).

44.—(1) The council of a township which has abolished statute labour may submit to the Department for approval such plans, specifications or by-laws as the Department may require for any or all of the following purposes of road construction, improvement or repair, namely,

(a) grading;

(b) drainage for road purposes;

(c) gravelling, metalling with broken stone, or the construction of any approved kind of road surface;

(d) dust prevention, by oiling, tarring or other approved means;
(e) the systematic maintenance or repair by dragging, graveling or other approved means;

(f) the construction, reconstruction or substantial improvement of culverts, bridges and approaches thereto;

(g) the opening of a new road or the relocating, widening or straightening of any existing road;

(h) the purchase of gravel pits, stone quarries, materials, equipment and machinery;

(i) such other purposes of highway improvement as the Minister may approve. R.S.O. 1937, c. 56, s. 46 (1); 1944, c. 23, s. 22 (1).

(2) The council of the township shall submit a by-law covering the estimated expenditure on all road construction, improvement or repair for the calendar year to the Department for the approval of the Minister not later than the 28th day of February of the year in which such expenditure is to be made, and no subsidy shall be granted to any township in respect of work which has not been provided for by a by-law approved by the Minister. R.S.O. 1937, c. 56, s. 46 (2); 1944, c. 23, s. 22 (2).

45.—(1) When approved by the Department the work or expenditure of any class mentioned in section 44 shall be carried out in accordance with the requirements of the Minister with regard thereto, and upon the completion of any such work or expenditure the council of the township may submit to the Minister an application in accordance with section 46 for the provincial subsidy authorized by this Part.

(2) Where the township is an island, expenditure for which the corporation of the township may be entitled to aid under this Part may include the whole, or such proportion as the Minister may direct, of the cost of establishing and maintaining a ferry service between the island and the mainland by the corporation, its lessee or licensee.

(3) The Minister may arrange with the Indian Affairs Branch of the Department of Mines and Resources (Canada) that the Indian agent for an Indian reserve may act as road superintendent to supervise the construction, improvement and maintenance in accordance with the requirements of the Minister, of the roads in any township or portion of a township constituting the Indian reserve and where such arrangement has been made, the Indian Affairs Branch may make application in accordance with section 46 for the
provincial subsidy authorized by this Part, and this Part shall apply *mutatis mutandis.* 1944, c. 23, s. 23, *part.*

**46.**—(1) The council of the township shall annually and may with the consent of the Minister at any time during the progress of the work of construction, improvement or repair of township roads submit to the Minister,

(a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

(b) a declaration of the township road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with requirements of the Minister and with the approval of the proper officer of the Department;

(c) a declaration of the township treasurer that the statement of receipts and expenditures is correct and that it contains no item of expenditure whether for labour or materials which was not paid to the persons performing the work or supplying the materials in actual cash or by cheque of the corporation of the township; and

(d) a petition for the payment of the grant authorized by resolution of the council.

(2) Upon the receipt of such statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the township treasurer out of the Fund of an amount equal to fifty per cent of the amount of the expenditure which is properly chargeable to road improvement and in all cases of doubt or dispute the decision of the Minister shall be final. 1944, c. 23, s. 23, *part.*

**47.** Notwithstanding section 46 the Minister, having regard to the economic condition of the township and the adequacy of its plan of road improvement, may direct payment to the township treasurer out of the Fund of such amount as he may deem requisite, provided that aid so granted may,

(a) in the case of a bridge, be any percentage up to one hundred per cent; and

(b) in the case of any other road improvement, any percentage up to eighty per cent,

of the amount of the expenditure which is properly chargeable to road improvement. 1949, c. 39, s. 1.
48. Expenditure in respect of which aid may be granted under section 46 shall not include,

(a) any amount levied in the township for county road purposes; or

(b) any other road expenditure towards which a special contribution has been paid or may be payable from any source except with the consent of the Minister. 1944, c. 23, s. 24.

49.—(1) The corporation of a city or town situate in a provisional judicial district, by by-law passed with the assent of at least two-thirds of the members of the council thereof, may agree with the corporation of a township situate in territory surrounding such city or town to share, as provided by subsection 2, the cost of construction, improvement, maintenance and repair of any road in such township which leads or is adjacent to such city or town or which, by reason of the existence of such city or town, is subject to extraordinary traffic.

(2) Where the cost of construction, improvement, maintenance and repair of a road in any township is shared by a city or town under an agreement made under this section, the Minister may direct that there shall be paid to the township out of the Fund such proportion of the expenditure made on such road as is fixed under this Part for expenditure on township roads in that township and the balance of the expenditure shall be shared equally by the township and the city or town. 1947, c. 44, s. 8.

50. The council of a township which has by by-law abolished statute labour, and

(a) in which subdivisions have been laid out; or

(b) portions of which are used or occupied as summer resorts or are adjacent to a city,

may by by-law separate the subdivisions or portions for the purposes of taxation under this Act from the remainder of the township by defining the limit of the subdivisions or portions and in imposing the township rate for road purposes may impose and levy a higher rate upon the subdivisions or portions than upon the remainder of the township, but no such by-law shall have effect until the same has been approved in writing by the Minister and the amount raised by increasing the rate shall not be included in determining the expenditure of the township on which any grant may be paid out of the Fund. R.S.O. 1937, c. 56, s. 52; 1946, c. 38, s. 1.
51. The Minister may direct that a subsidy under this Act shall be paid to any township in respect only of the expenditure on such road construction, improvement or repair as he may designate and in every such case the by-law of a township mentioned in subsection 2 of section 44 shall cover only the estimated expenditure on work so designated. 1940, c. 28, s. 14 (1).

PART V

ROADS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

52.—(1) In this section, Interpretation.
(a) "cost of work" includes the actual amount paid for materials and rental of machinery, the value of labour employed on the work, the salary of the secretary-treasurer of the road commissioners elected under The Statute Labour Act and the sheriff’s costs in connection with the sale of land for arrears of statute labour;

(b) "value of the labour employed on the work" shall be computed on the basis of the actual time worked applied to the rates of wages prevailing in the locality in which the work is performed. 1944, c. 23, s. 26, part; 1946, c. 38, s. 2.

(2) In any part of Ontario where there is no municipal organization the Minister may arrange with the road commissioners elected under The Statute Labour Act or with any person who is the owner of land therein or of any equity or rights in or relating to such land, for the construction, improvement, maintenance or repair of any road situate therein that may be designated by the Minister, and the Minister may direct payment out of the Fund of an amount equal to such proportion of the cost of the work as he may deem requisite.

(3) Where the Minister deems it desirable that the inhabitants of any part of Ontario should become incorporated under The Municipal Act, the amount which shall be paid out of the Fund under this section in respect of a road in that part of Ontario shall not exceed fifty per cent of the value of the labour employed on the work. 1944, c. 23, s. 26, part.
53. The Minister may designate as a "development road" any road or proposed road which he may deem it expedient to construct, improve or maintain in order to promote or maintain settlement or development in any part of Ontario. 1946, c. 38, s. 3, part.

54.—(1) Where a road under the jurisdiction of the council of any municipality not being a city or separated town is designated as a development road the Minister may enter into an agreement with the corporation of the municipality for the construction, improvement, maintenance or repair of the development road, and may direct payment out of the Fund of such proportion of the cost thereof as he may deem requisite.

(2) A development road constructed, improved or maintained under an agreement made under subsection 1 shall not become or be the property of the Crown, but shall remain under the jurisdiction of the council of the municipality. 1946, c. 38, s. 3, part.

55. Where a development road is situate in territory without municipal organization the Minister may arrange for its construction, improvement, maintenance or repair as provided in subsection 2 of section 52. 1946, c. 38, s. 3, part.

PART VII
ROADS IN CITIES, TOWNS AND VILLAGES

56. The council of every city, town and village, except a city or town situate in a county but separated therefrom for municipal purposes which does not contribute towards the construction and maintenance of suburban roads under Part III, may submit to the Minister, for approval, a by-law to provide for expenditure under this Part on the construction, improvement, maintenance and repair of the roads or streets under its jurisdiction carried out in each year. 1947, c. 44, s. 9 (1), part.

57. The by-law shall provide for the estimated expenditure to be made in the calendar year and shall be submitted not later than the 28th day of February of that year, and no subsidy shall be granted to any city, town or village in respect
of expenditure which has not been provided for by by-law approved by the Minister. 1947, c. 44, s. 9 (1), part.

58.—(1) Where the Minister has approved of a by-law to provide for expenditure under this Part the council of the city, town or village shall, at the close of the calendar year, and with the consent of the Minister may, at any time during the progress of the work of construction, improvement, maintenance or repair of the roads or streets under its jurisdiction, submit to the Minister,

(a) a detailed statement of receipts and expenditures in a form prescribed by the Minister;

(b) a declaration of the engineer or other officer of the municipality who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Department;

(c) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and

(d) a petition for the payment of the grant authorized by resolution of the council. 1947, c. 44, s. 9 (1), part.

(2) Upon receipt of the statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the treasurer of the municipality out of the Fund of an amount equal to,

(a) in the case of a city or separated town, thirty-three and one-third per cent; and

(b) in all other cases, fifty per cent,

of the amount of the expenditure which is properly chargeable to road improvement and where there is any doubt or dispute the decision of the Minister shall be final. 1949, c. 39, s. 3.

(3) Where the construction, improvement, maintenance or repair of a street in a town or village which is a connecting link or extension of the King's Highway is carried out under an agreement made with the Department under section 78, the expenditure made by the town or village on such street shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the
59. Expenditures which shall be deemed to be properly chargeable to road improvement shall include those made for the purpose of,

(a) opening a new road or street and acquiring the necessary land therefor;

(b) clearing a road or street of obstructions;

(c) widening, altering or diverting a road or street;

(d) subject to The Public Service Works on Highways Act, taking up, removing or changing the location of appliances or works placed on or under a road or street by an operating corporation;

(e) constructing and maintaining bridges, culverts or other structures other than sewers incidental to the construction of a road or street;

(f) grading;

(g) constructing and maintaining an approval base for the road surface including the installing and maintaining of approval under-drainage therefor other than sewers;

(h) constructing and maintaining any approved type of road surface;

(i) constructing and maintaining necessary curbs, gutters and catch basins;

(j) clearing snow and applying chemicals or abrasives to icy surfaces; and

(k) such other purposes of road improvement as the Minister may approve. 1947, c. 44, s. 9 (1), part.

60.—(1) In this section, “subdivision” means the whole or any part of an original township lot which has been subdivided into building lots.

(2) Expenditures made for opening or constructing a street shall not be deemed to be properly chargeable to road improvement under this Part unless by reason of its being or its being designed or intended to be a main thoroughfare for through traffic it is in the public interest that the street should be opened or constructed, but in no case where the land in a subdivision is being developed and sold for speculation shall
the expenditure made for opening or constructing a street therein be deemed to be so chargeable. 1947, c. 44, s. 9 (1), part.

61. No expenditures except those which are provided for entirely by the aid which may be granted under this Part and out of funds raised by a general rate levied upon all the rateable property in the municipality, or by the issue of debentures to be retired by a general rate so levied shall be included in the statement submitted under section 58 except with the consent of the Minister. 1947, c. 44, s. 9 (1), part.

62. In the case of a city or separated town, the Minister may require that of the expenditure which shall be made under this Part so much as is necessary shall be made on the construction, improvement, maintenance and repair of the roads or streets which he may designate as extensions or connecting links of the King’s Highway. 1947, c. 44, s. 9 (1), part.

63. In the case of a town or village forming part of a county for municipal purposes, the Minister may require that of the expenditure which shall be made under this Part so much as is necessary shall be made on the maintenance of any county road extension or connecting link in the town or village. 1947, c. 44, s. 9 (1), part.

PART VIII

THE KING’S HIGHWAY

64.—(1) The Lieutenant-Governor in Council, upon the recommendation of the Minister, may designate any highway or a system of public highways throughout Ontario to be laid out, acquired, constructed, assumed, repaired, relocated, deviated, widened and maintained by the Minister as the King’s Highway.

(2) Every highway heretofore or hereafter constructed, “The King’s designated and assumed in accordance with this section shall be known as “the King’s Highway”. R.S.O. 1937, c. 56, s. 53.

65. The King’s Highway and all property acquired by vested in Ontario under this Act shall be vested in His Majesty and shall be under the control of the Department. R.S.O. 1937, c. 56, s. 54.
66.—(1) Subject to the provisions of section 72, when the Minister desires to lay out a portion of the King’s Highway or to acquire any existing highway under this Act, either temporarily or permanently, he shall deposit in the proper registry office a plan and description of the highway, signed by himself, or by the Deputy Minister, or by an Ontario land surveyor, and such highway shall thereafter become and be vested in the Crown as from such date as the Minister may determine, by notice in The Ontario Gazette, and the Department shall give notice in writing thereof to each of the municipalities interested.

(2) Where a highway assumed, acquired or laid out as part of the King’s Highway intersects a highway which is not part of the King’s Highway, the continuation of the King’s Highway to its full width across the highway so intersected, including bridges and culverts thereon, shall be a part of the King’s Highway.

(3) When for the purposes of this section it is deemed advisable to deposit in a registry office a preliminary route plan of any highway or lands acquired or to be acquired therefor by the Minister, such preliminary route plan shall be of full effect as provided by subsection 1, and shall confer upon the Minister authority to acquire and take possession of the road or lands, but such plan may at any time thereafter be replaced by a completed plan and description of the road or lands so acquired. R.S.O. 1937, c. 56, s. 55.

67. Notwithstanding anything in any other Act, an original road allowance which has not been opened or which has been occupied or partly occupied by an abutting owner or other person may be entered upon, taken, used and occupied for the purposes of the King’s Highway provided that where any person has acquired the title to any land taken under this section, he shall be entitled to the like compensation as in the case of land expropriated for the purposes of the King’s Highway. R.S.O. 1937, c. 56, s. 56.

68. The Minister may, for and in the name of His Majesty, purchase or acquire, and subject as hereinafter mentioned may, without the consent of the owner thereof, enter upon, take and expropriate any land or property which he may deem necessary for the use or purposes of the Department or for making compensation in whole or in part, to any person whose land or property has been entered upon, taken, expropriated or acquired under this Act. R.S.O. 1937, c. 56, s. 57.

69.—(1) Where the Minister receives from the Niagara Falls Bridge Commission, a corporation incorporated under
the laws of the United States of America by joint resolution of the Senate and House of Representatives in Congress assembled, dated the 16th day of June, 1938, referred to in this section as “the Commission”, a copy of a resolution of the Commission sealed with the seal and signed by the chairman of the Commission, stating that the Commission requires land or property located in Ontario therein described for the purposes of the Commission or where the Minister deems any land or property necessary for the purposes of the Commission or for the purpose of constructing a highway to connect any bridge of the Commission, or any approach thereto, with any highway, the Minister may, without the consent of the owner thereof, authorize the Commission and his or its agents, representatives, employees and servants, or any of them, to enter upon such land or property and may take and expropriate such land and property in the same manner as he may take and expropriate land or property which he may deem necessary for the use or purposes of the Department.

(2) The provisions of this Act relating to the entering upon, taking, expropriating and acquiring and disposing of and compensation for land and property required for the purposes of the Department and sections 8 to 38 of The Public Works Act shall apply mutatis mutandis to the entering upon, taking, expropriating and acquiring and disposing of and compensation for land and property so taken and expropriated.

(3) Where the Minister has acquired land or property under this section for the purposes of the Commission, he may sell, transfer or convey such land and property to the Commission, or to any person whom the Commission may direct, on such terms and subject to such conditions as he may deem proper. 1939, c. 19, s. 4.

70. The Minister may acquire either alone, or jointly with a municipal corporation or corporations, such land or property as may be deemed necessary for procuring stone, gravel or other material for use in making, maintaining or repairing the King’s Highway, or any other highway, or otherwise deemed necessary for the use of the Department. R.S.O. 1937, c. 56, s. 58.

71.—(1) All property, real or personal, no longer required for the use of the Department, may be sold, leased or disposed of by the Minister. R.S.O. 1937, c. 56, s. 59 (1).
(2) The Lieutenant-Governor in Council upon the recommendation of the Minister may direct that any highway or portion or section thereof for which an alternative route has been substituted, or which is no longer required by the Department for the purpose of the King's Highway, or which from any cause should not remain under the jurisdiction of the Minister, may be closed to traffic or may be sold, leased or disposed of by the Minister, or may direct that the highway, or portion or section of a highway, shall revert to the municipality previously liable for the maintenance and repair of the highway, or be transferred to the municipality within which it is situate, and the municipal corporation shall thereupon be in possession and control of the highway from and after a date to be named by the Lieutenant-Governor in Council. R.S.O. 1937, c. 56, s. 59 (2); 1944, c. 23, s. 27.

72.—(1) When a highway which is a toll road, not under the immediate control of a municipal corporation, or other land or property is to be entered upon, taken or used by the Department under the compulsory powers conferred by this Act, the Minister shall proceed in the manner provided by The Public Works Act, and sections 8 to 38 of that Act, except as in this Act otherwise provided, shall apply mutatis mutandis to the Department and the officers thereof.

(2) 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 him or by mailing by registered post addressed to him at his last known place of abode, 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 same 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 some newspaper having
a general circulation in the county or district in which the land affected is situate.

(3) When land is to be or has been purchased or acquired by the Minister under any of the powers conferred by this Act, along or adjacent to or in the vicinity of the King's Highway, the land so acquired may be shown on a plan of the highway marked "Land Plan", signed by the Minister or by the Deputy Minister and deposited in the proper registry office, and the plan shall be of full effect in establishing the ownership of the land by Ontario under this Act or The Public Works Act.

(4) A land plan deposited in any registry office as in subsection 3 provided may be amended from time to time upon the authority of the Minister or Deputy Minister, or another or similar plan may be substituted therefor upon like authority, for the purpose of showing land or additional land purchased or acquired, or for the purpose of indicating thereon land sold or disposed of by the Minister. R.S.O. 1937, c. 56, s. 60.

73. The cost of material, labour, special engineering or other services, land and property or options thereon, plant, machinery and equipment and the repair and maintenance of plant, machinery or equipment and all expenditure in or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the Fund upon the certificate of the Minister, and for that purpose accountable cheques may from time to time be issued against the Fund in favour of the Department upon the requisition of the Minister. R.S.O. 1937, c. 56, s. 60.

74. Where the corporation of a county or other municipality, park commission, board, or commission is in default with respect to any payments due to the Province for its share of the expenditure on the King's Highway up to the 31st day of December, 1934, the amount of the arrears shall bear interest from the date of the default at such rate of interest as the Minister may from time to time determine, and the amount of the arrears and interest may be deducted from any sums due to the county or municipality by the Province. R.S.O. 1937, c. 56, s. 62.

75. Where a road assumed as the King's Highway under this Act was at the time it was so assumed under the control of a park commission, or any board or commission established by statute and having authority over the area in which the road lies, the amount or proportion of expenditure may be
76. It shall be the duty of such park commission, board or commission to provide for the payment of any contribution required under section 75 in its estimates of annual expenditure, and every such park commission, board or commission shall have power to do all things necessary to provide for the payment of such contribution, and where authorized by statute to levy rates upon property within its jurisdiction, shall levy all necessary rates for the purposes hereof, anything in any Act under which such park commission, board or commission is established to the contrary notwithstanding. R.S.O. 1937, c. 56, s. 64.

77. The proportion of cost, as estimated under sections 75 and 76 shall be a debt due to Ontario by such park commission, or other board or commission and shall be paid to the Department within six months from the date of notification sent by registered post to such board or commission. R.S.O. 1937, c. 56, s. 65.

78.—(1) The proportion of expenditure on repair and maintenance to be paid by the municipal corporation shall in all cases be provided out of the general funds of the municipality, but expenditure for construction may be met by the issue of debentures under The Municipal Act.

(2) The council of each municipality may pass by-laws for issuing and may issue debentures maturing within a period not exceeding twenty years from the date of issue of the debentures and payable in any manner provided by The Municipal Act, for an amount estimated as sufficient to produce the sum required to pay the share of the expenditure for construction apportioned to the municipality and it shall not be necessary to obtain the assent of the electors to any by-law for the issue of such debentures or to observe the other formalities in relation thereto prescribed by The Municipal Act.

(3) Where it is deemed by the Minister desirable and expedient that a highway or portion thereof within a city, town or village, including any necessary bridges, should be constructed as a connecting link between portions of the King’s Highway, the Department may designate the highway or portion thereof within the city, town or village to be constructed by the city, town or village, and the council of the corporation of the city, town or village may pass by-laws for
issuing, and may issue debentures under *The Municipal Act*, Rev. Stat., c. 243, to be payable in such period as the Department may approve but not exceeding twenty years from the time or times when such debentures are issued, for an amount sufficient to pay the cost of the construction of the highway and bridges within the city, town or village, but it shall not be necessary for the council to obtain the assent of the electors to any by-law for the issue of debentures under this subsection or to observe the formalities in relation thereto prescribed by *The Municipal Act*.

(4) Work required to be constructed under subsection 3 may be undertaken as a local improvement under *The Local Improvement Act* and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the corporation at large as the council may deem proper. R.S.O. 1937, c. 56, s. 66 (1-3).

(5) Where it is deemed by the Minister desirable and expedient an agreement may be entered into with the corporation of a town not being a separated town or of a village for the construction, improvement, maintenance and repair therein by the municipality or by the Department of highway which is a connecting link or extension of the King's Highway. R.S.O. 1937, c. 56, s. 66 (4); 1944, c. 23, s. 28.

(6) The agreement may provide that a proportion of the cost of the work shall be paid out of the Fund and the remainder shall be borne and paid by the town or village but the proportion which shall be paid out of the Fund shall not exceed,

(a) in the case of a town or village having a population of not more than 2,500, a sum equal to the cost of a width of roadway not less than 22 feet nor more than the width of the roadway on the King's Highway approaching the town or village where such width exceeds 22 feet; and

(b) in the case of a town or village having a population of more than 2,500, a sum equal to fifty per cent of the cost of a width of roadway not less than 22 feet nor more than 33 feet.

(7) A road shall not by reason of its having been constructed or improved under this section become or be the property of the Crown, but every such road shall remain under the jurisdiction of the council of the municipality in which it is situate. 1949, c. 39, s. 4.
79.—(1) While the construction, repair or improvement or any work authorized by this Act is in progress on the King's Highway the Minister or any engineer authorized by him may close the highway or any portion thereof to traffic for such time as he may deem necessary, and any person using a highway so closed shall do so at his own risk, and shall not have a right to recover damages in case of accident or injury.

(2) Every person who uses any highway so closed to traffic or who removes or defaces any notice or obstruction placed thereon by lawful authority shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than $50 and shall also be liable for any damages or injury done to the highway or to the property of the Department occasioned by such trespass.

(3) While the construction, repair or improvement of the King's Highway or any work authorized by this Act is in progress on the King's Highway, the Department may provide and keep in repair any reasonable alternative route for traffic, including a municipal highway, or may enter into an agreement with the council of any municipality, or may make a grant to any municipality for that purpose, and any expenditure or grant under this section shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary. R.S.O. 1937, c. 56, s. 67.

80.—(1) The Department shall have, within the limits of any municipal corporation along the course of the roadway, all the powers which may be exercised by a municipal corporation authorized to lay out, maintain and construct a highway.

(2) The Department shall have in respect to the King's Highway, all the rights, powers, benefits and advantages conferred either by by-law or contact or otherwise upon the local or county municipality or municipalities which had jurisdiction over the road before the road was assumed by the Province, and the Department may sue upon such rights or under such agreement or by-laws in the same manner and to the same extent as the local municipality or municipalities might have done if the road had not been adopted as the King's Highway.

(3) Where a by-law, contract or agreement covers several roads in a municipality, including the road adopted as the King's Highway, the Department shall be entitled to a copy of the by-law, contract or agreement from the municipality
or municipalities and the Department shall have the right to inquire into and ascertain facts concerning all such by-laws, contracts or agreements, the amounts of rents or other payments provided for in the same, the terms and conditions under which such agreements were made and any other particulars in connection with the same. R.S.O. 1937, c. 56, s. 68.

81. Notwithstanding anything in any general or special Act or in any by-law, resolution, licence of occupation, agreement or other act of a municipal corporation, no street railway or electric railway shall be laid down, constructed or operated upon the King's Highway except with the consent of the Lieutenant-Governor in Council and under and subject to such terms and conditions as he may impose, but this section shall not apply to any railway or part of a railway now in operation, and shall not be construed to affect or prejudice the rights, franchises and privileges of any company owning or operating such railway; provided that the company shall not move its rails to or upon the highway except with the consent of the Minister. R.S.O. 1937, c. 56, s. 69.

82.—(1) Where a street railway or electric railway has constructed its line upon any part of the King's Highway and has undertaken or is required by law to fill in or pave the space between the rails of the railway, the Department may construct the pavement or roadway between the rails of the same material and in the same manner as on that part of the roadway lying on either side of the rails, and so much of the cost of the work between the rails as will equal what should be expended by the company in the fulfilment of its legal obligations shall be paid by the company to the Department upon demand.

(2) In determining the amount payable by the company, allowance shall be made for the relief of the company from the work of keeping the space between the rails filled in or paved and the substitution of a durable pavement for such work.

(3) If the company and the Department are unable to agree on their respective shares of the cost of constructing the pavement or roadway between the rails the matter in dispute shall be determined by the Ontario Municipal Board, and the decision of the Board shall be final and conclusive and shall not be subject to any appeal. R.S.O. 1937, c. 56, ss. 70, 89.

83.—(1) The Department may plant trees upon the King’s Highway, and the cost thereof shall be part of the cost of repair and maintenance.
(2) No person, corporation or commission shall injure, destroy, cut or prune any tree within the limits of the King's Highway, without first obtaining the consent of the Department, and any sums received in compensation for trees so injured, destroyed, cut or pruned, shall be payable to the Department.

(3) The Department may pay a bonus not exceeding seventy-five cents for each elm, maple or other approved nut or ornamental tree planted by any owner of land fronting on the King's Highway and planted in accordance with the regulations of the Department and under its direction.

(4) The bonus shall be chargeable to the Fund and payable upon a certificate of the resident engineer of the Department giving the name of the person entitled to the bonus, the number of trees of each species planted and the amount of the bonus to which the person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form. R.S.O. 1937, c. 56, s. 71 (1-4).

(5) The Minister may agree with the owners or occupants of property adjoining the King's Highway with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may make compensation therefor.

(6) The Minister may direct the removal of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the highway where in his opinion the safety or convenience of the travelling public so requires, or when any such object might cause the drifting or accumulation of snow or is injurious to the roadbed, but subject to the payment of such compensation as may be agreed upon or as may be determined in the manner provided by section 72. R.S.O. 1937, c. 56, s. 71 (6, 7).

84.—(1) Where it is deemed advisable to change the grade or make other alterations upon any road intersecting or affording access to the King's Highway, or giving access to private property, the cost of any changes so made shall be part of the cost of the construction of the King's Highway, and shall be borne and paid accordingly.

(2) A municipality shall not close or divert any road or road allowance entering or touching upon or giving access to the King's Highway without the consent of the Lieutenant-Governor in Council upon the report of the Minister. R.S.O. 1937, c. 56, s. 72.
85.—(1) Notwithstanding anything in any general or special Act contained, no municipal corporation, commissioners acting for a municipal corporation, and no commission, company or individual shall obstruct or deposit material upon, nor shall they enter upon, take up or in any way interfere with the King’s Highway for the purpose of laying down or repairing any drain, sewer, water pipe, gas pipe, conduit or any other structure beneath the surface of the highway, except with the consent of the Minister and under and subject to such terms and conditions as to the manner and location of the work, the times at which it is to be performed, the disposal of material, and the replacing of the surface as the Minister may prescribe.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than $50 and not more than $1,000. R.S.O. 1937, c. 56, s. 73.

86.—(1) The Minister may make regulations respecting the use of the King’s Highway by any class of vehicles or animals, and may impose penalties for violation thereof, but no such regulations shall have any force or effect until approved by the Lieutenant-Governor in Council after notice to the municipal corporation affected thereby.

(2) Notwithstanding anything in any other Act, all fines and penalties recovered for offences committed on the King’s Highway under this Act shall, when collected, belong to and be paid to the Department. R.S.O. 1937, c. 56, s. 74 (1, 2).

(3) Every person who, being the owner of horses, cattle, swine or sheep, suffers or permits the same or any of them to run at large within the limits of the King’s Highway shall be guilty of an offence and on summary conviction shall be liable to a penalty, for every horse found at large upon the highway, of not more than $5; for every head of cattle found at large upon the highway, of not more than $3; and for every hog, sheep or goat found at large upon the highway, of not more than $1; provided that this subsection shall not create any civil liability on the part of the owner of horses, cattle, swine or sheep for damages caused to the property of others as a result of the horses, cattle, swine or sheep running at large within the limits of the King’s Highway. R.S.O. 1937, c. 56, s. 74 (3); 1939, c. 19, s. 5.

87.—(1) Every portion of the King’s Highway shall be maintained and kept in repair by the Department, and except as to the contribution towards such maintenance and repair provided for in this Act, the corporation of any municipality
in which the highway is situate shall be relieved from any liability therefor, but this shall not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by the corporation by the corporation of any municipality, or which a municipal corporation may lawfully do or construct upon the highway, and the municipal corporation shall be liable for want of repair of the sidewalk, municipal undertaking or work, whether the same be the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by the municipal corporation.

(2) In case of default by the Department to keep any portion of the King’s Highway in repair, the Department shall be liable for all damages sustained by any person by reason of the default, and the amount recoverable by any person by reason of the default may be agreed upon with the Department before or after the commencement of any action for the recovery of the damages. R.S.O. 1937, c. 56, s. 75 (1, 2).

(3) No action shall be brought against the Department for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the highway lands or any part thereof not within the travelled portion of the highway. 1939, c. 19, s. 6.

(4) No action shall be brought for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

(5) No action shall be brought for the recovery of the damages mentioned in subsection 2, unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the Department within ten days after the happening of the injury.

(6) The failure to give or the insufficiency of the notice shall not be a bar to the action, if the court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Department was not thereby prejudiced in its defence.

(7) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of any claim for damages which has been approved
of by counsel in writing shall be payable in the same manner as in the case of a judgment recovered against the Crown in any other action.

(8) In any action under this section against the Department, the defendant may be described as "His Majesty the King in right of the Province of Ontario, represented by the Minister of Highways for the Province of Ontario", and it shall not be necessary to proceed by petition of right or to procure the fiat of the Lieutenant-Governor or the consent of the Attorney-General before commencing the action but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of His Majesty against another subject.

(9) Actions against the Department for the recovery of the damages mentioned in subsection 2 shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred.

(10) The liability imposed by this section shall not extend to any case in which a municipal corporation owning or having jurisdiction over the highway would not have been liable for the injury sustained. R.S.O. 1937, c. 56, s. 75 (3-9).

88.—(1) The corporation of any municipality through or in which any part of the King's Highway is situate or any owner of abutting property may enter into an agreement with the Minister for the construction of a pavement or roadway of a greater width or with different specifications to those for the remainder of the roadway, and the Department may construct a pavement or roadway of such additional width or varied specification through the municipality or such portion thereof as may be agreed upon. R.S.O. 1937, c. 56, s. 76 (1); 1944, c. 23, s. 29.

(2) The additional cost entailed under such agreement to be borne by a municipal corporation may be raised by the corporation by a special tax or by the issue of its debentures under The Local Improvement Act or by the issue of debentures under The Municipal Act, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures, provided that it shall not be necessary to obtain the assent of the electors to any by-law for the issue of such debentures under The Municipal Act, nor to observe any of the provisions of The Local Improvement Act with respect to the undertaking of works as local improvements. R.S.O. 1937, c. 56, s. 76 (2).
89. The Minister may construct and operate such works upon any highway leading to or in the neighbourhood of the King's Highway as he may deem necessary or expedient for the purpose of transportation of materials or supplies, or he may agree or contract with any railway or other company so to do, or may lease or acquire land or property and construct and operate works thereon for such purposes. R.S.O. 1937, c. 56, s. 77.

90.—(1) The Deputy Minister or any officer of the Department specially designated for that purpose by the Deputy Minister, may initiate and carry out proceedings under The Ditches and Watercourses Act for the purpose of procuring proper drainage for the King's Highway, and shall have authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where a private person is the initiating party, in accordance with the procedure prescribed in that Act but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Department.

(2) The Minister or Deputy Minister may from time to time designate one or more engineers of the Department to be the engineer or engineers authorized to carry out the provisions of The Ditches and Watercourses Act with respect to the King's Highway or other property under the control of the Department, and every engineer so designated shall have all powers and perform all duties on behalf of the Department required of an engineer appointed by a municipality under that Act. R.S.O. 1937, c. 56, s. 78.

91.—(1) Notwithstanding anything in this Act or in The Public Works Act, where any claim is made for damages or compensation in respect of land affected or taken or in respect of any work constructed or in course of construction, or as to the right of the Department to do or undertake any work under this Part, or in respect to any injury alleged to have been done to any person or property in the course of anything done or purporting to be done under this Part, no action or other proceeding shall lie in respect of such matter but the same shall be heard and determined by the Ontario Municipal Board.

(2) No such action or other proceeding shall lie in respect of any such claim unless notice in writing of the claim and of the injury complained of has been filed with the Department 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 complainant. R.S.O. 1937, c. 56, s. 79 (1, 2).

(3) The decision of the Board shall be final and conclusive and shall not be subject to any appeal. R.S.O. 1937, c. 56, ss. 79 (3), 89.

92.—(1) In this section, "Board" means Ontario Municipal Board.

(2) The Lieutenant-Governor in Council, upon the recommendation of the Minister, may designate any portion of the King's Highway as a controlled-access highway and all the provisions of this Act relating to the King's Highway as well as the provisions of this section shall apply to every controlled-access highway.

(3) Subject to the approval of the Board, the Department may close any county, township or other road which intersects or runs into a controlled-access highway.

(4) The Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such times, in such manner and to such persons as the Board may determine, and may further direct that particulars of claims in respect of land injuriously affected by the closing of the road shall be filed with the Board and the Department within such time as the Board shall direct.

(5) Notwithstanding subsection 2 of section 91, no claim by or on behalf of any person who has not filed the particulars of claim within the time directed by the Board shall be allowed except by leave of the Board.

(6) Upon the hearing of the application for approval of the closing of a road, the Board may make such order as it deems proper refusing its approval or granting its approval upon such terms and conditions as it deems proper, and any order of the Board approving of the closing of a road may contain provisions,

(a) determining the portion or portions of the road which shall be closed;

(b) providing that the approval shall be subject to the making of compensation to persons whose land is injuriously affected by the closing of the road,

(i) by the payment by the Department to any of such persons of such damages as may be fixed by the Board,
(ii) by the providing of another road for the use of any of such persons,

(iii) by the vesting of any portion of the road allowance so closed in any of such persons notwithstanding any other Act, and

(iv) in such other manner as the Board may deem proper;

(c) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and

(d) providing for the doing of such other acts as in the circumstances it deems proper.

(7) Upon the approval of the Board being so obtained but subject to the provisions of the order of the Board made on the application for such approval, the Department may do all such acts as may be necessary to close the road in respect of which the application is made.

(8) Where, at any time after making application for the approval of the Board of the closing of a road, the Department discontinues its application or, having obtained such approval, does not proceed with the closing of the road and does not pay the compensation provided for in the order of the Board, the Board may, upon the application of any person whose land would be injuriously affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the Department as it deems proper and may fix the amount of such costs.

(9) Any person who claims to be injuriously affected by the closing of a road may, by leave of the Court of Appeal, appeal to that court from any order of the Board approving the closing of such road, and the Department may, upon like leave, appeal from any order of the Board made on an application under this section.

(10) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court may deem just.

(11) 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 and the decision of the Court of Appeal shall be final.
(12) Section 98 of *The Ontario Municipal Board Act* shall not apply to any appeal under this section. 1945, c. 9, s. 8, not to apply.

93.—(1) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

(a) place, erect or alter any building, structure or fence, or any part thereof, or place any tree, shrub or hedge, or any part thereof, upon or within 150 feet of any limit of a controlled-access highway, or upon or within 600 feet of any limit of a highway that intersects or runs into a controlled-access highway for a distance of 600 feet from any limit of the controlled-access highway;

(b) place, erect or alter any power line, pole line or other transmission line, or any part thereof, upon or within one-quarter mile of any limit of a controlled-access highway;

(c) place, erect or alter any gasoline pump, or any part thereof, upon or within 150 feet of any limit of a controlled-access highway, or upon or within 600 feet of any limit of a highway that intersects or runs into a controlled-access highway for a distance of 600 feet from any limit of the controlled-access highway;

(d) place, erect or alter any sign, notice or advertising device, or any part thereof, other than a sign not more than two feet by one foot displaying the name of the owner or occupant of the premises to which it is affixed or the name of such premises, upon or within one-quarter mile of any limit of a controlled-access highway;

(e) construct, use or allow the use of any private road, entranceway or gate which, or any part of which, is connected with or opens upon a controlled-access highway;

(f) sell, offer or expose for sale any vegetables, fruit or other produce, or any goods or merchandise upon or within 150 feet of any limit of a controlled-access highway, or upon or within 600 feet of any limit of a highway that intersects or runs into a controlled-access highway for a distance of 600 feet from any limit of the controlled-access highway.
(2) The Minister in his discretion may order that subsection 1 or such clauses thereof as he may specify shall apply within the limits of any city, town or village or such parts thereof as he may specify, but otherwise subsection 1 shall not apply within the limits of any city, town or village. 1950, c. 24, s. 8, part.

(3) The Minister in his discretion may give notice to the owner or occupant of any land requiring him to remove or alter any building, structure, fence, tree, shrub, hedge, power line, pole line, other transmission line, gasoline pump, sign, notice or advertising device placed, erected or maintained after the 24th day of March, 1950, or to close up any private road, entranceway or gate constructed or maintained after that date that does not comply with subsection 1 or with any permit issued under this section with respect thereto.

(4) The Minister in his discretion may give notice to the owner or occupant of any land requiring him to remove or alter any building, structure, fence, tree, shrub, hedge, power line, pole line, other transmission line, gasoline pump, sign, notice or advertising device placed or erected before the 24th day of March, 1950, or to close up any private road, entranceway or gate constructed before that date that would not comply with subsection 1 if it had been so placed, erected or constructed after that date. 1950, c. 24, s. 8, part. amended.

(5) Every notice under subsection 3 or 4 shall be in writing and sent by registered mail addressed to the owner or occupant of the land, and it shall be deemed conclusively to have been received on the second day following the mailing thereof.

(6) If the person to whom notice is given under subsection 3 or 4 fails to comply with it within thirty days after its receipt, the Minister may direct in writing any officer, employee or agent of the Department to enter upon the land and do or cause to be done whatever may be necessary to remove or alter the building, structure, fence, tree, shrub, hedge, power line, pole line, other transmission line, gasoline pump, sign, notice or advertising device, or to close up the private road, entranceway or gate, as the case may be, as the notice required.

(7) The Minister in his discretion may issue permits under this section upon such conditions, in such form, for such term and upon the payment of such fee as he may deem proper, and may in his discretion cancel any such permit.

(8) The powers of the Minister to make orders, to give notices or to issue permits under this section may be delegated by him to the Deputy Minister, and when any such delegation has been made any such order, notice or permit duly made,
given or issued over the signature of the Deputy Minister shall be valid and effective for all purposes.

(9) Every person who violates any of the provisions of subsection 1 or who fails to comply with a notice given under subsection 3 or 4 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than $10 and not more than $100 for a first offence and to a penalty of not less than $50 and not more than $500 for a second or subsequent offence, and the continuance of the condition constituting an offence for each week after conviction therefor shall constitute a new offence. 1950, c. 24, s. 8, part.

(10) This section, except clauses b, e and f of subsection 1, shall apply mutatis mutandis to the other portions of the King's Highway. 1950, c. 29, s. 9, part.

94.—(1) The Minister may make regulations prohibiting or regulating the use of controlled-access highways by any type or class of vehicle.

(2) Every person who violates any regulation made under this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than $5 and not more than $50. 1950, c. 24, s. 8, part.

PART IX

PROVISIONS APPLICABLE TO ALL HIGHWAYS

95. Any county council, commission or board may with respect to the roads under its jurisdiction pass by-laws, Gas pumps and signs on local roads.

(a) prohibiting or regulating the placing, erecting or altering of gasoline pumps upon or within 150 feet of any limit of any such road;

(b) prohibiting or regulating the placing, erecting or altering of signs, notices or advertising devices upon or within one-quarter mile of any limit of any such road,

and any such by-law may provide for the issuing of permits for such gasoline pumps, signs, notices or advertising devices, as the case may be, and may prescribe the terms and form thereof and the fees to be paid therefor, and may prescribe penalties for violation of the by-law, but no such by-law shall
have effect until approved in writing by the Minister. 1950, c. 24, s. 9, *part.*

96. The engineer or road superintendent appointed by any road authority under this Act may, without any direction from the Department or resolution of the council or commission by which he is appointed, initiate and carry out proceedings under *The Ditches and Watercourses Act* and may sign petitions under *The Municipal Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction of the road authority, and the engineer or superintendent shall have authority to file or receive notices as owner in accordance with the procedure prescribed by the said Acts. R.S.O. 1937, c. 56, s. 81.

97.—(1) Notwithstanding *The Municipal Act*, the engineer or road superintendent appointed by a county council or by any commission or by a township council may, without the passing of a by-law or resolution by the council, apply to the owner of any gravel land or gravel pit in the county for gravel for road purposes.

(2) The engineer or road superintendent shall state in the application the price per cubic yard or per acre of such amount of gravel as he may require.

(3) If the owner does not, within three days after receiving the application, agree with the engineer or road superintendent to sell the gravel or the land and as to the price at which the same shall be sold, the engineer or road superintendent may, upon seven days notice in writing to the owner, apply to the county judge in the county in which the gravel or the land is situate, for an order fixing the price to be paid for the gravel or the land, and the judge upon such application and upon hearing such evidence as he deems necessary, may fix the price per cubic yard or per acre to be paid for the gravel or the land and may order and direct that upon the payment or tendering of the price so fixed, the engineer or road superintendent, by his servants or agents, may enter upon the lands of the owner and take the gravel so required.

(4) *The Judges’ Orders Enforcement Act* shall apply to every application and order made under subsection 3.

(5) An appeal shall lie from the order of the judge of the county court to the Court of Appeal, whose decision shall be final. R.S.O. 1937, c. 56, s. 82.
98.—(1) While the construction, repair or improvement of any highway to which this Act applies is in progress, the road superintendent, or any person authorized by him, may close the highway or any portion thereof to traffic for such time as he may deem necessary and subject to the provisions herein contained any person using a highway so closed shall do so at his own risk and shall not have a right to recover damages in case of accident or injury.

(2) Upon so closing a highway it shall be the duty of the corporation or commission to provide and keep in repair a reasonable alternative route for through traffic and to provide a suitable by-road for all owners who cannot obtain access to their property by any other public road, and for the period during which the highway or portion thereof is closed the alternative route and by-road shall be under the jurisdiction of the council of the corporation or commission.

(3) The engineer or road superintendent or the person authorized by him shall upon closing a highway or portion thereof protect the same by erecting or causing to be erected at each end of the highway so closed and where the alternative route deviates therefrom, a substantial barricade upon which shall be exposed and kept burning continuously from sunset until dawn, a red light, and at such points shall put up a detour sign indicating the alternative route and containing a notice of closing the highway for traffic.

(4) Every engineer, road superintendent and person authorized by him, who closes any highway or portion thereof to traffic and who neglects or fails to erect or maintain the barricade, light, notice or detour sign aforesaid while the highway is closed and every person who uses any highway so closed while the same is protected as aforesaid without authority from the engineer or road superintendent, or who removes or defaces any barricade, light, detour sign or notice, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than $10, and such person so wrongfully using the highway so closed shall also be liable for any damage or injury done to the highway occasioned by such trespass.

(5) This section shall apply to any highway as to which provision has been made under any special Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant-Governor in Council.

(6) Where the district engineer reports to the Department that a highway to which this Act applies in any municipality is out of repair, the Minister may, after at least two months notice in writing to the corporation of the municipality, direct
the Department to undertake the work of putting the highway in repair, and the cost of the work shall be chargeable to and shall be a debt due from the corporation of the municipality to the Crown and the Minister may direct that the cost shall be deducted from any sums of money payable to the municipality under this Act. R.S.O. 1937, c. 56, s. 83.

99. Notwithstanding any other Act, no earth, debris or excavated material from a drain constructed, improved or repaired under *The Municipal Drainage Act* or *The Ditches and Watercourses Act* or any other Act shall be deposited within the limits of any highway without express permission in writing so to do from the road authority responsible for the maintenance of the highway. R.S.O. 1937, c. 56, s. 84.

100.—(1) The council of a local municipality may construct or put down a sidewalk or other improvement or service on a county road, the King's Highway or a road or highway under the control of a board, special commission, suburban road commission or other authority, but no such work shall be undertaken by a municipal corporation or any individual or company without first obtaining the written consent of the county council, Department of Highways, board, special commission, suburban road commission or other authority having control of the road or highway.

(2) The cost of any sidewalk constructed on a county road, the King's Highway, or a road or highway under the control of a board, special commission or other authority, may be met out of the general funds of the local municipality, or out of funds of the authority having control of the road or highway, or the work may be undertaken as a local improvement to which *The Local Improvement Act* shall apply. R.S.O. 1937, c. 56, s. 85 (1, 2).

(3) A local municipality when constructing a sidewalk or other improvements or service on a road or highway under this section shall conform to any requirements or conditions imposed by the authority responsible for or having control of the road or highway, and shall be responsible for any injury or damage arising from the construction or presence of the sidewalk, improvements or service on the road or highway. R.S.O. 1937, c. 56, s. 85 (3); 1944, c. 23, s. 31 (1).

(4) The council of a township may apply to the Department for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Department may grant the authority, and upon completion of the work may approve thereof at its discretion, and upon the approval
being given the council may make application in the form prescribed by the Minister for, and the Minister may authorize the payment to the township out of the Fund of an amount not exceeding fifty per cent of the cost of the work. 1944, c. 23; s. 31 (2).

101. The council of any municipality or a suburban road commission may plant trees on any highway under its jurisdiction, and the cost of the work shall be deemed to be part of the cost of repairing and maintaining the highway. R.S.O. 1937, c. 56, s. 86.

102.—(1) The engineer or road superintendent appointed by a council or commission under this Act with the approval of the council or commission having jurisdiction over the highway may enter into an agreement with the owner of any land adjacent to a highway under the jurisdiction of the council for the removal of any tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the highway, or on land adjoining the highway and which may cause the drifting or accumulation of snow or may injuriously affect the highway or obstruct the vision of pedestrians or drivers of vehicles upon the highway.

(2) The engineer or road superintendent may, with the approval of the council or commission having jurisdiction over the highway, enter into an agreement with the owner of the land as to the amount of compensation to be paid to the owner for damages caused to him by reason of such removal.

(3) Where the engineer or road superintendent is of the opinion that any tree, shrub, brush, hedge, fence, sign board, gasoline pump, building or other object growing or standing upon a highway, or on land adjacent to the highway, will cause the drifting or accumulation of snow or is injurious to the roadbed or is a dangerous obstruction to the vision of pedestrians or drivers of vehicles on the highway, and he is unable to agree with the owner of the land for the removal of the same, or as to the amount of compensation to be paid therefor, the engineer or road superintendent may, with the approval of the council or commission having jurisdiction over the highway, apply to the judge of the county court of the county in which the land affected is situated, and upon such notice to the owner of the land affected as the judge may direct for an order granting authority to the engineer or road superintendent to enter upon the land affected and to remove any object with respect to which the application is made, and the judge, upon the application, may make such order and may fix the amount of compensation to be paid to the owner and
give such directions as to costs as in his opinion may be equitable.

(4) *The Judges' Orders Enforcement Act* shall apply to every application and order made under subsection 3.

(5) The council of a county or township may by by-law determine and fix the distance from the centre line of any highway within the jurisdiction of the council within which the owner of any lands adjacent to the highway shall not plant or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, sign board, building or other structure which may cause the drifting or accumulation of snow or which may injuriously affect the roadbed of the highway or dangerously obstruct the vision of drivers of vehicles or pedestrians thereon. R.S.O. 1937, c. 56, s. 87.

103.—(1) The council of a municipality which is not separated from the county, with the approval of the Minister, may make an agreement with the road authority having the control of a portion of the King’s Highway, county highway or suburban road for the widening of the highway or road in the municipality and may make a further agreement with the road authority and any municipal corporation or commission interested in the highway or suburban road and with any municipal corporation, commission or company owning or operating a street railway or electric railway on the highway or road, fixing the proportions in which the cost of the widening and of the removal or replacing or altering of the tracks of such street railway or electric railway consequent upon the widening shall be borne by the municipality, the road authority, any municipal corporation or commission interested in the highway and by the municipal corporation, commission or company owning or operating the street railway or electric railway. R.S.O. 1937, c. 56, s. 88 (1).

(2) Where the municipality, the road authority and the municipal corporation, commission or company owning or operating a street railway or electric railway are unable to agree as to the proportion in which each of them shall so contribute the same shall be determined by the Ontario Municipal Board and the decision of the Board shall be final and conclusive and shall not be subject to any appeal. R.S.O. 1937, c. 56, s. 88 (2), 89.

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway, the municipality may pass by-laws for acquiring by purchase or otherwise, or for expropriating any land described in the agreement or necessary to carry out the provisions thereof, and *The Municipal Act* as to the acquiring, occupying or
taking of land for municipal purposes shall apply to the acquiring, occupying or taking of land under the by-law.

(4) Any county not being in control of the highway but through which the highway passes may agree to contribute to the cost of the widening of the highway, but nothing in this section shall be deemed to render it compulsory upon the county to so contribute. R.S.O. 1937, c. 56, s. 88. (3, 4).

104. A commission appointed under any statute of Ontario for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipal council with respect to the construction or improvement of roads shall have the like rights and powers and shall perform the like duties and be entitled to the same aid as the council of a township under this Act. R.S.O. 1937, c. 56, s. 90.

105. Where a subsidy is applied for by the council of any county, township or other road authority under this Act, vouchers covering all expenditures, in respect of which such subsidy is applied for, shall be furnished to the Department in a form satisfactory to the Minister. 1944, c. 23, s. 32.