



LEGISLATIVE ASSEMBLY OF ONTARIO

SECOND SESSION OF THE TWENTY-EIGHTH
PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

SESSION

NOVEMBER 19th to DECEMBER 20th, 1968
FEBRUARY 4th to APRIL 3rd, 1969
APRIL 15th to JUNE 27th, 1969
and
SEPTEMBER 30th to DECEMBER 17th, 1969

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BILL 1

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Evidence Act

MR. WISHART

EXPLANATORY NOTE

The subsection is brought into accord with the *National Transportation Act* (Statutes of Canada 1966-67, chapter 69) which established the Canadian Transport Commission as the successor to the Board of Transport Commissioners of Canada.

BILL 1

1968-69

An Act to amend The Evidence Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 36 of *The Evidence Act* is amended by striking out "Board of Transport Commissioners of Canada" in the first and second lines and inserting in lieu thereof "Canadian Transport Commission".

R.S.O. 1960,
c. 125 s. 36
subs. 2,
amended

2. This Act may be cited as *The Evidence Amendment Act*, 1968-69.

Short title

An Act to amend The Evidence Act

1st Reading

November 19th, 1968

2nd Reading

3rd Reading

MR. WISHART

BILL 1

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Evidence Act

MR. WISHART

BILL 1

1968-69

An Act to amend The Evidence Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 36 of *The Evidence Act* is amended ^{R.S.O. 1960,} by striking out "Board of Transport Commissioners of ^{c. 125, s. 36,} Canada" in the first and second lines and inserting in lieu ^{subs. 2,} thereof "Canadian Transport Commission". ^{amended}

2. This Act may be cited as *The Evidence Amendment Act*, ^{Short title} 1968-69.

An Act to amend The Evidence Act

1st Reading

November 19th, 1968

2nd Reading

February 19th, 1969

3rd Reading

March 25th, 1969

Mr. WISNART

BILL 2

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Municipal Act

MR. MCKEOUGH

EXPLANATORY NOTES

SECTION 1. The amendment deletes a reference to the oath of allegiance in the Declaration of Qualification. The oath is now required to be taken before assuming office.

SECTION 2. Self-explanatory.

BILL 2

1968-69

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Form 1 of *The Municipal Act*, as amended by section 21 of *The Municipal Amendment Act, 1962-63*, is further amended by striking out item 6. R.S.O. 1960, c. 249, Form 1, amended

2. Notwithstanding the provisions of any general or special Act or any by-law, where in the year 1968 the day for polling for the election of members of council and for members of a divisional board of education in any municipality is the same, the polls in such municipality shall remain open from 10 o'clock in the forenoon to 8 o'clock in the afternoon, provided that the council of the municipality may by by-law passed at any time after the coming into force of this section change the time for opening and closing the polls so that they will remain open for not less than eight consecutive hours between 8 o'clock in the forenoon and 9 o'clock in the afternoon. Hours of polling where council and divisional board members elected on same day

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Municipal Amendment Act, 1968-69*. Short title

An Act to amend The Municipal Act

1st Reading

November 21st, 1968

2nd Reading

3rd Reading

MR. MCKEOWN

BILL 2

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Municipal Act

MR. McKEOUGH

BILL 2

1968-69

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Form 1 of *The Municipal Act*, as amended by section 21 of *The Municipal Amendment Act, 1962-63*, is further amended by striking out item 6. R.S.O. 1960, c. 249, Form 1, amended

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3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Municipal Amendment Act, 1968-69*. Short title

An Act to amend The Municipal Act

1st Reading

November 21st, 1968

2nd Reading

November 26th, 1968

3rd Reading

November 26th, 1968

Mr. McKeough

BILL 3

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to relieve Medical Practitioners from Liability
in respect of Voluntary Emergency Medical Services**

MR. SARGENT

EXPLANATORY NOTE

The purpose of the Bill is to relieve medical practitioners from liability in respect of voluntary medical services rendered at the scene of an accident or other emergency.

BILL 3

1968-69

**An Act to relieve Medical Practitioners
from Liability in respect of Voluntary
Emergency Medical Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "medical practitioner" means a person registered as a medical practitioner under *The Medical Act*. Interpre-
tation
R.S.O. 1960.
c. 234

2. Where a medical practitioner voluntarily and without expectation of compensation or reward renders medical services at the scene of an accident or other emergency to a person who is ill, injured or unconscious and the services are not rendered, Relief from
liability for
damages

(a) in a hospital;

(b) in his office or the office of another medical practitioner; or

(c) in any other place having adequate medical equipment,

he shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his part in rendering the medical services, unless it is established that the injuries or death were caused by gross negligence on his part.

3. Nothing in section 2 shall be deemed to relieve a medical practitioner from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the medical practitioner in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2. Act does
not apply
to normal
medical
services

**Commence-
ment** **4.** This Act comes into force on the day it receives Royal Assent.

Short title **5.** This Act may be cited as *The Voluntary Emergency Medical Services Act, 1968-69*.

An Act to relieve Medical Practitioners
from Liability in respect of Voluntary
Emergency Medical Services

1st Reading

November 22nd, 1968

2nd Reading

3rd Reading

Mr. SARGENT

BILL 4

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act respecting Ethics of Elected Representatives

MR. SHULMAN

EXPLANATORY NOTE

The Bill provides a code of ethics covering the use of influence and performance of services for gain and applies to members of the Legislative Assembly and members of municipal councils and school boards.

BILL 4

1968-69

An Act respecting Ethics of Elected Representatives

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act "elected representative" means a member of the Legislative Assembly, a member of a municipal council or a member of a school board. Interpre-
tation

2. No elected representative shall, Ethics

- (a) ask, receive or agree to receive any form of compensation, from a source other than public funds, for performing his duties as a public official or for services in connection with any judicial or administrative proceeding or activity wherein his official position might reasonably be expected to give him unusual influence;
- (b) ask, receive or agree to receive anything of value upon any understanding that his vote, opinion, judgment or action will be influenced thereby;
- (c) receive any gift having a value of \$25 or more under circumstances in which it could reasonably be inferred that the gift was made to influence him in the performance of his official duties; or
- (d) use his official position to secure privileges or exemptions for himself or others, or have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature that is in substantial conflict with the proper discharge of his duties in the public interest.

3. Each elected representative shall, on or before the 31st day of January in each year, file with,

Report of
financial
interest in
regulated
activities

- (a) in the case of a member of the Legislative Assembly, the Clerk of the Assembly;
- (b) in the case of a member of a municipal council, the clerk of the municipality; or
- (c) in the case of a member of a school board, the secretary of the board,

a written report in respect of the preceding calendar year, or part thereof in which he was an elected representative, of each financial interest, direct or indirect, of a value in excess of \$500 of himself, his spouse and his dependants in any activity that is regulated under the jurisdiction of the body on which he serves as an elected representative or any agency thereof.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Elected Representatives' Ethics Act, 1968-69*.

An Act respecting
Ethics of Elected Representatives

1st Reading

November 22nd, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 5

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Expropriations Act, 1968-69

MR. WISHART

EXPLANATORY NOTE

The Bill revises *The Expropriation Procedures Act, 1962-63* and incorporates the principal recommendations of the Law Reform Commission in its report on the Basis for Compensation on Expropriation and of the Royal Commission Inquiry into Civil Rights in section 1 of Part III of its first report.

The principal changes include:

1. Provision for approval by a politically responsible authority before an expropriation may proceed and an inquiry to determine the necessity, fairness and soundness of any particular expropriation.
2. The time limits are amended to reduce the time available for delays to an expropriating authority and to increase the time available to the owner before giving possession.
3. The Land Compensation Board is established to replace all tribunals determining compensation.
4. More particular provisions for procedures on arbitrations, including provisions for appeals, stated cases and quashing.
5. Provision for expropriated land intended to be abandoned to re-vest in the owner or to be taken and compensated for, at the option of the owner.
6. The owner to have an opportunity to repurchase his expropriated land if the expropriating authority disposes of it.
7. More detailed codification of the rules governing compensation.
8. Provision for compensation for market value plus expanded compensation for disturbance costs and damages for injurious affection.
9. Provision for awarding additional amounts sufficient to provide other accommodation at least equivalent.

The Expropriations Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

(a) “approving authority” means the approving authority as determined under section 5;

(b) “Board” means the Land Compensation Board established under section 28;

(c) “expropriate” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers, but does not include the taking of land for the widening of a highway where entry is deferred under section 338 of *The Municipal Act*;

R.S.O. 1960,
c. 249

(d) “expropriating authority” means the Crown or any person empowered by statute to expropriate land;

(e) “injurious affection” means,

(i) where a statutory authority acquires part of the land of an owner,

a. the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction or use, or both, of the works thereon, and

b. such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,

(ii) where the statutory authority does not acquire part of the land of an owner,

a. such reduction in the market value of the land of the owner, and

b. such personal and business damages,

resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purposes of this clause, part of the lands of an owner shall be deemed to have been acquired where the owner from whom lands are acquired retains lands contiguous to those acquired or retains lands of which the use is enhanced by unified ownership with those acquired;

- (f) "judge", except where otherwise described, means a judge of the county or district court of the county or district in which the land or the greater part of it is situate;
- (g) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (h) "owner" includes a mortgagee, lessee, tenant, occupant, execution creditor, a person entitled to a limited estate or interest in land, a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (i) "prescribed" means prescribed by the regulations made under this Act;
- (j) "purchase-money mortgage" means a mortgage given by a purchaser of land to the vendor of the land or his nominee as security for the payment of all or part of the consideration for the sale;
- (k) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, land titles or sheriff's office, and includes a person shown as a tenant of land on the last revised assessment roll;

(l) "security holder" means a person who has an interest in land as security for the payment of money;

(m) "statutory authority" means the Crown or any person empowered by statute to expropriate land or cause injurious affection. 1962-63, c. 43, s. 1, *amended*.

(2) Any document required by this Act to be served may be ^{Service} served personally or by registered mail addressed to the person to be served at his last-known address, or if that person or his address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made,

(a) in the case of service by registered mail, on the second day after the day of mailing; and

(b) in the case of service by publication, on the date of the third publication. *New*.

2—(1) Notwithstanding any general or special Act, where ^{Application of Act} land is expropriated or injurious affection is caused by a statutory authority, this Act applies. 1962-63, c. 43, s. 2 (1), *amended*.

(2) The provisions of any general or special Act providing ^{References in other Acts to R.S.O. 1960, cc. 249, 338, deemed references to this Act} procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection that refer to *The Municipal Act*, *The Public Works Act* or any other Act shall be deemed to refer to this Act and not to *The Municipal Act*, *The Public Works Act* or other Act, as the case may be. 1962-63, c. 43, s. 2 (5).

(3) This Act does not apply to the use of or injury to land ^{Application to 1962-63, c. 39} authorized under *The Drainage Act, 1962-63* for the purposes of a drainage works constructed under that Act or to any proceedings in connection therewith. 1965, c. 38, s. 1.

(4) Where there is conflict between a provision of this Act ^{Conflict} and a provision of any other general or special Act, the provision of this Act prevails. 1962-63, c. 43, s. 2 (4).

3. This Act binds the Crown. 1962-63, c. 43, s. 3. ^{Crown bound by Act}

4.—(1) An expropriating authority shall not expropriate ^{Approval of intention to expropriate} land without the approval of the approving authority as determined under section 5.

Gas storage
areas
excepted
1964, c. 74

(2) Subsection 1 does not apply to an authorization of the Ontario Energy Board under *The Ontario Energy Board Act, 1964* in respect of storage of gas in a gas storage area or to an expropriation authorized under section 40 of that Act. *New.*

Approving
authority

5.—(1) Subject to subsections 3, 4 and 5, the approving authority in respect of an expropriation shall be the Minister responsible for the administration of the Act in which the power to expropriate is granted, except that,

- (a) where a municipality or a local board thereof, other than an elected school board, expropriates lands for municipal purposes, the approving authority shall be the council of the municipality; and
- (b) where an elected school board expropriates lands, the approving authority shall be the school board.

Idem,
private
Acts

(2) Where the power to expropriate is granted in a private Act, the approving authority shall be,

- (a) in the case of universities or other educational institutions, the Minister of University Affairs;
- (b) in the case of hospitals or other medical or health institutions, the Minister of Health; and
- (c) in the case of all other corporations, the Provincial Secretary and Minister of Citizenship.

Idem,
public
works
R.S.O. 1960,
c. 338

(3) Where an expropriation is made under *The Public Works Act* for the benefit of a department or agency of the Ontario Government, the approving authority shall be the Minister for the department or responsible for the agency for the benefit of which the land is expropriated.

Idem,
Power
Commission
R.S.O. 1960,
c. 300

(4) Where an expropriation is made under *The Power Commission Act*, the approving authority shall be the Minister of Energy and Resources Management.

Idem,
other cases

(5) The approving authority in any case not provided for in this section shall be the Minister of Justice and Attorney General. *New.*

Notice of
intention
to expro-
pate

6.—(1) Upon applying for an approval under section 4, an expropriating authority shall serve a notice of its application for approval to expropriate upon each registered owner of the lands to be expropriated and shall publish the notice once a week for three consecutive weeks in a newspaper having general circulation in the locality in which the lands are situate.

(2) Any owner of lands in respect of which notice is given ^{Notification for hearing} under subsection 1 who desires a hearing, shall so notify the approving authority in writing,

(a) in the case of a registered owner, served personally or by registered mail within thirty days after he is served with the notice, or, when he is served by publication, within thirty days after the first publication of the notice;

(b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice.

(3) The Lieutenant Governor in Council may, in special ^{Order dispensing with inquiry} circumstances where he deems it necessary or expedient in the public interest to do so, direct that an intended expropriation shall proceed without the inquiry procedure and thereupon subsections 1 and 2 of this section, section 7 and subsections 1 and 2 of section 8 do not apply thereto.

(4) Where an order is made under subsection 3, the expropriating authority shall forthwith serve a copy of the order on each registered owner affected by the intended expropriation. ^{Service of order}
New.

7.—(1) The Minister of Justice and Attorney General ^{Appointment of inquiry officers} shall appoint a chief inquiry officer and such inquiry officers as he considers necessary.

(2) The chief inquiry officer shall have general supervision ^{Duties of chief inquiry officer} and direction over inquiry officers and the assignment of their duties.

(3) Where a notification is made under subsection 2 of section 6, the approving authority shall refer the matter to the chief inquiry officer who shall forthwith assign an inquiry officer who shall fix a time and place for a hearing and who shall cause notice of the hearing to be served on each party to the inquiry. ^{Hearing}

(4) At least five days before the date fixed for the hearing, ^{Notice of grounds} the expropriating authority shall serve upon each party to the inquiry a notice indicating the grounds upon which it intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans, that the expropriating authority intends to use at the hearing.

(5) The hearing shall be by means of an inquiry conducted ^{Inquiry} by the inquiry officer who shall inquire into whether the taking of the lands or any part of the lands of an owner or of

more than one owner of the same lands is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

Report

(6) The inquiry officer shall report to the approving authority a summary of the evidence and arguments advanced by the parties, the inquiry officer's findings of fact, and his opinion on the merits of the application for approval with his reasons therefor.

Combined inquiries

(7) The inquiry officer may combine two or more related inquiries and conduct them in all respects and for all purposes as one inquiry.

Parties

(8) The expropriating authority, each owner who notifies the approving authority that he desires a hearing in respect of the lands intended to be expropriated and any owner added as a party by the inquiry officer are parties to the inquiry.

Powers and duties of inquiry officer

(9) The inquiry officer,

- (a) may add any owner whose land would be affected by the expropriation of the lands concerned in the inquiry or any modification thereof as a party to the inquiry;
- (b) shall give every party to the inquiry an opportunity to present evidence and argument and to examine and cross-examine witnesses, either personally or by his counsel or agent;
- (c) is not bound by the technical or legal rules of evidence; and
- (d) may inspect the lands concerned either alone or in the presence of the parties. *New.*

Powers and duties of approving authority

8.—(1) The approving authority shall consider the report of the inquiry officer and shall approve or not approve the proposed expropriation or approve the proposed expropriation with such modifications as the approving authority considers proper, but an approval with modifications shall not affect the lands of a registered owner who is not or has not been made a party to the hearing.

Reasons

(2) The approving authority shall give written reasons for its decision and shall cause its decision and the reasons therefor to be served upon all the parties.

(3) The approving authority shall certify its approval in ^{Certificate} the prescribed form. *New.*

9.—(1) Where a proposed expropriation has been approved ^{Registration of plan} under this Act, the expropriating authority shall register, within three months after the granting of the approval in the proper registry or land titles office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority.

(2) Where the land is required for a limited time only or ^{Where land required temporarily, etc.} only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority.

(3) In the case of an omission, misstatement or erroneous ^{Correction of errors} description in a plan registered under this section, the expropriating authority may register in the proper registry or land titles office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby.

(4) Where a plan purports to have been signed by an ex- ^{Presumption as to signing} propriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board.

(5) Where a limited estate, right or interest in land is ^{Ontario Hydro R.S.O. 1960, c. 300} being taken under *The Power Commission Act* for an electrical transmission or distribution line carried on single poles, The Hydro-Electric Power Commission of Ontario may, before registering a plan under subsection 1, register in the proper registry or land titles office a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the secretary of the Commission and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a

plan registered under subsection 1, but a plan in accordance with subsection 1 shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. 1962-63, c. 43, s. 4, *amended*.

Notice of
expro-
priation

10.—(1) Where a plan has been registered under section 9 and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within thirty days after the date of registration of the plan, with a notice of expropriation of his land, in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Election of
date for
compen-
sation

(2) Where a plan has been registered under section 9, the registered owner may elect, by notice in writing served upon the expropriating authority, within thirty days after the owner was served with the notice under subsection 1, to have the compensation to which he is entitled assessed,

- (a) where there has been an inquiry, as of the date the notice of hearing before the inquiry officer was served;
- (b) as of the date of the registration of the plan; or
- (c) as of the date on which he was served with the notice of expropriation. 1962-63, c. 43, s. 5, *amended*.

Reparation

11. Where land is expropriated or is injuriously affected by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or to grant other lands, in which case the compensation shall be determined having regard to such undertaking, and, if the undertaking has not already been carried out, the Board may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to him. 1962-63, c. 43, s. 6 (2), *amended*.

Gas storage
areas
1964, c. 74

12. Section 21 of *The Ontario Energy Board Act, 1964* applies in respect of the use of designated gas storage areas. 1965, c. 38, s. 2, *part, amended*.

Compensation

13.—(1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act. 1962-63, c. 43, s. 6 (1), *amended*.

Idem

(2) Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon,

- (a) the market value of the land;

- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause *b* for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. *New.*

14.—(1) The market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer. ^{Market value}

(2) Where land is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner intends in good faith to relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent re-instatement. ^{Idem}

(3) Where only part of the land of an owner is taken and such part is of a size or shape for which there is no general demand or market, the market value and the injurious affection caused by the severance may be determined by determining the market value of the whole of the owner's land and deducting therefrom the market value of the owner's land after the severance is made. ^{Idem}

(4) In determining the market value of land, no account shall be taken of, ^{Idem}

- (a) the special use to which the expropriating authority will put the land;
- (b) any increase or decrease in the value of the land resulting from the imminence of the development in respect of which the expropriation is made or from any imminent prospect of expropriation;
- (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health. *New.*

15. Upon application therefor, the Board shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 1 of section 14, ^{Increase by Board}

award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his residence in accommodation that is at least equivalent to the accommodation expropriated. *New.*

Separate
interests

16. Where there are more separate interests than one in land, other than the interest of a security holder or a vendor under an agreement for sale, the market value of each such separate interest shall be valued separately. *New.*

Security
holders

17.—(1) Where land is subject to a security interest,

- (a) the value of the interest of the security holder shall be determined in accordance with this section and section 21 and not otherwise; and
- (b) the market value of the land shall be determined without regard to the interest of the security holder and the amount of such market value plus any damages for injurious affection shall stand in place of the land for the purposes of the security.

Payment
out of
market
value

(2) Security holders shall be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security, in accordance with their priorities, whether or not such principal and interest is due, without any bonus for prepayment except as provided in section 21.

Idem

(3) Where land held as security is expropriated in part or is injuriously affected a security holder is entitled to be paid to the extent possible in accordance with his priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, provided however, that the sum so determined shall be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection.

Allowance
for
disturbance
owner other
than tenant

18.—(1) The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs as are the natural and reasonable consequences of the expropriation, including,

- (a) where the premises taken include the owner's residence, an allowance to compensate for inconvenience and the cost of finding another residence of 5 per

cent of the compensation payable in respect of the market value of that part of the land expropriated that is used by the owner for residential purposes, provided that such part was not being offered for sale on the date of the expropriation;

- (b) where the premises taken do not include the owner's residence, the owner's costs of finding premises to replace those expropriated, provided that the lands were not being offered for sale on the date of expropriation; and
- (c) relocation costs, including,
 - (i) the moving costs, and
 - (ii) the legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises.

(2) The expropriating authority shall pay to a tenant^{tenant} occupying expropriated land such compensation for disturbance and relocation as is appropriate having regard to,

- (a) the length of the term;
- (b) the portion of the term remaining;
- (c) any rights to renew the tenancy or the reasonable prospects of renewal;
- (d) in the case of a business, the nature of the business; and
- (e) the extent of the tenant's investment in the land.
New.

19.—(1) Where a business is located on the land expro-^{Business} _{loss} priated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the expropriating authority otherwise agree, the business losses shall not be determined until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first.

(2) The Board may, in determining compensation on the application of the expropriating authority, or an owner, include an amount not exceeding the value of the good will^{Good will} of a business where the land is valued on the basis of its existing use and, in the opinion of the Board, it is not feasible for the owner to relocate. *New.*

Improvement

20. The owner of residential lands shall be compensated for improvements the value of which are not reflected in the market value of the land. *New.*

Prepayment of mortgage

21. Where a statutory authority prepays a mortgage in whole or in part, the statutory authority,

(a) shall pay to the mortgagee a bonus in respect of the prepayment amounting to,

(i) three months interest on the principal outstanding under the mortgage at the rate of 5 per cent a year or at such other rate as is prescribed by the Lieutenant Governor in Council by regulation, or

(ii) the value of any notice or bonus for prepayment provided for in the mortgage,

whichever is the lesser;

(b) shall pay to the mortgagee where,

(i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and

(ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,

an amount to compensate for the difference in the interest rates for the period for which the payment of principal provided for in the mortgage has been advanced, not to exceed five years; and

(c) shall pay to the mortgagor whose interest is expropriated an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference shall not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. *New.*

Compensation for injurious affection

22. A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. 1962-63, c. 43, s. 6 (1), *amended.*

Claim for compensation for injurious affection

23.—(1) Subject to subsection 2, a claim for compensation for injurious affection shall be made by the person suffering the damage or loss in writing with particulars of the claim

within one year after the damage was sustained or after it became known to him, and, if not so made, the right to compensation is forever barred.

(2) Where the person who is injuriously affected is an infant, a mental incompetent or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. 1962-63, c. 43, s. 7, *amended*.

Idem,
where
owner
under
disability

24. The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected shall be set-off only against the amount of the damages for injurious affection to the owner's land or remaining lands. *New*.

Set-off
against
damages

25.—(1) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within three months after the registration of a plan under section 9 and before taking possession of the land, serve upon the registered owner,

Offer and
payment
before
possession
or the time
for election
has expired
whichever
is the
earlier

- (a) an offer of an amount in full compensation for his interest; and
- (b) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

and shall offer the registered owner immediate payment of 100 per cent of the amount of the market value of the owner's land as estimated by the expropriating authority, and the payment and receipt of that sum is without prejudice to the rights conferred by this Act in respect of the determination of compensation and is subject to adjustment in accordance with any compensation that may subsequently be determined in accordance with this Act or agreed upon. 1962-63, c. 43, s. 8 (1), 18, *amended*.

(2) The expropriating authority shall base its offer of compensation made in subsection 1 upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made. *New*.

Furnishing
appraisal
report

(3) The expropriating authority may, within the period mentioned in subsection 1 and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to the judge for an order extending the time for serving the offer under subsection 1.

Extension
of period

Failure to serve

(4) If any registered owner is not served with the offer required to be served on him under subsection 1 within the time limited by subsection 1 or by an order of a judge under subsection 3, or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner shall be calculated from the date of registration of the plan. 1962-63, c. 43, s. 8 (1-3), *amended*.

Choice of proceedings, negotiation or arbitration

26. Where the statutory authority and the owner have not agreed upon the compensation payable under this Act and in the case of injurious affection, section 23 has been complied with, or, in the case of expropriation, section 25 has been complied with or the time for complying therewith has expired,

(a) the statutory authority or the owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that it or he, as the case may be, requires the compensation to be negotiated under section 27; or

(b) where the statutory authority and the owner have agreed to dispense with negotiation proceedings, the statutory authority or the owner may serve notice of arbitration upon the other of them and upon the Board to have the compensation determined by arbitration. 1965, c. 38, s. 2, *part, amended*.

Board of negotiation

27.—(1) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Quorum

(2) Any two of the members of the board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of sitting

(3) The board of negotiation may sit at any place in Ontario.

Negotiation of amount of compensation

(4) In any case in which a notice of negotiation is served, the board of negotiation shall, upon reasonable notice to the statutory authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

Inspection of land

(5) Before or during the negotiation proceedings, the board of negotiation shall inspect the land that has been expropriated or injuriously affected.

(6) If the negotiation proceedings do not result in a settlement of the compensation, the statutory authority or the owner may serve notice of arbitration upon the other of them, and upon the Board, stating that it or he, as the case may be, requires the compensation to be determined by arbitration as though the negotiation proceedings had not taken place. 1965, c. 38, s. 2, *part, amended*.

Where no settlement reached

28.—(1) The Land Compensation Board is established and shall be composed of a chairman and such number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council.

Land Compensation Board

(2) The chairman and vice-chairmen shall be members of the bar of one of the provinces of Canada.

Qualifications of chairman and vice-chairmen

(3) The chairman or a vice-chairman and two other members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board, except that in matters respecting a claim for compensation not exceeding \$1,000, one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction of the Board.

Quorum

(4) The Board may,

Powers of Board

- (a) administer oaths to witnesses and require them to give evidence under oath;
- (b) may issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) hold sittings at any place in Ontario and in more than one place at the same time.

(5) If any person,

Enforcement of summons

- (a) on being duly summoned as a witness before the Board makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

a member of the Board may certify the offence of that person under his hand to the High Court, and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Practice
and
procedure

(6) Subject to the approval of the Lieutenant Governor in Council, the Board shall make rules governing its practice and procedure and the exercise of its powers.

Registrar
and
employees
1961-62,
c. 121

(7) A registrar and such other officers and employees of the Board as are considered necessary shall be appointed under *The Public Service Act, 1961-62. New.*

Service of
appraisal
reports

29. At least five days before the date fixed for the hearing of an application before the Board, any party to the application shall serve upon each other party a copy of any appraisal report upon which it intends to rely at the hearing. *New.*

Duties of
Board

30.—(1) The Board shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement determine any other matter required by this or any other Act, to be determined by the Board.

Record

(2) All oral evidence submitted before the Board shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board, form the record.

Reasons

(3) The Board shall prepare and furnish the parties to an application with written reasons for its decision. *New.*

Stated
case

31.—(1) Where the jurisdiction of the Board or the validity of any decision, order, direction or other act of the Board is called into question by any person affected, the Board, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon is final and binding.

Order
directing
stated case

(2) If the Board refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the Board to state a case.

Proceedings
stayed
until case
determined

(3) Pending the decision of the stated case, no further proceedings in respect of the application shall be taken by the Board. *New.*

32.—(1) An appeal lies to the Court of Appeal from any ^{Appeals} determination or order of the Board.

(2) The practice and procedure as to the appeal and ^{Idem} proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court, except that the appeal may be taken at any time within six weeks from the day the determination or order was served on the parties, and the period of any vacation of the Supreme Court shall not be reckoned in computing such six weeks.

(3) An appeal under subsection 1 may be made on questions ^{Powers of Court of Appeal} of law or fact or both and the Court of Appeal,

(a) may refer any matter back to the Board; or

(b) may make any decision or order that the Board has power to make,

and may exercise the same powers that it exercises on an appeal from a judge of the High Court sitting without a jury.

(4) A judge of the Court of Appeal may extend the time ^{Extension of time for appeal} for appeal for such period as he considers proper. 1962-63, c. 43, s. 11, *amended*.

33.—(1) Where the amount to which an owner is entitled ^{Legal, appraisal and other costs} upon an expropriation is determined by the Board and the amount offered by the statutory authority is 95 per cent, or less, of the amount awarded by the Board, the statutory authority shall pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable.

(2) Where the amount to which an owner is entitled upon ^{Idem} an expropriation is determined by the Board and the amount offered by the statutory authority is greater than 95 per cent of the amount awarded by the Board, the Board may make such order for the payment of costs on a party and party basis as it considers appropriate. 1962-63, c. 43, s. 13, *amended*.

34.—(1) Subject to subsection 1 of section 9 and sub- ^{Interest} section 3 of section 25, the owner of lands expropriated is entitled to be paid interest on the portion of the market value of his interest in the land and on the portion of any allowance for injurious affection to which he is entitled, outstanding from time to time, at the rate of 5 per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands.

Variation of
interest

(2) Subject to subsection 3, where the Board is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent a year as appears reasonable.

Idem

(3) The interest to which an owner is entitled under subsection 1 shall not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, notwithstanding that the compensation as finally determined is less than the offer.

Idem

(4) Where the Board is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Board may order the expropriating authority to pay to the owner interest under subsection 1 at a rate exceeding 5 per cent a year but not exceeding 10 per cent a year. 1962-63, c. 43, s. 14, *amended*.

Abatement
of rent

35.—(1) Subject to subsection 2, where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease shall be abated *pro tanto*, as determined by the Board.

Frustration
of lease

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease shall be deemed to be frustrated from the date of the expropriation. *New*.

Character
of compensation

36. Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land.

Payment
of compensation
not exceeding
\$1,000

37. Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed \$1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. 1962-63, c. 43, s. 15.

38. Where an owner of the land is unknown, is under a disability or for any other reason is not represented, a judge of the Supreme Court may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Act, and any action of a person so appointed is binding on the person whom he represents. 1962-63, c. 43, s. 16.

Representative

39.—(1) In any case where the statutory authority deems it advisable, it may, without an order, pay the compensation agreed upon or determined into the office of the Accountant of the Supreme Court together with a sum equal to the interest thereon at the rate of 5 per cent a year for six months.

Payment into court

(2) Upon an application for payment out of court of compensation paid into court, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as he deems reasonable.

Payment out of court

(3) Where an order is obtained under subsection 2 in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the statutory authority.

Adjustment of interest

(4) Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge of the Supreme Court may appoint such person as he deems proper to represent them, and any order made under this section is binding on them. 1962-63, c. 43, s. 17.

Where unborn issue interested

40.—(1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection 3, shall take possession of the land on the date specified in the notice.

Possession of expropriated land

(2) The date for possession shall be at least ten days after the date of the serving of the notice of possession.

Date for possession

(3) A registered owner or an expropriating authority may, upon such notice as the judge directs, apply to a judge for an adjustment of the date for possession specified in the

Application for postponement of possession

notice of possession, and the judge, if he considers that under all the circumstances the application should be granted, may fix the date for possession. 1962-63, c. 43, s. 19, *amended*.

Warrant to put down resistance to entry, etc.

41.—(1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put down the resistance or opposition.

Hearing

(2) The judge shall, in writing, appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such person as he prescribes.

Issue of warrant

(3) On proof of the resistance or opposition, the judge may issue a warrant.

Return

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. 1962-63, c. 43, s. 20, *amended*.

Abandonment of expropriated land

42.—(1) Where, at any time before the compensation upon an expropriation is paid in full, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority shall so notify each owner of the abandoned land, or estate or interest, who is served or entitled to be served with the notice of expropriation, who may, by election in writing,

- (a) take the land, estate or interest back, in which case he has the right to compensation for consequential damages; or
- (b) require the expropriating authority to retain the land, estate or interest, in which case he has the right to full compensation therefor. *New*.

Revesting

(2) Where all the owners elect to take the land, estate or interest back under clause *a* of subsection 1, the expropriating authority may, by an instrument signed by it and registered in the proper registry or land titles office and served on each owner, declare that the land or part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon,

- (a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him; or

- (b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest. 1962-63, c. 43, s. 21 (1), *amended*.

43. Where lands that have been expropriated and are in the possession of the expropriating authority, are found by the expropriating authority to be no longer required for its purposes, the expropriating authority shall not, without the approval of the approving authority, dispose of the lands without giving the owners from whom the land was taken the first chance to repurchase the lands on the terms of the best offer received by the expropriating authority. *New*.

Disposal of expropriated lands

44. Any application to set aside or quash any proceeding or step taken under this Act shall be made within thirty days after the proceeding or step in respect of which the application is made, but this section does not apply where the applicant was entitled to and not given notice of the proceeding or step or where the proceeding or step was a nullity. *New*.

Time for application

45. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing rates of interest for the purposes of section 21;
- (b) prescribing forms for the purposes of this Act and providing for their use;
- (c) prescribing procedures respecting applications to and hearings by inquiry officers and boards of negotiation. *New*.

46.—(1) Sections 13 to 21 apply in respect of expropriations for which the compensation has not been settled or determined before this Act comes into force.

Application to existing proceedings

(2) Until section 28 is proclaimed in force, the Ontario Municipal Board shall be deemed to be the Land Compensation Board. *New*.

O.M.B. to be interim Land Compensation Board

47. *The Expropriation Procedures Act, 1962-63, The Expropriation Procedures Amendment Act, 1965 and The Expropriation Procedures Amendment Act, 1966* are repealed.

1962-63, c. 43, 1965, c. 38, 1966, c. 53, repealed

48.—(1) This Act, except section 28, comes into force on the day it receives Royal Assent.

Commencement

Idem (2) Section 28 comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title **49.** This Act may be cited as *The Expropriations Act, 1968-69*.

The Expropriations Act, 1968-69

1st Reading

November 25th, 1968

2nd Reading

3rd Reading

Mr. WISHART

BILL 5

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Expropriations Act, 1968-69

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill revises *The Expropriation Procedures Act, 1962-63* and incorporates the principal recommendations of the Law Reform Commission in its report on the Basis for Compensation on Expropriation and of the Royal Commission Inquiry into Civil Rights in section 1 of Part III of its first report.

The principal changes include:

1. Provision for approval by a politically responsible authority before an expropriation may proceed and an inquiry to determine the necessity, fairness and soundness of any particular expropriation.
2. The time limits are amended to reduce the time available for delays to an expropriating authority and to increase the time available to the owner before giving possession.
3. The Land Compensation Board is established to replace all tribunals determining compensation.
4. More particular provisions for procedures on arbitrations, including provisions for appeals, stated cases and quashing.
5. Provision for expropriated land intended to be abandoned to revert in the owner or to be taken and compensated for, at the option of the owner.
6. The owner to have an opportunity to repurchase his expropriated land if the expropriating authority disposes of it.
7. More detailed codification of the rules governing compensation.
8. Provision for compensation for market value plus expanded compensation for disturbance costs and damages for injurious affection.
9. Provision for awarding additional amounts sufficient to provide other accommodation at least equivalent.

BILL 5

1968-69

The Expropriations Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

(a) "approving authority" means the approving authority as determined under section 5;

(b) "Board" means the Land Compensation Board established under section 28;

(c) "expropriate" means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers, but does not include the taking of land for the widening of a highway where entry is deferred under section 338 of *The Municipal Act*;

R.S.O. 1960
c. 249

(d) "expropriating authority" means the Crown or any person empowered by statute to expropriate land;

(e) "injurious affection" means,

(i) where a statutory authority acquires part of the land of an owner,

a. the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and

b. such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,

(ii) where the statutory authority does not acquire part of the land of an owner,

a. such reduction in the market value of the land of the owner, and

b. such personal and business damages,

resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purposes of this clause, part of the lands of an owner shall be deemed to have been acquired where the owner from whom lands are acquired retains lands contiguous to those acquired or retains lands of which the use is enhanced by unified ownership with those acquired;

- (f) "judge", except where otherwise described, means a judge of the county or district court of the county or district in which the land or the greater part of it is situate;
- (g) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (h) "owner" includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (i) "prescribed" means prescribed by the regulations made under this Act;
- (j) "purchase-money mortgage" means a mortgage given by a purchaser of land to the vendor of the land or his nominee as security for the payment of all or part of the consideration for the sale;
- (k) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, land titles or sheriff's office, and includes a person shown as a tenant of land on the last revised assessment roll;

- (l) "security holder" means a person who has an interest in land as security for the payment of money;
- (m) "statutory authority" means the Crown or any person empowered by statute to expropriate land or cause injurious affection. 1962-63, c. 43, s. 1, *amended*.
- (n) "tenant" includes a lessee or occupant occupying premises under any tenancy whether written, oral or implied.

(2) Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at his last-known address, or if that person or his address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made,

- (a) in the case of service by registered mail, on the second day after the day of mailing; and
- (b) in the case of service by publication, on the date of the third publication. *New*.

2—(1) Notwithstanding any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies. 1962-63, c. 43, s. 2 (1), *amended*.

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection that refer to *The Municipal Act*, *The Public Works Act* or any other Act shall be deemed to refer to this Act and not to *The Municipal Act*, *The Public Works Act* or other Act, as the case may be. 1962-63, c. 43, s. 2 (5).

(3) This Act does not apply to the use of or injury to land authorized under *The Drainage Act, 1962-63* for the purposes of a drainage works constructed under that Act or to any proceedings in connection therewith. 1965, c. 38, s. 1.

(4) Where there is conflict between a provision of this Act and a provision of any other general or special Act, the provision of this Act prevails. 1962-63, c. 43, s. 2 (4).

3. This Act binds the Crown. 1962-63, c. 43, s. 3.

4.—(1) An expropriating authority shall not expropriate land without the approval of the approving authority as determined under section 5.

Gas storage
areas
excepted
1964, c. 74

(2) Subsection 1 does not apply to an authorization of the Ontario Energy Board under *The Ontario Energy Board Act, 1964* in respect of storage of gas in a gas storage area or to an expropriation authorized under section 40 of that Act. *New.*

Approving
authority

5.—(1) Subject to subsections 3, 4 and 5, the approving authority in respect of an expropriation shall be the Minister responsible for the administration of the Act in which the power to expropriate is granted, except that,

- (a) where a municipality or a local board thereof, other than an elected school board, expropriates lands for municipal purposes, the approving authority shall be the council of the municipality; and
- (b) where an elected school board expropriates lands, the approving authority shall be the school board.

Idem,
private
Acts

(2) Where the power to expropriate is granted in a private Act, the approving authority shall be,

- (a) in the case of universities or other educational institutions, the Minister of University Affairs;
- (b) in the case of hospitals or other medical or health institutions, the Minister of Health; and
- (c) in the case of all other corporations, the Provincial Secretary and Minister of Citizenship.

Idem,
public
works
R.S.O. 1960,
c. 338

(3) Where an expropriation is made under *The Public Works Act* for the benefit of a department or agency of the Ontario Government, the approving authority shall be the Minister for the department or responsible for the agency for the benefit of which the land is expropriated.

Idem,
Power
Commission
R.S.O. 1960,
c. 300

(4) Where an expropriation is made under *The Power Commission Act*, the approving authority shall be the Minister of Energy and Resources Management.

Idem,
other cases

(5) The approving authority in any case not provided for in this section shall be the Minister of Justice and Attorney General. *New.*

Notice of
intention
to expro-
prias

6.—(1) Upon applying for an approval under section 4, an expropriating authority shall serve a notice of its application for approval to expropriate upon each registered owner of the lands to be expropriated and shall publish the notice once a week for three consecutive weeks in a newspaper having general circulation in the locality in which the lands are situate.

(2) Any owner of lands in respect of which notice is given under subsection 1 who desires a hearing, shall so notify the approving authority in writing, ^{Notification for hearing}

- (a) in the case of a registered owner, served personally or by registered mail within thirty days after he is served with the notice, or, when he is served by publication, within thirty days after the first publication of the notice;
- (b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice.

(3) The Lieutenant Governor in Council may, in special circumstances where he deems it necessary or expedient in the public interest to do so, direct that an intended expropriation shall proceed without the inquiry procedure and thereupon subsections 1 and 2 of this section, section 7 and subsections 1 and 2 of section 8 do not apply thereto. ^{Order dispensing with inquiry}

(4) Where an order is made under subsection 3, the expropriating authority shall forthwith serve a copy of the order on each registered owner affected by the intended expropriation. ^{Service of order}

(5) The Minister of Justice and Attorney General shall, within thirty days after the commencement of each session of the Legislative Assembly, lay before the Assembly a copy of each order made theretofore under subsection 3 and not previously laid before the Assembly. ^{Report to assembly} *New.*

7.—(1) The Minister of Justice and Attorney General shall appoint a chief inquiry officer and such inquiry officers as he considers necessary. ^{Appointment of inquiry officers}

(2) The chief inquiry officer shall have general supervision and direction over inquiry officers and the assignment of their duties. ^{Duties of chief inquiry officer}

(3) Where a notification is made under subsection 2 of section 6, the approving authority shall refer the matter to the chief inquiry officer who shall forthwith assign an inquiry officer who shall fix a time and place for a hearing and who shall cause notice of the hearing to be served on each party to the inquiry. ^{Hearing}

(4) At least five days before the date fixed for the hearing, the expropriating authority shall serve upon each party to the inquiry a notice indicating the grounds upon which it intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans, that the expropriating authority intends to use at the hearing. ^{Notice of grounds}

- Inquiry** (5) The hearing shall be by means of an inquiry conducted by the inquiry officer who shall inquire into whether the taking of the lands or any part of the lands of an owner or of more than one owner of the same lands is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.
- Report** (6) The inquiry officer shall report to the approving authority a summary of the evidence and arguments advanced by the parties, the inquiry officer's findings of fact, and his opinion on the merits of the application for approval with his reasons therefor.
- Combined inquiries** (7) The inquiry officer may combine two or more related inquiries and conduct them in all respects and for all purposes as one inquiry.
- Parties** (8) The expropriating authority, each owner who notifies the approving authority that he desires a hearing in respect of the lands intended to be expropriated and any owner added as a party by the inquiry officer are parties to the inquiry.
- Powers and duties of inquiry officer** (9) The inquiry officer,
- (a) may add any owner whose land would be affected by the expropriation of the lands concerned in the inquiry or any modification thereof as a party to the inquiry;
 - (b) shall give every party to the inquiry an opportunity to present evidence and argument and to examine and cross-examine witnesses, either personally or by his counsel or agent;
 - (c) is not bound by the technical or legal rules of evidence; and
 - (d) may inspect the lands concerned either alone or in the presence of the parties.
- Costs** (10) The inquiry officer may recommend to the approving authority that a party to the inquiry be paid a fixed amount for his costs of the inquiry not to exceed \$200 and the approving authority may in its discretion order the expropriating authority to pay such costs forthwith. *New.*
- Powers and duties of approving authority** 8.—(1) The approving authority shall consider the report of the inquiry officer and shall approve or not approve the proposed expropriation or approve the proposed expropri-

ation with such modifications as the approving authority considers proper, but an approval with modifications shall not affect the lands of a registered owner who is not or has not been made a party to the hearing.

(2) The approving authority shall give written reasons for its decision and shall cause its decision and the reasons therefor to be served upon all the parties within 90 days after the date upon which the report of the inquiry officer is received by the approving authority. ^{Reasons}

(3) The approving authority shall certify its approval in the prescribed form. ^{Certificate} *New.*

9.—(1) Where a proposed expropriation has been approved under this Act or under *The Ontario Energy Board Act, 1964*, the expropriating authority shall register, within three months after the granting of the approval in the proper registry or land titles office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority. ^{Registration of Plan, 1964, c. 74}

(2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority. ^{Where land required temporarily, etc.}

(3) In the case of an omission, misstatement or erroneous description in a plan registered under this section, the expropriating authority may register in the proper registry or land titles office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby. ^{Correction of errors}

(4) Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board. ^{Presumption as to signing}

Ontario
Hydro
H.S.O. 1960.
c. 300

(5) Where a limited estate, right or interest in land is being taken under *The Power Commission Act* for an electrical transmission or distribution line carried on single poles, The Hydro-Electric Power Commission of Ontario may, before registering a plan under subsection 1, register in the proper registry or land titles office a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the secretary of the Commission and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection 1, but a plan in accordance with subsection 1 shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. 1962-63, c. 43, s. 4, *amended*.

Notice of
expro-
priation

10.—(1) Where a plan has been registered under section 9 and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within thirty days after the date of registration of the plan, with a notice of expropriation of his land, in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Election of
date for
compen-
sation

(2) Where a plan has been registered under section 9, the registered owner may elect, by notice in writing served upon the expropriating authority, within thirty days after the owner was served with the notice under subsection 1, to have the compensation to which he is entitled assessed,

- (a) where there has been an inquiry, as of the date the notice of hearing before the inquiry officer was served;
- (b) as of the date of the registration of the plan; or
- (c) as of the date on which he was served with the notice of expropriation.

and, where the election is not made within the prescribed time, the owner shall be deemed to have elected to have the compensation assessed as of the date of the registration of the plan. 1962-63, c. 43, s. 5, *amended*.

Entry on
land for
appraisal

(3) An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given,

the expropriating authority may apply to the Board which may, by order, authorize the entry upon such terms and conditions as are specified in the order. *New.*

11. Where land is expropriated or is injuriously affected by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or to grant other lands, in which case the compensation shall be determined having regard to such undertaking, and, if the undertaking has not already been carried out, the Board may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to him. 1962-63, c. 43, s. 6 (2), *amended*. ^{Reparation}

12. Section 21 of *The Ontario Energy Board Act, 1964* applies in respect of the use of designated gas storage areas. 1964, c. 74 1965, c. 38, s. 2, *part, amended*. ^{Gas storage areas}

13.—(1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act. 1962-63, c. 43, s. 6 (1), *amended*. ^{Compensation}

(2) Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon, ^{idem}

- (a) the market value of the land;
- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause *b* for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. *New.*

14.—(1) The market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer. ^{Market value}

(2) Where the land expropriated is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner intends in good faith to relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent re-instatement. ^{idem}

- Idem** (3) Where only part of the land of an owner is taken and such part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner's land and deducting therefrom the market value of the owner's land after the taking.
- Idem** (4) In determining the market value of land, no account shall be taken of,
- (a) the special use to which the expropriating authority will put the land;
 - (b) any increase or decrease in the value of the land resulting from the imminence of the development in respect of which the expropriation is made or from any imminent prospect of expropriation;
 - (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health. *New.*
- Increase by Board** **15.** Upon application therefor, the Board shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 1 of section 14, award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his residence in accommodation that is at least equivalent to the accommodation expropriated. *New.*
- Separate interests** **16.** Where there are more separate interests than one in land, other than the interest of a security holder or a vendor under an agreement for sale, the market value of each such separate interest shall be valued separately. *New.*
- Interpretation** **17.** —(1) In this section, "bonus" means the amount by which the amount secured under a mortgage exceeds the amount actually advanced.
- Security holders** (2) Where land is subject to a security interest,
- (a) the value of the interest of the security holder shall be determined in accordance with this section and section 20 and not otherwise; and
 - (b) the market value of the land shall be determined without regard to the interest of the security holder and the amount of such market value plus any damages for injurious affection shall stand in place of the land for the purposes of the security.

(3) Security holders shall be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security, in accordance with their priorities, whether or not such principal and interest is due and subject to subsections 4 and 5. ^{Payment out of market value}

(4) Where the land is subject to a mortgage and the amount payable to the mortgagee under subsection 3 is insufficient to satisfy the mortgage in full, ^{Bonus}

(a) where the mortgage is a purchase-money mortgage, the mortgage shall be deemed to be fully paid, satisfied and discharged for all purposes; and

(b) where the mortgage is not a purchase-money mortgage and includes a bonus,

(i) the amount by which the amount payable to the mortgagee under subsection 3 is insufficient to pay the amount remaining unpaid under the mortgage; or

(ii) the amount of the bonus,

whichever is the lesser, shall be deemed to be fully paid and satisfied for all purposes.

(5) No amount shall be paid in respect of a bonus until all security holders have been paid all amounts payable other than any bonus. ^{Idem}

(6) Where land held as security is expropriated in part or is injuriously affected a security holder is entitled to be paid to the extent possible in accordance with his priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, provided however, that the sum so determined shall be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection. *New.* ^{Idem}

18.—(1) The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs as are the natural and reasonable consequences of the expropriation, including, ^{Allowance for disturbance owner other than tenant}

(a) where the premises taken include the owner's residence,

- (i) an allowance to compensate for inconvenience and the cost of finding another residence of 5 per cent of the compensation payable in respect of the market value of that part of the land expropriated that is used by the owner for residential purposes, provided that such part was not being offered for sale on the date of the expropriation, and
 - (ii) an allowance for improvements the value of which is not reflected in the market value of the land;
- (b) where the premises taken do not include the owner's residence, the owner's costs of finding premises to replace those expropriated, provided that the lands were not being offered for sale on the date of expropriation; and
- (c) relocation costs, including,
- (i) the moving costs, and
 - (ii) the legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises.

Tenant

(2) The expropriating authority shall pay to a tenant occupying expropriated land in respect of disturbance so much of the cost referred to in subsection 1 as is appropriate having regard to,

- (a) the length of the term;
 - (b) the portion of the term remaining;
 - (c) any rights to renew the tenancy or the reasonable prospects of renewal;
 - (d) in the case of a business, the nature of the business; and
 - (e) the extent of the tenant's investment in the land.
- New.*

Business
loss

19.—(1) Where a business is located on the land expropriated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the expropriating authority otherwise agree, the business

losses shall not be determined until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first.

(2) The Board may, in determining compensation on the application of the expropriating authority, or an owner, include an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Board, it is not feasible for the owner to relocate. *New.*

20. Where a statutory authority prepays a mortgage in whole or in part, the statutory authority,

(a) shall pay to the mortgagee a bonus in respect of the prepayment amounting to,

(i) three months interest on the amount of principal prepaid at the rate of 6 per cent a year or at such other rate as is prescribed by the Lieutenant Governor in Council by regulation, or

(ii) the value of any notice or bonus for prepayment provided for in the mortgage,

whichever is the lesser;

(b) shall pay to the mortgagee where,

(i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and

(ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,

an amount to compensate for the difference in the interest rates for the period for which the amount of principal prepaid has been advanced, not to exceed five years; and

(c) shall pay to the mortgagor whose interest is expropriated an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference shall not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. *New.*

Compensation for injurious affection

21. A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. 1962-63, c. 43, s. 6 (1), *amended*.

Claim for compensation for injurious affection

22.—(1) Subject to subsection 2, a claim for compensation for injurious affection shall be made by the person suffering the damage or loss in writing with particulars of the claim within one year after the damage was sustained or after it became known to him, and, if not so made, the right to compensation is forever barred.

Idem, where owner under disability

(2) Where the person who is injuriously affected is an infant, a mental incompetent or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. 1962-63, c. 43, s. 7, *amended*.

Set-off against damages

23. The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected shall be set-off only against the amount of the damages for injurious affection to the owner's land or remaining lands. *New*.

Agreements

24. A statutory authority has the authority to make and perform an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner and notwithstanding that this Act requires the claim to be determined by the Board. *New*.

Offer

25.—(1) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within three months after the registration of a plan under section 9 and before taking possession of the land,

- (a) serve upon the registered owner,
 - (i) an offer of an amount in full compensation for his interest, and
 - (ii) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection 1 of section 19; and

- (b) offer the registered owner immediate payment of 100 per cent of the amount of the market value of

the owner's land as estimated by the expropriating authority, and the payment and receipt of that sum is without prejudice to the rights conferred by this Act in respect of the determination of compensation and is subject to adjustment in accordance with any compensation that may subsequently be determined in accordance with this Act or agreed upon. 1962-63. c. 43, ss. 8 (1), 18, *amended*.

(2) The expropriating authority shall base its offer of compensation made under subsection 1 upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made. ^{Furnishing appraisal report}

(3) The expropriating authority may, within the period mentioned in subsection 1 and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to the judge for an order extending any time referred to in subsection 1, and the judge may in his order authorize the statutory authority to take possession of the land before the expiration of the extended time for serving the offer or statement under clause *a* of subsection 1 upon such conditions as are specified in the order. *New*. ^{Extension of time}

(4) If any registered owner is not served with the offer required to be served on him under subsection 1 within the time limited by subsection 1 or by an order of a judge under subsection 3, or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner shall be calculated from the date of registration of the plan. 1962-63, c. 43, s. 8 (1-3), *amended*. ^{Failure to serve}

26. Where the statutory authority and the owner have not agreed upon the compensation payable under this Act and in the case of injurious affection, section 22 has been complied with, or, in the case of expropriation, section 25 has been complied with or the time for complying therewith has expired, ^{Choice of proceedings, negotiation or arbitration}

(a) the statutory authority or the owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that it or he, as the case may be, requires the compensation to be negotiated under section 27; or

(b) where the statutory authority and the owner have agreed to dispense with negotiation proceedings, the statutory authority or the owner may serve notice of arbitration upon the other of them and upon the

Board to have the compensation determined by arbitration. 1965, c. 38, s. 2, *part, amended*.

Board of negotiation

27.—(1) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Quorum

(2) Any two of the members of the board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of sitting

(3) The board of negotiation may sit at any place in Ontario.

Negotiation of amount of compensation

(4) In any case in which a notice of negotiation is served, the board of negotiation shall, upon reasonable notice to the statutory authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

Inspection of land

(5) Before or during the negotiation proceedings, the board of negotiation shall inspect the land that has been expropriated or injuriously affected.

Where no settlement reached

(6) If the negotiation proceedings do not result in a settlement of the compensation, the statutory authority or the owner may serve notice of arbitration upon the other of them, and upon the Board, stating that it or he, as the case may be, requires the compensation to be determined by arbitration as though the negotiation proceedings had not taken place. 1965, c. 38, s. 2, *part, amended*.

Land Compensation Board

28.—(1) The Land Compensation Board is established and shall be composed of a chairman and such number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council.

Qualifications of chairman and vice-chairmen

(2) The chairman and vice-chairmen shall be members of the bar of one of the provinces of Canada.

Quorum

(3) The chairman or a vice-chairman and two other members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board, except that in matters respecting a claim for compensation not exceeding \$1,000, one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction of the Board.

(4) The Board may,

Powers
of Board

- (a) administer oaths to witnesses and require them to give evidence under oath;
- (b) may issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) hold sittings at any place in Ontario and in more than one place at the same time.

(5) If any person,

- (a) on being duly summoned as a witness before the Board makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

Enforce-
ment of
summons

a member of the Board may certify the offence of that person under his hand to the High Court, and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

(6) Subject to the approval of the Lieutenant Governor in Council, the Board shall make rules governing its practice and procedure and the exercise of its powers.

Practice
and
procedure

(7) A registrar and such other officers and employees of the Board as are considered necessary shall be appointed under *The Public Service Act, 1961-62. New.*

Registrar
and
employees
1961-62,
c. 121

29.—(1) At least fifteen days before the date fixed for the hearing of an application before the Board, any party to the application shall serve upon each other party a copy of any appraisal report upon which it intends to rely at the hearing. *New.*

Service of
appraisal
reports

(2) Where it is intended by a party to adduce evidence as to compensation by persons entitled by law or custom to give

Expert
evidence
as to
compen-
sation

opinion evidence, not more than three such persons may be called by either party without the leave of the Board. *New.*

Duties of Board

30.—(1) The Board shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement determine any other matter required by this or any other Act, to be determined by the Board.

Record

(2) All oral evidence submitted before the Board shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board, form the record.

Reasons

(3) The Board shall prepare and furnish the parties to an application with written reasons for its decision.

Reports

(4) The Board may prepare and periodically publish a summary of such of its decisions and the reasons therefor, as the Board considers to be of general public significance. *New.*

Stated case

31.—(1) Where the jurisdiction of the Board or the validity of any decision, order, direction or other act of the Board is called into question by any person affected, the Board, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon is final and binding.

Order directing stated case

(2) If the Board refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the Board to state a case.

Proceedings stayed until case determined

(3) Pending the decision of the stated case, no further proceedings in respect of the application shall be taken by the Board.

Appeals

32.—(1) An appeal lies to the Court of Appeal from any determination or order of the Board.

Idem

(2) The practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court, except that the appeal may be taken at any time within six weeks from the day the determination or order was served on the parties, and the period of any vacation of the Supreme Court shall not be reckoned in computing such six weeks.

Powers of Court of Appeal

(3) An appeal under subsection 1 may be made on questions of law or fact or both and the Court of Appeal,

(a) may refer any matter back to the Board; or

(b) may make any decision or order that the Board has power to make,

and may exercise the same powers that it exercises on an appeal from a judge of the High Court sitting without a jury.

(4) A judge of the Court of Appeal may extend the time ^{Extension of time for appeal} for appeal for such period as he considers proper. 1962-63, c. 43, s. 11, *amended*.

33.—(1) Where the amount to which an owner is entitled ^{Costs} upon an expropriation is determined by the Board and the amount awarded by the Board is 85 per cent, or more, of the amount offered by the statutory authority, the Board shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable.

(2) Where the amount to which an owner is entitled upon an ^{Idem} expropriation is determined by the Board and the amount awarded by the Board is less than 85 per cent of the amount offered by the statutory authority, the Board may make such order for the payment of costs on a party and party basis as it considers appropriate. 1962-63, c. 43, s. 13, *amended*.

34.—(1) Subject to subsection 4 of section 25, the owner of ^{Interest} lands expropriated is entitled to be paid interest on the portion of the market value of his interest in the land and on the portion of any allowance for injurious affection to which he is entitled, outstanding from time to time, at the rate of 6 per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands.

(2) Subject to subsection 3, where the Board is of the ^{Variation of interest} opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable.

(3) The interest to which an owner is entitled under sub-^{Idem}section 1 shall not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, notwithstanding that the compensation as finally determined is less than the offer.

(4) Where the Board is of the opinion that any delay in ^{Idem}determining compensation is attributable in whole or in part to the expropriating authority, the Board may order the expropriating authority to pay to the owner interest under subsection 1 at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year. 1962-63, c. 43, s. 14, *amended*.

Abatement
of rent

35.—(1) Subject to subsection 2, where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease shall be abated *pro tanto*, as determined by the Board.

Frustration
of lease

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease shall be deemed to be frustrated from the date of the expropriation. *New.*

Character
of compensation

36. Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land. 1962-63, c. 43, s. 15 (1).

Payment
of compensation
not exceeding
\$1,000

37. Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed \$1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. 1962-63, c. 43, s. 15 (2).

Representative

38. Where an owner of the land is unknown, is under a disability or for any other reason is not represented, a judge of the Supreme Court may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Act, and any action of a person so appointed is binding on the person whom he represents. 1962-63, c. 43, s. 16.

Payment
into court

39.—(1) In any case where the statutory authority deems it advisable, it may, without an order, pay the compensation agreed upon or determined into the office of the Accountant of the Supreme Court together with a sum equal to the interest thereon at the rate of 6 per cent a year for six months.

Payment
out of
court

(2) Upon an application for payment out of court of compensation paid into court, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as he deems reasonable.

(3) Where an order is obtained under subsection 2 in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the statutory authority. Adjustment of interest

(4) Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge of the Supreme Court may appoint such person as he deems proper to represent them, and any order made under this section is binding on them. 1962-63, c. 43, s. 17. Where unborn issue interested

40.—(1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection 3, shall take possession of the land on the date specified in the notice. Possession of expropriated land

(2) Subject to subsection 3, the date for possession shall be at least three months after the date of the serving of the notice of possession. Date for possession

(3) A registered owner or an expropriating authority may, upon such notice as the judge directs, apply to a judge for an adjustment of the date for possession specified in the notice of possession, and the judge, if he considers that under all the circumstances the application should be granted, may order that the date for possession shall be on such earlier or later date as is specified in the order. 1962-63, c. 43, s. 19, *amended*. Application for postponement of possession

41.—(1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put down the resistance or opposition. Warrant to put down resistance to entry, etc.

(2) The judge shall, in writing, appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such person as he prescribes. Hearing

(3) On proof of the resistance or opposition, the judge may issue a warrant. Issue of warrant

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. 1962-63, c. 43, s. 20, *amended*. Return

Abandonment of expropriated land

42.—(1) Where, at any time before the compensation upon an expropriation is paid in full, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority shall so notify each owner of the abandoned land, or estate or interest, who is served or entitled to be served with the notice of expropriation, who may, by election in writing,

- (a) take the land, estate or interest back, in which case he has the right to compensation for consequential damages; or
- (b) require the expropriating authority to retain the land, estate or interest, in which case he has the right to full compensation therefor. *New.*

Revesting

(2) Where all the owners elect to take the land, estate or interest back under clause *a* of subsection 1, the expropriating authority may, by an instrument signed by it and registered in the proper registry or land titles office and served on each owner, declare that the land or part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon,

- (a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him; or
- (b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest. 1962-63, c. 43, s. 21 (1), *amended.*

Disposal of expropriated lands

43. Where lands that have been expropriated and are in the possession of the expropriating authority, are found by the expropriating authority to be no longer required for its purposes, the expropriating authority shall not, without the approval of the approving authority, dispose of the lands without giving the owners from whom the land was taken the first chance to repurchase the lands on the terms of the best offer received by the expropriating authority. *New.*

Time for application

44. Any application to set aside or quash any proceeding or step taken under this Act shall be made within thirty days after the proceeding or step in respect of which the application is made, but this section does not apply where the applicant was entitled to and not given notice of the proceeding or step or where the proceeding or step was a nullity. *New.*

45. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing rates of interest for the purposes of section 20;
- (b) prescribing forms for the purposes of this Act and providing for their use;
- (c) prescribing procedures respecting applications to and hearings by inquiry officers and boards of negotiation. *New.*

46.—(1) This Act applies in respect of expropriations for which a plan has not been registered under section 4 of *The Expropriation Procedures Act, 1962-63* before this Act comes into force, and an expropriation for which a plan has been registered under section 4 of the said Act before this Act comes into force shall be continued in accordance with *The Expropriation Procedures Act, 1962-63*, except that where the compensation has not been agreed upon between the parties and no evidence has been heard by a tribunal under *The Expropriation Procedures Act, 1962-63*, other than the board of negotiation, sections 13 to 21, 23, 24, 29, 33, 34, 35 and 42 apply thereto. ^{Application to existing proceedings R.S.O. 1960. c. 43}

(2) Until section 28 is proclaimed in force, the Ontario Municipal Board shall be deemed to be the Land Compensation Board. *New.* ^{O.M.B. to be interim Land Compensation Board}

47. *The Expropriation Procedures Act, 1962-63, The Expropriation Procedures Amendment Act, 1965* and *The Expropriation Procedures Amendment Act, 1966* are repealed. ^{1962-63. c. 43; 1965. c. 38; 1966. c. 53. repealed}

48.—(1) This Act, except section 28, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Section 28 comes into force on a day to be named by the Lieutenant Governor by his proclamation. ^{Idem}

49. This Act may be cited as *The Expropriations Act*, ^{Short title} 1968-69.



The Expropriations Act, 1968-69

1st Reading

November 25th, 1968

2nd Reading

December 4th, 1968

3rd Reading

MR. WISNART

*(Reprinted as amended by the Committee
of the Whole House)*

BILL 5

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Expropriations Act, 1968-69

MR. WISHART

BILL 5

1968-69

The Expropriations Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

(a) “approving authority” means the approving authority as determined under section 5;

(b) “Board” means the Land Compensation Board established under section 28;

(c) “expropriate” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers, but does not include the taking of land for the widening of a highway where entry is deferred under section 338 of *The Municipal Act*;

R.S.O. 1960,
c. 249

(d) “expropriating authority” means the Crown or any person empowered by statute to expropriate land;

(e) “injurious affection” means,

(i) where a statutory authority acquires part of the land of an owner,

a. the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and

b. such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,

(ii) where the statutory authority does not acquire part of the land of an owner,

a. such reduction in the market value of the land of the owner, and

b. such personal and business damages,

resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute.

and for the purposes of this clause, part of the lands of an owner shall be deemed to have been acquired where the owner from whom lands are acquired retains lands contiguous to those acquired or retains lands of which the use is enhanced by unified ownership with those acquired;

- (f) "judge", except where otherwise described, means a judge of the county or district court of the county or district in which the land or the greater part of it is situate;
- (g) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (h) "owner" includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
- (i) "prescribed" means prescribed by the regulations made under this Act;
- (j) "purchase-money mortgage" means a mortgage given by a purchaser of land to the vendor of the land or his nominee as security for the payment of all or part of the consideration for the sale;
- (k) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, land titles or sheriff's office, and includes a person shown as a tenant of land on the last revised assessment roll;

- (l) "security holder" means a person who has an interest in land as security for the payment of money;
- (m) "statutory authority" means the Crown or any person empowered by statute to expropriate land or cause injurious affection.
- (n) "tenant" includes a lessee or occupant occupying premises under any tenancy whether written, oral or implied. 1962-63, c. 43, s. 1, *amended*.

(2) Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at his last-known address, or if that person or his address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made, Service

- (a) in the case of service by registered mail, on the second day after the day of mailing; and
- (b) in the case of service by publication, on the date of the third publication. *New*.

2—(1) Notwithstanding any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies. 1962-63, c. 43, s. 2 (1), *amended*. Application of Act

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection that refer to *The Municipal Act, The Public Works Act* or any other Act shall be deemed to refer to this Act and not to *The Municipal Act, The Public Works Act* or other Act, as the case may be. 1962-63, c. 43, s. 2 (5). References in other Acts to R.S.O. 1960, c. 249, 338, deemed references to this Act

(3) This Act does not apply to the use of or injury to land authorized under *The Drainage Act, 1962-63* for the purposes of a drainage works constructed under that Act or to any proceedings in connection therewith. 1965, c. 38, s. 1. Application to 1962-63, c. 39

(4) Where there is conflict between a provision of this Act and a provision of any other general or special Act, the provision of this Act prevails. 1962-63, c. 43, s. 2 (4). Conflict

3. This Act binds the Crown. 1962-63, c. 43, s. 3. Crown bound by Act

4.—(1) An expropriating authority shall not expropriate land without the approval of the approving authority as determined under section 5. Approval of intention to expropriate

Gas storage
areas
excepted
1964, c. 74

(2) Subsection 1 does not apply to an authorization of the Ontario Energy Board under *The Ontario Energy Board Act, 1964* in respect of storage of gas in a gas storage area or to an expropriation authorized under section 40 of that Act. *New.*

Approving
authority

5.—(1) Subject to subsections 3, 4 and 5, the approving authority in respect of an expropriation shall be the Minister responsible for the administration of the Act in which the power to expropriate is granted, except that,

- (a) where a municipality or a local board thereof, other than an elected school board, expropriates lands for municipal purposes, the approving authority shall be the council of the municipality; and
- (b) where an elected school board expropriates lands, the approving authority shall be the school board.

Idem,
private
Acts

(2) Where the power to expropriate is granted in a private Act, the approving authority shall be,

- (a) in the case of universities or other educational institutions, the Minister of University Affairs;
- (b) in the case of hospitals or other medical or health institutions, the Minister of Health; and
- (c) in the case of all other corporations, the Provincial Secretary and Minister of Citizenship.

Idem,
public
works
R.S.O. 1960,
c. 338

(3) Where an expropriation is made under *The Public Works Act* for the benefit of a department or agency of the Ontario Government, the approving authority shall be the Minister for the department or responsible for the agency for the benefit of which the land is expropriated.

Idem,
Power
Commission
R.S.O. 1960,
c. 300

(4) Where an expropriation is made under *The Power Commission Act*, the approving authority shall be the Minister of Energy and Resources Management.

Idem,
other cases

(5) The approving authority in any case not provided for in this section shall be the Minister of Justice and Attorney General. *New.*

Notice of
intention
to expro-
pate

6.—(1) Upon applying for an approval under section 4, an expropriating authority shall serve a notice of its application for approval to expropriate upon each registered owner of the lands to be expropriated and shall publish the notice once a week for three consecutive weeks in a newspaper having general circulation in the locality in which the lands are situate.

(2) Any owner of lands in respect of which notice is given under subsection 1 who desires a hearing, shall so notify the approving authority in writing, ^{Notification for hearing}

- (a) in the case of a registered owner, served personally or by registered mail within thirty days after he is served with the notice, or, when he is served by publication, within thirty days after the first publication of the notice;
- (b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice.

(3) The Lieutenant Governor in Council may, in special circumstances where he deems it necessary or expedient in the public interest to do so, direct that an intended expropriation shall proceed without the inquiry procedure and thereupon subsections 1 and 2 of this section, section 7 and subsections 1 and 2 of section 8 do not apply thereto. ^{Order dispensing with inquiry}

(4) Where an order is made under subsection 3, the expropriating authority shall forthwith serve a copy of the order on each registered owner affected by the intended expropriation. ^{Service of order}

(5) The Minister of Justice and Attorney General shall, within thirty days after the commencement of each session of the Legislative Assembly, lay before the Assembly a copy of each order made theretofore under subsection 3 and not previously laid before the Assembly. *New.* ^{Report to assembly}

7.—(1) The Minister of Justice and Attorney General shall appoint a chief inquiry officer and such inquiry officers as he considers necessary. ^{Appointment of inquiry officers}

(2) The chief inquiry officer shall have general supervision and direction over inquiry officers and the assignment of their duties. ^{Duties of chief inquiry officer}

(3) Where a notification is made under subsection 2 of section 6, the approving authority shall refer the matter to the chief inquiry officer who shall forthwith assign an inquiry officer who shall fix a time and place for a hearing and who shall cause notice of the hearing to be served on each party to the inquiry. ^{Hearing}

(4) At least five days before the date fixed for the hearing, the expropriating authority shall serve upon each party to the inquiry a notice indicating the grounds upon which it intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans, that the expropriating authority intends to use at the hearing. ^{Notice of grounds}

- Inquiry** (5) The hearing shall be by means of an inquiry conducted by the inquiry officer who shall inquire into whether the taking of the lands or any part of the lands of an owner or of more than one owner of the same lands is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.
- Report** (6) The inquiry officer shall report to the approving authority a summary of the evidence and arguments advanced by the parties, the inquiry officer's findings of fact, and his opinion on the merits of the application for approval with his reasons therefor.
- Combined inquiries** (7) The inquiry officer may combine two or more related inquiries and conduct them in all respects and for all purposes as one inquiry.
- Parties** (8) The expropriating authority, each owner who notifies the approving authority that he desires a hearing in respect of the lands intended to be expropriated and any owner added as a party by the inquiry officer are parties to the inquiry.
- Powers and duties of inquiry officer** (9) The inquiry officer,
- (a) may add any owner whose land would be affected by the expropriation of the lands concerned in the inquiry or any modification thereof as a party to the inquiry;
 - (b) shall give every party to the inquiry an opportunity to present evidence and argument and to examine and cross-examine witnesses, either personally or by his counsel or agent;
 - (c) is not bound by the technical or legal rules of evidence; and
 - (d) may inspect the lands concerned either alone or in the presence of the parties.
- Costs** (10) The inquiry officer may recommend to the approving authority that a party to the inquiry be paid a fixed amount for his costs of the inquiry not to exceed \$200 and the approving authority may in its discretion order the expropriating authority to pay such costs forthwith. *New.*
- Powers and duties of approving authority** 8.—(1) The approving authority shall consider the report of the inquiry officer and shall approve or not approve the proposed expropriation or approve the proposed expropri-

ation with such modifications as the approving authority considers proper, but an approval with modifications shall not affect the lands of a registered owner who is not or has not been made a party to the hearing.

(2) The approving authority shall give written reasons for its decision and shall cause its decision and the reasons therefor to be served upon all the parties within 90 days after the date upon which the report of the inquiry officer is received by the approving authority. Reasons

(3) The approving authority shall certify its approval in the prescribed form. *New.* Certificate

9.—(1) Where a proposed expropriation has been approved under this Act or under *The Ontario Energy Board Act, 1964*, the expropriating authority shall register, within three months after the granting of the approval in the proper registry or land titles office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority. Registration of plan 1964, c. 74

(2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority. Where land required temporarily, etc.

(3) In the case of an omission, misstatement or erroneous description in a plan registered under this section, the expropriating authority may register in the proper registry or land titles office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby. Correction of errors

(4) Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board. Presumption as to signing

Ontario
Hydro
R.S.O. 1960,
c. 300

(5) Where a limited estate, right or interest in land is being taken under *The Power Commission Act* for an electrical transmission or distribution line carried on single poles, The Hydro-Electric Power Commission of Ontario may, before registering a plan under subsection 1, register in the proper registry or land titles office a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the secretary of the Commission and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection 1, but a plan in accordance with subsection 1 shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. 1962-63, c. 43, s. 4, *amended*.

Notice of
expro-
priation

10.—(1) Where a plan has been registered under section 9 and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within thirty days after the date of registration of the plan, with a notice of expropriation of his land, in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Election of
date for
compen-
sation

(2) Where a plan has been registered under section 9, the registered owner may elect, by notice in writing served upon the expropriating authority, within thirty days after the owner was served with the notice under subsection 1, to have the compensation to which he is entitled assessed,

- (a) where there has been an inquiry, as of the date the notice of hearing before the inquiry officer was served;
- (b) as of the date of the registration of the plan; or
- (c) as of the date on which he was served with the notice of expropriation.

and, where the election is not made within the prescribed time, the owner shall be deemed to have elected to have the compensation assessed as of the date of the registration of the plan. 1962-63, c. 43, s. 5, *amended*.

Entry on
land for
appraisal

(3) An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given,

the expropriating authority may apply to the Board which may, by order, authorize the entry upon such terms and conditions as are specified in the order. *New.*

11. Where land is expropriated or is injuriously affected ^{Reparation} by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or to grant other lands, in which case the compensation shall be determined having regard to such undertaking, and, if the undertaking has not already been carried out, the Board may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to him. 1962-63, c. 43, s. 6 (2), *amended.*

12. Section 21 of *The Ontario Energy Board Act, 1964* ^{Gas storage areas} applies in respect of the use of designated gas storage areas. 1964, c. 74 1965, c. 38, s. 2, *part, amended.*

13.—(1) Where land is expropriated, the expropriating ^{Compensation} authority shall pay the owner such compensation as is determined in accordance with this Act. 1962-63, c. 43, s. 6 (1), *amended.*

(2) Where the land of an owner is expropriated, the com- ^{idem} pensation payable to the owner shall be based upon,

- (a) the market value of the land;
- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause *b* for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. *New.*

14.—(1) The market value of land expropriated is the ^{Market value} amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

(2) Where the land expropriated is devoted to a purpose ^{idem} of such a nature that there is no general demand or market for land for that purpose, and the owner intends in good faith to relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent re-instatement.

Idem

(3) Where only part of the land of an owner is taken and such part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner's land and deducting therefrom the market value of the owner's land after the taking.

Idem

(4) In determining the market value of land, no account shall be taken of,

- (a) the special use to which the expropriating authority will put the land;
- (b) any increase or decrease in the value of the land resulting from the imminence of the development in respect of which the expropriation is made or from any imminent prospect of expropriation;
- (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health. *New.*

Increase
by Board

15. Upon application therefor, the Board shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 1 of section 14, award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his residence in accommodation that is at least equivalent to the accommodation expropriated. *New.*

Separate
interests

16. Where there are more separate interests than one in land, other than the interest of a security holder or a vendor under an agreement for sale, the market value of each such separate interest shall be valued separately. *New.*

Interpre-
tation

17.—(1) In this section, "bonus" means the amount by which the amount secured under a mortgage exceeds the amount actually advanced.

Security
holders

(2) Where land is subject to a security interest,

- (a) the value of the interest of the security holder shall be determined in accordance with this section and section 20 and not otherwise; and
- (b) the market value of the land shall be determined without regard to the interest of the security holder and the amount of such market value plus any damages for injurious affection shall stand in place of the land for the purposes of the security.

(3) Security holders shall be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security, in accordance with their priorities, whether or not such principal and interest is due and subject to subsections 4 and 5. ^{Payment out of market value}

(4) Where the land is subject to a mortgage and the amount payable to the mortgagee under subsection 3 is insufficient to satisfy the mortgage in full, ^{Bonus}

- (a) where the mortgage is a purchase-money mortgage, the mortgage shall be deemed to be fully paid, satisfied and discharged for all purposes; and
- (b) where the mortgage is not a purchase-money mortgage and includes a bonus,
 - (i) the amount by which the amount payable to the mortgagee under subsection 3 is insufficient to pay the amount remaining unpaid under the mortgage; or
 - (ii) the amount of the bonus,

whichever is the lesser, shall be deemed to be fully paid and satisfied for all purposes.

(5) No amount shall be paid in respect of a bonus until all security holders have been paid all amounts payable other than any bonus. ^{Idem}

(6) Where land held as security is expropriated in part or is injuriously affected a security holder is entitled to be paid to the extent possible in accordance with his priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, provided however, that the sum so determined shall be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection. *New.* ^{Idem}

18.—(1) The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs as are the natural and reasonable consequences of the expropriation, including, ^{Allowance for disturbance: owner other than tenant}

- (a) where the premises taken include the owner's residence,

- (i) an allowance to compensate for inconvenience and the cost of finding another residence of 5 per cent of the compensation payable in respect of the market value of that part of the land expropriated that is used by the owner for residential purposes, provided that such part was not being offered for sale on the date of the expropriation, and
 - (ii) an allowance for improvements the value of which is not reflected in the market value of the land;
- (b) where the premises taken do not include the owner's residence, the owner's costs of finding premises to replace those expropriated, provided that the lands were not being offered for sale on the date of expropriation; and
- (c) relocation costs, including,
- (i) the moving costs, and
 - (ii) the legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises.

Tenant

(2) The expropriating authority shall pay to a tenant occupying expropriated land in respect of disturbance so much of the cost referred to in subsection 1 as is appropriate having regard to,

- (a) the length of the term;
 - (b) the portion of the term remaining;
 - (c) any rights to renew the tenancy or the reasonable prospects of renewal;
 - (d) in the case of a business, the nature of the business; and
 - (e) the extent of the tenant's investment in the land.
- New.*

Business
loss

19.—(1) Where a business is located on the land expropriated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the expropriating authority otherwise agree, the business

losses shall not be determined until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first.

(2) The Board may, in determining compensation on the application of the expropriating authority, or an owner, include an amount not exceeding the value of the ^{Good will} of a business where the land is valued on the basis of its existing use and, in the opinion of the Board, it is not feasible for the owner to relocate. *New.*

20. Where a statutory authority prepays a mortgage in ^{Prepayment of mortgage} whole or in part, the statutory authority,

- (a) shall pay to the mortgagee a bonus in respect of the prepayment amounting to,
 - (i) three months interest on the amount of principal prepaid at the rate of 6 per cent a year or at such other rate as is prescribed by the Lieutenant Governor in Council by regulation, or
 - (ii) the value of any notice or bonus for prepayment provided for in the mortgage,

whichever is the lesser;

- (b) shall pay to the mortgagee where,
 - (i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and
 - (ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,

an amount to compensate for the difference in the interest rates for the period for which the amount of principal prepaid has been advanced, not to exceed five years; and

- (c) shall pay to the mortgagor whose interest is expropriated an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference shall not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. *New.*

Compensation for injurious affection

21. A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. 1962-63, c. 43, s. 6 (1), *amended*.

Claim for compensation for injurious affection

22.—(1) Subject to subsection 2, a claim for compensation for injurious affection shall be made by the person suffering the damage or loss in writing with particulars of the claim within one year after the damage was sustained or after it became known to him, and, if not so made, the right to compensation is forever barred.

Idem, where owner under disability

(2) Where the person who is injuriously affected is an infant, a mental incompetent or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. 1962-63, c. 43, s. 7, *amended*.

Set-off against damages

23. The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected shall be set-off only against the amount of the damages for injurious affection to the owner's land or remaining lands. *New*.

Agreements

24. A statutory authority has the authority to make and perform an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner and notwithstanding that this Act requires the claim to be determined by the Board. *New*.

Offer

25.—(1) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within three months after the registration of a plan under section 9 and before taking possession of the land,

- (a) serve upon the registered owner,
 - (i) an offer of an amount in full compensation for his interest, and
 - (ii) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection 1 of section 19; and

- (b) offer the registered owner immediate payment of 100 per cent of the amount of the market value of

the owner's land as estimated by the expropriating authority, and the payment and receipt of that sum is without prejudice to the rights conferred by this Act in respect of the determination of compensation and is subject to adjustment in accordance with any compensation that may subsequently be determined in accordance with this Act or agreed upon. 1962-63. c. 43, ss. 8 (1), 18, *amended*.

(2) The expropriating authority shall base its offer of compensation made under subsection 1 upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made. ^{Furnishing appraisal report}

(3) The expropriating authority may, within the period mentioned in subsection 1 and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to the judge for an order extending any time referred to in subsection 1, and the judge may in his order authorize the statutory authority to take possession of the land before the expiration of the extended time for serving the offer or statement under clause *a* of subsection 1 upon such conditions as are specified in the order. *New*. ^{Extension of time}

(4) If any registered owner is not served with the offer required to be served on him under subsection 1 within the time limited by subsection 1 or by an order of a judge under subsection 3, or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner shall be calculated from the date of registration of the plan. 1962-63, c. 43, s. 8 (1-3), *amended*. ^{Failure to serve}

26. Where the statutory authority and the owner have not agreed upon the compensation payable under this Act and in the case of injurious affection, section 22 has been complied with, or, in the case of expropriation, section 25 has been complied with or the time for complying therewith has expired, ^{Choice of proceedings, negotiation or arbitration}

- (a) the statutory authority or the owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that it or he, as the case may be, requires the compensation to be negotiated under section 27; or
- (b) where the statutory authority and the owner have agreed to dispense with negotiation proceedings, the statutory authority or the owner may serve notice of arbitration upon the other of them and upon the

Board to have the compensation determined by arbitration. 1965, c. 38, s. 2, *part, amended*.

Board of negotiation

27.—(1) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Quorum

(2) Any two of the members of the board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of sitting

(3) The board of negotiation may sit at any place in Ontario.

Negotiation of amount of compensation

(4) In any case in which a notice of negotiation is served, the board of negotiation shall, upon reasonable notice to the statutory authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

Inspection of land

(5) Before or during the negotiation proceedings, the board of negotiation shall inspect the land that has been expropriated or injuriously affected.

Where no settlement reached

(6) If the negotiation proceedings do not result in a settlement of the compensation, the statutory authority or the owner may serve notice of arbitration upon the other of them, and upon the Board, stating that it or he, as the case may be, requires the compensation to be determined by arbitration as though the negotiation proceedings had not taken place. 1965, c. 38, s. 2, *part, amended*.

Land Compensation Board

28.—(1) The Land Compensation Board is established and shall be composed of a chairman and such number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council.

Qualifications of chairman and vice-chairmen

(2) The chairman and vice-chairmen shall be members of the bar of one of the provinces of Canada.

Quorum

(3) The chairman or a vice-chairman and two other members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board, except that in matters respecting a claim for compensation not exceeding \$1,000, one member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction of the Board.

(4) The Board may,

Powers
of Board

- (a) administer oaths to witnesses and require them to give evidence under oath;
- (b) may issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) hold sittings at any place in Ontario and in more than one place at the same time.

(5) If any person,

- (a) on being duly summoned as a witness before the Board makes default in attending; or Enforce-
ment of
summons
- (b) being in attendance as a witness refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

a member of the Board may certify the offence of that person under his hand to the High Court, and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

(6) Subject to the approval of the Lieutenant Governor in Council, the Board shall make rules governing its practice and procedure and the exercise of its powers. Practice
and
procedure

(7) A registrar and such other officers and employees of the Board as are considered necessary shall be appointed under *The Public Service Act, 1961-62. New.* Registrar
and
employees
1961-62.
c. 121

29.—(1) At least fifteen days before the date fixed for the hearing of an application before the Board, any party to the application shall serve upon each other party a copy of any appraisal report upon which it intends to rely at the hearing. *New.* Service of
appraisal
reports

(2) Where it is intended by a party to adduce evidence as to compensation by persons entitled by law or custom to give Expert
evidence
as to
compensation

opinion evidence, not more than three such persons may be called by either party without the leave of the Board. *New.*

Duties of Board

30.—(1) The Board shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement determine any other matter required by this or any other Act, to be determined by the Board.

Record

(2) All oral evidence submitted before the Board shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board, form the record.

Reasons

(3) The Board shall prepare and furnish the parties to an application with written reasons for its decision.

Reports

(4) The Board may prepare and periodically publish a summary of such of its decisions and the reasons therefor, as the Board considers to be of general public significance. *New.*

Stated case

31.—(1) Where the jurisdiction of the Board or the validity of any decision, order, direction or other act of the Board is called into question by any person affected, the Board, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon is final and binding.

Order directing stated case

(2) If the Board refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the Board to state a case.

Proceedings stayed until case determined

(3) Pending the decision of the stated case, no further proceedings in respect of the application shall be taken by the Board. *New.*

Appeals

32.—(1) An appeal lies to the Court of Appeal from any determination or order of the Board.

Idem

(2) The practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court, except that the appeal may be taken at any time within six weeks from the day the determination or order was served on the parties, and the period of any vacation of the Supreme Court shall not be reckoned in computing such six weeks.

Powers of Court of Appeal

(3) An appeal under subsection 1 may be made on questions of law or fact or both and the Court of Appeal,

(a) may refer any matter back to the Board; or

(b) may make any decision or order that the Board has power to make.

and may exercise the same powers that it exercises on an appeal from a judge of the High Court sitting without a jury.

(4) A judge of the Court of Appeal may extend the time for appeal for such period as he considers proper. 1962-63, ^{Extension of time for appeal} c. 43, s. 11, *amended*.

33.—(1) Where the amount to which an owner is entitled upon an expropriation is determined by the Board and the amount awarded by the Board is 85 per cent, or more, of the amount offered by the statutory authority, the Board shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable. ^{Costs}

(2) Where the amount to which an owner is entitled upon an expropriation is determined by the Board and the amount awarded by the Board is less than 85 per cent of the amount offered by the statutory authority, the Board may make such order for the payment of costs on a party and party basis as it considers appropriate. 1962-63, c. 43, s. 13, *amended*. ^{Idem}

34.—(1) Subject to subsection 4 of section 25, the owner of lands expropriated is entitled to be paid interest on the portion of the market value of his interest in the land and on the portion of any allowance for injurious affection to which he is entitled, outstanding from time to time, at the rate of 6 per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands. ^{Interest}

(2) Subject to subsection 3, where the Board is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable. ^{Variation of interest}

(3) The interest to which an owner is entitled under subsection 1 shall not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, notwithstanding that the compensation as finally determined is less than the offer. ^{Idem}

(4) Where the Board is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Board may order the expropriating authority to pay to the owner interest under subsection 1 at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year. 1962-63, c. 43, s. 14, *amended*. ^{Idem}

Abatement
of rent

35.—(1) Subject to subsection 2, where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease shall be abated *pro tanto*, as determined by the Board.

Frustration
of lease

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease shall be deemed to be frustrated from the date of the expropriation. *New.*

Character
of compensation

36. Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land. 1962-63, c. 43, s. 15 (1).

Payment
of compensation not
exceeding
\$1,000

37. Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed \$1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. 1962-63, c. 43, s. 15 (2).

Representative

38. Where an owner of the land is unknown, is under a disability or for any other reason is not represented, a judge of the Supreme Court may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Act, and any action of a person so appointed is binding on the person whom he represents. 1962-63, c. 43, s. 16.

Payment
into court

39.—(1) In any case where the statutory authority deems it advisable, it may, without an order, pay the compensation agreed upon or determined into the office of the Accountant of the Supreme Court together with a sum equal to the interest thereon at the rate of 6 per cent a year for six months.

Payment
out of
court

(2) Upon an application for payment out of court of compensation paid into court, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as he deems reasonable.

(3) Where an order is obtained under subsection 2 in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the statutory authority. Adjustment of interest

(4) Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge of the Supreme Court may appoint such person as he deems proper to represent them, and any order made under this section is binding on them. 1962-63, c. 43, s. 17. Where unborn issue interested

40.—(1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection 3, shall take possession of the land on the date specified in the notice. Possession of expropriated land

(2) Subject to subsection 3, the date for possession shall be at least three months after the date of the serving of the notice of possession. Date for possession

(3) A registered owner or an expropriating authority may, upon such notice as the judge directs, apply to a judge for an adjustment of the date for possession specified in the notice of possession, and the judge, if he considers that under all the circumstances the application should be granted, may order that the date for possession shall be on such earlier or later date as is specified in the order. 1962-63, c. 43, s. 19, *amended*. Application for postponement of possession

41.—(1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put down the resistance or opposition. Warrant to put down resistance to entry, etc.

(2) The judge shall, in writing, appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such person as he prescribes. Hearing

(3) On proof of the resistance or opposition, the judge may issue a warrant. Issue of warrant

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. 1962-63, c. 43, s. 20, *amended*. Return

Abandonment of expropriated land

42.—(1) Where, at any time before the compensation upon an expropriation is paid in full, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority shall so notify each owner of the abandoned land, or estate or interest, who is served or entitled to be served with the notice of expropriation, who may, by election in writing,

- (a) take the land, estate or interest back, in which case he has the right to compensation for consequential damages; or
- (b) require the expropriating authority to retain the land, estate or interest, in which case he has the right to full compensation therefor. *New.*

Revesting

(2) Where all the owners elect to take the land, estate or interest back under clause *a* of subsection 1, the expropriating authority may, by an instrument signed by it and registered in the proper registry or land titles office and served on each owner, declare that the land or part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon,

- (a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him; or
- (b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest. 1962-63, c. 43, s. 21 (1), *amended.*

Disposal of expropriated lands

43. Where lands that have been expropriated and are in the possession of the expropriating authority, are found by the expropriating authority to be no longer required for its purposes, the expropriating authority shall not, without the approval of the approving authority, dispose of the lands without giving the owners from whom the land was taken the first chance to repurchase the lands on the terms of the best offer received by the expropriating authority. *New.*

Time for application

44. Any application to set aside or quash any proceeding or step taken under this Act shall be made within thirty days after the proceeding or step in respect of which the application is made, but this section does not apply where the applicant was entitled to and not given notice of the proceeding or step or where the proceeding or step was a nullity. *New.*

45. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing rates of interest for the purposes of section 20;
- (b) prescribing forms for the purposes of this Act and providing for their use;
- (c) prescribing procedures respecting applications to and hearings by inquiry officers and boards of negotiation. *New.*

46.— (1) This Act applies in respect of expropriations for which a plan has not been registered under section 4 of *The Expropriation Procedures Act, 1962-63* before this Act comes into force, and an expropriation for which a plan has been registered under section 4 of the said Act before this Act comes into force shall be continued in accordance with *The Expropriation Procedures Act, 1962-63*, except that where the compensation has not been agreed upon between the parties and no evidence has been heard by a tribunal under *The Expropriation Procedures Act, 1962-63*, other than the board of negotiation, sections 13 to 21, 23, 24, 29, 33, 34, 35 and 42 apply thereto.

Application to existing proceedings R.S.O. 1960, c. 43

(2) Until section 28 is proclaimed in force, the Ontario Municipal Board shall be deemed to be the Land Compensation Board. *New.*

O.M.B. to be Interim Land Compensation Board

47. *The Expropriation Procedures Act, 1962-63, The Expropriation Procedures Amendment Act, 1965 and The Expropriation Procedures Amendment Act, 1966* are repealed.

1962-63, c. 42; 1965, c. 38; 1966, c. 53; repealed

48.— (1) This Act, except section 28, comes into force on the day it receives Royal Assent.

Commencement

(2) Section 28 comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Idem

49. This Act may be cited as *The Expropriations Act, 1968-69*.

Short title



The Expropriations Act, 1968-69

1st Reading

November 25th, 1968

2nd Reading

December 4th, 1968

3rd Reading

December 20th, 1968

MR. WISLART

BILL 6

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Municipal Act

MR. DEANS

EXPLANATORY NOTE

The Bill empowers municipalities to control rents.

BILL 6

1968-69

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Municipal Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 249,
amended

378a.—(1) In this section, Interpre-
tation

- (a) "lease" means an enforceable contract for the tenancy of living accommodation for a term of one month, or longer, whether expressed or implied;
- (b) "rent", when used as a noun, means any payment or benefit in consideration for the occupation of living accommodation.

(2) By-laws may be passed by the councils of local municipalities, including metropolitan and regional municipalities but not the area municipalities thereof: Rent control
by-laws

1. Providing for the controlling of leases and rents for living accommodation, or any class thereof.
2. For establishing a rent control board and empowering the board to determine by order the maximum rents that may be charged, subject to the by-laws, and providing for procedures respecting the functions of the board, including hearings and appeals to the county or district court.

(3) Any person who contravenes a by-law passed under subsection 2 or any order of the rental control board established under such by-law is guilty of an offence and, on summary conviction, is liable to a fine of not more than \$2,000. Penalty

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Municipal Amendment Act, 1968-69*.





An Act to amend The Municipal Act

1st Reading

November 25th, 1968

2nd Reading

3rd Reading

MR. DEANS

BILL 7

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to provide for the Appointment of a
Commissioner to investigate Administrative
Decisions and Acts of Officials of the Govern-
ment of Ontario and its Agencies, and to
define the Commissioner's Powers and Duties**

MR. SINGER



An Act to provide for the Appointment of a Commissioner to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies, and to define the Commissioner's Powers and Duties

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "agency" means an agency of the Government of Ontario;
- (b) "Commissioner" means the Commissioner of the Legislature appointed under this Act;
- (c) "department" means a department of the Government of Ontario;
- (d) "minister" means a member of the Executive Council.

2. There shall be appointed by the Lieutenant Governor in Council on the recommendation of the Assembly as an officer of the Legislature a commissioner, to be called the Commissioner of the Legislature, who shall exercise the powers and perform the duties specified in this Act.

3. The Commissioner shall not be a member of the Assembly and shall not hold any office of trust or profit, other than his office as Commissioner, or engage in any occupation for reward outside the duties of his office.

4.—(1) The recommendation for the appointment of the Commissioner shall be made in the first session of every Legislature.

- Re-appointment** (2) Unless his office sooner becomes vacant, every person appointed as Commissioner shall hold office until his successor is appointed, and every such person may from time to time be re-appointed.
- Resignation** (3) The Commissioner may at any time resign his office by a writing addressed to the Speaker of the Assembly or, if there is no Speaker or if the Speaker is absent from Ontario, to the Clerk of the Assembly.
- Removal from office** **5.**—(1) The Commissioner may at any time be removed or suspended from his office by the Lieutenant Governor in Council on the recommendation of the Assembly for disability, neglect of duty, misconduct or upon a bankruptcy.
- Suspension when Legislature not in session** (2) At any time when the Legislature is not in session, the Commissioner may be suspended from his office by the Lieutenant Governor in Council for disability, neglect of duty, misconduct or upon a bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but any such suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.
- Filling of vacancy** **6.**—(1) If the Commissioner dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.
- When Legislature in session** (2) If a vacancy in the office of Commissioner occurs at any time while the Legislature is in session, it shall be filled by the appointment of a Commissioner by the Lieutenant Governor in Council on the recommendation of the Assembly, but, if the vacancy occurs less than one month before the end of that session and no such recommendation is made in that session, subsection 3 applies as if the vacancy had occurred while the Legislature was not in session.
- When Legislature not in session** (3) If such a vacancy occurs at any time while the Legislature is not in session, the Lieutenant Governor in Council may appoint a Commissioner to fill the vacancy, and the person so appointed shall, unless his office sooner becomes vacant, hold office until his appointment is confirmed by the Assembly, and, if the appointment is not so confirmed within two months after the commencement of the next ensuing session, the appointment lapses, and there shall be deemed to be another vacancy in the office of Commissioner.
- Oath of office** **7.**—(1) Before entering upon his duties, the Commissioner shall take an oath that he will faithfully and impartially perform the duties of his office and that he will not, except in accordance with subsection 3 of section 16, divulge any information received by him under this Act.

(2) The oath shall be administered by the Speaker of the Assembly or by the Clerk of the Assembly. ^{Idem}

8.—(1) Subject to subsection 2, the Commissioner may appoint such officers and employees as may be necessary for the efficient carrying out of his functions under this Act. ^{Staff}

(2) The number of persons that may be appointed under this section, whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by the Lieutenant Governor in Council. ^{Idem}

9.—(1) The principal function of the Commissioner is to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any Act. ^{Functions}

(2) The Commissioner may make any such investigation either on a complaint made to him by any person or of his own motion, and he may commence any such investigation notwithstanding that the complaint may not on its face be against any such decision, recommendation, act or omission as aforesaid. ^{Initiation of investigation}

(3) Without limiting subsection 1, any committee of the Assembly may at any time refer to the Commissioner, for investigation and report by him, any petition that is before that committee for consideration or any matter to which the petition relates, and, in any such case, the Commissioner shall, subject to any special directions of the committee, investigate the matters so referred to him so far as they are within his jurisdiction and make such report to the committee as he thinks fit, but nothing in section 12, 17 or 18 applies in respect of any investigation or report made under this subsection. ^{Referrals* by committees}

(4) The powers and duties conferred on the Commissioner by this Act may be exercised and performed notwithstanding any provision in any Act to the effect that any decision, recommendation, act or omission mentioned in subsection 1 is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question. ^{Powers and duties paramount}

(5) Nothing in this Act authorizes the Commissioner to investigate, ^{Areas outside jurisdiction}

- (a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act, whether or not that right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired; or
- (b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings.

Determina-
tion of
jurisdiction

(6) If any question arises as to whether the Commissioner has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court for a declaratory order determining the question.

Guide
rules

10.—(1) The Assembly may from time to time, if it thinks fit, make general rules for the guidance of the Commissioner in the exercise of his functions, and may at any time in like manner revoke or vary any such rules.

Publication
of reports

(2) Any such rules may authorize the Commissioner from time to time, in the public interest or in the interests of any person or department or agency, to publish reports relating generally to the exercise of his functions under this Act or to any particular case or cases investigated by him, whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly under this Act.

Publication
of rules

(3) All such rules shall be printed and published.

Mode of
complaint

11.—(1) Every complaint to the Commissioner shall be made in writing.

Letters
to be
forwarded

(2) Notwithstanding any Act, where a letter written by any person in custody on a charge or after conviction of any offence, or by any inmate of any private sanitarium within the meaning of *The Private Sanitaria Act* or an institution within the meaning of *The Mental Hospitals Act*, is addressed to the Commissioner, it shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is an inmate.

R.S.O. 1960,
cc. 307, 236

Commis-
sioner may
refuse to
investigate
complaint

12.—(1) If in the course of the investigation of any complaint it appears to the Commissioner,

- (a) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it; or
- (b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Commissioner by this Act, the Commissioner may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commissioner, or if in his opinion,

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or is not made in good faith; or
- (c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

(3) In any case where the Commissioner decides not to investigate or further investigate a complaint, he shall inform the complainant of his decision, and he may, if he thinks fit, state his reasons therefor.

13.—(1) Before investigating any matter under this Act, the Commissioner shall inform the deputy minister of the department affected, or, as the case may require, the administrative head of the agency affected, of his intention to make the investigation.

(2) Every investigation by the Commissioner under this Act shall be conducted in private.

(3) The Commissioner may hear or obtain information from such persons as he thinks fit, and he may make such inquiries as he thinks fit.

(4) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but, if at any time during the course of an investigation it appears to the Commissioner that there

may be sufficient grounds for his making a report or recommendation that may adversely affect any department, agency or person, he shall give to that department, agency or person an opportunity to be heard, and at any such hearing the department, agency or person is entitled to counsel.

Con-
sulta-
tions

(5) The Commissioner may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

Idem

(6) On the request of any minister in relation to an investigation or in any case where an investigation relates to any recommendation made to a minister, the Commissioner shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 1 or 2 of section 17.

Misconduct

(7) If, during or after any investigation, the Commissioner is of opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of any department or agency, he shall refer the matter to the appropriate authority.

Regulation
of procedure

(8) Subject to this Act and any rules made under section 10, the Commissioner may regulate his procedure in such manner as he thinks fit.

Evidence

14.—(1) Subject to this section and section 15, the Commissioner may from time to time require any person who in his opinion is able to give any information relating to any matter that is being investigated by him to furnish to him any such information and to produce any such document, paper or thing that in his opinion relates to any such matter and that may be in the possession or under the control of such person, whether or not such person is an officer, employee or member of a department or agency, and whether or not such document, paper or thing is in the custody or under the control of any such department or agency.

Power
to take
evidence
on oath

(2) The Commissioner may summon before him and examine on oath,

- (a) any person who is an officer or employee or member of any department or agency and who in the Commissioner's opinion is able to give any information mentioned in subsection 1;
- (b) any complainant; or
- (c) with the prior approval of the Minister of Justice and Attorney General in each case, any other person who in the Commissioner's opinion is able to give such information,

and for that purpose may administer an oath.

(3) Subject to subsection 4, no person who is bound by any Act to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Commissioner in relation to that matter, or to produce to the Commissioner any document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure. ^{Duty to maintain secrecy paramount}

(4) With the prior consent in writing of a complainant, any person to whom subsection 3 applies may be required by the Commissioner to supply information or answer any question or produce any document, paper or thing relating only to the complainant, and it is the duty of the person to comply with such requirement. ^{Idem}

(5) Every person has the same privileges in relation to the giving of information, the answering of questions and the production of documents, papers and things under this Act as witnesses have in any court. ^{Privilege}

(6) Except on the trial of a person for perjury, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commissioner is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person. ^{Evidence not admissible elsewhere}

(7) No person is liable to prosecution for an offence against any Act by reason of his compliance with any requirement of the Commissioner under this section. ^{No prosecution}

15.—(1) Where the Minister of Justice and Attorney General certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of, ^{Disclosure of certain matters not to be required}

(a) the deliberations of the Executive Council; or

(b) proceedings of the Executive Council, or any committee thereof, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Commissioner shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced, but shall report the giving of such a certificate to the Legislature.

Rule as to
privileged
documents,
etc., does
not apply

(2) Subject to subsection 1, the rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest, does not apply in respect of any investigation by or proceedings before the Commissioner.

Secrecy

16.—(1) The Commissioner and every person holding any office or appointment under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.

Oath

(2) Every person holding any office or appointment under the Commissioner shall, before he begins to perform his duties under this Act, take an oath, to be administered by the Commissioner, that he will not divulge any information received by him under this Act except for the purpose of giving effect to this Act.

Exception

(3) Notwithstanding subsection 1, the Commissioner may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

Procedure
after
investigation

17.—(1) This section applies in every case where, after making any investigation under this Act, the Commissioner is of opinion that the decision, recommendation, act or omission that was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, improperly discriminatory or was, in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

Idem

(2) This section also applies in any case where the Commissioner is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

(3) If in any case to which this section applies the Commissioner is of opinion, Opinion, etc., to be reported to department

- (a) that the matter should be referred to the appropriate authority for further consideration;
- (b) that the omission should be rectified;
- (c) that the decision should be cancelled or varied;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should have been given for the decision; or
- (g) that any other steps should be taken,

the Commissioner shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency concerned, and may make such recommendations as he thinks fit, and in any such case he may request the department or agency to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations.

(4) If within a reasonable time after the report is made no action is taken that seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, after considering the comments, if any, made by or on behalf of the department or agency affected, may send a copy of the report and recommendations to the Lieutenant Governor in Council and may thereafter make such report to the Legislature on the matter as he thinks fit. Report to Cabinet and Assembly

(5) The Commissioner shall attach to every report sent or made under subsection 4 a copy of any comments made by or on behalf of the department or agency concerned. idem

(6) Notwithstanding anything in this section, the Commissioner shall not, in any report made under this Act, make any comment that is adverse to any person unless the person has been given an opportunity to be heard. Comment adverse to person

18.—(1) Where on any investigation under this Act the Commissioner makes a recommendation under subsection 3 of section 17 and no action that seems to the Commissioner to Complainant to be informed of result of investigation

be adequate and appropriate is taken thereon within a reasonable time, the Commissioner shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

Idem

(2) The Commissioner shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Private clause

19. No proceedings of the Commissioner shall be held bad for want of form and, except on the ground of lack of jurisdiction, no proceedings or decision of the Commissioner shall be challenged, reviewed, quashed or called in question in any court.

Proceedings privileged

20.—(1) No proceedings lie against the Commissioner or against any person holding any office or appointment under the Commissioner for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Not compellable as witnesses

(2) Neither the Commissioner nor any person holding any office or appointment under the Commissioner shall be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Privilege

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Idem
R.S.O. 1960,
c. 211

(4) For the purposes of *The Libel and Slander Act*, any report made by the Commissioner under this Act shall be deemed to be privileged, and a fair and accurate report in a newspaper or a broadcast shall be deemed to be privileged.

Power to enter premises

21.—(1) For the purposes of this Act but subject to this section, the Commissioner may at any time enter upon any premises occupied by any department or agency and inspect the premises and, subject to sections 14 and 15, carry out therein any investigation that is within his jurisdiction.

Notice

(2) Before entering upon any such premises, the Commissioner shall notify the deputy minister of the department or, as the case may require, the administrative head of the agency that occupies the premises of his intention so to do.

22.—(1) With the prior approval of the Lieutenant Governor in Council, the Commissioner may from time to time, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act, except this power of delegation and the power to make any report under this Act. Delegation of powers

(2) Any such delegation may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class. To whom powers may be delegated

(3) Every such delegation is revocable at will, and no such delegation prevents the exercise of any power by the Commissioner. Delegations revocable

(4) Any such delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases. Scope of delegations

(5) Until any such delegation is revoked, it continues in force according to its tenor and, in the event of the Commissioner by whom it was made ceasing to hold office, continues to have effect as if made by his successor. Life of delegations

(6) Any person purporting to exercise any power of the Commissioner by virtue of such a delegation shall, when required to do so, produce evidence of his authority to exercise the power. Evidence of delegated powers

23. Without limiting his right to report at any other time, but subject to subsection 6 of section 17 and to any rules made under section 10, the Commissioner shall in each year make a report to the Legislature on the exercise of his functions under this Act. Annual report

24. Every person commits an offence against this Act and is liable on summary conviction to a fine of not more than \$500 who, Offences

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Commissioner or any other person in the exercise of his powers under this Act;
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Act; or

- (c) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his powers under this Act.

Provisions
are in
addition
to other
laws

25. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which any remedy or right of appeal or objection is provided for any person or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Short title

26. This Act may be cited as *The Commissioner of the Legislature Act, 1968-69*.



An Act to provide for the Appointment of a Commissioner to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies, and to define the Commissioner's Powers and Duties

1st Reading

November 25th, 1968

2nd Reading

3rd Reading

MR. SINGER

BILL 8

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to relieve Medical Practitioners, Registered
Nurses and Others from Liability in respect of Voluntary
Emergency First Aid and Medical Services**

MR. SHULMAN

EXPLANATORY NOTE

The purpose of this Bill is to relieve medical practitioners, **registered nurses and others from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.**

BILL 8

1968-69

**An Act to relieve Medical Practitioners,
Registered Nurses and Others from Liability
in respect of Voluntary Emergency First Aid
and Medical Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "medical practitioner" means a person who is registered as a medical practitioner under *The Medical Act*; R.S.O. 1960,
c. 234
- (b) "registered nurse" means a person who is registered as a nurse under *The Nurses Act, 1961-62*. 1961-62,
c. 90

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other sudden emergency, Relief from
liability
for
damages

- (a) a medical practitioner or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and such services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause *a* voluntarily renders emergency first aid assistance and such assistance is rendered at the immediate scene of the accident or emergency,

the medical practitioner, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by gross negligence on his part.

Act does
not apply
to normal
medical
services

3. Nothing in section 2 shall be deemed to relieve a medical practitioner from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the medical practitioner in respect of medical services rendered by him in the normal and ordinary course of his practice.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Voluntary Emergency First Aid and Medical Services Act, 1968-69*.







An Act to relieve Medical Practitioners,
Registered Nurses and Others from Lia-
bility in respect of Voluntary Emergency
First Aid and Medical Services

1st Reading

November 25th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 9

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Public Utilities Act

MR. DEANS

EXPLANATORY NOTE

The Bill prohibits security deposits for the supplying of a public utility.

BILL 9

1968-69

An Act to amend The Public Utilities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Subsection 4 of section 50 of *The Public Utilities Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 335, s. 50, subs. 4, re-enacted
- (4) No corporation shall require any person to give security or make any other payment in advance as a condition to the supplying of any public utility to any building or premises or to the carrying of the public utility into the building or premises. Security deposits
- 2.** Section 1 applies to security given or payments made in advance being held by the corporation immediately before this Act comes into force. Application
- 3.** This Act comes into force on the day it receives Royal Assent. Commencement
- 4.** This Act may be cited as *The Public Utilities Amendment Act, 1968-69*. Short title

An Act to amend The Public Utilities Act

1st Reading

November 26th, 1968

2nd Reading

3rd Reading

MR. DEANS

BILL 10

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Coroners Act

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 10

1968-69

An Act to amend The Coroners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Coroners Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 69,
amended

34a. Any person whose conduct is relevant to an inquest or who might be affected by the verdict of an inquest is entitled to cross-examine any witness giving evidence at the inquest and to call and examine witnesses in his own behalf, personally or through counsel, subject to the evidence so adduced being relevant, as determined by the coroner. Right of
affected
person
to adduce
evidence

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Coroners Amendment Act*, Short title
1968-69.

An Act to amend The Coroners Act

1st Reading

November 26th, 1968

2nd Reading

3rd Reading

MR. SUTLMAN

BILL 11

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to establish the Universities Commission

MR. REID (Scarborough East)

EXPLANATORY NOTE

The purpose of the Bill is to establish an independent Universities Commission containing representation from the government, universities and the community to allocate the grants of public money and act in an inter-university advisory capacity.

BILL 11

1968-69

An Act to establish the Universities Commission

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpre-
tation

1. In this Act,

- (a) "Commission" means the Universities Commission established under section 2;
- (b) "university" means a university established by an Act of the Legislature and includes Queen's University.

2.—(1) A commission is established to be known as the ^{Universities} Universities Commission, composed of fifteen members of ^{Commission} established whom,

- (a) three shall be appointed by the Lieutenant Governor in Council for a term of two years;
- (b) seven shall be appointed jointly by the governing bodies of each university in Ontario for a term of three years; and
- (c) five shall be appointed for a term of two years by the members appointed under clauses *a* and *b* and who shall not be employed in the public service of Ontario or on the staff of a university in Ontario or a member of the governing body of a university in Ontario.

(2) Any member whose term of office has expired is eligible ^{Re-} for re-appointment.

(3) Where the office of a member of the Commission be- ^{Vacancies} comes vacant before the expiration of his term, the body that appointed him may appoint another person to hold office as a member for the unexpired portion of the term.

- Chairman (4) The members of the Commission shall elect a chairman from among themselves.
- Quorum (5) Ten members constitute a quorum of the Commission.
- Procedures (6) The Commission may make by-laws governing its own procedures.
- Functions of Commission **3.**—(1) All moneys appropriated by the Legislature for university purposes shall be paid to the Commission, which shall distribute the moneys to such universities, for such purposes and in such amounts as the Commission determines.
- Idem (2) The Commission shall study methods of co-ordination and co-operation among universities and make recommendations therefor.
- Employees **4.**—(1) The Commission may employ such persons as it deems necessary for its purposes and may determine their terms of employment, remuneration and other benefits.
- Idem (2) The persons employed in the Department of University Affairs immediately before this Act comes into force shall be offered employment by the Commission upon the coming into force of this Act upon the same terms of employment and for the same remuneration and other benefits as they were entitled to immediately before this Act comes into force.
- Application of R.S.O. 1960, c. 332 (3) *The Public Service Superannuation Act* applies to the employees of the Commission in the same manner as to a civil servant.
- Report **5.** The Commission shall make a report annually to the Provincial Secretary upon the affairs of the Commission and the Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.
- Audit **6.** The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor.
- Department of University Affairs dissolved Moneys appropriated for 1968-69 **7.**—(1) The Department of University Affairs is dissolved.
- (2) The moneys appropriated by the Legislature for the year from the 1st day of April, 1968 to the 31st day of March, 1969 for the purposes of the Department of University Affairs shall be deemed to have been appropriated for the purposes of the Commission.

8. *The Department of University Affairs Act, 1964* is ^{1964, c. 24.} repealed.

9. This Act comes into force on the 1st day of July, 1969. ^{Commence-}
^{ment}

10. This Act may be cited as *The Universities Commission* ^{Short title}
Act, 1968-69.

Collection of 15A 11

An Act to establish
the Universities Commission

1st Reading

November 27th, 1968

2nd Reading

3rd Reading

Mr. REID
(Scarborough East)

BILL 12

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. BEN



An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act* is amended by adding thereto the following sections: R.S.O. 1960.
c. 172,
amended

- 48a.—(1) Where a motor vehicle permit is issued after the 1st day of September, 1969, for a motor vehicle for which no permit has been previously issued, the Department shall issue, with the permit, a log book in the form prescribed by the regulations and the fact of its issuance shall be noted on the permit. Log book
- (2) No person shall operate on the highway a motor vehicle for which a log book has been issued unless the log book accompanies the vehicle. Log book
in
vehicle
- (3) Where a registered owner of a motor vehicle for which a log book has been issued transfers his ownership, he shall, at the time of a transfer of ownership, note in the log book the total number of miles travelled by the vehicle. Entry of
mileage
- (4) Every person who makes repairs to a motor vehicle for which a log book has been issued, or who examines such motor vehicle for mechanical defect, shall note in the log book any repairs made and shall certify in the log book whether or not the motor vehicle is roadworthy. Entry of
repairs and
certificate
of road-
worthiness
- (5) No person shall operate a motor vehicle on the highway where the last certificate given under subsection 4 does not certify that the motor vehicle is roadworthy. Operation
of vehicle
not road-
worthy
- 48b.—(1) The Lieutenant Governor in Council may make regulations prescribing the form of log books and the entries that shall be made therein. Regulations

Offences

(2) Every person who contravenes any provision of section 48a or of the regulations made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Commence-
ment

2. This Act comes into force on the 1st day of September, 1969.

Short title

3. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.



An Act to amend
The Highway Traffic Act

1st Reading

November 27th, 1968

2nd Reading

3rd Reading

MR. BEN

BILL 13

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Ontario Human Rights Code, 1961-62**

MR. BEN

EXPLANATORY NOTE

The amendment makes the provision prohibiting discrimination in employment apply to domestic employment and to religious, philanthropic and educational non-profit organizations, which are at present excluded.

BILL 13

1968-69

**An Act to amend
The Ontario Human Rights Code, 1961-62**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 4 of *The Ontario Human Rights Code, 1961-62*, as amended by section 2 of *The Ontario Human Rights Code Amendment Act, 1967*, is repealed and the following substituted therefor: 1961-62, c. 93, s. 4, subs. 4, re-enacted

- (4) This section does not apply to an exclusively fraternal or social organization that is not operated for private profit or to an organization that is operated primarily to foster the welfare of an ethnic group and that is not operated for private profit. Application of section

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ontario Human Rights Code Amendment Act, 1968-69*. Short title

An Act to amend
The Ontario Human Rights Code, 1961-62

1st Reading

November 27th, 1968

2nd Reading

3rd Reading

Mr. BEN

BILL 14

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Election Act

MR. YOUNG

EXPLANATORY NOTE

The purpose of this Bill is to reduce the age of persons who may vote at provincial elections from twenty-one years to eighteen years.

BILL 14

1968-69

An Act to amend The Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of paragraph 1 of subsection 1 of section 17 of *The Election Act* is amended by striking out “twenty-one” and inserting in lieu thereof “eighteen”. R.S.O. 1960,
c. 118, s. 17,
subs. 1,
par. 1, cl. *a*,
amended

(2) Paragraph 2 of subsection 1 of the said section 17 is amended by striking out “twenty-one” in the eighth line and inserting in lieu thereof “eighteen”. R.S.O. 1960,
c. 118, s. 17,
subs. 1,
par. 2,
amended

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Election Amendment Act*, Short title
1968-69.

An Act to amend
The Election Act

1st Reading

November 27th, 1968

2nd Reading

3rd Reading

Mr. YOUNG

BILL 15

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Ontario Water Resources Commission Act**

MR. SHULMAN

EXPLANATORY NOTE

The purpose of the Bill is to prevent eutrophication of watercourses.

BILL 15

1968-69

**An Act to amend
The Ontario Water Resources Commission Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 281,
amended

27a. Every person who sells or offers for sale any detergent that contains a polyphosphate is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. Sale of
detergents

2. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 281,
amended

31a. Every municipal sewage works that empties effluent into a lake, river, stream or other water or water-course shall so treat the sewage that the effluent does not contain any phosphate that is chemically capable of being removed. Sewage
treatment
to remove
phosphates

3.—(1) This Act, except section 2, comes into force on the 1st day of September, 1969. Commence-
ment

(2) Section 2 comes into force on the 1st day of January, 1970. Idem

4. This Act may be cited as *The Ontario Water Resources Commission Amendment Act, 1968-69*. Short title

An Act to amend
The Ontario Water Resources
Commission Act

1st Reading

November 27th, 1968

2nd Reading

3rd Reading

MR. SHUTMAN

BILL 16

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Ontario Hurricane Relief Fund Act, 1955**

MR. BALES

EXPLANATORY NOTE

The amendment increases, effective the 1st day of August, 1968, the pensions of dependent widows and children in accordance with the increased rates for widows and children provided by *The Workmen's Compensation Act*, as amended by *The Workmen's Compensation Amendment Act, 1968*.

BILL 16

1968-69

**An Act to amend
The Ontario Hurricane Relief Fund Act, 1955**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2a of section 1 of *The Ontario Hurricane Relief Fund Act, 1955*, as enacted by section 1 of *The Ontario Hurricane Relief Fund Amendment Act, 1964*, is repealed and the following substituted therefor:

(2a) Notwithstanding subsection 2 and the agreement entered into thereunder, the amount of assistance and relief for dependent widows and children, effective from the 1st day of August, 1968, shall be in such amounts and subject to such terms, conditions and limitations as are provided by section 37 of *The Workmen's Compensation Act*, as amended by section 7 of *The Workmen's Compensation Amendment Act, 1968*.

2. This Act shall be deemed to have come into force on the 1st day of August, 1968.

3. This Act may be cited as *The Ontario Hurricane Relief Fund Amendment Act, 1968-69*.

An Act to amend The Ontario
Hurricane Relief Fund Act, 1955

1st Reading

November 28th, 1968

2nd Reading

3rd Reading

M.R. BALES

BILL 16

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Ontario Hurricane Relief Fund Act, 1955**

MR. BALES



BILL 16

1968-69

**An Act to amend
The Ontario Hurricane Relief Fund Act, 1955**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2a of section 1 of *The Ontario Hurricane Relief Fund Act, 1955*, as enacted by section 1 of *The Ontario Hurricane Relief Fund Amendment Act, 1964*, is repealed and the following substituted therefor: 1955, c. 55, s. 1, subs. 2a (1964, c. 77, s. 1), re-enacted

(2a) Notwithstanding subsection 2 and the agreement entered into thereunder, the amount of assistance and relief for dependent widows and children, effective from the 1st day of August, 1968, shall be in such amounts and subject to such terms, conditions and limitations as are provided by section 37 of *The Workmen's Compensation Act*, as amended by section 7 of *The Workmen's Compensation Amendment Act, 1968*. Dependent widows and children, R.S.O. 1960, c. 437, 1968, c. 143

2. This Act shall be deemed to have come into force on the 1st day of August, 1968. Commencement

3. This Act may be cited as *The Ontario Hurricane Relief Fund Amendment Act, 1968-69*. Short title

An Act to amend The Ontario
Hurricane Relief Fund Act, 1955

1st Reading

November 28th, 1968

2nd Reading

December 10th, 1968

3rd Reading

December 20th, 1968

MR. BATES

BILL 17

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Milk Act, 1965

MR. STEWART

EXPLANATORY NOTES

SECTION 1. The purpose of the section is to clarify the methods by which The Ontario Milk Marketing Board may carry out its functions in accordance with the intent and purpose of the Act and The Ontario Milk Marketing Plan.

SECTION 2. Self-explanatory.

BILL 17

1968-69

An Act to amend The Milk Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Milk Act, 1965* is amended by adding thereto the following subsection: 1965, c. 72, s. 8, amended

(6a) Where the Commission authorizes a marketing board to exercise any of the powers mentioned in subsection 1, the marketing board, in the exercise of such powers, may make regulations or orders or issue directions. Authority of marketing board to make regulations

- 2.—(1) Each of the following regulations: Regulations declared valid and binding
1. Ontario Regulation 294/65, as amended by Ontario Regulations 160/66, 201/66, 261/66, 390/66, 194/67, 58/68 and 216/68.
 2. Ontario Regulation 52/68, as amended by Ontario Regulation 131/68.
 3. Ontario Regulation 68/68 as amended by Ontario Regulation 336/68.
 4. Ontario Regulation 69/68, as amended by Ontario Regulation 220/68.
 5. Ontario Regulation 70/68, as amended by Ontario Regulations 130/68, 221/68 and 292/68.
 6. Ontario Regulation 71/68, as amended by Ontario Regulation 132/68,

- 1965, c. 72 (a) shall be deemed to have been made under *The Milk Act, 1965*, as amended by this Act;
- (b) is hereby declared valid and binding for all intents and purposes; and
- (c) shall be deemed to have been valid and binding for all intents and purposes from the date on which the regulation was filed under *The Regulations Act*.
- R.S.O. 1960, c. 349 (2) Nothing in subsection 1 limits the power of The Milk Commission of Ontario or The Ontario Milk Marketing Board, as the case may be, to amend or revoke any regulation mentioned in subsection 1.
- Powers not limited
- Commence-ment **3.** This Act comes into force on the day it receives Royal Assent.
- Short title **4.** This Act may be cited as *The Milk Amendment Act, 1968-69*.







An Act to amend The Milk Act, 1965

1st Reading

November 28th, 1968

2nd Reading

3rd Reading

MR. STEWART

BILL 17

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Milk Act, 1965

MR. STEWART

(Reprinted as amended by the Agriculture and Food Committee)

EXPLANATORY NOTES

SECTION 1. The purpose of the section is to clarify the methods by which The Ontario Milk Marketing Board may carry out its functions in accordance with the intent and purpose of the Act and The Ontario Milk Marketing Plan.

SECTION 2. Self-explanatory.

BILL 17

1968-69

An Act to amend The Milk Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Milk Act, 1965* is amended by adding thereto the following subsection: 1965, c. 72, s. 8, amended

(6a) Where the Commission authorizes a marketing board to exercise any of the powers mentioned in subsection 1, the marketing board, in the exercise of such powers, may make regulations or orders or issue directions. Authority of marketing board to make regulations

2.—(1) Each of the following regulations: Regulations declared valid and binding

1. Ontario Regulation 294/65, as amended by Ontario Regulations 160/66, 201/66, 261/66, 390/66, 194/67, 58/68 and 216/68.
2. Ontario Regulation 52/68, as amended by Ontario Regulation 131/68.
3. Ontario Regulation 68/68 as amended by Ontario Regulation 336/68.
4. Ontario Regulation 69/68, as amended by Ontario Regulation 220/68.
5. Ontario Regulation 70/68, as amended by Ontario Regulations 130/68, 221/68 and 292/68.
6. Ontario Regulation 71/68, as amended by Ontario Regulation 132/68,

shall be deemed to have been made under *The Milk Act, 1965*, as amended by section 1 of this Act, and shall be deemed to have been filed under *The Regulations Act* on the day of actual filing. R.S.O. 1960, c. 349

Powers
not
limited

(2) Nothing in subsection 1 limits the power of The Milk Commission of Ontario or The Ontario Milk Marketing Board, as the case may be, to amend or revoke any regulation mentioned in subsection 1.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Milk Amendment Act, 1968-69*.







An Act to amend The Milk Act, 1965

1st Reading

November 28th, 1968

2nd Reading

December 4th, 1968

3rd Reading

MR. STEWART

*(Reprinted as amended by the
Agriculture and Food Committee)*

BILL 17

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Milk Act, 1965

MR. STEWART



BILL 17

1968-69

An Act to amend The Milk Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Milk Act, 1965* is amended by adding thereto the following subsection: <sup>1965,
c. 72, s. 8,
amended</sup>

(6a) Where the Commission authorizes a marketing board to exercise any of the powers mentioned in subsection 1, the marketing board, in the exercise of such powers, may make regulations or orders or issue directions. <sup>Authority
of marketing
board
to make
regulations</sup>

2.—(1) Each of the following regulations: <sup>Regulations
declared
valid and
binding</sup>

1. Ontario Regulation 294/65, as amended by Ontario Regulations 160/66, 201/66, 261/66, 390/66, 194/67, 58/68 and 216/68.
2. Ontario Regulation 52/68, as amended by Ontario Regulation 131/68.
3. Ontario Regulation 68/68 as amended by Ontario Regulation 336/68.
4. Ontario Regulation 69/68, as amended by Ontario Regulation 220/68.
5. Ontario Regulation 70/68, as amended by Ontario Regulations 130/68, 221/68 and 292/68.
6. Ontario Regulation 71/68, as amended by Ontario Regulation 132/68,

shall be deemed to have been made under *The Milk Act, 1965*, as amended by section 1 of this Act, and shall be deemed to have been filed under *The Regulations Act* on the day of actual filing. <sup>R.S.O. 1960,
c. 349</sup>

Powers
not
limited

(2) Nothing in subsection 1 limits the power of The Milk Commission of Ontario or The Ontario Milk Marketing Board, as the case may be, to amend or revoke any regulation mentioned in subsection 1.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Milk Amendment Act, 1968-69*.







An Act to amend The Milk Act, 1965

1st Reading

November 28th, 1968

2nd Reading

December 4th, 1968

3rd Reading

March 25th, 1969

MR. STEWART

BILL 18

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Game and Fish Act, 1961-62

MR. SHULMAN

EXPLANATORY NOTES

SECTION 1. Adds definition of leg-hold or steel-jaw trap.

SECTION 2. Prohibits the trapping of game by a leg-hold or steel-jaw trap, or by any other trap, snare or device of a design not approved by the Minister.

SECTION 3. Provides for regulations governing the approval of traps, snares or other devices.

BILL 18

1968-69

**An Act to amend
The Game and Fish Act, 1961-62**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Game and Fish Act, 1961-62*, as amended by section 1 of *The Game and Fish Amendment Act, 1964*, is further amended by adding thereto the following paragraph:

14a. "leg-hold or steel-jaw trap" means any trap or device that depends for its use or any part of its use on holding game by limb, tail or other extremity in such a way as to inflict pain or suffering upon the game or to cause it to inflict pain upon itself, other than that incidental to immediate death.

2. *The Game and Fish Act, 1961-62* is amended by adding thereto the following section:

27b. No person shall trap or attempt to trap game by the use of a leg-hold or steel-jaw trap or by the use of any other trap, snare or device except of a design that has been approved for the purpose by the Minister.

3. Section 84 of *The Game and Fish Act, 1961-62*, as amended by section 7 of *The Game and Fish Amendment Act, 1962-63* and section 11 of *The Game and Fish Amendment Act, 1966*, is further amended by adding thereto the following paragraph:

7. for the purposes of section 27b, providing for the granting of approvals to designs of traps, snares and other devices.

4. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

5. This Act may be cited as *The Game and Fish Amendment Act, 1968-69*.

An Act to amend
The Game and Fish Act, 1961-62

1st Reading

November 28th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 19

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to provide for the Governing Bodies of Universities

MR. REID (Scarborough East)

EXPLANATORY NOTE

The Bill reconstructs the governing bodies of universities, replacing boards of governors and senates with one governing council having democratic representation of undergraduate and post-graduate students, faculty members, alumni (who would include the public community) and the administrative staff, and including other appointed and *ex officio* members representing governmental links.

BILL 19

1968-69

An Act to provide for the Governing Bodies of Universities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "part-time student" means a student enrolled in a university for part-time attendance in a course leading to a degree;
- (b) "university" means a university established by an Act of the Legislature.

2. Notwithstanding any general or special Act, the governing body of every university shall be known as the Governing Council.

Governing
Councils
established

3.—(1) The Governing Council shall consist of not fewer than forty and not more than forty-eight members as follows:

Composi-
tion of
Council

1. One member who shall be appointed by the Lieutenant Governor in Council during pleasure.
2. The member of the Legislature and the member of the House of Commons of Canada in whose riding the main administrative structures of the university are situate, who shall be *ex officio* members.
3. The head of the council of the local municipality in which the main administrative structures of the university are situate, or a person designated by him.
4. Eleven or twelve members who are professors or associate professors of the university who shall be elected every four years by the professors and associate professors.
5. Eleven or twelve members who are full-time members of the faculty of the university, other than professors

and associate professors, who shall be elected every four years by the members of the faculty who are full-time employees other than professors and associate professors.

6. Six to eight members who are undergraduate, post-graduate and part-time students of the university each elected by the undergraduate, post-graduate and part-time students, respectively, for a term of one year and the number of members in each category shall be determined by the Governing Council as nearly as is practicable in the proportion of their enrolment in the university, except that the Governing Council may fix an equivalent of more than one part-time student to one undergraduate or post-graduate student for the purpose.
7. Five to seven members who shall be elected every four years by the graduates of the university.
8. One or two members who are full-time employees on the administrative staff of the university who shall be elected every four years by the full-time employees of the administrative staff.
9. The President of the university, who shall be an *ex officio* member, and one or two persons who shall be nominated by the President.

Determina-
tion of
number

(2) The Governing Council shall determine the numbers of members for the purposes of paragraphs 4, 5, 6, 7, 8 and 9 of subsection 1.

Student
elections

(3) The elections for each of the categories of the members referred to in paragraph 6 of subsection 1 shall be conducted at the expense of the university by the student organization containing the largest membership of that category of students enrolled in the university, and the records and facilities of the university shall be made available to the student organization conducting the election to the extent necessary to prepare voters' lists and conduct the elections.

Other
elections

(4) The Governing Council shall conduct the elections referred to in paragraphs 4, 5, 7 and 8 of subsection 1 and the ballot for the election referred to in paragraph 7 shall be taken by mail.

Vacancies

(5) An elected member who loses his eligibility for election while he is in office shall vacate his office, and where the office of an elected member becomes vacant for this or any

other reason before the expiration of his term, the remaining members elected by the same electors shall appoint a person who is eligible to be a candidate for election to the office to be a member for the remainder of the unexpired term.

4.—(1) All meetings of the Governing Council shall be open to the public, except that the Governing Council may, by resolution, exclude any persons other than members of the faculty, the administrative staff or the student body from a meeting. Public meetings

(2) All expenditures of or liabilities incurred by a university shall be authorized by the Governing Council at a meeting of the Council sitting as a whole. Authorization of expenditures

5.—(1) The board of governors and senate, or any corresponding body, of every university are dissolved. Dissolution of existing governing bodies

(2) All the powers and duties vested in the board of governors and senate, or any corresponding bodies, of each university are vested in the Governing Council established under this Act. Powers and duties of Council

6.—(1) The first elections referred to in subsection 1 of section 3 shall be conducted before the 1st day of November, 1969 by the board of governors of the university, or any corresponding body, and subject to subsection 2, the provisions of this Act applying to governing councils respecting the conduct of elections apply to the said board of governors for the purpose. First elections

(2) For the purposes of the first elections, the numbers of members referred to in paragraphs 4, 5, 6, 7 and 8 of subsection 1 of section 3 shall be either the minimum or the maximum number prescribed, as determined by the board of governors. Idem

7. Every university shall have a President appointed during pleasure by the Governing Council of the university. President

8.—(1) This Act, except sections 1, 2, 3, 4, 5 and 7, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 1, 2, 3, 4, 5 and 7 come into force on the 1st day of November, 1969. Idem

9. This Act may be cited as *The Universities Act, 1968-69*. Short title





An Act to provide for
the Governing Bodies of Universities

1st Reading

December 2nd, 1968

2nd Reading

3rd Reading

MR. REID (Scarborough East)

BILL 20

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Ophthalmic Dispensers Act, 1960-61**

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 20

1968-69

**An Act to amend
The Ophthalmic Dispensers Act, 1960-61**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ophthalmic Dispensers Act, 1960-61* is amended by adding thereto the following section: 1960-61
c. 72,
amended

21b. Notwithstanding the other provisions of this Act or any other general or special Act, no person shall offer for sale or sell spectacles or eyeglasses having frames made of cellulose nitrate. Sale of
cellulose
nitrate
frames
prohibited

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Ophthalmic Dispensers Amendment Act, 1968-69*. Short title

An Act to amend
The Ophthalmic Dispensers Act, 1960-61

1st Reading

December 2nd, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 21

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Air Pollution Control Act, 1968-69

MR. SHULMAN

EXPLANATORY NOTE

This Bill is based upon the principles of a local law of the City of New York passed in 1966.

The Air Pollution Control Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Act" includes the regulations;
- (b) "air contaminant" means any particulate matter or any gas or any combination thereof, other than water vapour or natural air;
- (c) "bituminous coal" has the meaning given by the regulations;
- (d) "combustion controller" means a control apparatus that automatically maintains the proper fuel-to-air ratio for optimum combustion of fuel;
- (e) "control apparatus" means any device that prevents or controls the emission of any air contaminant;
- (f) "Department" means the Department of Health;
- (g) "emission" means dispersion into the open air;
- (h) "equipment" means any device that is capable of causing the emission of an air contaminant into the open air, and includes a stack, conduit, flue, duct, vent or similar device connected or attached to, or serving equipment;
- (i) "equipment used in a manufacturing process" means any equipment in which the preponderance of the air contaminant emitted is caused by the manufacturing process;

(j) "fuel-burning equipment" means any furnace, boiler, water heater, device, mechanism, stack, structure, oven, stove, kiln, still or other apparatus that is used in the process of burning fuel or a similar combustible material, other than a motor vehicle;

(k) "gas" means a formless fluid that occupies space and that can be changed to a liquid or solid only by increased pressure with decreased or controlled temperature or by decreased temperature with increased or controlled pressure;

R.S.O. 1960,
c. 98

(l) "local board" has the meaning given it in *The Department of Municipal Affairs Act*;

(m) "motor vehicle" means any equipment that is propelled by an internal combustion engine in or upon which a person or material may be transported on the ground;

(n) "municipality" includes a metropolitan municipality;

(o) "particulate matter" means any liquid, other than water, or any solid that is so finely divided as to be capable of becoming wind-blown or being suspended in air;

(p) "portable equipment" means any equipment that is designed to be transported from place to place for temporary operation;

R.S.O. 1960,
c. 309

(q) "professional engineer" means a person who is registered or licensed under *The Professional Engineers Act*;

(r) "regulations" means the regulations made under this Act;

(s) "residual fuel oil" has the meaning given by the regulations;

(t) "vapour" means any material in a gaseous state that is formed from a substance, usually a liquid, by an increase in temperature.

Powers
and duties

2. Any of the powers conferred upon the Department and any of the duties imposed upon the Department by this Act may be exercised or performed, as the case may be, by the Minister of the Department or by any one or more officials of the Department whom he may designate for the purpose.

3. No person shall construct, install or alter any equipment or control apparatus of any kind in any structure, other than in a one or two family dwelling, until an application, including plans and specifications, has been filed with the Department and an installation or alteration permit has been issued thereupon by the Department.

Installation and alteration permits, equipment and control apparatus

4.—(1) No person shall use or cause to be used any new or altered equipment for which an installation or alteration permit was required or issued until an operating certificate has been issued therefor by the Department.

Operating certificates, new and altered equipment

(2) No operating certificate or renewal thereof required by this Act shall be issued by the Department unless the applicant shows to the satisfaction of the Department that the equipment is designed to operate without causing a contravention of this Act and that the equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment.

Idem, conditions precedent to issue

(3) Before an operating certificate or any renewal thereof is issued, the Department may require the applicant to conduct such tests as are in the opinion of the Department necessary to determine the kind or amount of the air contaminant emitted from the equipment or whether the equipment or fuel or the operation of the equipment contravenes this Act, and such tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the Department and the results of the tests shall be reviewed and certified by a professional engineer.

Idem, tests

(4) An operating certificate and any renewal thereof is valid for a period of three years from the date of issuance, unless it is sooner suspended or revoked.

Idem, term

(5) Upon receipt of an application for an operating permit or a renewal thereof, the Department may issue a temporary operating certificate valid for a period of not more than sixty days.

Temporary operating certificates

5.—(1) Commencing one year after this Act comes into force, no person shall cause or permit the use or operation of fuel burning equipment using residual fuel oil until an operating certificate has been issued therefor by the Department.

Existing residual fuel oil equipment, operating certificates

(2) A certificate shall not be issued under subsection 1 unless the applicant's fuel burning equipment includes the installation and use of a combustion controller, an automatic

Conditions precedent to issue of certificate

oil temperature maintenance device and an automatic water temperature maintenance device, or the equivalent of such devices, and, in addition thereto, such other requirements as the Department may specify.

Existing coal burning equipment, operating certificates

(3) Commencing two years after this Act comes into force, no person shall cause or permit the use or operation of fuel burning equipment using coal as fuel until an operating certificate has been issued therefor by the Department.

Conditions precedent to issue of certificate

(4) A certificate shall not be issued under subsection 3 unless the applicant's fuel burning equipment includes the installation and use of a combustion controller and an automatic water temperature maintenance device, or the equivalent of such devices, in addition to such other requirements as the Department may specify.

Existing refuse burning equipment, operating certificates

6.—(1) Commencing one year after this Act comes into force, no person shall cause or permit the use or operation of refuse burning equipment in any structure, other than in a multiple dwelling of six storeys or less, until an operating certificate therefor has been issued by the Department.

Idem, multiple dwellings of six storeys or less

(2) Commencing two years after this Act comes into force, no person shall cause or permit the use or operation of refuse burning equipment in any multiple dwelling of six storeys or less until an operating certificate has been issued therefor by the Department.

Conditions precedent to issue of certificate

(3) A certificate shall not be issued under this section unless the applicant's refuse burning equipment includes the installation and use of an auxiliary gas burner regulated by automatic firing clocks, an overfire air fan and nozzle system and control apparatus, such as a scrubber, or the equivalent of such devices, and, in addition thereto, such other requirements as the Department may specify.

Manufacturing processes, operating certificates

7. Commencing one year after this Act comes into force, no person shall cause or permit the emission of any sulphur compound in the form of a gas, vapour or otherwise, from equipment used in a manufacturing process until an operating certificate has been issued therefor by the Department.

Portable equipment, operating certificates

8. Commencing one year after this Act comes into force, no person shall cause or permit the operation of portable equipment powered by an internal combustion engine, other than a motor vehicle, at any one location for a continuous period of ten days or more until an operating certificate has been issued therefor by the Department.

9. No person shall cause or permit to be operated any ^{Existing} equipment or process that is in existence when this Act ^{equipment} comes into force except in accordance with this Act.

10.—(1) No person shall cause or permit the use of fuel ^{Sulphur} that contains more than the following percentages of sulphur ^{content} ^{of fuel} ^{restricted} by weight:

1. For a period of two years and four months commencing eight months after this Act comes into force,
 - i. coal, 2.2 per cent,
 - ii. residual fuel oil, 2.2 per cent.
2. For a period of two years commencing three years after this Act comes into force,
 - i. coal, 2.0 per cent,
 - ii. residual fuel oil, 2.0 per cent.
3. After the period mentioned in item 2 expires,
 - i. coal, 1.0 per cent,
 - ii. residual fuel oil, 1.0 per cent.

(2) Upon the application of any person engaged in the ^{Certificates} operation of fuel burning equipment using coal or residual ^{of} fuel oil as a fuel, the Department may issue a certificate of ^{exemption} exemption from the sulphur content restrictions of this section if the applicant proves to the satisfaction of the Department that the fuel burning equipment is operated in such a manner or is equipped with such control apparatus as to continuously prevent the emission of any sulphur compound or compounds in amounts greater than those that would be emitted from the burning in the same fuel burning equipment without such control apparatus of coal or residual fuel oil containing an amount of sulphur by weight not in excess of the maximum permitted at the applicable time by this section.

(3) As a condition for the issuance or renewal of a certi- ^{Conditions} ficate of exemption, the applicant must, at his own expense, ^{of issuance} install scientific monitoring devices capable of continuously recording emissions of sulphur compounds and must submit the records thereof to the Department each day.

Prohibition and penalty (4) No person shall cause or permit the emission of any sulphur compounds or compounds in an amount in excess of that permitted by the terms of a certificate of exemption issued under this section and, in the event of a contravention of this subsection, the Department may, as an alternative or in addition to any other penalty that may be imposed, suspend or revoke the certificate of exemption or take such other action as may be deemed to be appropriate.

Term of certificate of exemption (5) A certificate of exemption or any renewal thereof is valid for a period of one year from the date of issuance unless it is sooner suspended or revoked.

Temporary certificates of exemption (6) Upon the application of any person engaged in the operation of fuel burning equipment using coal or residual fuel oil as fuel, the Department may issue a temporary certificate of exemption from the sulphur content restrictions of this section if the applicant proves to the satisfaction of the Department that the application is for the purpose of conducting an experimental operation prior to the submission of an application for a certificate of exemption.

Term of temporary certificate of exemption (7) A temporary certificate of exemption is valid for a period of three months from the date of issuance unless it is sooner suspended or revoked and may be renewed once only for an additional period of three months.

Conditions of issuance (8) As a condition to the issuance or renewal of a temporary certificate of exemption, the applicant must at his own expense install scientific monitoring devices capable of continuously recording emissions of sulphur compounds and must submit the records thereof to the Department each day.

Bituminous coal, use restricted **11.—(1)** Commencing three years after this Act comes into force, no person shall use bituminous coal in fuel burning equipment until he installs, uses and continuously maintains control apparatus certified by a professional engineer as capable of continuously preventing the emission of at least 99 per cent of all solid particulate matter that would otherwise be emitted from the use of bituminous coal in the fuel burning equipment.

Conditions for continued use (2) As a condition for continued use of bituminous coal under this Act, the Department may require,

- (a) the semi-annual submission of a statement by a professional engineer certifying to the continued 99 per cent efficiency of the control apparatus; and

- (b) the installation at the expense of the operator of scientific monitoring devices capable of continuously recording emissions of particulate matter or gases and the submission of a statement of the information so recorded.

(3) Notwithstanding subsections 1 and 2, commencing two years after this Act comes into force, no person shall use bituminous coal in fuel burning equipment for the purpose of providing heat or hot water for any structure or building or any part thereof, but this prohibition does not apply to fuel burning equipment operated for the purpose of generating steam for off-premises sale, to which operation subsections 1 and 2 apply. ^{Heat and hot water}

12.—(1) Commencing two years after this Act comes into force, no person shall cause or permit the installation or construction of refuse burning equipment for the burning of garbage or other waste matter. ^{Refuse disposal, new installations}

(2) Subsection 1 does not apply to refuse burning equipment of a municipality or a local board. ^{Exceptions}

(3) A system of hygienic control or hygienic disposal of putrescible garbage and equipment capable of reducing the volume of refuse by two-thirds by means other than burning that is constructed, maintained and operated in conformity with all legal requirements applicable thereto shall be provided in all multiple dwellings which are four or more storeys in height and occupied by more than twelve families, and which are erected two years or more after this Act comes into force. ^{Multiple dwellings}

(4) Mechanically operated garbage grinders for the discharge of solid kitchen waste materials from dwelling units may be installed in all dwellings, including multiple dwellings that are erected two years or more after this Act comes into force, provided, ^{Kitchen garbage grinders}

- (a) that the installation of any such grinder is not prohibited by any municipal by-law;
- (b) that any such grinder is designed and installed in conformity with all legal requirements applicable thereto; and
- (c) that any such grinder will discharge wastes at a reasonably uniform rate and in fluid form that will flow readily and in a manner that will not clog or stop up the drain line or sanitary sewer.

Refuse disposal, municipal incinerators, construction

13.—(1) No incinerator operated or to be operated by a municipality or a local board shall be constructed or substantially reconstructed unless there is installed and operated therein control apparatus that incorporates the most effective advances in the art of air pollution control as determined by the Department.

Idem, operation

(2) Commencing three years after this Act comes into force, no incinerator shall be operated by a municipality or a local board unless there is installed and operated therein control apparatus that incorporates the most effective advances in the art of air pollution control as determined by the Department.

Operators, etc., to take courses of instruction

14.—(1) Every operator of fuel burning equipment using residual fuel oil, every operator of refuse burning equipment and every person who is charged with supervision of the operation of fuel burning equipment using residual fuel oil or of the operation of refuse burning equipment shall successfully complete, within two years after this Act comes into force, or within six months after the commencement of his employment, whichever is later, a course of instruction in air pollution control approved by the Department.

Employment of unqualified operators, etc., prohibited

(2) No person shall employ an operator of fuel burning equipment using residual fuel oil, an operator of refuse burning equipment or a supervisor in charge of either of such operations unless the operator or supervisor, as the case may be, has complied with subsection 1.

Certificate of competence

(3) Upon the successful completion of a course of instruction mentioned in subsection 1, the operator or supervisor, as the case may be, shall be given a certificate stating his name and the date issued and certifying that he has successfully completed the course mentioned, which certificate shall be posted in a prominent place at or near the equipment that he operates or supervises.

Sealing of equipment

15. The Department may seal any equipment installed or operated in contravention of this Act.

Separate offences

16.—(1) The operation of any equipment in contravention of any provision of this Act shall be deemed a separate and distinct contravention as to each day of such operation.

Offences and penalties

(2) Any person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

17. The Lieutenant Governor in Council may make such ^{Regulations} regulations with respect to air pollution control as he deems necessary for carrying out the purposes of this Act, and in particular,

- (a) defining bituminous coal and residual fuel oil for the purposes of this Act by reference to a recognized code of standards or a part thereof or otherwise;
- (b) respecting the emission of air contaminants;
- (c) requiring and prescribing alterations to equipment and processes in existence when this Act comes into force in order that they may be operated in compliance with this Act;
- (d) prescribing methods, by reference to a recognized code of standards or part thereof or otherwise, for determining the sulphur content of fuels by weight;
- (e) respecting applications for and the issuance, renewal, suspension and revocation of permits and certificates, and imposing conditions and limitations thereon;
- (f) respecting the sealing of equipment and prescribing procedures with respect thereto;
- (g) approving courses of instruction for operators and supervisors of,
 - (i) fuel burning equipment using residual fuel oil, or
 - (ii) refuse burning equipment;
- (h) prescribing forms and providing for their use;
- (i) prescribing fees.

18. The following are repealed:

Repealed:

1. Every air pollution control by-law of every muni-^{By-laws} cipality.
2. *The Air Pollution Control Act, 1967.* 1967, c. 2
3. *The Air Pollution Control Amendment Act, 1968.* 1968, c. 3

19. This Act may be cited as *The Air Pollution Control* ^{Short title} *Act, 1968-69.*

The Air Pollution Control Act, 1968-69

1st Reading

December 3rd, 1968

2nd Reading

3rd Reading

MR. SHYAMAN

BILL 22

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Prepaid Hospital and Medical Services Act**

MR. ROWNTREE

EXPLANATORY NOTE

The Bill makes prescription drug plans subject to the Act in the same manner as hospital and medical services plans.

BILL 22

1968-69

An Act to amend The Prepaid Hospital and Medical Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "service" in the third line "or providing prescription drugs", and by inserting after "services" in the sixth line "or prescription drugs", so that the clause shall read as follows:

R.S.O., 1960,
c. 304, s. 1,
cl. a,
amended

- (a) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service or providing prescription drugs on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or prescription drugs or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under *The Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part VI of *The Corporations Act*.

R.S.O., 1960,
c. 190, s. 1

2. Section 1 of *The Prepaid Hospital and Medical Services Act* is amended by adding thereto the following clauses:

R.S.O., 1960,
c. 304, s. 1,
amended

- (aa) "pharmacist" means a person registered as a pharmaceutical chemist under *The Pharmacy Act*;

R.S.O., 1960,
c. 295

- (ab) "prescription drug" means a drug as defined in *The Pharmacy Act* dispensed upon the prescription of a legally qualified medical practitioner or dentist to a named person, and includes such drug mixed with any other drug or substance.

R.S.O. 1960,
c. 304, s. 4,
amended

3. Section 4 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "service" in the second line "or prescription drugs", so that the section shall read as follows:

No asso-
ciation to
carry on
business
unless
registered

4. No association shall, in Ontario, contract to furnish hospital, medical, surgical, nursing or dental service or prescription drugs, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act.

R.S.O. 1960,
c. 304, s. 5,
subs. 1, cl. c,
amended

4.—(1) Clause *c* of subsection 1 of section 5 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "physician" in the second line "pharmacist", so that the clause shall read as follows:

(c) by a copy of every contract or proposed contract with a hospital, physician, pharmacist and other person for the rendering of services to subscribers or members.

R.S.O. 1960,
c. 304, s. 5,
subs. 2, cl. b,
amended

(2) Clause *b* of subsection 2 of the said section 5 is amended by inserting after "physicians" in the second line "pharmacists", so that the clause shall read as follows:

(b) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable.

R.S.O. 1960,
c. 304, s. 6,
subs. 2, cl. a,
amended

5. Clause *a* of subsection 2 of section 6 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "physicians" in the second line "pharmacists", so that the clause shall read as follows:

(a) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable.

Commence-
ment

6. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

7. This Act may be cited as *The Prepaid Hospital and Medical Services Amendment Act, 1968-69*.







An Act to amend
The Prepaid Hospital and
Medical Services Act

1st Reading

December 4th, 1968

2nd Reading

3rd Reading

MR. ROWNTREE

BILL 22

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Prepaid Hospital and Medical Services Act**

MR. ROWNTREE

BILL 22

1968-69

An Act to amend The Prepaid Hospital and Medical Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "service" in the third line "or providing prescription drugs", and by inserting after "services" in the sixth line "or prescription drugs", so that the clause shall read as follows:

R.S.O. 1960,
c. 304, s. 1,
cl. a,
amended

- (a) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service or providing prescription drugs on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or prescription drugs or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under *The Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part VI of *The Corporations Act*.

R.S.O. 1960,
cc. 190, 71

2. Section 1 of *The Prepaid Hospital and Medical Services Act* is amended by adding thereto the following clauses:

R.S.O. 1960,
c. 304, s. 1,
amended

- (aa) "pharmacist" means a person registered as a pharmaceutical chemist under *The Pharmacy Act*;

R.S.O. 1960,
c. 295

- (ab) "prescription drug" means a drug as defined in *The Pharmacy Act* dispensed upon the prescription of a legally qualified medical practitioner or dentist to a named person, and includes such drug mixed with any other drug or substance.

R.S.O. 1960,
c. 304, s. 4,
amended

3. Section 4 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "service" in the second line "or prescription drugs", so that the section shall read as follows:

No asso-
ciation to
carry on
business
unless
registered

4. No association shall, in Ontario, contract to furnish hospital, medical, surgical, nursing or dental service or prescription drugs, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act.

R.S.O. 1960,
c. 304, s. 5,
subs. 1, cl. c,
amended

4.—(1) Clause *c* of subsection 1 of section 5 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "physician" in the second line "pharmacist", so that the clause shall read as follows:

(c) by a copy of every contract or proposed contract with a hospital, physician, pharmacist and other person for the rendering of services to subscribers or members.

R.S.O. 1960,
c. 304, s. 5,
subs. 2, cl. b,
amended

(2) Clause *b* of subsection 2 of the said section 5 is amended by inserting after "physicians" in the second line "pharmacists", so that the clause shall read as follows:

(b) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable.

R.S.O. 1960,
c. 304, s. 6,
subs. 2, cl. a,
amended

5. Clause *a* of subsection 2 of section 6 of *The Prepaid Hospital and Medical Services Act* is amended by inserting after "physicians" in the second line "pharmacists", so that the clause shall read as follows:

(a) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable.

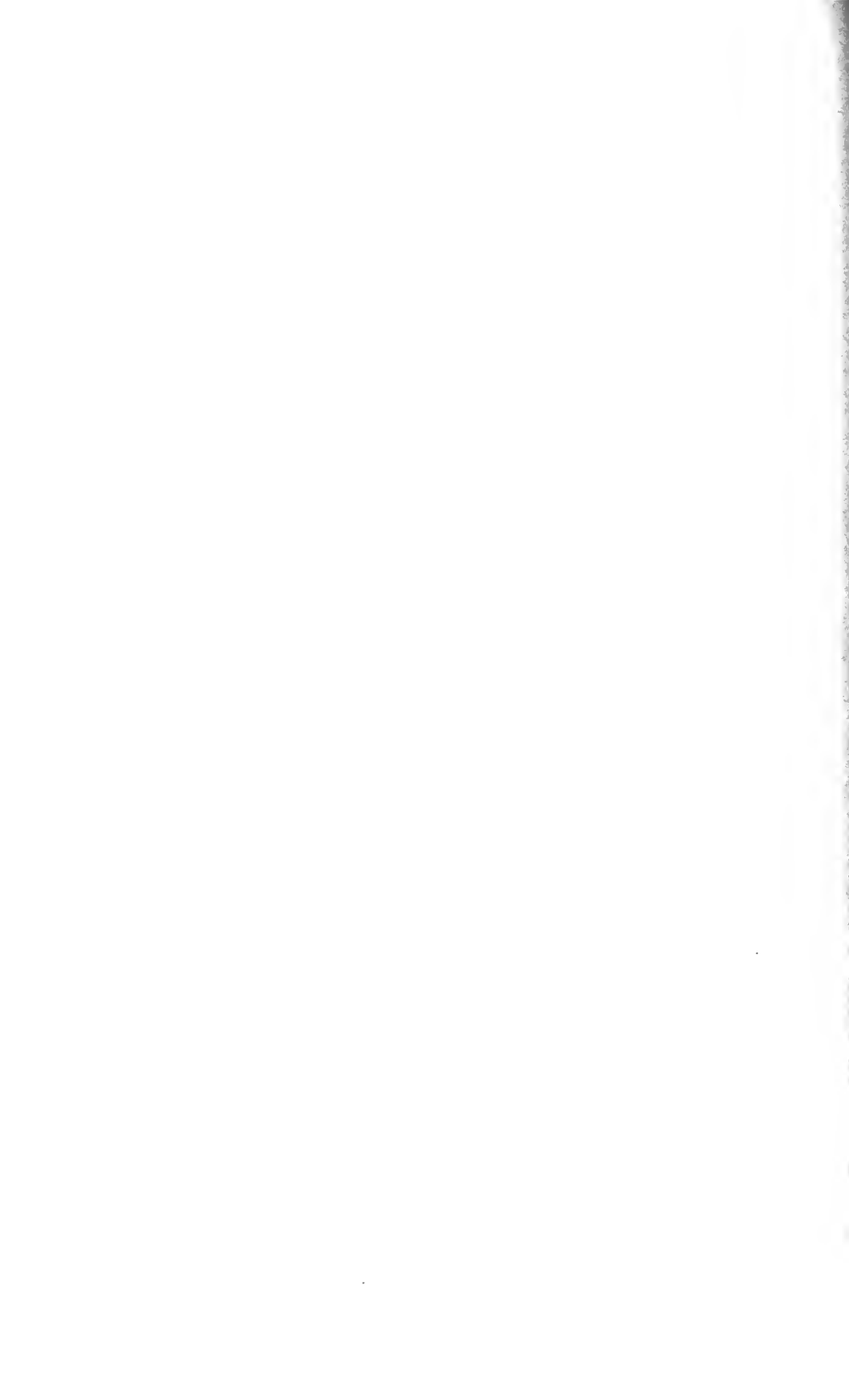
Commence-
ment

6. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

7. This Act may be cited as *The Prepaid Hospital and Medical Services Amendment Act, 1968-69*.







An Act to amend
The Prepaid Hospital and
Medical Services Act

1st Reading

December 4th, 1968

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. ROWNTREE

BILL 23

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Damage by Fumes Arbitration Act

MR. LAWRENCE (St. George)

EXPLANATORY NOTES

SECTION 1. The language is brought into line with present-day conditions and to clarify the intent.

SECTION 2. The maximum sum to be raised annually to cover expenses was fixed at \$5,000 in 1924, \$10,000 in 1946, \$20,000 in 1955, and \$30,000 in 1958. It is now increased to \$50,000.

In addition, a number of changes in language are made to bring the section into line with present-day conditions and to clarify the intent.

BILL 23

1968-69

An Act to amend The Damage by Fumes Arbitration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Damage by Fumes Arbitration Act* is amended by striking out "the smelting or roasting of nickel-copper ore or iron ore or from the treatment of sulphides for the production of sulphur or sulphuric acid for commercial purposes" in the third, fourth and fifth lines and inserting in lieu thereof "smelting, roasting, refining or otherwise treating ores or minerals", so that the subsection shall read as follows:

R.S.O. 1960,
c. 86, s. 2,
subs. 1,
amended

(1) Where damage is occasioned directly or indirectly to crops, trees or other vegetation by sulphur fumes arising from smelting, roasting, refining or otherwise treating ores or minerals, such damage may, subject to section 3, be determined by the arbitrator who has exclusive jurisdiction to determine the amount of such damage and to make an award.

Damage to
crops, etc.

2. Section 6 of *The Damage by Fumes Arbitration Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 86, s. 6,
re-enacted

6.—(1) A sum not exceeding \$50,000 in any year to cover the expenses of administering this Act, including the salary or other remuneration of the arbitrator and his assistants, is payable annually to the Province by the companies smelting, roasting, refining or otherwise treating ores or minerals in a manner that may result in the escape or release into the open air of sulphur fumes.

Expenses

(2) The arbitrator at the close of each calendar year shall assess the amount for which each company smelting, roasting, refining or otherwise treating ores or minerals in a manner that may result in the

Assessment

escape or release into the open air of sulphur fumes is liable under subsection 1, and the amount so assessed against each company is payable to the Treasurer of Ontario within fifteen days after the mailing of a registered letter demanding payment thereof addressed to the last-known address of the company, but every assessment so made is subject to the approval of the Minister of Mines.

Commence-
ment

3. This Act comes into force on the 1st day of January, 1969.

Short title

4. This Act may be cited as *The Damage by Fumes Arbitration Amendment Act, 1968-69*.







An Act to amend
The Damage by Fumes Arbitration Act

1st Reading

December 4th, 1968

2nd Reading

3rd Reading

MR. LAWRENCE (St. George)

BILL 23

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Damage by Fumes Arbitration Act

MR. LAWRENCE (St. George)

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

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1968-69

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The Damage by Fumes Arbitration Act**

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Assessment

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Commence-
ment

3. This Act comes into force on the 1st day of January, 1969.

Short title

4. This Act may be cited as *The Damage by Fumes Arbitration Amendment Act, 1968-69*.







An Act to amend
The Damage by Fumes Arbitration Act

1st Reading

December 4th, 1968

2nd Reading

December 10th, 1968

3rd Reading

Mr. LAWRENCE (St. George)

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 23

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Damage by Fumes Arbitration Act

MR. LAWRENCE (St. George)



BILL 23

1968-69

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R.S.O. 1960,
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Assessment

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Commence-
ment

3. This Act comes into force on the 1st day of January, 1969.

Short title

4. This Act may be cited as *The Damage by Fumes Arbitration Amendment Act, 1968-69*.







An Act to amend
The Damage by Fumes Arbitration Act

1st Reading

December 4th, 1968

2nd Reading

December 10th, 1968

3rd Reading

March 31st, 1969

MR. LAWRENCE (St. George)

BILL 24

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Mining Act

MR. LAWRENCE (St. George)

EXPLANATORY NOTES

SECTION 1. The present maximum of 90 claims a year is removed.

SECTIONS 2 and 3. These provisions are necessary in order to introduce the universal tag system under which claim tags may be used anywhere in the Province without regard to mining division boundaries.

BILL 24

1968-69

An Act to amend The Mining Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 54 of *The Mining Act*, as amended by section 1 of *The Mining Amendment Act, 1965* and section 3 of *The Mining Amendment Act, 1967*, is repealed and the following substituted therefor: R.S.O. 1960, c. 241, s. 54; re-enacted

54. A licensee is not limited as to the number of mining claims that may be staked out and applied for in a licence year. Number of claims unlimited

2.—(1) Subsection 5 of section 62 of *The Mining Act*, as amended by section 4 of *The Mining Amendment Act, 1967*, is further amended by striking out "and letter or letters" in the fifth and sixth lines, so that the subsection shall read as follows: R.S.O. 1960, c. 241, s. 62; subs. 5, amended

(5) As soon as is reasonably possible after the recording of the mining claim and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corresponding corner posts of the claim a metal tag plainly marked or impressed with the recorded number of the claim, and the recorder shall supply such numbered tags free of charge. Tagging claim posts after recording

(2) The said section 62 is amended by adding thereto the following subsection: R.S.O. 1960, c. 241, s. 62; amended

(9) At the time of recording, the recorder shall add to each claim number the prefix allotted to his division and such prefix shall form part of the claim number. Division prefix to form part of claim number

3.—(1) Subsection 1 of section 63 of *The Mining Act* is amended by striking out "the proper" in the first line and R.S.O. 1960, c. 241, s. 63; subs. 1, amended

inserting in lieu thereof "any" and by striking out "under section 54" in the third line, so that the subsection shall read as follows:

Issue of claim tags before staking

- (1) A licensee may purchase from any mining recorder sets of metal tags for the number of mining claims that he is entitled to stake, and the purchase of such tags and the date thereof shall be endorsed by the mining recorder on the licence of the purchaser.

R.S.O. 1960, c. 241, s. 63, subs. 5, re-enacted

- (2) Subsection 5 of the said section 63 is repealed and the following substituted therefor:

Tags may be used in any division

- (5) Metal tags purchased under this section may be used for staking out mining claims in any mining division.

R.S.O. 1960, c. 241, s. 68a (1962-63, c. 84, s. 17), amended

4. Section 68a of *The Mining Act*, as enacted by section 17 of *The Mining Amendment Act, 1962-63*, is amended by adding thereto the following subsection:

Where surface rights required for public use

- (6) Where surface rights on an unpatented mining claim are required for the use of the Crown or other public use, this section applies *mutatis mutandis*.

R.S.O. 1960, c. 241, s. 101 (1967, c. 54, s. 12), amended

5. Section 101 of *The Mining Act*, as enacted by section 12 of *The Mining Amendment Act, 1967*, is amended by adding thereto the following subsection:

Omission of reservations, etc.

- (4) The Minister may omit reservations or provisions contained in subsection 1 from a lease issued under section 100c where such reservations or provisions are contrary to the purpose of the lease.

Commencement

6. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

7. This Act may be cited as *The Mining Amendment Act, 1968-69*.

SECTION 4. This provision provides a means of acquiring surface rights on unpatented mining claims where the rights are required for further use.

SECTION 5. The purpose of this amendment is to remove a conflict between sections 100c and 101.





1st Reading

December 4th, 1968

2nd Reading

3rd Reading

MR. LAWRENCE (St. George)

BILL 24

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Mining Act

MR. LAWRENCE (St. George)

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The present maximum of 90 claims a year is removed.

SECTIONS 2 and 3. These provisions are necessary in order to introduce the universal tag system under which claim tags may be used anywhere in the Province without regard to mining division boundaries.

BILL 24

1968-69

An Act to amend The Mining Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 54 of *The Mining Act*, as amended by section 1 of *The Mining Amendment Act, 1965* and section 3 of *The Mining Amendment Act, 1967*, is repealed and the following substituted therefor: R.S.O. 1960, c. 241, s. 54, re-enacted

54. A licensee is not limited as to the number of mining claims that may be staked out and applied for in a licence year. Number of claims unlimited

2.—(1) Subsection 5 of section 62 of *The Mining Act*, as amended by section 4 of *The Mining Amendment Act, 1967*, is further amended by striking out “and letter or letters” in the fifth and sixth lines, so that the subsection shall read as follows: R.S.O. 1960, c. 241, s. 62, subs. 5, amended

(5) As soon as is reasonably possible after the recording of the mining claim and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corresponding corner posts of the claim a metal tag plainly marked or impressed with the recorded number of the claim, and the recorder shall supply such numbered tags free of charge. Tagging claim posts after recording

(2) The said section 62 is amended by adding thereto the following subsection: R.S.O. 1960, c. 241, s. 62, amended

(9) At the time of recording, the recorder shall add to each claim number the prefix allotted to his division and such prefix shall form part of the claim number. Division prefix to form part of claim number

3.—(1) Subsection 1 of section 63 of *The Mining Act* is amended by striking out “the proper” in the first line and R.S.O. 1960, c. 241, s. 63, subs. 1, amended

inserting in lieu thereof "any" and by striking out "under section 54" in the third line, so that the subsection shall read as follows:

Issue of
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before
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- (1) A licensee may purchase from any mining recorder sets of metal tags for the number of mining claims that he is entitled to stake, and the purchase of such tags and the date thereof shall be endorsed by the mining recorder on the licence of the purchaser.

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6. This Act comes into force on the 1st day of April, 1969.

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An Act to amend The Mining Act

1st Reading

December 4th, 1968

2nd Reading

February 19th, 1969

3rd Reading

MR. LAWRENCE (St. George)

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 24

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

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BILL 24

1968-69

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c. 241, s. 68^a
(1962-63,
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Omission
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- (4) The Minister may omit reservations or provisions contained in subsection 1 from a lease issued under section 100^c where such reservations or provisions are contrary to the purpose of the lease.

Commence-
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Short title

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An Act to amend The Mining Act

1st Reading

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March 31st, 1969

Mr. LAWRENCE (St. George)

BILL 26

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to provide for
the Control of Air Pollution from Motor Vehicles**

MR. SHULMAN

EXPLANATORY NOTE

The Bill adopts the standards for motor vehicle air pollution recently enacted in California.

An Act to provide for the Control of Air Pollution from Motor Vehicles

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "exhaust emission" means the substances emitted to the atmosphere from any opening downstream from the exhaust part of a motor vehicle engine;
- (b) "fuel evaporation emission" means vaporized fuel emitted to the atmosphere from the unfired fuel in a motor vehicle;
- (c) "Minister" means the Minister of Health;
- (d) "model year" followed by a designated year means the annual production period of the manufacturer in which a motor vehicle is manufactured and the designated year is the year in which such annual production period ends and, where the manufacturer does not have an annual production period, the twelve month period ending on the 1st day of November shall be deemed to be the annual production period;
- (e) "motor vehicle" means a vehicle propelled by an internal combustion engine and designed primarily for use on a highway.

2. No person shall sell or offer or expose for sale a new motor vehicle that does not have installed on or incorporated in it a system or device to prevent or lessen the emission into the outdoor atmosphere of air contaminants in accordance with the following:

Sale of
new
motor
vehicles

Exhaust:
1970 light
vehicles

1. The exhaust emissions from a model year 1970 new gasoline-powered motor vehicle having gross weight of 6,000 pounds or less, as rated by the manufacturer, and having an engine displacement of fifty cubic inches or greater shall not contain more than,
 - i. 2.2 grams of hydrocarbons per mile of driving, and,
 - ii. 23 grams of carbon monoxide per mile of driving.

Exhaust:
1971 light
vehicles

2. The exhaust emissions from a model year 1971 new gasoline-powered motor vehicle having gross weight of 6,000 pounds or less, as rated by the manufacturer, and having an engine displacement of fifty cubic inches or greater shall not contain more than,
 - i. 2.2 grams of hydrocarbons per mile of driving,
 - ii. 23 grams of carbon monoxide per mile of driving, and
 - iii. 4.0 grams of oxides of nitrogen per mile of driving.

Exhaust:
1972 and
1973 light
vehicles

3. The exhaust emissions from a model year 1972 or 1973 new gasoline-powered motor vehicle having gross weight of 6,000 pounds or less, as rated by the manufacturer, and having an engine displacement of fifty cubic inches or greater shall not contain more than,
 - i. 1.5 grams of hydrocarbons per mile of driving,
 - ii. 23 grams of carbon monoxide per mile of driving, and
 - iii. 3.0 grams of oxides of nitrogen per mile of driving.

Exhaust:
1974 or
later light
vehicles

4. The exhaust emissions from a model year 1974 or later new gasoline-powered motor vehicle having gross weight of 6,000 pounds or less, as rated by the manufacturer, and having an engine displacement of fifty cubic inches or greater shall not contain more than,
 - i. 1.5 grams of hydrocarbons per mile of driving,

- ii. 23 grams of carbon monoxide per mile of driving, and
- iii. 1.3 grams of oxides of nitrogen per mile of driving.

5. The exhaust emissions from a model year 1970 or 1971 new gasoline-powered motor vehicle having a gross weight of over 6,000 pounds, as rated by the manufacturer, shall not contain more than, Exhaust: 1970 and 1971 heavy vehicles

- i. 275 parts per million of hydrocarbons, and

- ii. 1.5 per cent of carbon monoxide.

6. The exhaust emissions from a model year 1972 or later new gasoline-powered motor vehicle having a gross weight of over 6,000 pounds, as rated by the manufacturer, shall not contain more than, Exhaust: 1972 and later heavy vehicles

- i. 180 parts per million of hydrocarbons, and

- ii. 1.0 per cent carbon monoxide.

7. Fuel evaporation emissions from the fuel system of a model year 1970 or later new gasoline-powered motor vehicle having a gross weight of 6,000 pounds or less, as rated by the manufacturer, and having an engine displacement of fifty cubic inches or greater shall not contain more than six grams of hydrocarbons per mile of driving. Fuel evaporation: 1970 or later light vehicles

8. The exhaust emissions from new diesel-powered motor vehicles shall not contain such quantity of hydrocarbons, carbon monoxide or oxides of nitrogen as is prescribed by the Lieutenant Governor in Council by regulation. Diesel exhaust

3.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the content of exhaust emissions in new diesel-powered motor vehicles;
- (b) prescribing tests for determining whether systems or devices are sufficient for the purposes of this Act.

(2) The Minister may approve any testing method or procedure proposed to be used to determine the effectiveness of a system or device to be incorporated in motor vehicles Approval

on their manufacture and the use of the approved testing methods and procedures shall be deemed to be sufficient testing for the purposes of this Act.

Offence

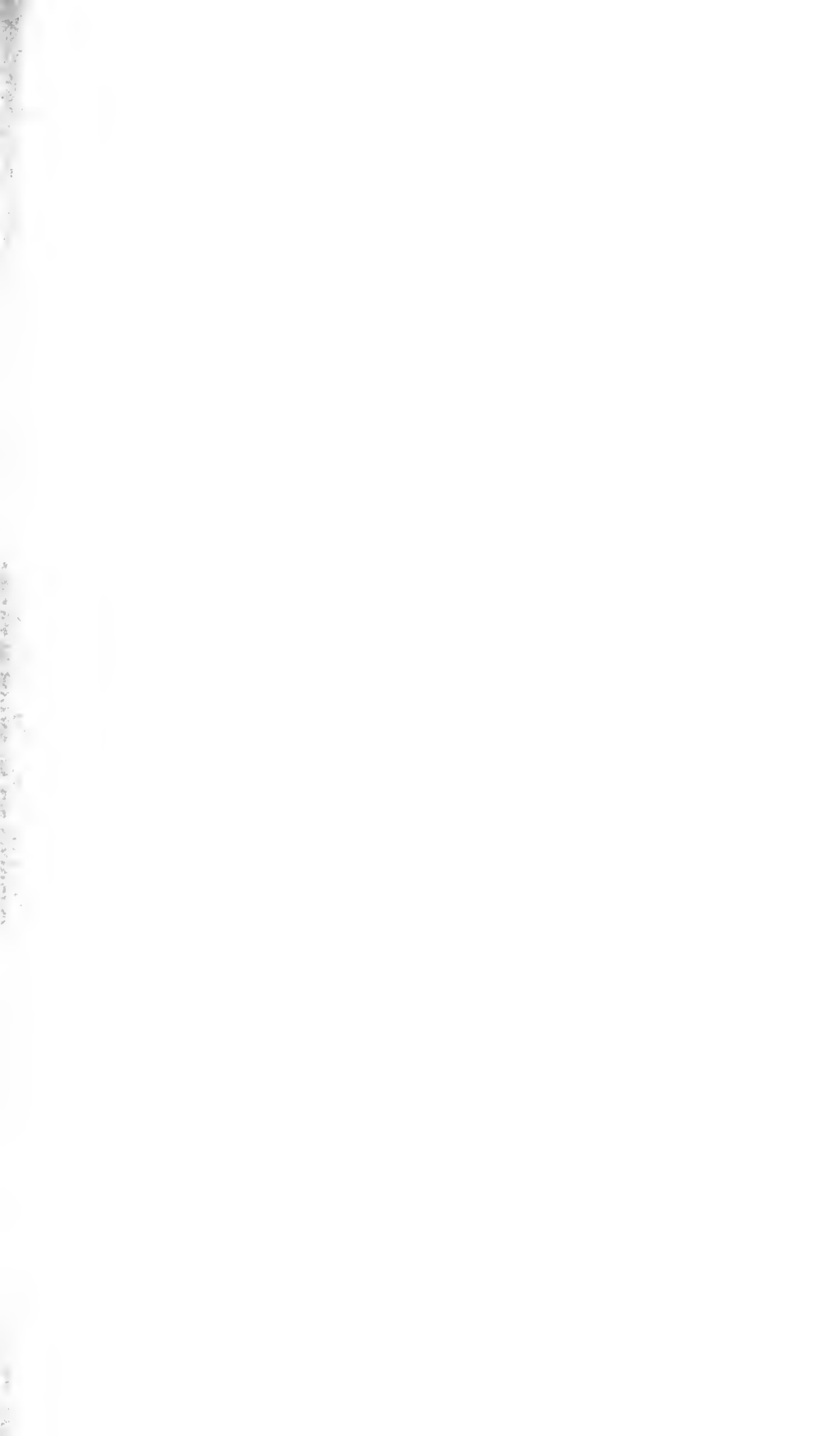
4. Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Air Pollution by Motor Vehicles Act, 1968-69*.



An Act to provide for the Control of
Air Pollution from Motor Vehicles

1st Reading

December 4th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 27

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to Control Automobile Racing

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 27

1968-69

An Act to Control Automobile Racing

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The closing of any public road, permanently or temporarily, for the purpose of automobile racing is forbidden except where specifically authorized by the Legislative Assembly of Ontario. Closing of public roads forbidden
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Automobile Racing Control Act, 1968-69*. Short title

1st Reading

December 5th, 1968

2nd Reading

3rd Reading

MR. SUTCLIFFE

BILL 28

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Pounds Act

MR. DEACON

EXPLANATORY NOTE

The amendments provide for the licensing and regulation of municipal pounds.

An Act to amend The Pounds Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Pounds Act* is amended by adding thereto the following sections: R.S.O. 1960,
c. 299,
amended

20a.—(1) No person shall operate a municipal pound for domestic animals without a poundkeeper's licence issued by the Live Stock Commissioner. Pound-
keeper's
licence

- (2) Upon application therefor and, Issue of
licence
- (a) with the consent of the council of the municipality in which the pound is to be operated;
 - (b) upon being satisfied that this Act is being complied with; and
 - (c) upon payment of any fees and deposit of any security prescribed by the regulations,

the Live Stock Commissioner shall issue the licence.

- (3) Every licence is subject to the conditions that the licensee, Conditions
of licence
- (a) maintains the security required by the regulations;
 - (b) is in possession of premises that have at least one building for the impounding of animals for the purpose of this Act;
 - (c) provides in every building in which animals are kept facilities for the housing of each animal in a separate unit of sufficient size to allow the animal to stand and lie down in comfort;

(d) provides an adequate water supply in each separate unit; and

(e) complies with this Act and the regulations and any other condition that is imposed by the regulations.

Over-crowding

20b. No poundkeeper shall keep animals in greater numbers than may be kept, fed, watered and otherwise cared for on the premises without danger to their health or risk of injury.

Veterinarians and inspectors

20c.—(1) The Lieutenant Governor in Council may appoint such veterinarians and inspectors as are required for the purposes of this Act.

Inspection

(2) No licence shall be issued or renewed until a veterinarian appointed under subsection 1 has inspected the premises at which the animals are to be impounded, and has issued a certificate of approval.

Cleaning

20d. Every poundkeeper shall, at intervals of not more than twenty-four hours, clean and disinfect the premises in such manner as the regulations prescribe.

Records

20e. Every poundkeeper shall keep for at least twelve months after impounding each animal, a record showing,

(a) the name and address of the owner of the animal where known;

(b) the date of arrival of the animal at his premises and the date of its departure or destruction;

(c) an identification or description of the animal;

(d) the sale price of the animal, where applicable; and

(e) the name and address of the purchaser of the animal, where applicable.

Inspection

20f.—(1) The Live Stock Commissioner or an inspector or a veterinarian appointed under section 20c may enter any pound for the purpose of enforcing this Act.

Idem

(2) No person shall obstruct the Live Stock Commissioner or an inspector or a veterinarian in the per-

formance of his duties or furnish him with false information or refuse to permit the inspection of any animal.

(3) Every person shall, when required by the Live Stock Commissioner or an inspector, produce any books, records or other documents relating to any animal impounded, destroyed or sold on the premises of the poundkeeper. ^{Idem}

20g. Every person who contravenes any of the provisions of section 20a, 20b, 20d, 20e, 20f or any regulation made under section 20h is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$100 and for a second or subsequent offence, to a fine of not more than \$500. ^{Penalty}

20h. The Lieutenant Governor in Council may make Regulations regulations,

- (a) providing for the issue, renewal, refusal to grant or renew, suspension and revocation of licences and prescribing additional conditions of licences;
- (b) prescribing the fee payable for a licence and for the renewal thereof;
- (c) prescribing the duties of veterinarians and inspectors for the purposes of the regulations under this Act;
- (d) respecting the conditions under which animals shall be kept or impounded;
- (e) prescribing the manner in which premises shall be cleaned and disinfected;
- (f) prescribing forms and providing for their use;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

3. This Act may be cited as *The Pounds Amendment Act, 1968-69.* ^{Short title}

1st Reading

December 6th, 1968

2nd Reading

3rd Reading

MR. DEACON

BILL 29

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act respecting Impaired Drivers

MR. SHULMAN

EXPLANATORY NOTE

This Bill contains the principles of a Bill passed by the Assembly and Senate of the State of California in 1966.

BILL 29

1968-69

An Act respecting Impaired Drivers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means the Licence Suspension Appeal Board under *The Highway Traffic Act*; R.S.O. 1960, c. 172

(b) "Registrar" means the Registrar of Motor Vehicles under *The Highway Traffic Act*.

2.—(1) Any person under arrest for any offence against any law in force in Ontario that was allegedly committed while he was driving a motor vehicle upon a highway while under the influence of intoxicating liquor shall be deemed to have given his consent to a chemical test of his blood, breath or urine for the purpose of determining the alcoholic content of his blood. Consent to test deemed to have been given

(2) The test shall be administered at the direction of the arresting officer if he has reasonable cause to believe that the person was driving a motor vehicle upon a highway while under the influence of intoxicating liquor. Admin-
istration of test

(3) The arresting officer shall tell the person that his failure to submit to the test will result in the suspension of his operator's licence or his chauffeur's licence, as the case may be, for a period of six months. Warning

(4) The arresting officer shall tell the person that he has a choice as to whether the test will be of his blood, breath or urine. Choice of test

(5) Where the person has died or is unconscious or otherwise is in a condition that renders him incapable of refusing to submit to the test, he shall be deemed not to have withdrawn his consent and the test may be administered whether or not subsections 3 and 4 have been complied with. Where subss. 3, 4 need not be complied with

Penalty for refusing test

3.—(1) If a person referred to in section 2 refuses the arresting officer's request to submit to a test under this Act, the Registrar, upon receipt of the officer's sworn statement that he had reasonable cause to believe,

- (a) that the person had been driving a motor vehicle upon a highway while under the influence of intoxicating liquor; and
- (b) that the person had refused to submit to a test under this Act after being requested so to do by the officer,

shall suspend the person's operator's licence or chauffeur's licence, as the case may be, for a period of six months.

When suspension to take effect

(2) No such suspension becomes effective until ten days after the giving of the notice of suspension provided for in subsection 3.

Notice of suspension

(3) The Registrar shall immediately notify in writing the person whose licence has been suspended of the action taken.

Appeal

(4) Every person who feels himself aggrieved by the suspension of his licence under this Act may appeal to the Board.

Scope of appeal

(5) On an appeal under this Act the Board shall receive all evidence submitted by or on behalf of the person aggrieved and the arresting officer that it considers relevant to the issue of whether the suspension of the licence was proper having regard to this Act and all the circumstances of the case.

Procedure R.S.O. 1960, c. 172

(6) On an appeal under this Act the provisions of *The Highway Traffic Act* and the regulations thereunder respecting appeals to the Board, except as varied by this Act, apply, including the further right of appeal to a judge of the county or district court of the county or district in which the person whose licence was suspended resides.

Request for test

4. Any person under arrest for any offence against any law in force in Ontario that was allegedly committed while he was driving a motor vehicle on a highway while under the influence of intoxicating liquor may request the arresting officer to have a chemical test made of the arrested person's blood, breath or urine for the purpose of determining the alcoholic content of the arrested person's blood, and, if so requested, the arresting officer shall direct the test to be made.

Additional test

5.—(1) Where a test under this Act is administered at the direction of the arresting officer, the person tested may, in addition to such test and at his own expense, have a

chemical test of his blood, breath or urine administered by a person of his own choosing for the purpose of determining, independently of the first test, the alcoholic content of his blood.

(2) The failure or inability to obtain an additional test under this section does not affect the admissibility in evidence of the test administered at the direction of the arresting officer.

6.—(1) Only a duly qualified medical practitioner or a registered nurse may withdraw blood from a person for a test under this Act.

(2) No duly qualified medical practitioner or registered nurse shall incur any civil or criminal liability as a result of the proper withdrawal of blood from a person for a test under this Act if the withdrawal was requested in writing by the arresting officer.

7. Where a test under this Act is of urine, the person tested shall be afforded such privacy in the taking of the specimen of urine as will ensure the accuracy of the test and the dignity of the person tested.

8. Upon the request of a person tested under this Act, full information concerning the test administered at the direction of the arresting officer shall be made available to the person or his representative.

9. Any person,

(a) who is afflicted with hemophilia; or

(b) who is afflicted with a heart condition and is using an anticoagulant under the direction of a duly qualified medical practitioner,

is exempt from a test of his blood under this Act.

10. This Act may be cited as *The Blood-Alcohol Test Act, 1968-69*.





Act Act respecting Impaired Drivers

1st Reading

December 6th, 1968

2nd Reading

3rd Reading

MR. SHOLMAN

BILL 30

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. YOUNG

EXPLANATORY NOTE

The purpose of the Bill is to provide a system for inspecting motor vehicles for mechanical safety and for enforcing safety standards.

BILL 30

1968-69

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act* is amended by adding thereto the following section: R.S.O. 1960.
c. 172
amended

- 49a.—(1) No person shall operate a motor vehicle, other than a public vehicle or public commercial vehicle, on the highway unless, within the preceding six-month period, it has been inspected by an inspector and certified by him in accordance with this section as free from mechanical, structural or other defect that would render the vehicle unsafe for use on the highway. Safety
inspections
- (2) The Lieutenant Governor in Council may appoint mechanics holding subsisting certificates of qualification under *The Apprenticeship and Tradesmen's Qualification Act, 1964*, as inspectors for the purposes of this section. Inspectors
1964, c. 3
- (3) The certificate of an inspector under subsection 1 shall be endorsed on the motor vehicle permit for the vehicle. Certificates
- (4) A motor vehicle permit shall not be issued in respect of a motor vehicle for which a permit has been previously issued unless a certificate has been given under this section within six months before the new permit is issued. Renewal
of permits
- (5) The Lieutenant Governor in Council may make regulations requiring the payment of inspection fees and prescribing the amounts thereof. Inspection
fees

- Offence** (6) Every person who operates a motor vehicle on the highway in contravention of subsection 1 and every owner of a motor vehicle who permits the vehicle to be so operated is guilty of an offence and is liable to a fine of not more than \$500.
- Commence-
ment** 2. This Act comes into force on the 1st day of March, 1970.
- Short title** 3. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.





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An Act to amend The Highway Traffic Act

1st Reading

December 9th, 1968

2nd Reading

3rd Reading

MR. YOUNG

BILL 31

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955**

MR. SHULMAN

EXPLANATORY NOTE

The amendment delegates to the S.P.C.A. the licensing and regulating of dog kennels.

BILL 31

1968-69

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is amended by adding thereto^{1955, c. 58, s. 7, amended} the following subsections:

(1a) Without restricting the generality of subsection 1,^{Regulation of kennels} the Society may pass by-laws,

- (a) requiring and providing for the licensing of kennels and prescribing the terms and conditions of licences;
- (b) prescribing the standards for the accommodation, facilities and operation of kennels including the care of dogs therein;
- (c) requiring the payment of fees for licences and prescribing the amount thereof.

(4) In this section, "kennel" means any premises where^{kennel" defined} dogs are kept for the purposes of boarding, breeding or sale for gain.

2. This Act comes into force on the day it receives Royal^{Commence-} Assent^{ment}.

3. This Act may be cited as *The Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 1968-69*.^{Short title}

An Act to amend The Ontario Society for
the Prevention of Cruelty to Animals Act,
1955

1st Reading

December 9th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 32

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Employment Standards Act, 1968

MR. DAVISON

EXPLANATORY NOTE

The Bill increases the basic rate for minimum wages from \$1.30 an hour to \$2.25 an hour.

BILL 32

1968-69

**An Act to amend
The Employment Standards Act, 1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part IV of *The Employment Standards Act, 1968* is ^{1968, c. 35} amended by re-numbering section 15 as 15a and by adding ^{Part IV,} amended thereto the following section:

- 15.—(1) Subject to subsection 5, every employer shall ^{Minimum Wage} pay to each of his employees wages at a rate of not less than \$2.25 an hour.
- (2) Where an employee receives meals or living accom- ^{Meals and living accom-}modation, or both, as part of his wages, the amount ^{modation} of the wages referable to the meals or living accommodation shall not exceed,
- (a) in the case of living accommodation, \$5 a week;
- (b) in the case of meals, 60 cents each but not more than a total of \$12 a week; and
- (c) in the case of both living accommodation and meals, \$17 a week.
- (3) No amount shall be computed in respect of a meal or ^{idem} living accommodation for the purpose of determining the wage paid unless the meal was actually received or the living accommodation was actually occupied by the employee.
- (4) In determining the wage paid, no amount shall be ^{Other services} computed in respect of the supplying, use or laundering by the employer of uniforms, aprons, caps or other apparel.

Application
of section

(5) This section does not apply to any class or classes of employees designated for the purpose by the regulations.

1968,
c. 35, s. 29,
subs. 1, cl. a,
re-enacted

2. Clause *a* of subsection 1 of section 29 of *The Employment Standards Act, 1968* is repealed and the following substituted therefor:

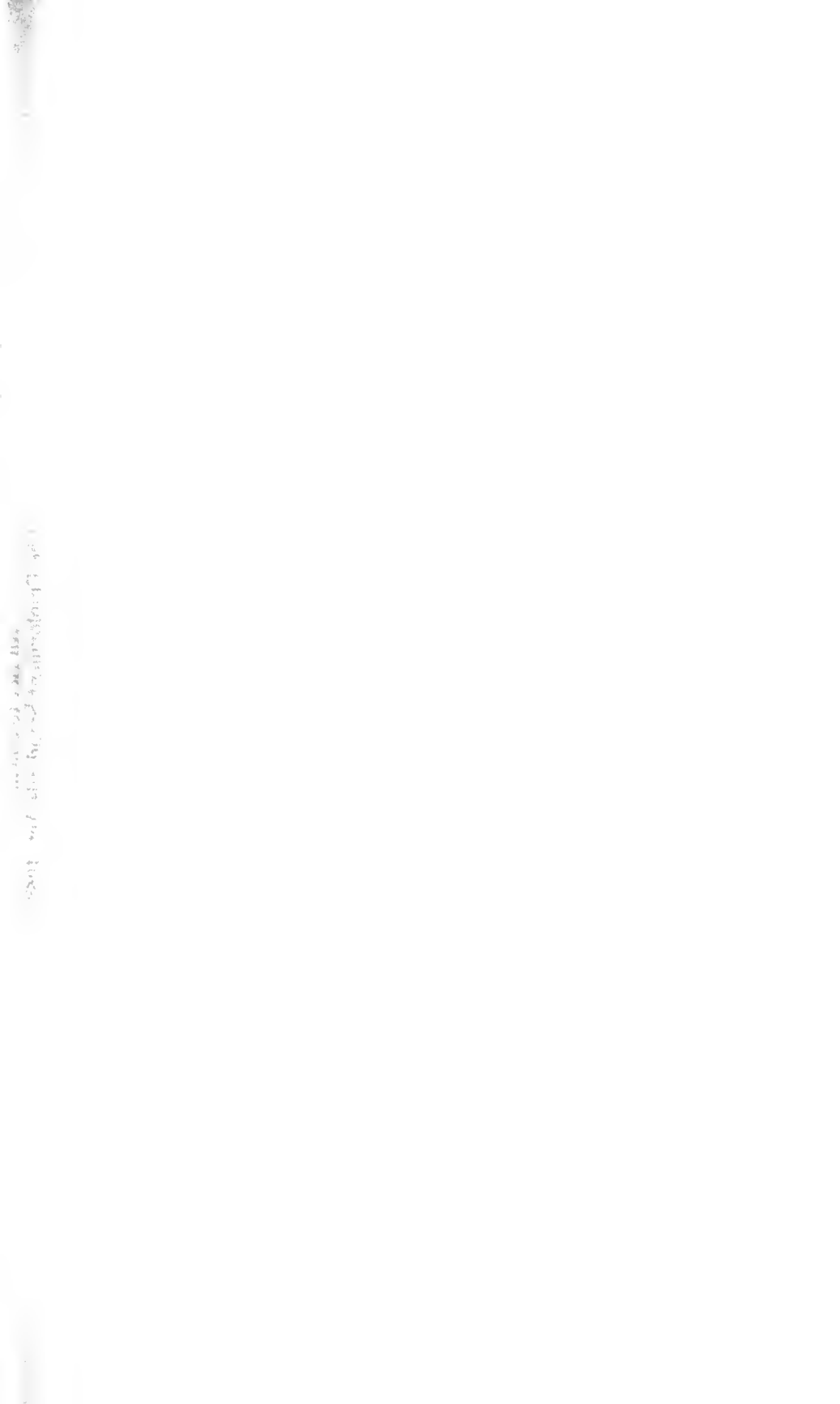
(a) designating classes of employees to which section 15 does not apply and establishing minimum rates of wages of such classes.

Short title

3. This Act may be cited as *The Employment Standards Amendment Act, 1968-69*.







An Act to amend
The Employment Standards Act, 1968

1st Reading

December 10th, 1968

2nd Reading

3rd Reading

MR. DAVISON

BILL 33

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. SHULMAN

EXPLANATORY NOTE

The purpose of the Bill is to establish three classes of chauffeur's licences related to the size and complexity of operation of the motor vehicle being driven. Provision is made for chauffeurs' learners' permits, and tests designed to reveal an applicant's driving ability are to be devised and administered. Existing chauffeurs' licences will expire when the Act comes into force, and exchanges of such licences for the ones of the new classes will be in accordance with terms and conditions to be prescribed.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 16 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 16, subs. 1, re-enacted

- (1) No person shall operate or drive a motor vehicle on a highway as a chauffeur unless he is the holder of a class of chauffeur's licence entitling him to drive such vehicle, and no person shall employ anyone to drive a motor vehicle who is not the holder of a class of chauffeur's licence entitling him to drive such vehicle. Chauffeur's licence

(2) Subsection 3 of the said section 16 is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 16, subs. 3, re-enacted

- (3) Chauffeurs' licences shall be of three classes as follows: Classes of licence

1. Class 1—Entitling the holder thereof to drive as a chauffeur a private motor vehicle, taxicab, bus, truck-trailer combination, tractor-trailer combination or any truck.
2. Class 2—Entitling the holder thereof to drive as a chauffeur a private motor vehicle, taxicab, bus or any truck.
3. Class 3—Entitling the holder thereof to drive as a chauffeur a private motor vehicle, taxicab or any truck.

(3) The said section 16, as amended by section 1 of *The Highway Traffic Amendment Act, 1960-61* and section 6 of *The Highway Traffic Act Amendment Act, 1968*, is further amended by adding thereto the following subsections: R.S.O. 196, c. 172, s. 0, amended 16

When deemed driving without a licence

- (4) Where the holder of any class of chauffeur's licence drives or operates a motor vehicle on the highway other than of the type permitted by his class of licence, he shall be deemed to be driving or operating the motor vehicle without a licence.

Chauffeurs' learners' permits

- (5) Notwithstanding the provisions of subsection 1, any person who desires to qualify for a chauffeur's licence of any of the classes prescribed by subsection 3, may drive or operate a motor vehicle as a chauffeur for a period of six months from the date of issuance to him of a chauffeur's learner's permit, in accordance with the terms of such permit.

Learners to drive under supervision

- (6) The holder of a chauffeur's learner's permit shall not drive a motor vehicle as a chauffeur except under the immediate supervision and control of a chauffeur who holds a licence of the class permitting him to drive such vehicle, and where the holder of a chauffeur's learner's permit drives a motor vehicle in contravention of this subsection he shall be deemed to be driving or operating the motor vehicle without a licence.

Exchange of subsisting chauffeurs' licences

- (7) The holder of a chauffeur's licence or an operator's licence issued prior to the day this Act comes into force may exchange such licence for a chauffeur's licence of any one of the classes prescribed by subsection 3 on such terms and conditions as the Lieutenant Governor in Council may prescribe.

Tests for licence

- (7a) The Minister shall devise, revise from time to time as appropriate, and administer tests for persons applying for chauffeurs' learners' permits and each of the several classes of chauffeurs' licences prescribed by subsection 3.

Evidence of driving ability

- (7b) The tests mentioned in subsection 7a shall be designed to furnish the Minister with evidence as to the ability of an applicant to drive safely the class or classes of motor vehicle involved.

Terms of licence

- (7c) Subject to satisfactory performance on the tests mentioned in subsection 7a, chauffeurs' learners' permits and chauffeurs' licences of any of the classes prescribed by subsection 3 may be issued by the Minister to such persons for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant Governor in Council may prescribe.

(7d) Notwithstanding the date of expiry appearing on any chauffeur's licence issued prior to the day this Act comes into force, all such chauffeurs' licences expire on the day this Act comes into force.

2. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

3. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.





1st Reading

December 10th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 34

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Consumer Protection Act, 1966

MR. PATERSON

EXPLANATORY NOTE

The amendment requires the publication of the names and addresses of contest winners.

BILL 34

1968-69

**An Act to amend
The Consumer Protection Act, 1966**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act, 1966* is amended by adding ^{1966, c. 23,} amended thereto the following section:

31a.—(1) Any person who invites the public to enter a ^{Contests} contest or competition for which any prize, reward or advantage is offered shall, as soon as is practicable after the completion of the contest, publish or broadcast the name and address of each person who received any such prize, reward or advantage.

(2) The publication or broadcast required by subsection ^{Publication} 1 shall be made, ^{of winners}

(a) in the same medium and to the same territorial extent as that in which the invitation was extended; or

(b) by publication in one or more newspapers having general circulation in all parts of the area in which the invitation was extended.

(3) Any person who contravenes this section is guilty ^{Penalty} of an offence and upon summary conviction is liable to a fine not exceeding \$1,000 or, where the person is a corporation, to a fine not exceeding \$10,000.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Consumer Protection* ^{short title} *Amendment Act, 1968-69.*

An Act to amend
The Consumer Protection Act, 1966

1st Reading

December 11th, 1968

2nd Reading

3rd Reading

MR. PATERSON

BILL 35

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. SHULMAN

EXPLANATORY NOTE

The Bill makes it an offence for the driver of a motor vehicle to fail to stop when given a clear signal to do so by a uniformed constable or police officer driving a plainly marked police vehicle.

BILL 35

1968-69

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 172,
amended

156a.—(1) Every driver of a motor vehicle when given by means of hand, voice, siren or emergency light an audible or visual signal to stop by a constable or officer in a police vehicle, shall bring his vehicle to a stop and shall not otherwise flee or attempt to elude the police vehicle provided,

(a) the police vehicle is plainly marked as such; and

(b) the constable or officer is in uniform with his badge of office prominently displayed thereon.

(2) Every person who contravenes the provisions of subsection 1 is liable to a fine of not less than \$100 and not more than \$500, or to imprisonment for a term of not less than thirty days and not more than six months, or to both such fine and imprisonment. Penalty

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*. short title

1st Reading

December 11th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 36

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Mechanics' Lien Act, 1968-69

MR. WISHART

EXPLANATORY NOTES

GENERAL. In 1965 the Ontario Law Reform Commission undertook an extensive study of the law in Ontario on mechanics' liens.

A report dated February 22, 1966, was made by the Commission to the Attorney General containing its recommendations for up-dating *The Mechanics' Lien Act*.

Bill 190, based upon the report, was introduced and given first reading at the 1966 Session. This gave the proposed legislation wide distribution in convenient form for study by interested persons and organizations.

The Commission then held public hearings and considered many submissions which resulted in a supplementary report dated May 26, 1967.

The recommendations of the Commission contained in the supplementary report have been incorporated in this Bill. There is, however, one major exception. This Bill does not transfer jurisdiction in mechanics' lien actions from the Supreme Court to the county and district courts as recommended by the Commission in both of its reports. It is thought advisable to leave this matter in abeyance pending the conclusion of the general review of the jurisdictions of the several court systems in Ontario now going on as a result of the recommendations of the McRuer Report.

This Bill also contains a number of editorial and other changes, designed to clarify the intent, that have resulted from the study of Bill 190.

In the following notes the supplementary report of the Commission is referred to as O.L.R.C. Supp. Rep.

The Mechanics' Lien Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "completion of the contract" means substantial performance, not necessarily total performance, of the contract;
- (b) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or the placing or furnishing of materials for any of the purposes mentioned in this Act;
- (c) "materials" includes every kind of movable property;
- (d) "owner" includes any person and corporation, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which work is done or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity or consent, or
 - (iv) for whose direct benefit,

work is done or materials are placed or furnished and all persons claiming under him or it whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials placed or furnished have been commenced to be placed or furnished;

- (e) "registrar" includes a master of titles;
- (f) "registry office" includes a land titles office;

- (g) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for any of the purposes mentioned in this Act, but contracting with or employed by a contractor or, under him, by another subcontractor;
- (h) "wages" means the money earned by a workman for work done by time or as piece work, and includes all monetary supplementary benefits, whether statutory or contractual;
- (i) "workman" means a person employed for wages in any kind of labour, whether employed under a contract of service or not. R.S.O. 1960, c. 233, s. 1, *amended*.

Work
includes
service

(2) In this Act, the expression "the doing of work" includes the performance of a service, and corresponding expressions have corresponding meanings.

Substantial
performance

(3) For the purposes of this Act, a contract shall be deemed to be substantially performed,

- (a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- (b) when the work to be done under the contract is capable of completion or correction at a cost of not more than,
- (i) 3 per cent of the first \$250,000 of the contract price,
- (ii) 2 per cent of the next \$250,000 of the contract price, and
- (iii) 1 per cent of the balance of the contract price,

and in the event that the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work shall be deducted from the contract price for the purpose of determining substantial performance. *New.*

GENERAL

Exception
of streets
or highways

2. Nothing in this Act extends to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon, except that the

SECTION 1—Subsection 3. This provision is new. It is designed to complement the definition of “completion of the contract” and thus speed up the release of “holdback” moneys.

SECTION 2. The intent of the original recommendation of the Ontario Law Reform Commission is clarified. The “holdback” provisions are not intended to apply where the work is being done by a municipality or its contractor. See O.L.R.C. Supp. Rep., pp. 4, 5.

SECTION 3—Subsection 3. The purpose of this new subsection is to extend the trust concept so that not only the sums received under subsection 1 by the builder, contractor or subcontractor would constitute trust funds but also the sums certified as owing because the latter sums represent the value of work already done by the contractor and subcontractors.

provisions of section 11 as to the retention and payment of percentages by the owner apply *mutatis mutandis* to any such work or improvement that is done or made by a person other than a municipal corporation or its contractor. R.S.O. 1960, c. 233, s. 2, *amended*.

3.—(1) All sums received by a builder, contractor or subcontractor on account of the contract price constitute a trust fund in his hands for the benefit of the owner, builder, contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the builder, contractor or subcontractor, as the case may be, is the trustee of all such sums so received by him and he shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. R.S.O. 1960, c. 233, s. 3 (1), *amended*. Trust funds

(2) Notwithstanding subsection 1, where a builder, contractor or subcontractor has paid in whole or in part for any materials supplied on account of the contract or for any rented equipment or has paid any workman who has performed any work or any subcontractor who has placed or furnished any materials in respect of the contract, the retention by such builder, contractor or subcontractor of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust. R.S.O. 1960, c. 233, s. 3 (3), *amended*. Exception

(3) Where sums become payable under a contract to a contractor by an owner on the certificate of a person authorized under the contract to make such a certificate, all sums so certified shall, until paid to the contractor, constitute a trust fund in the hands of the owner for the benefit of the contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the owner is the trustee of all such sums so certified and he shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all contractors and subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. Trust funds

Advances on mortgage, etc., a trust fund
R.S.O. 1960, c. 98

(4) All sums received by an owner, other than a municipality as defined in *The Department of Municipal Affairs Act*, which are to be used in the financing, including the purchase price of the land and the payment of prior encumbrances, of a building, structure or work, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund in the hands of the owner for the benefit of the persons mentioned in subsection 1, and, until the claims of all such persons have been paid, the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Exception

(5) Notwithstanding subsection 4, where an owner has himself paid in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, the retention by him from any moneys received from the lender under subsection 4 of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

Protection for money lenders

(6) Notwithstanding anything in this section, where money is lent to a person upon whom a trust is imposed by this section and is used by him to pay in whole or in part a lien claimant, the trustee may use trust moneys to discharge the loan to the extent that the lender's money was used to pay the lien claimant, and any sum so paid to the lender shall be deemed not to be an appropriation or conversion to the trustee's own use or to any use not authorized by the trust. *New.*

Offence and penalty

(7) Every person upon whom a trust is imposed by this section who knowingly appropriates or converts any part of any trust moneys referred to in subsection 1, 3 or 4 to his own use or to any use not authorized by the trust is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence, in addition to the corporation, and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 233, s. 3 (2), *amended.*

Agreements waiving application of Act are void

4.—(1) Every agreement, oral or written, express or implied, on the part of any workman that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void.

Subsection 4. Municipal financing is expressly excluded from the scope of the provision and its intent is clarified as recommended in O.L.R.C. Supp. Rep., pp. 6, 7.

Subsection 5. This extension of the "trustee provisions" is new. It is recommended in O.L.R.C. Supp. Rep., pp. 5-7.

Subsection 6. This subsection is changed in order to bring it into line with the original recommendation of the Ontario Law Reform Commission. This is discussed in O.L.R.C. Supp. Rep., p. 7.

SECTION 4—Subsection 2, clause *b*. In its original report the Ontario Law Reform Commission recommended “\$25 a day” which is the sum that appeared in Bill 190.

As a result of further submissions and consideration, the Commission recommends \$35 a day. See O.L.R.C. Supp. Rep., p. 7.

SECTION 5—Subsection 4. The intent of the original recommendation of the Ontario Law Reform Commission is clarified. It is intended that the lien for rented equipment is for an amount that is reasonable and justly due in the particular circumstances. See O.L.R.C. Supp. Rep., p. 8.

(2) Subsection 1 does not apply,

Exception

(a) to a manager, officer or foreman; or

(b) to any person whose wages are more than \$35 a day.

(3) No agreement deprives any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. R.S.O. 1960, c. 233, s. 4, *amended*. Effect upon third party of agreement waiving lien

CREATION OF LIENS

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who does any work upon or in respect of, or places or furnishes any materials to be used in, the making, constructing, erecting, fitting, altering, improving or repairing of any land, building, structure or works or the appurtenances to any of them for any owner, contractor or subcontractor by virtue thereof has a lien for the price of the work or materials upon the estate or interest of the owner in the land, building, structure or works and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work is done, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien. General right to a lien

(2) The lien given by subsection 1 attaches as therein set out where the materials delivered to be used are incorporated into the land, building, structure or works, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1. Lien attaches where materials incorporated into building

(3) In subsection 1, "agent" includes the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. R.S.O. 1960, c. 233, s. 5, *amended*. Interpretation

(4) A person who rents equipment to an owner, contractor or subcontractor for use on a contract site shall be deemed for the purposes of this Act to have performed a service for which he has a lien for the price of the rental of the equipment. Lien for rented equipment

used on the contract site, limited, however in amount to the sum justly owed and due to the person entitled to the lien from the owner, contractor or subcontractor in respect of the rental of the equipment. *New.*

When husband's interest liable for work done or materials furnished on land of spouse

6. Where work is done or materials are placed or furnished to be used upon or in respect of the land of a married woman, or in which she has an interest or an inchoate right of dower, with the privity or consent of her husband, he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or placing or furnishing the materials the person doing the work or placing or furnishing the materials has had actual notice to the contrary. R.S.O. 1960, c. 233, s. 6, *amended*.

Where estate charged is leasehold

7.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien if the person doing the work or placing or furnishing the materials gives notice in writing, by personal service, to the owner in fee simple or his agent of the work to be done or materials to be placed or furnished unless the owner in fee simple or his agent within fifteen days thereafter gives notice in writing, by personal service, to such person that he will not be responsible therefor.

Forfeiture or cancellation of lease, effect of on lienholder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease except for non-payment of rent, deprives any person otherwise entitled to a lien of the benefit of the lien, but the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

Prior mortgages

(3) Where the land and premises upon or in respect of which any work is done or materials are placed or furnished are encumbered by a mortgage or other charge that was registered in the proper registry office before any lien under this Act arose, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try an action under this Act.

When first lien arose

(4) The time at which the first lien arose shall be deemed to be the time at which the first work was done or the first materials placed or furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced and whether or not such lien is before the court. R.S.O. 1960, c. 233, s. 7 (1-4), *amended*.

SECTION 7—Subsection 1. The intent is clarified. See O.L.R.C. Supp. Rep., p. 8. Also, the notice period is increased from ten to fifteen days.

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 14. R.S.O. 1960, c. 233, s. 7 (5). Future advances

(6) A registered agreement for the sale and purchase of land and any moneys *bona fide* secured or payable thereunder has the same priority over a lien as is provided for a mortgage and mortgage moneys in subsections 3 and 5, and for the purposes of this Act the seller shall be deemed to be a mortgagee, and any moneys *bona fide* secured and payable under such agreement shall be deemed to be mortgage moneys *bona fide* secured or advanced. R.S.O. 1960, c. 233, s. 7 (6), *amended*. Registered agreement for sale and purchase of land has same priority as mortgage

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1960, c. 233, s. 8. Application of insurance

9. Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1960, c. 233, s. 9. Limit of amount of owner's liability

10. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work has been done or the materials were placed or furnished. R.S.O. 1960, c. 233, s. 10, *amended*. Limit of lien when claimed by other than contractor

11.—(1) In all cases, the person primarily liable upon a contract under or by virtue of which a lien may arise shall, as the work is done or the materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 20 per cent of the value of the work and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work, and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work or materials. R.S.O. 1960, c. 233, s. 11 (1), *amended*. Holdback

Idem,
where con-
tract price
exceeds
\$35,000

(2) Where the contract price or actual value exceeds \$35,000, 15 per cent instead of 20 per cent shall be retained. R.S.O. 1960, c. 233, s. 11 (2), *amended*.

Reduction
in amount
retained

(3) Where a contract is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made and thirty-seven days have elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent or 20 per cent, as the case may be, of the subcontract price or, if there is no specific subcontract price, by 15 per cent or 20 per cent, as the case may be, of the actual value of the work done or materials placed or furnished under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act.

Idem

(4) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then for the purposes of subsections 1, 2 and 3 of section 21 and section 23 that subcontract and any materials placed or furnished or to be placed or furnished thereunder and any work done or to be done thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or placed or furnished not later than the time at which the certificate was so given. R.S.O. 1960, c. 233, s. 11 (3, 4), *amended*.

Court order
in lieu of
certificate

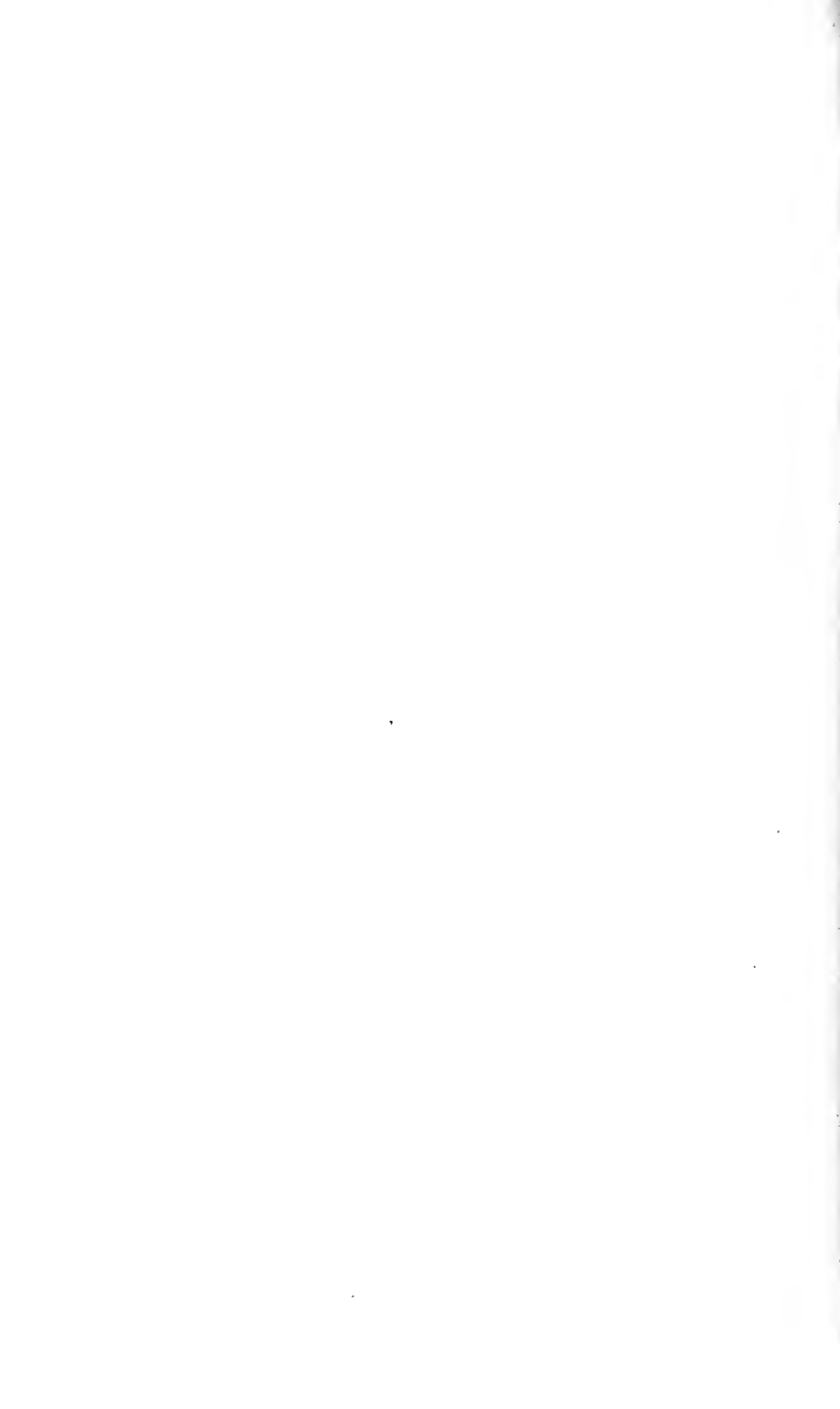
(5) Where an architect, engineer or other person neglects or refuses to issue or deliver a certificate upon which payments are to be made under a contract to which subsection 3 applies, the judge or officer having jurisdiction to try an action under this Act, upon application and upon being satisfied that the certificate should have been issued and delivered, may make an order, upon such terms and conditions as to costs and otherwise as he deems just, that the contract has been completed, and any such order has the same force and effect as if the certificate had been issued and delivered by the architect, engineer or other person. *New*.

Effect of
lien on
amounts
retained

(6) The lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable.

SECTION 11—Subsection 2. The lien between 20 per cent and 15 per cent is increased from \$25,000 to \$35,000.

Subsections 5 and 10. The intent is clarified. See O.L.R.C. Supp. Rep., p. 8.



(7) All payments up to 80 per cent as fixed by subsection 1 or up to 85 per cent as fixed by subsection 2 and payments permitted as a result of the operation of subsections 3 and 4 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien.

Payments made in good faith without notice of lien

(8) Payment of the percentage required to be retained under this section may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings, and such payment constitutes valid payment in discharge of the owner to the amount thereof.

Payment of percentage and discharge of liens

(9) Every contract shall be deemed to be amended in so far as is necessary to be in conformity with this section. R.S.O. 1960, c. 233, s. 11 (5-9).

Amendment of contracts

(10) Where the contractor or subcontractor makes default in completing his contract, the percentage required to be retained shall not, as against any lien claimant who by virtue of subsection 6 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. R.S.O. 1960, c. 233, s. 11 (9), *amended*.

Where percentage not to be applied

12. If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 for or on account of any debt, justly due to him for work done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. R.S.O. 1960, c. 233, s. 12 (1), *amended*.

Payments made directly by owner to persons entitled to lien

13. Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1960, c. 233, s. 12 (2).

Rights of subcontractor

Priority of
lien

14.—(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given to the person making such payments or after registration of a claim for the lien as hereinafter provided, and, in the absence of such notice in writing or the registration of a claim for lien, all such payments or advances have priority over any such lien. R.S.O. 1960, c. 233, s. 13 (1), *amended*.

Priority
among
lienholders

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage
given to
person
entitled to
lien void as
against lien-
holders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1960, c. 233, s. 13 (2, 3).

PRIORITY OF WAGES

Priority of
liens for
wages

15.—(1) Every workman whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 20 per cent or 15 per cent, as the case may be, directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled, and all such workmen rank thereon *pari passu*.

Enforcing
lien in
such cases

(2) Every workman is entitled to enforce a lien in respect of any contract or subcontract that has not been completed and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper persons, returnable in four days after service thereof before the judge or officer having jurisdiction to try an action under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit.

Calculating
percentage
when con-
tract not
fulfilled

(3) If the contract has not been completed when the lien is claimed by a workman, the percentage shall be calculated on the value of the work done or materials placed or furnished by the contractor or subcontractor by whom the workman is employed, having regard to the contract price, if any.

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a workman for his wages and every payment made for the purpose of defeating or impairing a lien are void. R.S.O. 1960, c. 233, s. 14, *amended*. Devices to defeat priority of workmen

REGISTRATION

16.—(1) A claim for a lien may be registered in the proper registry office and shall set out, Registration of claim for lien

(a) the name and an address for service of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work was or is to be done, or the materials were or are to be placed or furnished, and the time within which the same was or was to be done or placed or furnished;

(b) a short description of the work done or to be done, or the materials placed or furnished or to be placed or furnished;

(c) the sum claimed as due or to become due;

(d) a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be; and R.S.O. 1960, c. 204, 348

(e) the date of expiry of the period of credit if credit has been given. R.S.O. 1960, c. 233, s. 16 (1), *amended*.

(2) The claim shall be verified in duplicate by the affidavit of the person claiming the lien, or of his agent or assignee who has a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge. Verification of claim

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1960, c. 233, s. 16 (2, 3). Lien against railway

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but, where more than one lien is included in one claim, each claim for lien shall be verified by affidavit as provided in section 16. What may be included in claim

Apportionment of claims

(2) The judge or officer trying the action has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims under subsection 1. R.S.O. 1960, c. 233, s. 17, *amended*.

Informality

18.—(1) Substantial compliance with sections 16, 17 and 29 is sufficient and no claim for lien is invalidated by reason of failure to comply with any of the requirements of such sections unless, in the opinion of the judge or officer trying the action, the owner, contractor or subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Registration necessary

(2) Nothing in this section dispenses with the requirement of registration of the claim for lien. R.S.O. 1960, c. 233, s. 18, *amended*.

Duplicate to be filed

19. A duplicate of the claim for lien, bearing the registrar's certificate of registration, shall be filed on or before the trial of the action, where the action is to be tried in the County of York, in the office of the master of the Supreme Court, or, where the action is to be tried elsewhere, in the office of the clerk of the county or district court of the county or district in which the action is to be tried. R.S.O. 1960, c. 233, s. 19 (1), *amended*.

Status of lien claimant

R.S.O. 1960, c. 348, 204

20. Where a claim is so registered, the person entitled to a lien shall be deemed to be a purchaser *pro tanto* and a purchaser within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. R.S.O. 1960, c. 233, s. 20, *amended*.

Limit of time for registration

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be. R.S.O. 1960, c. 233, s. 21 (1).

Materials

(2) A claim for lien for materials may be registered before or during the placing or furnishing thereof, or within thirty-seven days after the placing or furnishing of the last material so placed or furnished. R.S.O. 1960, c. 233, s. 21 (2), *amended*.

Services

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty-seven days after the completion of the service. R.S.O. 1960, c. 233, s. 21 (3).

SECTION 21. As a result of further submissions and research, the O.L.R.C. Supp. Rep., p. 8, recommends that the "umbrella principle" of the Act, which appeared as subsection 5 of section 21 of Bill 190, be dropped. The result will be that all lien claimants must register their claims, thus greatly facilitating the trial of some mechanics' lien actions.

The requirement for registration of certificates of action is to be found in section 22 (2) of this Bill.

SECTION 25. A number of changes in language have been made in order to clarify the intent, especially subsection 6 as to notice. See O.L.R.C. Supp. Rep., p. 9.

(4) A claim for lien for wages may be registered at any time during the doing of the work for which the wages are claimed or within thirty-seven days after the last work was done for which the lien is claimed. R.S.O. 1960, c. 233, s. 21 (4), *amended*. Wages

EXPIRY AND DISCHARGE

22.—(1) Every lien for which a claim is not registered ceases to exist on the expiration of the time limited in section 21 for the registration thereof. Expiry of liens

(2) Upon an action under this Act being commenced, a certificate thereof shall be registered in the registry office in which the claim for lien is registered. R.S.O. 1960, c. 233, s. 22 (1), *part, amended*. Registration of certificate of action

(3) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, the judge or an officer having jurisdiction to try the action may, upon the application *ex parte* of any interested person, make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1960, c. 233, s. 22, *amended*. Vacating orders

23. Every lien for which a claim is registered ceases to exist on the expiration of ninety days after the work has been completed or the materials have been placed or furnished, or after the expiry of the period of credit, where such period is mentioned in the registered claim for lien, unless in the meantime an action is commenced to realize the claim or in which a subsisting claim may be realized, and a certificate is registered as provided by section 22. R.S.O. 1960, c. 233, s. 23, *amended*. When lien to cease if registered and not proceeded upon

24. The rights of a lien claimant may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative. R.S.O. 1960, c. 233, s. 24, *amended*. Assignment or death of lien claimant

25.—(1) A claim for lien may be discharged by the registration of a receipt acknowledging payment, Discharge of lien

(a) where made by a lien claimant that is not a corporation, signed by the lien claimant or his agent duly authorized in writing and verified by affidavit; or

(b) where made by a lien claimant that is a corporation, sealed with its corporate seal. R.S.O. 1960, c. 233, s. 25 (1), *amended*.

(2) Upon application, the judge or officer having jurisdiction to try the action may, at any time, Security or payment into court and vacating lien and certificate of action

- (a) allow security for or payment into court of the amount of the claim of the lien claimant and the amount of the claims of any other subsisting lien claimants together with such costs as he may fix, and thereupon order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated;
- (b) upon any other proper ground, order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated; or
- (c) upon proper grounds, dismiss the action. R.S.O. 1960, c. 233, s. 25 (4), *amended*.

Effect of
order under
subs. 2,
cls. a or b

(3) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause a or b of subsection 2, the lien does not cease to exist for the reason that no certificate of action is registered.

Money paid
into court

(4) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer, takes the place of the property discharged and is subject to the claims of every person who has at the time of the application a subsisting claim for lien or given notice of the claim under subsection 7 of section 11 or section 14 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, but such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security.

Where notice
of applica-
tion to
vacate not
requisite

(5) Where the certificate required by section 22 or 23 has not been registered within the prescribed time and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the order vacating the lien may be made *ex parte* upon production of a certificate of search under *The Land Titles Act* or of a registrar's abstract under *The Registry Act*, as the case may be, together with a certified copy of the registered claim for lien. R.S.O. 1960, c. 233, s. 25 (5-7), *amended*.

R.S.O. 1960,
cc. 204, 348

Payment of
money out
of court

(6) Where money has been paid into court or a bond deposited in court pursuant to an order under subsection 2, the judge or officer may, upon such notice to the parties as he may require, order the money to be paid out to the persons entitled thereto or the delivery up of the bond for cancellation, as the case may be. 1961-62, c. 78, s. 1, *amended*.

Registration
number

(7) An order discharging a claim for lien or vacating a certificate of action shall be registered by registering the order or a certificate thereof, under the seal of the court, that

includes a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be, and a reference to the registration number of every registered claim for lien and certificate of action affected thereby. 1966, c. 84, s. 1, *amended*. R.S.O. 1960,
cc. 204, 348

EFFECT OF TAKING SECURITY OR EXTENDING TIME

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the lien claimant agrees in writing that it has that effect. R.S.O. 1960, c. 233, s. 26 (1). Effect
generally

(2) Where any such promissory note or bill of exchange has been negotiated, the lien claimant does not thereby lose his right to claim for lien if, at the time of bringing his action to enforce it or where an action is brought by another lien claimant, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange. Where
period
of credit
action not
expired

(3) Nothing in subsection 2 extends the time limited by this Act for bringing an action to enforce a claim for lien. Time for
bringing
action not
extended

(4) A person who has extended the time for payment of a claim for which he has a claim for lien in order to obtain the benefit of this section shall commence an action to enforce the claim within the time prescribed by this Act and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1960, c. 233, s. 26 (2-4), *amended*. Time for
bringing
action by
person who
gave time
for payment

27. Where the period of credit in respect of a claim has not expired or there has been an extension of time for payment of the claim, the lien claimant may nevertheless, if an action is commenced by any other person to enforce a claim for lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1960, c. 233, s. 27, *amended*. Proving
claim in
action by
another
person

LIEN CLAIMANT'S RIGHTS TO INFORMATION

28.—(1) Any lien claimant may in writing at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work was or is to be done or the Production
of contract
or agree-
ment

materials were or are to be placed or furnished, if the contract or agreement is in writing or, if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and, if the owner or his agent does not, at the time of the demand or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Statement
of mort-
gagee or
unpaid
vendor

(2) Any lien claimant may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work was or is to be done or the materials were or are to be placed or furnished and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and, if the mortgagee or vendor or his agent fails to inform the lien claimant at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lien claimant sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Production
of contract
or agree-
ment

(3) The judge or officer having jurisdiction to try an action under this Act may, on a summary application at any time before or after an action is commenced for the enforcement of the claim for lien, make an order requiring the owner or his agent or the mortgagee or his agent or the unpaid vendor or his agent or the contractor or his agent or the subcontractor or his agent, as the case may be, to produce and permit any lien claimant to inspect any such contract or agreement or mortgage or agreement for sale or the accounts or any other relevant document upon such terms as to costs as the judge or officer deems just. R.S.O. 1960, c. 233, s. 28, *amended*.

ACTIONS

How claim
enforceable

29.—(1) A claim for lien is enforceable in an action in the Supreme Court.

SECTION 29. No change in principle from the present Act.

SECTION 31. The O.L.R.C. Supp. Rep., p. 10, recommends that as there is no relationship between subsections 1 and 2 of section 31 of Bill 190, subsection 1 should be renumbered as section 31, subsections 2 to 7 renumbered as subsections 1 to 6 of a new section 32 and the following sections renumbered accordingly. This recommendation is implemented.

(2) An action under this Act shall be commenced by filing a statement of claim in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate. ^{Statement of claim, filing of}

(3) The statement of claim shall be served within thirty days after it is filed, but the judge having jurisdiction to try the action or, in the County of York, the master may extend the time for service. ^{Idem, service}

(4) The time for delivering the statement of defence in the action shall be the same as for entering an appearance in an action in the Supreme Court. ^{Statement of defence}

(5) It is not necessary to make any lien claimants parties defendant to the action, but all lien claimants served with the notice of trial shall for all purposes be deemed to be parties to the action. ^{Parties}

(6) After the commencement of the action, any lien claimant or other person interested may apply to the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court to speed the trial of the action. ^{Motion to speed trial}
R.S.O. 1960, c. 233, s. 29, *amended*.

30. Any number of lien claimants claiming liens on the same land may join in an action, and an action brought by a lien claimant shall be deemed to be brought on behalf of himself and all other lien claimants. ^{Lien claimants joining in action} R.S.O. 1960, c. 233, s. 30, *amended*.

31.—(1) Except in the County of York, the action shall be tried by the local judge of the Supreme Court in the county or district in which the action was commenced, but, upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the action was commenced. ^{Tribunal and place of trial} R.S.O. 1960, c. 233, s. 31 (1, 2).

(2) In the County of York, the action shall be tried by a judge of the Supreme Court, but, ^{Idem, York County}

(a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer the whole action to the master for trial pursuant to section 69 of *The Judicature Act*; or ^{R.S.O. 1960, c. 197}

R.S.O. 1960,
c. 197

(b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 68 or 69 of *The Judicature Act*. R.S.O. 1960, c. 233, s. 31 (3), *amended*.

Application
to set aside
judgment
directing a
reference

(3) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto.

Amend-
ment of
pleadings
on reference

(4) Where the action is referred to the master for trial, he may grant leave to amend any pleading. R.S.O. 1960, c. 233, s. 31 (4, 5).

Powers of
local
judges
S.C.O., etc.

32. The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work done or materials furnished to the property in question. R.S.O. 1960, c. 233, s. 32 (1), *amended*.

Where con-
tract covers
several
buildings

33. Where an owner enters into an entire contract for the supply of materials to be used in several buildings, the person supplying the materials may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but, in case the owner has sold one or more of the buildings, the judge or officer trying the action has jurisdiction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract. R.S.O. 1960, c. 233, s. 32 (2), *amended*.

Power to
appoint a
receiver of
rents and
profits

34.—(1) At any time after the delivery of the statement of claim, the judge or officer having jurisdiction to try the action may, on the application of any lien claimant, mortgagee or other person interested, appoint a receiver of the rents and profits of the property against which the claim for lien is registered, upon such terms and upon the giving of such security or without security as the judge or officer deems just.

Power to
direct
sale and
appoint
trustee

(2) Any lien claimant, mortgagee or other person interested may make an application to the judge or officer at any time before or after judgment, which may hear *viva voce* or affidavit

SECTION 34—Subsection 2. As recommended by the O.L.R.C. Supp. Rep., p. 10, the powers that trustees may exercise under the section are broadened to include, if authorized by court order, the power to lease the property against which the claim for lien is registered.

Subsection 3. The words "but only in cases where there is no dispute as to the priority of any such mortgage" at the end of the provision as it appeared in Bill 190 have been deleted as recommended by the O.L.R.C. Supp. Rep., p. 11. This will expedite the trial of mechanics' lien actions by giving the court power to direct a sale under the court's supervision in cases where the priority of a mortgage is in dispute or where the lien claimants refuse to take a position one way or the other.

evidence or both and appoint, upon such terms and upon the giving of such security or without security as the judge or officer deems just, a trustee or trustees with power to manage, mortgage, lease and sell, or manage, mortgage, lease or sell, the property against which the claim for lien is registered, and the exercise of such powers shall be under the supervision and direction of the judge or officer, and with power, when so directed by the judge or officer, to complete or partially complete the property, and, in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over every claim of lien existing as of the date of the appointment.

(3) Any property directed to be sold under subsection 2 ^{Property offered for sale} may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or officer so directs.

(4) The proceeds of any sale made by a trustee or trustees ^{Proceeds to be paid into court} under subsection 2 shall be paid into court and are subject to the claims of all lien claimants, mortgagees or other persons interested in the property so sold as their respective rights are determined, and, in so far as applicable, section 39 applies.

(5) The judge or officer shall make all necessary orders for ^{Orders for completion of sale} the completion of any mortgage, lease or sale authorized to be made under subsection 2.

(6) Any vesting order made of property sold by a trustee ^{Vesting of title} or trustees appointed under subsection 2 vests the title of the property free from all claims for liens, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this section or elsewhere in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of her dower ascertained and deducted from the proceeds of the sale so paid into court. R.S.O. 1960, c. 233, s. 32 (3-8), *amended*.

35. At any time after delivery of the statement of claim ^{Order for preservation of property} and before judgment, or after judgment and pending the hearing and determination of any appeal, any lien claimant, mortgagee or other interested person may make an application to the judge or officer having jurisdiction to try the action, who may hear *in vivo* or affidavit evidence or both and make an order for the preservation of any property pending the determination of the action and any appeal. *New*.

Consolidation of actions

36. Where more actions than one are brought to realize liens in respect of the same land, the judge or officer having jurisdiction to try the action may, on the application of any party to any one of the actions or on the application of any other person interested, consolidate all such actions into one action and award the conduct of the consolidated action to any plaintiff as the judge or officer deems just. R.S.O. 1960, c. 233, s. 33, *amended*.

Transferring carriage of proceedings

37. Any lien claimant entitled to the benefit of an action may at any time apply to the judge or officer having jurisdiction to try the action for the carriage of the proceedings, and the judge or officer may make an order awarding such lien claimant the carriage of the proceedings. R.S.O. 1960, c. 233, s. 34, *amended*.

Appointing day for trial

38.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, either party may apply *ex parte* to a judge or officer having jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial, and the order, signed by the judge or officer, shall form part of the record of the proceedings.

Notice of trial and service

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial upon the solicitors for the defendants who appear by solicitors and upon the defendants who appear in person, and upon all the lienholders who have registered their claims as required by this Act or of whose claims he has notice, and upon all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial is to be served.

Idem

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer having jurisdiction to try the action deems just.

Trial

(4) The judge, or where a reference for trial is directed, the master,

(a) shall try the action, including any set-off and counter-claim, and all questions that arise therein or that are necessary to be tried in order to completely dispose

of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,

(i) in the case of a judge, in a judgment, and

(ii) in the case of a master, in a report,

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and after confirmation thereof, in the case of a report.

(5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled. Power to vary form of judgment

(6) The judge or officer may order that the estate or interest charged with the lien be sold, and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale. Sale

(7) A lien claimant who did not prove his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim, on such terms as to costs and otherwise as are deemed just, at any time before the amount realized in the action for the satisfaction of liens has been distributed, and, where his claim is allowed, the judgment or report shall be amended so as to include his claim. Letting in lien claimants who have not proved their claims at trial

(8) Any lien claimant for an amount not exceeding \$200 may be represented by an agent who is not a barrister and solicitor. Right of lien claimants to representation

(9) An action or reference under this Act may be tried by any judge or officer having jurisdiction to try the action or Action may be tried by any judge

reference notwithstanding that the time and place for the trial or reference thereof were appointed and fixed by another judge or officer. R.S.O. 1960, c. 233, s. 35, *amended*.

Applications
for
directions

(10) Any party to an action under this Act or any other interested person may at any time and from time to time apply to a judge or officer having jurisdiction to try the action or reference for directions as to pleadings, discovery, production or any other matter relating to the action or reference, including the cross-examination of a lien claimant or his agent or assignee on his affidavit verifying the claim. *New*.

Report
where sale
is had

39.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge or officer before whom the action was tried shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 38, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise.

Completion
of sale

(2) The judge or officer before whom the action was tried may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. R.S.O. 1960, c. 233, s. 36 (1, 2).

Where
lien not
established

40. Where a lien claimant fails to establish a lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1960, c. 233, s. 36 (3).

Right of
lienholders
whose claims
are not
payable to
share in
proceeds

41. Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1960, c. 233, s. 37.

STATED CASE

Stated case

42.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.



SECTION 43—Subsection 1. The limitation on appeals that is in the present Act but was not in Bill 190 appears at the commencement of this provision as recommended by the O.L.R.C. Supp. Rep., p. 11.

(2) The stated case shall set forth the facts material for the determination of the question raised, and all papers necessary for the hearing of the stated case by the Court of Appeal shall be transmitted to the registrar of the Supreme Court. R.S.O. 1960, c. 233, s. 39, *amended*. ^{Transmission of papers}

APPEAL

43.—(1) Except where the amount of a judgment in respect of a claim or counterclaim is \$200 or less, an appeal lies from any judgment under this Act to the Court of Appeal. R.S.O. 1960, c. 233, s. 40 (1), *amended*. ^{Appeal}

(2) Where a question is referred to the master for inquiry and report under subsection 2 of section 31, an appeal lies in the manner prescribed by the rules of court. ^{Appeal from reference}

(3) Where an action is referred to the master for trial under subsection 2 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time. ^{Confirmation of master's report}

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury. R.S.O. 1960, c. 233, s. 40 (2, 3, 4). ^{Appeal from judgment or report}

(5) The costs of an appeal shall not be governed by subsections 2 and 3 of section 45 but, subject to any order of the Court of Appeal, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. R.S.O. 1960, c. 233, s. 40 (5), *amended*. ^{Costs of appeal}

FEEES AND COSTS

44. The fee payable by every plaintiff, every plaintiff by counterclaim and every lien claimant, including every person recovering a personal judgment, in any action to realize a lien under this Act is, ^{Fee}

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000, plus \$1 for every \$1,000 or fraction thereof in excess of \$1,000,

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. R.S.O. 1960, c. 233, s. 41, *amended*.

Costs not otherwise provided for

45.—(1) Subject to subsections 2, 3, 4 and 5, any order as to costs in an action under this Act is in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 46, *amended*.

Limit of costs to plaintiffs

(2) The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that, where a counterclaim is set up by a defendant, the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 42, *amended*.

Limit of costs against plaintiffs

(3) Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer who tries the action may direct. R.S.O. 1960, c. 233, s. 43, *amended*.

Costs where least expensive course not taken

(4) Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1960, c. 233, s. 44.

Cost of drawing and registering and vacating registration of lien

(5) Where a lien is discharged or vacated under section 25 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer who tries the action may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. R.S.O. 1960, c. 233, s. 45.

RULES OF PRACTICE

Rules of practice

46.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. R.S.O. 1960, c. 233, s. 47 (1).

SECTION 45. The intent is clarified as recommended by the O.L.R.C.
Supp. Rep., p. 11.

SECTION 46—Subsection 4. This new provision implements a **recom-**
mendation of the O.L.R.C. Supp. Rep., p. 11.

(2) Except where otherwise provided by this Act, no interlocutory proceedings shall be permitted without the consent of the judge or officer having jurisdiction to try the action, and then only upon proper proof that such proceedings are necessary. Interlocutory proceedings

(3) The judge or officer having jurisdiction to try the action may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or person in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of any such person and direct payment thereof by any of the parties. R.S.O. 1960, c. 233, s. 47 (2, 3), *amended*. Assistance of experts

(4) Unless otherwise provided in this Act, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. *New*. Rules of practice

SERVICE OF DOCUMENTS

47. Except where otherwise directed by the judge or officer having jurisdiction to try the action, all documents relating to an action under this Act, other than statements of claim and notices of trial, are sufficiently served upon the intended recipient if sent by registered mail addressed to the intended recipient at his address for service. *New*. Service of documents

LIENS ON CHATTELS

48.—(1) Every person who has bestowed money, skill or materials upon any chattel or thing in the alteration or improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and material bestowed, has, while the lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after it ought to have been paid, the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing on giving one week's notice by advertisement in a newspaper having general circulation in the municipality in which the work was done, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality. Right of chattel lienholder to sell chattel

(2) Such person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.S.O. 1960, c. 233, s. 48, *amended*. Application of proceeds of sale

FORMS

Forms **49.** The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. *New.*

MISCELLANEOUS

R.S.O. 1960, c. 233;
1961-62, c. 78;
1962-63, c. 79;
1966, c. 84,
repealed **50.** *The Mechanics' Lien Act, The Mechanics' Lien Amendment Act, 1961-62, The Mechanics' Lien Amendment Act, 1962-63 and The Mechanics' Lien Amendment Act, 1966* are repealed.

Commencement **51.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title **52.** This Act may be cited as *The Mechanics' Lien Act, 1968-69.*



1st Reading

December 12th, 1968

2nd Reading

3rd Reading

MR. WISHART

BILL 36

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Mechanics' Lien Act, 1968-69

MR. WISHART

(Reprinted as amended by the Legal and Municipal Committee)

EXPLANATORY NOTES

GENERAL. In 1965 the Ontario Law Reform Commission undertook an extensive study of the law in Ontario on mechanics' liens.

A report dated February 22, 1966, was made by the Commission to the Attorney General containing its recommendations for up-dating *The Mechanics' Lien Act*.

Bill 190, based upon the report, was introduced and given first reading at the 1966 Session. This gave the proposed legislation wide distribution in convenient form for study by interested persons and organizations.

The Commission then held public hearings and considered many submissions which resulted in a supplementary report dated May 26, 1967.

The recommendations of the Commission contained in the supplementary report have been incorporated in this Bill. There is, however, one major exception. This Bill does not transfer jurisdiction in mechanics' lien actions from the Supreme Court to the county and district courts as recommended by the Commission in both of its reports. It is thought advisable to leave this matter in abeyance pending the conclusion of the general review of the jurisdictions of the several court systems in Ontario now going on as a result of the recommendations of the McRuer Report.

This Bill also contains a number of editorial and other changes, designed to clarify the intent, that have resulted from the study of Bill 190.

In the following notes the supplementary report of the Commission is referred to as O.L.R.C. Supp. Rep.

The Mechanics' Lien Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "completion of the contract" means substantial performance, not necessarily total performance, of the contract;
- (b) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or the placing or furnishing of materials for any of the purposes mentioned in this Act;
- (c) "materials" includes every kind of movable property;
- (d) "owner" includes any person and corporation, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which work is done or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity or consent, or
 - (iv) for whose direct benefit,

work is done or materials are placed or furnished and all persons claiming under him or it whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials placed or furnished have been commenced to be placed or furnished;

- (e) "registrar" includes a master of titles;
- (f) "registry office" includes a land titles office;

- (g) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for any of the purposes mentioned in this Act, but contracting with or employed by a contractor or, under him, by another subcontractor;
- (h) "wages" means the money earned by a workman for work done by time or as piece work, and includes all monetary supplementary benefits, whether by statute, contract or collective bargaining agreement;
- (i) "workman" means a person employed for wages in any kind of labour, whether employed under a contract of service or not. R.S.O. 1960, c. 233, s. 1, *amended*.

Work
includes
service

(2) In this Act, the expression "the doing of work" includes the performance of a service, and corresponding expressions have corresponding meanings.

Substantial
performance

(3) For the purposes of this Act, a contract shall be deemed to be substantially performed,

- (a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- (b) when the work to be done under the contract is capable of completion or correction at a cost of not more than,
- (i) 3 per cent of the first \$250,000 of the contract price,
- (ii) 2 per cent of the next \$250,000 of the contract price, and
- (iii) 1 per cent of the balance of the contract price.

Idem

(4) For the purposes of this Act, where the work or a substantial part thereof is ready for use or is being used for the purpose intended and where the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work to be completed shall be deducted from the contract price in determining substantial performance. *New*.

GENERAL

Trust funds
in hands of
contractors

2.—(1) All sums received by a builder, contractor or subcontractor on account of the contract price constitute a trust fund in his hands for the benefit of the owner, builder, contractor, subcontractor, Workmen's Compensation Board,

SECTION 1—Subsections 3 and 4 are new. They are designed to complement the definition of "completion of the contract" and thus speed up the release of "holdback" moneys.

Subsection 4. Municipal financing is expressly excluded from the scope of the provision and its intent is clarified as recommended in O.L.R.C. Supp. Rep., pp. 6, 7.

workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the builder, contractor or subcontractor, as the case may be, is the trustee of all such sums so received by him and he shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. R.S.O. 1960, c. 233, s. 3 (1), *amended*.

(2) Notwithstanding subsection 1, where a builder, contractor or subcontractor has paid in whole or in part for any materials supplied on account of the contract or for any rented equipment or has paid any workman who has performed any work or any subcontractor who has placed or furnished any materials in respect of the contract, the retention by such builder, contractor or subcontractor of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust. R.S.O. 1960, c. 233, s. 3 (3), *amended*. Exception

(3) Where a sum becomes payable under a contract to a contractor by an owner on the certificate of a person authorized under the contract to make such a certificate, an amount equal to the sum so certified that is in the owner's hands or received by him at any time thereafter shall, until paid to the contractor, constitute a trust fund in the owner's hands for the benefit of the contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all contractors and subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. Trust funds in hands of owners

(4) All sums received by an owner, other than a municipality as defined in *The Department of Municipal Affairs Act* or a metropolitan or regional municipality or a local board thereof, which are to be used in the financing, including the purchase price of the land and the payment of prior encumbrances, of a building, structure or work, constitute, subject to the payment of the purchase price of the land and prior Advances on mortgage, etc., a trust fund
R.S.O. 1960, c. 98

encumbrances, a trust fund in the hands of the owner for the benefit of the persons mentioned in subsection 1, and, until the claims of all such persons have been paid, the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Exception

(5) Notwithstanding subsection 4, where an owner has himself paid in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, the retention by him from any moneys received from the lender under subsection 4 of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

Protection for money lenders

(6) Notwithstanding anything in this section, where money is lent to a person upon whom a trust is imposed by this section and is used by him to pay in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, trust moneys may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and any sum so applied shall be deemed not to be an appropriation or conversion to the trustee's own use or to any use not authorized by the trust. *New.*

Offence and penalty

(7) Every person upon whom a trust is imposed by this section who knowingly appropriates or converts any part of any trust moneys referred to in subsection 1, 3 or 4 to his own use or to any use not authorized by the trust is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence, in addition to the corporation, and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 233, s. 3 (2), *amended.*

Limit of time for asserting claims to trust moneys

3. No action to assert any claim to trust moneys referred to in section 2 shall be commenced against a lender of money to a person upon whom a trust is imposed by that section except,

- (a) in the case of a claim by a contractor or subcontractor in cases not provided for in clauses *b*, *c* and *d*, within nine months after the completion or abandonment of the contract or subcontract;
- (b) in the case of a claim for materials, within nine months after the placing or furnishing of the last material;

Subsection 5. This extension of the "trustee provisions" is new. It is recommended in O.L.R.C. Supp. Rep., pp. 5-7.

SECTION 4—Subsection 2, clause *b*. In its original report the Ontario Law Reform Commission recommended “\$25 a day” which is the sum that appeared in Bill 190.

As a result of further submissions and consideration, the Commission recommends \$35 a day. See O.L.R.C. Supp. Rep., p. 7. The Committee on Legal and Municipal Bills raised it to \$50 a day.

(c) in the case of a claim for services, within nine months after the completion of the service; or

(d) in the case of a claim for wages, within nine months after the last work was done for which the claim is made. *New.*

4.—(1) Every agreement, oral or written, express or implied, on the part of any workman that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void. Agreements waiving application of Act are void

(2) Subsection 1 does not apply, Exception

(a) to a manager, officer or foreman; or

(b) to any person whose wages are more than \$50 a day.

(3) No agreement deprives any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. Effect upon third party of agreement waiving lien R.S.O. 1960, c. 233, s. 4, *amended.*

CREATION OF LIENS

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who does any work upon or in respect of, or places or furnishes any materials to be used in, the making, constructing, erecting, fitting, altering, improving or repairing of any land, building, structure or works or the appurtenances to any of them for any owner, contractor or subcontractor by virtue thereof has a lien for the price of the work or materials upon the estate or interest of the owner in the land, building, structure or works and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work is done, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien. General right to a lien

(2) Except for the purpose of section 11, the lien given by subsection 1 does not attach to any public street or highway or to any work or improvement done thereon. Exception

Lien attaches where materials incorporated into building

(3) The lien given by subsection 1 attaches as therein set out where the materials delivered to be used are incorporated into the land, building, structure or works, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1.

Interpretation

(4) In subsection 1, "agent" includes the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. R.S.O. 1960, c. 233, s. 5, *amended*.

Lien for rented equipment

(5) A person who rents equipment to an owner, contractor or subcontractor for use on a contract site shall be deemed for the purposes of this Act to have performed a service for which he has a lien for the price of the rental of the equipment used on the contract site, limited, however in amount to the sum justly owed and due to the person entitled to the lien from the owner, builder, contractor or subcontractor in respect of the rental of the equipment. *New*.

When husband's interest liable for work done or materials furnished on land of spouse

6. Where work is done or materials are placed or furnished to be used upon or in respect of the land of a married woman, or in which she has an interest or an inchoate right of dower, with the privity or consent of her husband, he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or placing or furnishing the materials the person doing the work or placing or furnishing the materials has had actual notice to the contrary. R.S.O. 1960, c. 233, s. 6, *amended*.

Where estate charged is leasehold

7.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien if the person doing the work or placing or furnishing the materials gives notice in writing, by personal service, to the owner in fee simple or his agent of the work to be done or materials to be placed or furnished unless the owner in fee simple or his agent within fifteen days thereafter gives notice in writing, by personal service, to such person that he will not be responsible therefor.

Forfeiture or cancellation of lease, effect on lienholder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease except for non-payment of rent, deprives any person otherwise entitled to a lien of the benefit of the lien, but the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

SECTION 5—Subsection 5. The intent of the original recommendation of the Ontario Law Reform Commission is clarified. It is intended that the lien for rented equipment is for an amount that is reasonable and justly due in the particular circumstances. See O.L.R.C. Supp. Rep., p. 8.

SECTION 7—Subsection 1. The intent is clarified. See O.L.R.C. Supp. Rep., p. 8. Also, the notice period is increased from ten to fifteen days.



(3) Where the land and premises upon or in respect of which any work is done or materials are placed or furnished are encumbered by a mortgage or other charge that was registered in the proper registry office before any lien under this Act arose, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try an action under this Act. ^{Prior mortgages}

(4) The time at which the first lien arose shall be deemed to be the time at which the first work was done or the first materials placed or furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced and whether or not such lien is before the court. R.S.O. 1960, c. 233, s. 7 (1-4), *amended*. ^{When first lien arose}

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 14. R.S.O. 1960, c. 233, s. 7 (5). ^{Future advances}

(6) A registered agreement for the sale and purchase of land and any moneys *bona fide* secured or payable thereunder has the same priority over a lien as is provided for a mortgage and mortgage moneys in subsections 3 and 5, and for the purposes of this Act the seller shall be deemed to be a mortgagee, and any moneys *bona fide* secured and payable under such agreement shall be deemed to be mortgage moneys *bona fide* secured or advanced. R.S.O. 1960, c. 233, s. 7 (6), *amended*. ^{Registered agreement for sale and purchase of land has same priority as mortgage}

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1960, c. 233, s. 8. ^{Application of insurance}

9. Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1960, c. 233, s. 9. ^{Limit of amount of owner's liability}

Limit of
lien when
claimed by
other
than con-
tractor

10. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work has been done or the materials were placed or furnished. R.S.O. 1960, c. 233, s. 10, *amended*.

Hold back

11.—(1) In all cases, the person primarily liable upon a contract under or by virtue of which a lien may arise shall, as the work is done or the materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 15 per cent of the value of the work and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work, and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work or materials. R.S.O. 1960, c. 233, s. 11 (1), *amended*.

Reduction
in amount
retained

(2) Where a contract is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made and thirty-seven days have elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent of the subcontract price or, if there is no specific subcontract price, by 15 per cent of the actual value of the work done or materials placed or furnished under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act.

Idem

(3) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then, for the purposes of subsections 1, 2 and 3 of section 21 and section 23, that subcontract and any materials placed or furnished or to be placed or furnished thereunder and any work done or to be done thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or placed or furnished not later than the time at which the certificate was so given. R.S.O. 1960, c. 233, s. 11 (3, 4), *amended*.

(4) Where an architect, engineer or other person neglects or refuses to issue and deliver a certificate upon which payments are to be made under a contract or subcontract, the judge or officer having jurisdiction to try an action under this Act, upon application and upon being satisfied that the certificate should have been issued and delivered may, upon such terms and conditions as to costs and otherwise as he deems just, make an order that the work or materials to which the certificate would have related has been done or placed or furnished, as the case may be, and any such order has the same force and effect as if the certificate had been issued and delivered by the architect, engineer or other person. *New.*

Court order
in lieu of
certificate

(5) Where there is a lien under section 5, the lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable and where there is no lien on the land by virtue of subsection 2 of section 5, a claim for work done or materials placed or furnished is a charge upon the amount directed to be retained by this section. R.S.O. 1960, c. 233, s. 11 (5), *amended.*

Effect of
liens and
claims on
amounts
retained

(6) All payments up to 85 per cent as fixed by subsection 1 and payments permitted as a result of the operation of subsections 2 and 3 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien.

Payments
made in
good faith
without
notice of
lien

(7) Payment of the percentage required to be retained under this section may be validly made so as to discharge all claims in respect of such percentage after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings, and such payment constitutes valid payment in discharge of the owner to the amount thereof.

Payment of
percentage
and
discharge
of liens

(8) Every contract shall be deemed to be amended in so far as is necessary to be in conformity with this section. R.S.O. 1960, c. 233, s. 11 (5-9).

Amendment
of contracts

(9) Where the contractor or subcontractor makes default in completing his contract, the percentage required to be retained shall not, as against any lien claimant who by virtue

Where
percentage
not to be
applied

of subsection 5 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. R.S.O. 1960, c. 233, s. 11 (9), *amended*.

Payments made directly by owner to persons entitled to lien

12. If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 or to any person who but for subsection 2 of that section would be entitled to a lien under that section, for or on account of any debt, justly due to him for work done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. R.S.O. 1960, c. 233, s. 12 (1), *amended*.

Rights of subcontractor

13. Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1960, c. 233, s. 12 (2).

Priority of lien

14.—(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given to the person making such payments or after registration of a claim for the lien as hereinafter provided, and, in the absence of such notice in writing or the registration of a claim for lien, all such payments or advances have priority over any such lien. R.S.O. 1960, c. 233, s. 13 (1), *amended*.

Priority among lienholders

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage given to person entitled to lien void as against lienholders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether

given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1960, c. 233, s. 13 (2, 3).

PRIORITY OF WAGES

15.—(1) Every workman whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 15 per cent directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled, and all such workmen rank thereon *pari passu*. Priority of liens for wages

(2) Every workman is entitled to enforce a lien in respect of any contract or subcontract that has not been completed and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper persons, returnable in four days after service thereof before the judge or officer having jurisdiction to try an action under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit. Enforcement of lien in such cases

(3) If the contract has not been completed when the lien is claimed by a workman, the percentage shall be calculated on the value of the work done or materials placed or furnished by the contractor or subcontractor by whom the workman is employed, having regard to the contract price, if any. Calculating percentage when contract not fulfilled

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a workman for his wages and every payment made for the purpose of defeating or impairing a lien are void. R.S.O. 1960, c. 233, s. 14, *amended*. Devices to defeat priority of workmen

REGISTRATION

16.—(1) A claim for a lien may be registered in the proper registry office and shall set out, Registration of claim for lien

- (a) the name and an address for service of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work was or is to be done, or the materials were or are to be placed or furnished, and the time within which the same was or was to be done or placed or furnished;

(b) a short description of the work done or to be done, or the materials placed or furnished or to be placed or furnished;

(c) the sum claimed as due or to become due;

(d) a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be; and

(e) the date of expiry of the period of credit if credit has been given. R.S.O. 1960, c. 233, s. 16 (1), *amended*.

R.S.O. 1960,
cc. 204, 348

Verification
of claim

(2) The claim shall be verified in duplicate by the affidavit of the person claiming the lien, or of his agent or assignee who has a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Lien
against
railway

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1960, c. 233, s. 16 (2, 3).

What may
be included
in claim

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but, where more than one lien is included in one claim, each claim for lien shall be verified by affidavit as provided in section 16.

Apportion-
ment of
claims

(2) The judge or officer trying the action has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims under subsection 1. R.S.O. 1960, c. 233, s. 17, *amended*.

Informality

18.—(1) Substantial compliance with sections 16, 17 and 29 is sufficient and no claim for lien is invalidated by reason of failure to comply with any of the requirements of such sections unless, in the opinion of the judge or officer trying the action, the owner, contractor or subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Registration
necessary

(2) Nothing in this section dispenses with the requirement of registration of the claim for lien. R.S.O. 1960, c. 233, s. 18, *amended*.



SECTION 21. As a result of further submissions and research, the O.L.R.C. Supp. Rep., p. 8, recommends that the "umbrella principle" of the Act, which appeared as subsection 5 of section 21 of Bill 190, be dropped. The result will be that all lien claimants must register their claims, thus greatly facilitating the trial of some mechanics' lien actions.

The requirement for registration of certificates of action is to be found in section 22 (2) of this Bill.

19. A duplicate of the claim for lien, bearing the registrar's certificate of registration, shall be filed on or before the trial of the action, where the action is to be tried in the County of York, in the office of the master of the Supreme Court, or, where the action is to be tried elsewhere, in the office of the clerk of the county or district court of the county or district in which the action is to be tried. R.S.O. 1960, c. 233, s. 19 (1), *amended*. Duplicate to be filed

20. Where a claim is so registered, the person entitled to a lien shall be deemed to be a purchaser *pro tanto* and a purchaser within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. R.S.O. 1960, c. 233, s. 20, *amended*. Status of lien claimant
R.S.O. 1960, cc. 348, 204

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be. R.S.O. 1960, c. 233, s. 21 (1). Limit of time for registration

(2) A claim for lien for materials may be registered before or during the placing or furnishing thereof, or within thirty-seven days after the placing or furnishing of the last material so placed or furnished. R.S.O. 1960, c. 233, s. 21 (2), *amended*. Materials

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty-seven days after the completion of the service. R.S.O. 1960, c. 233, s. 21 (3). Services

(4) A claim for lien for wages may be registered at any time during the doing of the work for which the wages are claimed or within thirty-seven days after the last work was done for which the lien is claimed. R.S.O. 1960, c. 233, s. 21 (4), *amended*. Wages

(5) Where there is no lien on the land by virtue of subsection 2 of section 5, any person who is asserting a claim under subsection 5 of section 11 for work done or materials placed or furnished shall give notice in writing of his claim to the owner, to every person in whose hands are sums retained under section 11 to which his claim may relate and to the municipality in which the land is situate within thirty-seven days after the completion or abandonment of the work or the placing or furnishing of the materials. *New*. Notice of claim to holdback

EXPIRY AND DISCHARGE

Expiry of
liens

22.—(1) Every lien for which a claim is not registered ceases to exist on the expiration of the time limited in section 21 for the registration thereof.

Registration
of certificate
of action

(2) Upon an action under this Act being commenced, a certificate thereof shall be registered in the registry office in which the claim for lien is registered. R.S.O. 1960, c. 233, s. 22 (1), *part, amended.*

Vacating
orders

(3) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, the judge or an officer having jurisdiction to try the action may, upon the application *ex parte* of any interested person, make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1960, c. 233, s. 22, *amended.*

When lien
to cease
if registered
and not
proceeded
upon

23. Every lien for which a claim is registered ceases to exist on the expiration of ninety days after the work has been completed or the materials have been placed or furnished, or after the expiry of the period of credit, where such period is mentioned in the registered claim for lien, unless in the meantime an action is commenced to realize the claim or in which a subsisting claim may be realized, and a certificate is registered as provided by section 22. R.S.O. 1960, c. 233, s. 23, *amended.*

Assignment
or death of
lien
claimant

24. The rights of a lien claimant may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative. R.S.O. 1960, c. 233, s. 24, *amended.*

Discharge
of lien

25.—(1) A claim for lien may be discharged by the registration of a receipt acknowledging payment,

- (a) where made by a lien claimant that is not a corporation, signed by the lien claimant or his agent duly authorized in writing and verified by affidavit; or
- (b) where made by a lien claimant that is a corporation, sealed with its corporate seal. R.S.O. 1960, c. 233, s. 25 (1), *amended.*

Security or
payment
into court
and vacating
lien and
certificate
of action

(2) Upon application, the judge or officer having jurisdiction to try the action may, at any time,

- (a) allow security for or payment into court of the amount of the claim of the lien claimant and the amount of the claims of any other subsisting lien

SECTION 25. A number of changes in language have been made in order to clarify the intent, especially subsection 6 as to notice. See O.L.R.C. Supp. Rep., p. 9.



claimants together with such costs as he may fix, and thereupon order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated;

(b) upon any other proper ground, order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated; or

(c) upon proper grounds, dismiss the action. R.S.O. 1960, c. 233, s. 25 (4), *amended*.

(3) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause a or b of subsection 2, the lien does not cease to exist for the reason that no certificate of action is registered. Effect of order under subs. 2, cls. a or b

(4) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer, takes the place of the property discharged and is subject to the claims of every person who has at the time of the application a subsisting claim for lien or given notice of the claim under subsection 6 of section 11 or section 14 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, but such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security. Money paid into court

(5) Where the certificate required by section 22 or 23 has not been registered within the prescribed time and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the order vacating the lien may be made *ex parte* upon production of a certificate of search under *The Land Titles Act* or of a registrar's abstract under *The Registry Act*, as the case may be, together with a certified copy of the registered claim for lien. R.S.O. 1960, c. 204, 348. Where notice of application to vacate not requisite
R.S.O. 1960, c. 204, 348.

(6) Where money has been paid into court or a bond deposited in court pursuant to an order under subsection 2, the judge or officer may, upon such notice to the parties as he may require, order the money to be paid out to the persons entitled thereto or the delivery up of the bond for cancellation, as the case may be. 1961-62, c. 78, s. 1, *amended*. Payment of money out of court

(7) An order discharging a claim for lien or vacating a certificate of action shall be registered by registering the order or a certificate thereof, under the seal of the court, that Registration number

R.S.O. 1960, cc. 204, 348 includes a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be, and a reference to the registration number of every registered claim for lien and certificate of action affected thereby. 1966, c. 84, s. 1, *amended*.

EFFECT OF TAKING SECURITY OR EXTENDING TIME

Effect generally

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the lien claimant agrees in writing that it has that effect. R.S.O. 1960, c. 233, s. 26 (1).

Where period of credit not expired

(2) Where any such promissory note or bill of exchange has been negotiated, the lien claimant does not thereby lose his right to claim for lien if, at the time of bringing his action to enforce it or where an action is brought by another lien claimant, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

Time for bringing action not extended

(3) Nothing in subsection 2 extends the time limited by this Act for bringing an action to enforce a claim for lien.

Time for bringing action by person who gave time for payment

(4) A person who has extended the time for payment of a claim for which he has a claim for lien in order to obtain the benefit of this section shall commence an action to enforce the claim within the time prescribed by this Act and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1960, c. 233, s. 26 (2-4), *amended*.

Proving claim in action by another person

27. Where the period of credit in respect of a claim has not expired or there has been an extension of time for payment of the claim, the lien claimant may nevertheless, if an action is commenced by any other person to enforce a claim for lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1960, c. 233, s. 27, *amended*.

LIEN CLAIMANT'S RIGHTS TO INFORMATION

Production of contract or agreement

28.—(1) Any lien claimant may in writing at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work was or is to be done or the

SECTION 29. No change in principle from the present Act.

materials were or are to be placed or furnished, if the contract or agreement is in writing or, if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and, if the owner or his agent does not, at the time of the demand or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

(2) Any lien claimant may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work was or is to be done or the materials were or are to be placed or furnished and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and, if the mortgagee or vendor or his agent fails to inform the lien claimant at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lien claimant sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

(3) The judge or officer having jurisdiction to try an action under this Act may, on a summary application at any time before or after an action is commenced for the enforcement of the claim for lien, make an order requiring the owner or his agent or the mortgagee or his agent or the unpaid vendor or his agent or the contractor or his agent or the subcontractor or his agent, as the case may be, to produce and permit any lien claimant to inspect any such contract or agreement or mortgage or agreement for sale or the accounts or any other relevant document upon such terms as to costs as the judge or officer deems just. R.S.O. 1960, c. 233, s. 28, *amended*.

ACTIONS

29.—(1) A claim for lien is enforceable in an action in the Supreme Court.

Statement
of claim,
filing of

(2) An action under this section shall be commenced by filing a statement of claim in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate.

Idem,
service

(3) The statement of claim shall be served within thirty days after it is filed, but the judge having jurisdiction to try the action or, in the County of York, the master may extend the time for service.

Statement
of defence

(4) The time for delivering the statement of defence in the action shall be the same as for entering an appearance in an action in the Supreme Court.

Parties

(5) It is not necessary to make any lien claimants parties defendant to the action, but all lien claimants served with the notice of trial shall for all purposes be deemed to be parties to the action.

Motion
to speed
trial

(6) After the commencement of the action, any lien claimant or other person interested may apply to the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court to speed the trial of the action. R.S.O. 1960, c. 233, s. 29, *amended*.

Lien
claimants
joining in
action

30. Any number of lien claimants claiming liens on the same land may join in an action, and an action brought by a lien claimant shall be deemed to be brought on behalf of himself and all other lien claimants. R.S.O. 1960, c. 233, s. 30, *amended*.

Tribunal
and place
of trial

31.—(1) Except in the County of York, the action shall be tried by the local judge of the Supreme Court in the county or district in which the action was commenced, but, upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the action was commenced. R.S.O. 1960, c. 233, s. 31 (1, 2).

Idem,
York
County

(2) In the County of York, the action shall be tried by a judge of the Supreme Court, but,

(a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer the whole action to the master for trial pursuant to section 69 of *The Judicature Act*; or

R.S.O. 1960,
c. 197

SECTION 31. The O.L.R.C. Supp. Rep., p. 10, recommends that as **there is no relationship between subsections 1 and 2 of section 31 of Bill 190, subsection 1 should be renumbered as section 31, subsections 2 to 7 renumbered as subsections 1 to 6 of a new section 32 and the following sections renumbered accordingly.** This recommendation is implemented.

SECTION 34—Subsection 2. As recommended by the O.L.R.C. Supp. Rep., p. 10, the powers that trustees may exercise under the section are broadened to include, if authorized by court order, the power to lease the property against which the claim for lien is registered.

(b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 68 or 69 of *The Judicature Act*. R.S.O. 1960, c. 233, s. 31 (3), *amended*. R.S.O. 1960, c. 197.

(3) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto. Application to set aside judgment directing a reference

(4) Where the action is referred to the master for trial, he may grant leave to amend any pleading. R.S.O. 1960, c. 233, s. 31 (4, 5). Amendment of pleadings on reference

32. The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work done or materials furnished to the property in question. R.S.O. 1960, c. 233, s. 32 (1), *amended*. Powers of local judges S.C.O., etc.

33. Where an owner enters into an entire contract for the supply of materials to be used in several buildings, the person supplying the materials may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but, in case the owner has sold one or more of the buildings, the judge or officer trying the action has jurisdiction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract. R.S.O. 1960, c. 233, s. 32 (2), *amended*. Where contract covers several buildings

34.—(1) At any time after the delivery of the statement of claim, the judge or officer having jurisdiction to try the action may, on the application of any lien claimant, mortgagee or other person interested, appoint a receiver of the rents and profits of the property against which the claim for lien is registered, upon such terms and upon the giving of such security or without security as the judge or officer deems just. Power to appoint a receiver of rents and profits

(2) Any lien claimant, mortgagee or other person interested may make an application to the judge or officer at any time before or after judgment, which may hear *via voce* or affidavit Power to direct sale and appoint trustee

evidence or both and appoint, upon such terms and upon the giving of such security or without security as the judge or officer deems just, a trustee or trustees with power to manage, mortgage, lease and sell, or manage, mortgage, lease or sell, the property against which the claim for lien is registered, and the exercise of such powers shall be under the supervision and direction of the judge or officer, and with power, when so directed by the judge or officer, to complete or partially complete the property, and, in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over every claim of lien existing as of the date of the appointment.

Property
offered for
sale

(3) Any property directed to be sold under subsection 2 may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or officer so directs.

Proceeds
to be paid
into court

(4) The proceeds of any sale made by a trustee or trustees under subsection 2 shall be paid into court and are subject to the claims of all lien claimants, mortgagees or other persons interested in the property so sold as their respective rights are determined, and, in so far as applicable, section 39 applies.

Orders for
completion
of sale

(5) The judge or officer shall make all necessary orders for the completion of any mortgage, lease or sale authorized to be made under subsection 2.

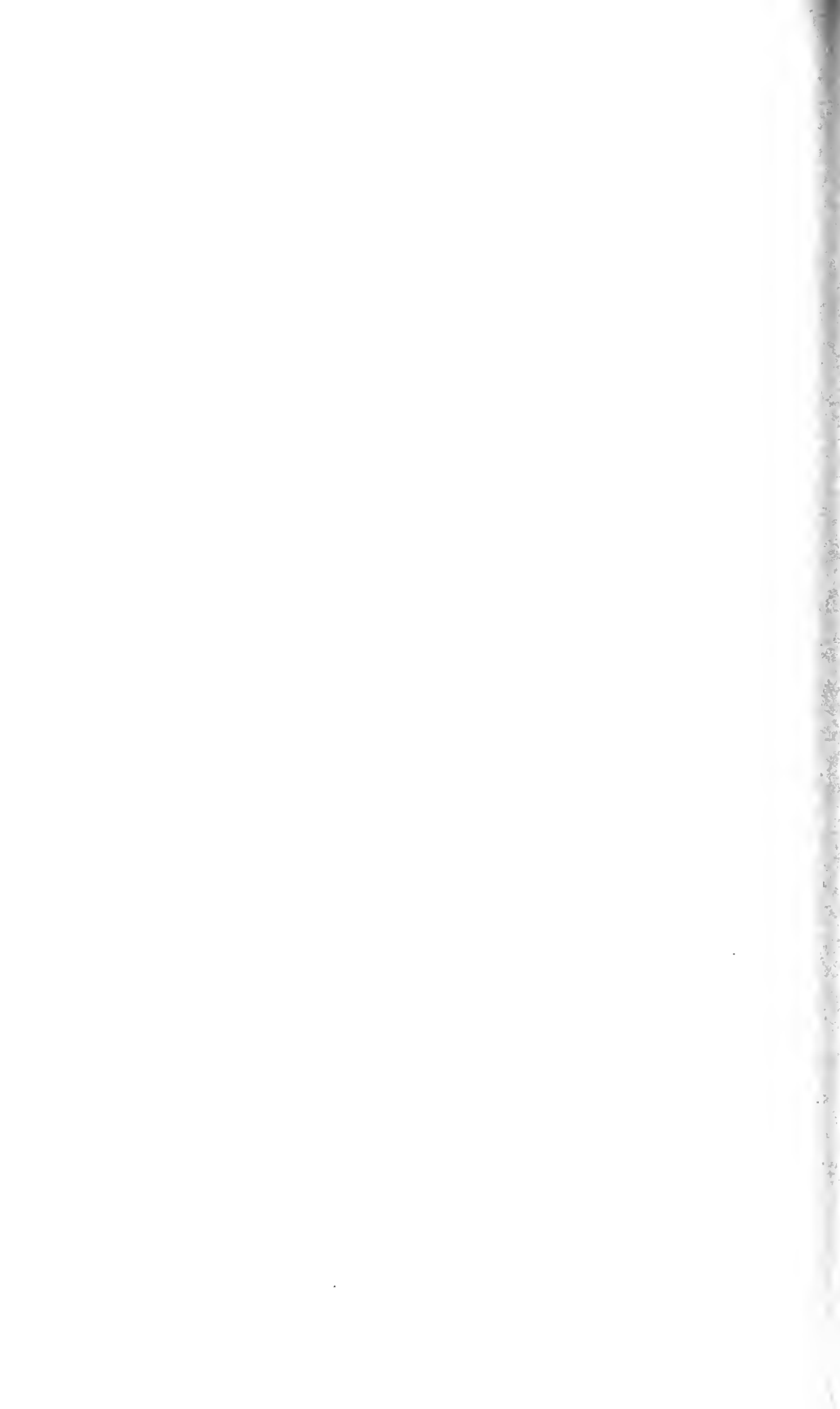
Vesting
of title

(6) Any vesting order made of property sold by a trustee or trustees appointed under subsection 2 vests the title of the property free from all claims for liens, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this section or elsewhere in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of her dower ascertained and deducted from the proceeds of the sale so paid into court. R.S.O. 1960, c. 233, s. 32 (3-8), *amended*.

Order for
preserva-
tion of
property

35. At any time after delivery of the statement of claim and before judgment, or after judgment and pending the hearing and determination of any appeal, any lien claimant, mortgagee or other interested person may make an application to the judge or officer having jurisdiction to try the action, who may hear *viva voce* or affidavit evidence or both and make an order for the preservation of any property pending the determination of the action and any appeal. *New.*

Subsection 3. The words "but only in cases where there is no dispute as to the priority of any such mortgage" at the end of the provision as it appeared in Bill 190 have been deleted as recommended by the O.L.R.C. Supp. Rep., p. 11. This will expedite the trial of mechanics' lien actions by giving the court power to direct a sale under the court's supervision in cases where the priority of a mortgage is in dispute or where the lien claimants refuse to take a position one way or the other.



36. Where more actions than one are brought to realize liens in respect of the same land, the judge or officer having jurisdiction to try the action may, on the application of any party to any one of the actions or on the application of any other person interested, consolidate all such actions into one action and award the conduct of the consolidated action to any plaintiff as the judge or officer deems just. R.S.O. 1960, c. 233, s. 33, *amended*. Consolidation of actions

37. Any lien claimant entitled to the benefit of an action may at any time apply to the judge or officer having jurisdiction to try the action for the carriage of the proceedings, and the judge or officer may make an order awarding such lien claimant the carriage of the proceedings. R.S.O. 1960, c. 233, s. 34, *amended*. Transferring carriage of proceedings

38.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, either party may apply *ex parte* to a judge or officer having jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial, and the order, signed by the judge or officer, shall form part of the record of the proceedings. Appointing day for trial

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial upon the solicitors for the defendants who appear by solicitors and upon the defendants who appear in person, and upon all the lienholders who have registered their claims as required by this Act or of whose claims he has notice, and upon all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial is to be served. Notice of trial and service

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer having jurisdiction to try the action deems just. Idem

(4) The judge, or where a reference for trial is directed, the master, Trial

(a) shall try the action, including any set-off and counter-claim, and all questions that arise therein or that are necessary to be tried in order to completely dispose

of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,

(i) in the case of a judge, in a judgment, and

(ii) in the case of a master, in a report,

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and after confirmation thereof, in the case of a report.

Power to vary form of judgment

(5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled.

Sale

(6) The judge or officer may order that the estate or interest charged with the lien be sold, and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale.

Letting in lien claimants who have not proved their claims at trial

(7) A lien claimant who did not prove his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim, on such terms as to costs and otherwise as are deemed just, at any time before the amount realized in the action for the satisfaction of liens has been distributed, and, where his claim is allowed, the judgment or report shall be amended so as to include his claim.

Right of lien claimants to representation

(8) Any lien claimant for an amount not exceeding \$200 may be represented by an agent who is not a barrister and solicitor.

Action may be tried by any judge

(9) An action or reference under this Act may be tried by any judge or officer having jurisdiction to try the action or

reference notwithstanding that the time and place for the trial or reference thereof were appointed and fixed by another judge or officer. R.S.O. 1960, c. 233, s. 35, *amended*.

(10) Any party to an action under this Act or any other interested person may at any time and from time to time apply to a judge or officer having jurisdiction to try the action or reference for directions as to pleadings, discovery, production or any other matter relating to the action or reference, including the cross-examination of a lien claimant or his agent or assignee on his affidavit verifying the claim. *New*.

39.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge or officer before whom the action was tried shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 38, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise.

(2) The judge or officer before whom the action was tried may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. R.S.O. 1960, c. 233, s. 36 (1, 2).

40. Where a lien claimant fails to establish a lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1960, c. 233, s. 36 (3).

41. Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1960, c. 233, s. 37.

STATED CASE

42.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

Trans-
mission of
papers

(2) The stated case shall set forth the facts material for the determination of the question raised, and all papers necessary for the hearing of the stated case by the Court of Appeal shall be transmitted to the registrar of the Supreme Court. R.S.O. 1960, c. 233, s. 39, *amended*.

APPEAL

Appeal

43.—(1) Except where the amount of a judgment in respect of a claim or counterclaim is \$200 or less, an appeal lies from any judgment under this Act to the Court of Appeal. R.S.O. 1960, c. 233, s. 40 (1), *amended*.

Appeal from
reference

(2) Where a question is referred to the master for inquiry and report under subsection 2 of section 31, an appeal lies in the manner prescribed by the rules of court.

Confirma-
tion of
master's
report

(3) Where an action is referred to the master for trial under subsection 2 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time.

Appeal
from
judgment
or report

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury. R.S.O. 1960, c. 233, s. 40 (2, 3, 4).

Costs of
appeal

(5) The costs of an appeal shall not be governed by subsections 2 and 3 of section 45 but, subject to any order of the Court of Appeal, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. R.S.O. 1960, c. 233, s. 40 (5), *amended*.

FEES AND COSTS

Fee

44. The fee payable by every plaintiff, every plaintiff by counterclaim and every lien claimant, including every person recovering a personal judgment, in any action to realize a lien under this Act is,

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000, plus \$1 for every \$1,000 or fraction thereof in excess of \$1,000,

SECTION 43—Subsection 1. The limitation on appeals that is in the present Act but was not in Bill 190 appears at the commencement of this provision as recommended by the O.L.R.C. Supp. Rep., p. 11.

SECTION 45. The intent is clarified as recommended by the **O.L.R.C.**
Supp. Rep., p. 11.

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. R.S.O. 1960, c. 233, s. 41, *amended*.

45.—(1) Subject to subsections 2, 3, 4 and 5, any order as to costs in an action under this Act is in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 46, *amended*. Costs not otherwise provided for

(2) The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that, where a counterclaim is set up by a defendant, the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 42, *amended*. Limit of costs to plaintiffs

(3) Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer who tries the action may direct. R.S.O. 1960, c. 233, s. 43, *amended*. Limit of costs against plaintiffs

(4) Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1960, c. 233, s. 44. Costs where least expensive course not taken

(5) Where a lien is discharged or vacated under section 25 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer who tries the action may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. R.S.O. 1960, c. 233, s. 45. Cost of drawing and registering and vacating registration of lien

RULES OF PRACTICE

46.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. R.S.O. 1960, c. 233, s. 47 (1). Rules of practice

Interlocutory proceedings (2) Except where otherwise provided by this Act, no interlocutory proceedings shall be permitted without the consent of the judge or officer having jurisdiction to try the action, and then only upon proper proof that such proceedings are necessary.

Assistance of experts (3) The judge or officer having jurisdiction to try the action may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or person in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of any such person and direct payment thereof by any of the parties. R.S.O. 1960, c. 233, s. 47 (2, 3), *amended*.

Rules of practice (4) Unless otherwise provided in this Act, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. *New*.

SERVICE OF DOCUMENTS

Service of documents 47. Except where otherwise directed by the judge or officer having jurisdiction to try the action, all documents relating to an action under this Act, other than statements of claim and notices of trial, are sufficiently served upon the intended recipient if sent by registered mail addressed to the intended recipient at his address for service. *New*.

LIENS ON CHATTELS

Right of chattel lienholder to sell chattel 48.—(1) Every person who has bestowed money, skill or materials upon any chattel or thing in the alteration or improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and material bestowed, has, while the lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after it ought to have been paid, the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing on giving one week's notice by advertisement in a newspaper having general circulation in the municipality in which the work was done, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality.

Application of proceeds of sale (2) Such person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.S.O. 1960, c. 233, s. 48, *amended*.

SECTION 46—Subsection 4. This new provision implements a recommendation of the O.L.R.C. Supp. Rep., p. 11.



FORMS

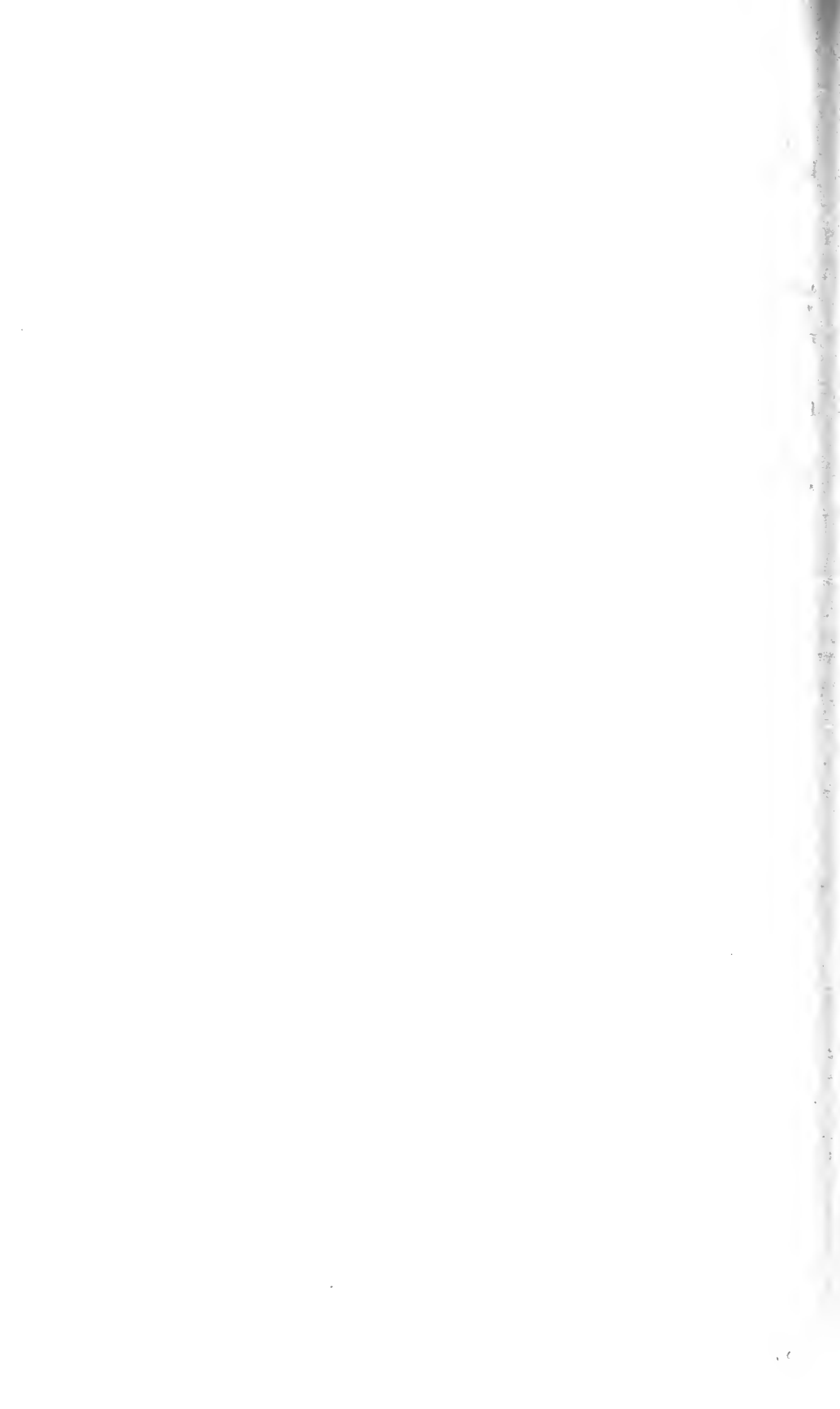
49. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. *New.* Forms

MISCELLANEOUS

50. *The Mechanics' Lien Act, The Mechanics' Lien Amendment Act, 1961-62, The Mechanics' Lien Amendment Act, 1962-63 and The Mechanics' Lien Amendment Act, 1966* are repealed. R.S.O. 1960,
c. 233;
1961-62,
c. 78;
1962-63,
c. 79;
1966, o. 84,
repealed

51. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

52. This Act may be cited as *The Mechanics' Lien Act, 1968-69.* Short title





1st Reading

December 12th, 1968

2nd Reading

February 20th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Legal and Municipal Committee)*

BILL 36

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Mechanics' Lien Act, 1968-69

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. In 1965 the Ontario Law Reform Commission undertook an extensive study of the law in Ontario on mechanics' liens.

A report dated February 22, 1966, was made by the Commission to the Attorney General containing its recommendations for up-dating *The Mechanics' Lien Act*.

Bill 190, based upon the report, was introduced and given first reading at the 1966 Session. This gave the proposed legislation wide distribution in convenient form for study by interested persons and organizations.

The Commission then held public hearings and considered many submissions which resulted in a supplementary report dated May 26, 1967.

The recommendations of the Commission contained in the supplementary report have been incorporated in this Bill. There is, however, one major exception. This Bill does not transfer jurisdiction in mechanics' lien actions from the Supreme Court to the county and district courts as recommended by the Commission in both of its reports. It is thought advisable to leave this matter in abeyance pending the conclusion of the general review of the jurisdictions of the several court systems in Ontario now going on as a result of the recommendations of the McRuer Report.

This Bill also contains a number of editorial and other changes, designed to clarify the intent, that have resulted from the study of Bill 190.

In the following notes the supplementary report of the Commission is referred to as O.L.R.C. Supp. Rep.

The Mechanics' Lien Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "completion of the contract" means substantial performance, not necessarily total performance, of the contract;
- (b) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or the placing or furnishing of materials for any of the purposes mentioned in this Act;
- (c) "materials" includes every kind of movable property;
- (d) "owner" includes any person and corporation, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which work is done or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity or consent, or
 - (iv) for whose direct benefit,

work is done or materials are placed or furnished and all persons claiming under him or it whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials placed or furnished have been commenced to be placed or furnished;

- (e) "registrar" includes a master of titles;
- (f) "registry office" includes a land titles office;

(g) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for any of the purposes mentioned in this Act, but contracting with or employed by a contractor or, under him, by another subcontractor;

(h) "wages" means the money earned by a workman for work done by time or as piece work, and includes all monetary supplementary benefits, whether by statute, contract or collective bargaining agreement;

(i) "workman" means a person employed for wages in any kind of labour, whether employed under a contract of service or not. R.S.O. 1960, c. 233, s. 1, *amended*.

Work
includes
service

(2) In this Act, the expression "the doing of work" includes the performance of a service, and corresponding expressions have corresponding meanings.

Substantial
performance

(3) For the purposes of this Act, a contract shall be deemed to be substantially performed,

(a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and

(b) when the work to be done under the contract is capable of completion or correction at a cost of not more than,

(i) 3 per cent of the first \$250,000 of the contract price,

(ii) 2 per cent of the next \$250,000 of the contract price, and

(iii) 1 per cent of the balance of the contract price.

Idem

(4) For the purposes of this Act, where the work or a substantial part thereof is ready for use or is being used for the purpose intended and where the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work to be completed shall be deducted from the contract price in determining substantial performance. *New*.

GENERAL

Trust funds
in hands of
contractors

2.—(1) All sums received by a builder, contractor or subcontractor on account of the contract price constitute a trust fund in his hands for the benefit of the owner, builder, contractor, subcontractor, Workmen's Compensation Board,

SECTION 1—Subsections 3 and 4 are new. They are designed to complement the definition of “completion of the contract” and thus speed up the release of “holdback” moneys.

Subsection 4. Municipal financing is expressly excluded from the scope of the provision and its intent is clarified as recommended in O.L.R.C. Supp. Rep., pp. 6, 7.

workmen employed by the contractor in the performance of the contract or who are employed by the contractor at the contract site, and the contractor shall be liable as the employer for the purposes of the Workmen's Compensation Act, 1923, in respect thereof to the extent of the trust until all workmen employed by the contractor have been removed from the contract site and all materials on the contract site have been removed or to be used on the contract site for work done or to be done by the Workmen's Compensation Board in respect thereof. It is covenanted

by the contractor that the contractor shall be responsible for the transportation of all materials, tools, plant and equipment to the contract site, for the work on the contract site, for the removal of materials from the contract site, for the building of a concrete structure, so paid by the contractor, and for the conversion thereof to a concrete structure, by the contractor. It is covenanted

by the contractor that the contractor shall be responsible for the construction, by the contractor, under the contract, of a concrete structure, equal to the concrete structure received by the contractor, and that the contractor shall be responsible for the completion of the concrete structure supplied under the contract, for the removal of plant and equipment from the contract site, for the conversion of the concrete structure to a concrete structure, so paid for work done or to be done by the Workmen's Compensation Board with respect thereof.

(4) All sums received by the contractor in respect of the purchase price of the concrete structure, of a building, or to the payment of the

encumbrances, a trust fund in the hands of the owner for the benefit of the persons mentioned in subsection 1, and, until the claims of all such persons have been paid, the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Exception

(5) Notwithstanding subsection 4, where an owner has himself paid in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, the retention by him from any moneys received from the lender under subsection 4 of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

Protection for money lenders

(6) Notwithstanding anything in this section, where money is lent to a person upon whom a trust is imposed by this section and is used by him to pay in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, trust moneys may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and any sum so applied shall be deemed not to be an appropriation or conversion to the trustee's own use or to any use not authorized by the trust. *New.*

Offence and penalty

(7) Every person upon whom a trust is imposed by this section who knowingly appropriates or converts any part of any trust moneys referred to in subsection 1, 3 or 4 to his own use or to any use not authorized by the trust is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence, in addition to the corporation, and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 233, s. 3 (2), *amended.*

Limit of time for asserting claims to trust moneys

3. No action to assert any claim to trust moneys referred to in section 2 shall be commenced against a lender of money to a person upon whom a trust is imposed by that section except,

- (a) in the case of a claim by a contractor or subcontractor in cases not provided for in clauses *b*, *c* and *d*, within nine months after the completion or abandonment of the contract or subcontract;
- (b) in the case of a claim for materials, within nine months after the placing or furnishing of the last material;

Subsection 5. This extension of the "trustee provisions" is new. It is recommended in O.L.R.C. Supp. Rep., pp. 5-7.

SECTION 4—Subsection 2, clause *b*. In its original report the Ontario Law Reform Commission recommended “\$25 a day” which is the sum that appeared in Bill 190.

As a result of further submissions and consideration, the Commission recommends \$35 a day. See O.L.R.C. Supp. Rep., p. 7. The Committee on Legal and Municipal Bills raised it to \$50 a day.

- (c) in the case of a claim for services, within nine months after the completion of the service; or
- (d) in the case of a claim for wages, within nine months after the last work was done for which the claim is made. *New.*

4.—(1) Every agreement, oral or written, express or implied, on the part of any workman that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void. Agreements waiving application of Act are void

(2) Subsection 1 does not apply, Exception

(a) to a manager, officer or foreman; or

(b) to any person whose wages are more than \$50 a day.

(3) No agreement deprives any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. Effect upon third party of agreement waiving lien R.S.O. 1960, c. 233, s. 4, *amended.*

CREATION OF LIENS

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who does any work upon or in respect of, or places or furnishes any materials to be used in, the making, constructing, erecting, fitting, altering, improving or repairing of any land, building, structure or works or the appurtenances to any of them for any owner, contractor or subcontractor by virtue thereof has a lien for the price of the work or materials upon the estate or interest of the owner in the land, building, structure or works and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work is done, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien. General right to a lien

(2) Except for the purpose of section 11, the lien given by subsection 1 does not attach to any public street or highway or to any work or improvement done thereon. Exception

Lien attaches where materials incorporated into building

(3) The lien given by subsection 1 attaches as therein set out where the materials delivered to be used are incorporated into the land, building, structure or works, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1.

Interpretation

(4) In subsection 1, "agent" includes the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. R.S.O. 1960, c. 233, s. 5, *amended*.

Lien for rented equipment

(5) A person who rents equipment to an owner, contractor or subcontractor for use on a contract site shall be deemed for the purposes of this Act to have performed a service for which he has a lien for the price of the rental of the equipment used on the contract site, limited, however in amount to the sum justly owed and due to the person entitled to the lien from the owner, builder, contractor or subcontractor in respect of the rental of the equipment. *New*.

When husband's interest liable for work done or materials furnished on land of spouse

6. Where work is done or materials are placed or furnished to be used upon or in respect of the land of a married woman, or in which she has an interest or an inchoate right of dower, with the privity or consent of her husband, he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or placing or furnishing the materials the person doing the work or placing or furnishing the materials has had actual notice to the contrary. R.S.O. 1960, c. 233, s. 6, *amended*.

Where estate charged is leasehold

7.--(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien if the person doing the work or placing or furnishing the materials gives notice in writing, by personal service, to the owner in fee simple or his agent of the work to be done or materials to be placed or furnished unless the owner in fee simple or his agent within fifteen days thereafter gives notice in writing, by personal service, to such person that he will not be responsible therefor.

Forfeiture or cancellation of lease, effect of on holder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease except for non-payment of rent, deprives any person otherwise entitled to a lien of the benefit of the lien, but the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

SECTION 5—Subsection 5. The intent of the original recommendation of the Ontario Law Reform Commission is clarified. It is intended that the lien for rented equipment is for an amount that is reasonable and justly due in the particular circumstances. See O.L.R.C. Supp. Rep., p. 8.

SECTION 7—Subsection 1. The intent is clarified. See O.L.R.C. Supp. Rep., p. 8. Also, the notice period is increased from ten to fifteen days.



(3) Where the land and premises upon or in respect of which any work is done or materials are placed or furnished are encumbered by a mortgage or other charge that was registered in the proper registry office before any lien under this Act arose, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try an action under this Act. ^{Prior mortgages}

(4) The time at which the first lien arose shall be deemed to be the time at which the first work was done or the first materials placed or furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced and whether or not such lien is before the court. R.S.O. 1960, c. 233, s. 7 (1-4), *amended*. ^{When first lien arose}

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 14. R.S.O. 1960, c. 233, s. 7 (5). ^{Future advances}

(6) A registered agreement for the sale and purchase of land and any moneys *bona fide* secured or payable thereunder has the same priority over a lien as is provided for a mortgage and mortgage moneys in subsections 3 and 5, and for the purposes of this Act the seller shall be deemed to be a mortgagee, and any moneys *bona fide* secured and payable under such agreement shall be deemed to be mortgage moneys *bona fide* secured or advanced. R.S.O. 1960, c. 233, s. 7 (6), *amended*. ^{Registered agreement for sale and purchase of land has same priority as mortgage}

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1960, c. 233, s. 8. ^{Application of insurance}

9. Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1960, c. 233, s. 9. ^{Limit of amount of owner's liability}

Limit of
lien when
claimed by
other
than con-
tractor

10. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work has been done or the materials were placed or furnished. R.S.O. 1960, c. 233, s. 10, *amended*.

Holdback

11.—(1) In all cases, the person primarily liable upon a contract under or by virtue of which a lien may arise shall, as the work is done or the materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 15 per cent of the value of the work and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work, and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work or materials. R.S.O. 1960, c. 233, s. 11 (1), *amended*.

Reduction
in amount
retained

(2) Where a contract is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made and thirty-seven days have elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent of the subcontract price or, if there is no specific subcontract price, by 15 per cent of the actual value of the work done or materials placed or furnished under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act.

Idem

(3) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then, for the purposes of subsections 1, 2 and 3 of section 21 and section 23, that subcontract and any materials placed or furnished or to be placed or furnished thereunder and any work done or to be done thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or placed or furnished not later than the time at which the certificate was so given. R.S.O. 1960, c. 233, s. 11 (3, 4), *amended*.

(4) Where an architect, engineer or other person neglects or refuses to issue and deliver a certificate upon which payments are to be made under a contract or subcontract, the judge or officer having jurisdiction to try an action under this Act, upon application and upon being satisfied that the certificate should have been issued and delivered may, upon such terms and conditions as to costs and otherwise as he deems just, make an order that the work or materials to which the certificate would have related has been done or placed or furnished, as the case may be, and any such order has the same force and effect as if the certificate had been issued and delivered by the architect, engineer or other person. *New.*

Court order
in lieu of
certificate

(5) Where there is a lien under section 5, the lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable and where there is no lien on the land by virtue of subsection 2 of section 5, a claim for work done or materials placed or furnished is a charge upon the amount directed to be retained by this section. R.S.O. 1960, c. 233, s. 11 (5), *amended.*

Effect of
liens and
claims on
amounts
retained

(6) All payments up to 85 per cent as fixed by subsection 1 and payments permitted as a result of the operation of subsections 2 and 3 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien.

Payments
made in
good faith
without
notice of
lien

(7) Payment of the percentage required to be retained under this section may be validly made so as to discharge all claims in respect of such percentage after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings, and such payment constitutes valid payment in discharge of the owner to the amount thereof.

Payment of
percentage
and
discharge
of liens

(8) Every contract shall be deemed to be amended in so far as is necessary to be in conformity with this section. R.S.O. 1960, c. 233, s. 11 (5-9).

Amendment
of contracts

(9) Where the contractor or subcontractor makes default in completing his contract, the percentage required to be retained shall not, as against any lien claimant who by virtue

Where
per-centage
not to be
applied

of subsection 5 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. R.S.O. 1960, c. 233, s. 11 (9), *amended*.

Payments made directly by owner to persons entitled to lien

12. If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 or to any person who but for subsection 2 of that section would be entitled to a lien under that section, for or on account of any debt, justly due to him for work done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. R.S.O. 1960, c. 233, s. 12 (1), *amended*.

Rights of subcontractor

13. Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1960, c. 233, s. 12 (2).

Priority of lien

14.—(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given to the person making such payments or after registration of a claim for the lien as hereinafter provided, and, in the absence of such notice in writing or the registration of a claim for lien, all such payments or advances have priority over any such lien. R.S.O. 1960, c. 233, s. 13 (1), *amended*.

Priority among lienholders

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage given to person entitled to lien void as against lienholders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether

given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1960, c. 233, s. 13 (2, 3).

PRIORITY OF WAGES

15.—(1) Every workman whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 15 per cent directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled, and all such workmen rank thereon *pari passu*. Priority of liens for wages

(2) Every workman is entitled to enforce a lien in respect of any contract or subcontract that has not been completed and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper persons, returnable in four days after service thereof before the judge or officer having jurisdiction to try an action under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit. Enforcing lien in such cases

(3) If the contract has not been completed when the lien is claimed by a workman, the percentage shall be calculated on the value of the work done or materials placed or furnished by the contractor or subcontractor by whom the workman is employed, having regard to the contract price, if any. Calculating percentage when contract not fulfilled

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a workman for his wages and every payment made for the purpose of defeating or impairing a lien are void. R.S.O. 1960, c. 233, s. 14, *amended*. Devices to defeat priority of workmen

REGISTRATION

16.—(1) A claim for a lien may be registered in the proper registry office and shall set out, Registration of claim for lien

- (a) the name and an address for service of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work was or is to be done, or the materials were or are to be placed or furnished, and the time within which the same was or was to be done or placed or furnished;

(b) a short description of the work done or to be done, or the materials placed or furnished or to be placed or furnished;

(c) the sum claimed as due or to become due;

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(d) a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be; and

(e) the date of expiry of the period of credit if credit has been given. R.S.O. 1960, c. 233, s. 16 (1), *amended*.

Verification
of claim

(2) The claim shall be verified in duplicate by the affidavit of the person claiming the lien, or of his agent or assignee who has a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Lien
against
railway

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1960, c. 233, s. 16 (2, 3).

What may
be included
in claim

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but, where more than one lien is included in one claim, each claim for lien shall be verified by affidavit as provided in section 16.

Apportion-
ment of
claims

(2) The judge or officer trying the action has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims under subsection 1. R.S.O. 1960, c. 233, s. 17, *amended*.

Informality

18.—(1) Substantial compliance with sections 16, 17 and 29 is sufficient and no claim for lien is invalidated by reason of failure to comply with any of the requirements of such sections unless, in the opinion of the judge or officer trying the action, the owner, contractor or subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Registration
necessary

(2) Nothing in this section dispenses with the requirement of registration of the claim for lien. R.S.O. 1960, c. 233, s. 18, *amended*.



SECTION 21. As a result of further submissions and research, the O.L.R.C. Supp. Rep., p. 8, recommends that the "umbrella principle" of the Act, which appeared as subsection 5 of section 21 of Bill 190, be dropped. The result will be that all lien claimants must register their claims, thus greatly facilitating the trial of some mechanics' lien actions.

The requirement for registration of certificates of action is to be found in section 22 (2) of this Bill.

19. A duplicate of the claim for lien, bearing the registrar's certificate of registration, shall be filed on or before the trial of the action, where the action is to be tried in the County of York, in the office of the master of the Supreme Court, or, where the action is to be tried elsewhere, in the office of the clerk of the county or district court of the county or district in which the action is to be tried. R.S.O. 1960, c. 233, s. 19 (1), *amended*. Duplicate to be filed

20. Where a claim is so registered, the person entitled to a lien shall be deemed to be a purchaser *pro tanto* and a purchaser within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. R.S.O. 1960, c. 233, s. 20, *amended*. Status of lien claimant
R.S.O. 1960, c. 343, 204

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be. R.S.O. 1960, c. 233, s. 21 (1). Limit of time for registration

(2) A claim for lien for materials may be registered before or during the placing or furnishing thereof, or within thirty-seven days after the placing or furnishing of the last material so placed or furnished. R.S.O. 1960, c. 233, s. 21 (2), *amended*. Materials

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty-seven days after the completion of the service. R.S.O. 1960, c. 233, s. 21 (3). Services

(4) A claim for lien for wages may be registered at any time during the doing of the work for which the wages are claimed or within thirty-seven days after the last work was done for which the lien is claimed. R.S.O. 1960, c. 233, s. 21 (4), *amended*. Wages

(5) Where there is no lien on the land by virtue of subsection 2 of section 5, any person who is asserting a claim under subsection 5 of section 11 for work done or materials placed or furnished shall give notice in writing of his claim to the owner, to every person in whose hands are sums retained under section 11 to which his claim may relate and to the municipality in which the land is situate within thirty-seven days after the completion or abandonment of the work or the placing or furnishing of the materials. *New*. Notice of claim to holdback

EXPIRY AND DISCHARGE

Expiry of liens **22.**—(1) Every lien for which a claim is not registered ceases to exist on the expiration of the time limited in section 21 for the registration thereof.

Registration of certificate of action (2) Upon an action under this Act being commenced, a certificate thereof shall be registered in the registry office in which the claim for lien is registered. R.S.O. 1960, c. 233, s. 22 (1), *part, amended*.

Vacating orders (3) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, the judge or an officer having jurisdiction to try the action may, upon the application *ex parte* of any interested person, make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1960, c. 233, s. 22, *amended*.

When lien to cease if registered and not proceeded upon **23.**—(1) Every lien for which a claim is registered ceases to exist on the expiration of ninety days after the work has been completed or the materials have been placed or furnished, or after the expiry of the period of credit, where such period is mentioned in the registered claim for lien, unless in the meantime an action is commenced to realize the claim or in which a subsisting claim may be realized, and a certificate is registered as provided by section 22. R.S.O. 1960, c. 233, s. 23, *amended*.

Expiration of claim (2) Every claim asserted under subsection 5 of section 11 for work done or materials placed or furnished ceases to exist on the expiration of ninety days after,

- (a) the work has been completed or abandoned;
- (b) the materials have been placed or furnished; or
- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in subsection 5 of section 21,

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

Idem (3) Subsection 2 of section 22 does not apply to an action referred to in subsection 2, but sections 29, 30, 31, 32 and 34 to 38 do apply *mutatis mutandis* to such an action.

Assignment or death of lien claimant **24.** The rights of a lien claimant may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative. R.S.O. 1960, c. 233, s. 24, *amended*.



SECTION 25. A number of changes in language have been made in order to clarify the intent, especially subsection 6 as to notice. See O.L.R.C. Supp. Rep., p. 9.

25.—(1) A claim for lien may be discharged by the registration of a receipt acknowledging payment, Discharge of lien

- (a) where made by a lien claimant that is not a corporation, signed by the lien claimant or his agent duly authorized in writing and verified by affidavit; or
- (b) where made by a lien claimant that is a corporation, sealed with its corporate seal. R.S.O. 1960, c. 233, s. 25 (1), *amended*.

(2) Upon application, the judge or officer having jurisdiction to try the action may, at any time, Security or payment into court and vacating lien and certificate of action

- (a) allow security for or payment into court of the amount of the claim of the lien claimant and the amount of the claims of any other subsisting lien claimants together with such costs as he may fix, and thereupon order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated;
- (b) upon any other proper ground, order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated; or
- (c) upon proper grounds, dismiss the action. R.S.O. 1960, c. 233, s. 25 (4), *amended*.

(3) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause *a* or *b* of subsection 2, the lien does not cease to exist for the reason that no certificate of action is registered. Effect of order under subs. 2, cls. a or b

(4) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer, takes the place of the property discharged and is subject to the claims of every person who has at the time of the application a subsisting claim for lien or given notice of the claim under subsection 6 of section 11 or section 14 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, but such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security. Money paid into court

(5) Where the certificate required by section 22 or 23 has not been registered within the prescribed time and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the Where notice of application to vacate not requisite

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order vacating the lien may be made *ex parte* upon production of a certificate of search under *The Land Titles Act* or of a registrar's abstract under *The Registry Act*, as the case may be, together with a certified copy of the registered claim for lien. R.S.O. 1960, c. 233, s. 25 (5-7), *amended*.

Payment of
money out
of court

(6) Where money has been paid into court or a bond deposited in court pursuant to an order under subsection 2, the judge or officer may, upon such notice to the parties as he may require, order the money to be paid out to the persons entitled thereto or the delivery up of the bond for cancellation, as the case may be. 1961-62, c. 78, s. 1, *amended*.

Registration
number

(7) An order discharging a claim for lien or vacating a certificate of action shall be registered by registering the order or a certificate thereof, under the seal of the court, that includes a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be, and a reference to the registration number of every registered claim for lien and certificate of action affected thereby. 1966, c. 84, s. 1, *amended*.

EFFECT OF TAKING SECURITY OR EXTENDING TIME

Effect
generally

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the lien claimant agrees in writing that it has that effect. R.S.O. 1960, c. 233, s. 26 (1).

Where
period
of credit
not expired

(2) Where any such promissory note or bill of exchange has been negotiated, the lien claimant does not thereby lose his right to claim for lien if, at the time of bringing his action to enforce it or where an action is brought by another lien claimant, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

Time for
bringing
action not
extended

(3) Nothing in subsection 2 extends the time limited by this Act for bringing an action to enforce a claim for lien.

Time for
bringing
action by
person who
gave time
for payment

(4) A person who has extended the time for payment of a claim for which he has a claim for lien in order to obtain the benefit of this section shall commence an action to enforce the claim within the time prescribed by this Act and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1960, c. 233, s. 26 (2-4), *amended*.

27. Where the period of credit in respect of a claim has not expired or there has been an extension of time for payment of the claim, the lien claimant may nevertheless, if an action is commenced by any other person to enforce a claim for lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1960, c. 233, s. 27, *amended*.

Proving claim in action by another person

LIEN CLAIMANT'S RIGHTS TO INFORMATION

28.—(1) Any lien claimant may in writing at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work was or is to be done or the materials were or are to be placed or furnished, if the contract or agreement is in writing or, if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and, if the owner or his agent does not, at the time of the demand or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Production of contract or agreement

(2) Any lien claimant may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work was or is to be done or the materials were or are to be placed or furnished and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and, if the mortgagee or vendor or his agent fails to inform the lien claimant at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lien claimant sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Statement of mortgagee or unpaid vendor

Production
of contract
or agree-
ment

(3) The judge or officer having jurisdiction to try an action under this Act may, on a summary application at any time before or after an action is commenced for the enforcement of the claim for lien, make an order requiring the owner or his agent or the mortgagee or his agent or the unpaid vendor or his agent or the contractor or his agent or the subcontractor or his agent, as the case may be, to produce and permit any lien claimant to inspect any such contract or agreement or mortgage or agreement for sale or the accounts or any other relevant document upon such terms as to costs as the judge or officer deems just. R.S.O. 1960, c. 233, s. 28, *amended*.

ACTIONS

How claim
enforceable

29.—(1) A claim for lien is enforceable in an action in the Supreme Court.

Statement
of claim,
filing of

(2) An action under this section shall be commenced by filing a statement of claim in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate.

Idem,
service

(3) The statement of claim shall be served within thirty days after it is filed, but the judge having jurisdiction to try the action or, in the County of York, the master may extend the time for service.

Statement
of defence

(4) The time for delivering the statement of defence in the action shall be the same as for entering an appearance in an action in the Supreme Court.

Parties

(5) It is not necessary to make any lien claimants parties defendant to the action, but all lien claimants served with the notice of trial shall for all purposes be deemed to be parties to the action.

Motion
to speed
trial

(6) After the commencement of the action, any lien claimant or other person interested may apply to the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court to speed the trial of the action. R.S.O. 1960, c. 233, s. 29, *amended*.

Lien
claimants
joining in
action

30. Any number of lien claimants claiming liens on the same land may join in an action, and an action brought by a lien claimant shall be deemed to be brought on behalf of himself and all other lien claimants. R.S.O. 1960, c. 233, s. 30, *amended*.

Tribunal
and place
of trial

31.—(1) Except in the County of York, the action shall be tried by the local judge of the Supreme Court in the county or district in which the action was commenced, but,

SECTION 29. No change in principle from the present Act.

SECTION 31. The O.L.R.C. Supp. Rep., p. 10, recommends that as there is no relationship between subsections 1 and 2 of section 31 of Bill 190, subsection 1 should be renumbered as section 31, subsections 2 to 7 renumbered as subsections 1 to 6 of a new section 32 and the following sections renumbered accordingly. This recommendation is implemented.



upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the action was commenced. R.S.O. 1960, c. 233, s. 31 (1, 2).

(2) In the County of York, the action shall be tried by a judge of the Supreme Court, but,

Idem,
York
County

(a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer the whole action to the master for trial pursuant to section 69 of *The Judicature Act*; or

R.S.O. 1960,
c. 197

(b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 68 or 69 of *The Judicature Act*. R.S.O. 1960, c. 233, s. 31 (3),
amended.

R.S.O. 1960,
c. 197

(3) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto.

Application
to set aside
judgment
directing a
reference

(4) Where the action is referred to the master for trial, he may grant leave to amend any pleading. R.S.O. 1960, c. 233, s. 31 (4, 5).

Amend-
ment of
pleadings
on reference

32. The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work done or materials furnished to the property in question. R.S.O. 1960, c. 233, s. 32 (1), *amended*.

Powers of
local
judges
S.C.O., etc.

33. Where an owner enters into an entire contract for the supply of materials to be used in several buildings, the person supplying the materials may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but, in case the owner has sold one or more of the buildings, the judge or officer trying the action has juris-

Where con-
tract covers
several
buildings

diction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract. R.S.O. 1960, c. 233, s. 32 (2), *amended*.

Power to
appoint a
receiver of
rents and
profits

34.—(1) At any time after the delivery of the statement of claim, the judge or officer having jurisdiction to try the action may, on the application of any lien claimant, mortgagee or other person interested, appoint a receiver of the rents and profits of the property against which the claim for lien is registered, upon such terms and upon the giving of such security or without security as the judge or officer deems just.

Power to
direct
sale and
appoint
trustee

(2) Any lien claimant, mortgagee or other person interested may make an application to the judge or officer at any time before or after judgment, which may hear *viva voce* or affidavit evidence or both and appoint, upon such terms and upon the giving of such security or without security as the judge or officer deems just, a trustee or trustees with power to manage, mortgage, lease and sell, or manage, mortgage, lease or sell, the property against which the claim for lien is registered, and the exercise of such powers shall be under the supervision and direction of the judge or officer, and with power, when so directed by the judge or officer, to complete or partially complete the property, and, in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over every claim of lien existing as of the date of the appointment.

Property
offered for
sale

(3) Any property directed to be sold under subsection 2 may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or officer so directs.

Proceeds
to be paid
into court

(4) The proceeds of any sale made by a trustee or trustees under subsection 2 shall be paid into court and are subject to the claims of all lien claimants, mortgagees or other persons interested in the property so sold as their respective rights are determined, and, in so far as applicable, section 39 applies.

Orders for
completion
of sale

(5) The judge or officer shall make all necessary orders for the completion of any mortgage, lease or sale authorized to be made under subsection 2.

Vesting
of title

(6) Any vesting order made of property sold by a trustee or trustees appointed under subsection 2 vests the title of the property free from all claims for liens, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this

SECTION 34—Subsection 2. As recommended by the O.L.R.C. Supp. Rep., p. 10, the powers that trustees may exercise under the section are broadened to include, if authorized by court order, the power to lease the property against which the claim for lien is registered.

Subsection 3. The words "but only in cases where there is no dispute as to the priority of any such mortgage" at the end of the provision as it appeared in Bill 190 have been deleted as recommended by the O.L.R.C. Supp. Rep., p. 11. This will expedite the trial of mechanics' lien actions by giving the court power to direct a sale under the court's supervision in cases where the priority of a mortgage is in dispute or where the lien claimants refuse to take a position one way or the other.



section or elsewhere in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of her dower ascertained and deducted from the proceeds of the sale so paid into court. R.S.O. 1960, c. 233, s. 32 (3-8), *amended*.

35. At any time after delivery of the statement of claim and before judgment, or after judgment and pending the hearing and determination of any appeal, any lien claimant, mortgagee or other interested person may make an application to the judge or officer having jurisdiction to try the action, who may hear *viva voce* or affidavit evidence or both and make an order for the preservation of any property pending the determination of the action and any appeal. *New*.

Order for
preserva-
tion of
property

36. Where more actions than one are brought to realize liens in respect of the same land, the judge or officer having jurisdiction to try the action may, on the application of any party to any one of the actions or on the application of any other person interested, consolidate all such actions into one action and award the conduct of the consolidated action to any plaintiff as the judge or officer deems just. R.S.O. 1960, c. 233, s. 33, *amended*.

Consolida-
tion of
actions

37. Any lien claimant entitled to the benefit of an action may at any time apply to the judge or officer having jurisdiction to try the action for the carriage of the proceedings, and the judge or officer may make an order awarding such lien claimant the carriage of the proceedings. R.S.O. 1960, c. 233, s. 34, *amended*.

Transferring
carriage of
proceedings

38.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, either party may apply *ex parte* to a judge or officer having jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial, and the order, signed by the judge or officer, shall form part of the record of the proceedings.

Appointing
day for
trial

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial upon the solicitors for the defendants who appear by solicitors and upon the defendants who appear in person, and upon all the lienholders who have registered their claims as required by this Act or of whose claims he has notice, and upon all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial is to be served.

Notice of
trial and
service

Idem (3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer having jurisdiction to try the action deems just.

Trial (4) The judge, or where a reference for trial is directed, the master,

(a) shall try the action, including any set-off and counter-claim, and all questions that arise therein or that are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,

(i) in the case of a judge, in a judgment, and

(ii) in the case of a master, in a report,

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and after confirmation thereof, in the case of a report.

Power to vary form of judgment (5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled.

Sale (6) The judge or officer may order that the estate or interest charged with the lien be sold, and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale.

Letting in lien claimants who have not proved their claims at trial (7) A lien claimant who did not prove his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim, on

such terms as to costs and otherwise as are deemed just, at any time before the amount realized in the action for the satisfaction of liens has been distributed, and, where his claim is allowed, the judgment or report shall be amended so as to include his claim.

(8) Any lien claimant for an amount not exceeding \$200 may be represented by an agent who is not a barrister and solicitor. Right of lien claimante to representation

(9) An action or reference under this Act may be tried by any judge or officer having jurisdiction to try the action or reference notwithstanding that the time and place for the trial or reference thereof were appointed and fixed by another judge or officer. R.S.O. 1960, c. 233, s. 35, *amended*. Action may be tried by any judge

(10) Any party to an action under this Act or any other interested person may at any time and from time to time apply to a judge or officer having jurisdiction to try the action or reference for directions as to pleadings, discovery, production or any other matter relating to the action or reference, including the cross-examination of a lien claimant or his agent or assignee on his affidavit verifying the claim. *New*. Applications for directions

39.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge or officer before whom the action was tried shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 38, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise. Report where sale is had

(2) The judge or officer before whom the action was tried may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. R.S.O. 1960, c. 233, s. 36 (1, 2). Completion of sale

40. Where a lien claimant fails to establish a lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1960, c. 233, s. 36 (3). Where lien not established

Right of
lienholders
whose claims
are not
payable to
share in
proceeds

41. Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1960, c. 233, s. 37.

STATED CASE

Stated case

42.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

Trans-
mission of
papers

(2) The stated case shall set forth the facts material for the determination of the question raised, and all papers necessary for the hearing of the stated case by the Court of Appeal shall be transmitted to the registrar of the Supreme Court. R.S.O. 1960, c. 233, s. 39, *amended*.

APPEAL

Appeal

43.—(1) Except where the amount of a judgment in respect of a claim or counterclaim is \$200 or less, an appeal lies from any judgment under this Act to the Court of Appeal. R.S.O. 1960, c. 233, s. 40 (1), *amended*.

Appeal from
reference

(2) Where a question is referred to the master for inquiry and report under subsection 2 of section 31, an appeal lies in the manner prescribed by the rules of court.

Confirma-
tion of
master's
report

(3) Where an action is referred to the master for trial under subsection 2 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time.

Appeal
from
judgment
or report

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury. R.S.O. 1960, c. 233, s. 40 (2, 3, 4).

Costs of
appeal

(5) The costs of an appeal shall not be governed by subsections 2 and 3 of section 45 but, subject to any order of the Court of Appeal, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. R.S.O. 1960, c. 233, s. 40 (5), *amended*.

SECTION 43—Subsection 1. The limitation on appeals that is in the present Act but was not in Bill 190 appears at the commencement of this provision as recommended by the O.L.R.C. Supp. Rep., p. 11.

SECTION 45. The intent is clarified as recommended by the O.L.R.C.
Supp. Rep., p. 11.

FEES AND COSTS

44. The fee payable by every plaintiff, every plaintiff by ^{Fee} counterclaim and every lien claimant, including every person recovering a personal judgment, in any action to realize a lien under this Act is,

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000, plus \$1 for every \$1,000 or fraction thereof in excess of \$1,000,

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. R.S.O. 1960, c. 233, s. 41, *amended*.

45.—(1) Subject to subsections 2, 3, 4 and 5, any order ^{Costs not otherwise provided for} as to costs in an action under this Act is in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 46, *amended*.

(2) The costs of the action, exclusive of actual disburse- ^{Limit of costs to plaintiffs} ments, awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that, where a counterclaim is set up by a defendant, the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 42, *amended*.

(3) Where costs are awarded against the plaintiff or other ^{Limit of costs against plaintiffs} persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer who tries the action may direct. R.S.O. 1960, c. 233, s. 43, *amended*.

(4) Where the least expensive course is not taken by a ^{Costs where least expensive course not taken} plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1960, c. 233, s. 44.

Cost of drawing and registering and vacating registration of lien

(5) Where a lien is discharged or vacated under section 25 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer who tries the action may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. R.S.O. 1960, c. 233, s. 45.

RULES OF PRACTICE

Rules of practice

46.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. R.S.O. 1960, c. 233, s. 47 (1).

Interlocutory proceedings

(2) Except where otherwise provided by this Act, no interlocutory proceedings shall be permitted without the consent of the judge or officer having jurisdiction to try the action, and then only upon proper proof that such proceedings are necessary.

Assistance of experts

(3) The judge or officer having jurisdiction to try the action may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or person in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of any such person and direct payment thereof by any of the parties. R.S.O. 1960, c. 233, s. 47 (2, 3), *amended*.

Rules of practice

(4) Unless otherwise provided in this Act, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. *New*.

SERVICE OF DOCUMENTS

Service of documents

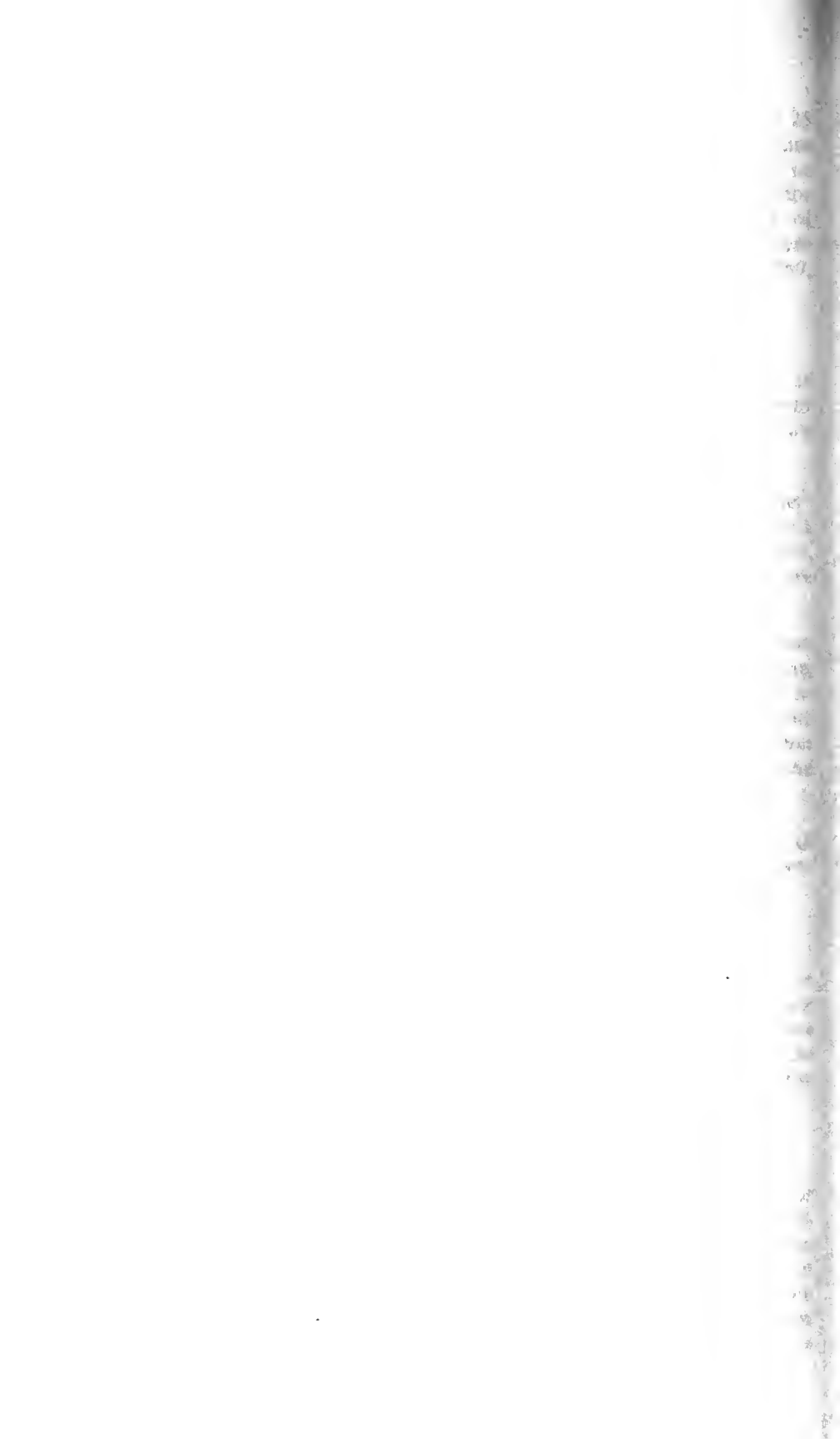
47. Except where otherwise directed by the judge or officer having jurisdiction to try the action, all documents relating to an action under this Act, other than statements of claim and notices of trial, are sufficiently served upon the intended recipient if sent by registered mail addressed to the intended recipient at his address for service. *New*.

LIENS ON CHATTELS

Right of chattel lienholder to sell chattel

48.—(1) Every person who has bestowed money, skill or materials upon any chattel or thing in the alteration or improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and material bestowed, has, while the lien exists but not afterwards, in case the amount to which he is entitled remains

SECTION 46—Subsection 4. This new provision implements a recommendation of the O.L.R.C. Supp. Rep., p. 11.



unpaid for three months after it ought to have been paid, the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing on giving one week's notice by advertisement in a newspaper having general circulation in the municipality in which the work was done, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality.

(2) Such person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.S.O. 1960, c. 233, s. 48, *amended*. Application
of proceeds
of sale

FORMS

49. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. *New*. Forms

MISCELLANEOUS

50. *The Mechanics' Lien Act, The Mechanics' Lien Amendment Act, 1961-62, The Mechanics' Lien Amendment Act, 1962-63 and The Mechanics' Lien Amendment Act, 1966* are repealed. R.S.O. 1960,
c. 233;
1961-62,
c. 78;
1962-63,
c. 79;
1966, c. 84,
repealed

51. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

52. This Act may be cited as *The Mechanics' Lien Act, 1968-69*. Short title

1st Reading

December 12th, 1968

2nd Reading

February 20th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 36

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Mechanics' Lien Act, 1968-69

MR. WISHART



The Mechanics' Lien Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "completion of the contract" means substantial performance, not necessarily total performance, of the contract;
- (b) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or the placing or furnishing of materials for any of the purposes mentioned in this Act;
- (c) "materials" includes every kind of movable property;
- (d) "owner" includes any person and corporation, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which work is done or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity or consent, or
 - (iv) for whose direct benefit,

work is done or materials are placed or furnished and all persons claiming under him or it whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials placed or furnished have been commenced to be placed or furnished;

- (e) "registrar" includes a master of titles;
- (f) "registry office" includes a land titles office;

- (g) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for any of the purposes mentioned in this Act, but contracting with or employed by a contractor or, under him, by another subcontractor;
- (h) "wages" means the money earned by a workman for work done by time or as piece work, and includes all monetary supplementary benefits, whether by statute, contract or collective bargaining agreement;
- (i) "workman" means a person employed for wages in any kind of labour, whether employed under a contract of service or not. R.S.O. 1960, c. 233, s. 1, *amended*.

Work
includes
service

(2) In this Act, the expression "the doing of work" includes the performance of a service, and corresponding expressions have corresponding meanings.

Substantial
performance

(3) For the purposes of this Act, a contract shall be deemed to be substantially performed,

- (a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- (b) when the work to be done under the contract is capable of completion or correction at a cost of not more than,
- (i) 3 per cent of the first \$250,000 of the contract price,
 - (ii) 2 per cent of the next \$250,000 of the contract price, and
 - (iii) 1 per cent of the balance of the contract price.

Idem

(4) For the purposes of this Act, where the work or a substantial part thereof is ready for use or is being used for the purpose intended and where the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work to be completed shall be deducted from the contract price in determining substantial performance. *New.*

GENERAL

Trust funds
in hands of
contractors

2.—(1) All sums received by a builder, contractor or subcontractor on account of the contract price constitute a trust fund in his hands for the benefit of the owner, builder, contractor, subcontractor, Workmen's Compensation Board,

workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the builder, contractor or subcontractor, as the case may be, is the trustee of all such sums so received by him and he shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. R.S.O. 1960, c. 233, s. 3 (1), *amended*.

(2) Notwithstanding subsection 1, where a builder, contractor or subcontractor has paid in whole or in part for any materials supplied on account of the contract or for any rented equipment or has paid any workman who has performed any work or any subcontractor who has placed or furnished any materials in respect of the contract, the retention by such builder, contractor or subcontractor of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust. R.S.O. 1960, c. 233, s. 3 (3), *amended*. Exception

(3) Where a sum becomes payable under a contract to a contractor by an owner on the certificate of a person authorized under the contract to make such a certificate, an amount equal to the sum so certified that is in the owner's hands or received by him at any time thereafter shall, until paid to the contractor, constitute a trust fund in the owner's hands for the benefit of the contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all contractors and subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto. Trust funds
in hands of
owners

(4) All sums received by an owner, other than a municipality as defined in *The Department of Municipal Affairs Act* or a metropolitan or regional municipality or a local board thereof, which are to be used in the financing, including the purchase price of the land and the payment of prior encumbrances, of a building, structure or work, constitute, subject to the payment of the purchase price of the land and prior Advances on
mortgage,
etc., a trust
fund
R.S.O. 1960,
c. 238

encumbrances, a trust fund in the hands of the owner for the benefit of the persons mentioned in subsection 1, and, until the claims of all such persons have been paid, the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Exception

(5) Notwithstanding subsection 4, where an owner has himself paid in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, the retention by him from any moneys received from the lender under subsection 4 of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

Protection for money lenders

(6) Notwithstanding anything in this section, where money is lent to a person upon whom a trust is imposed by this section and is used by him to pay in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, trust moneys may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and any sum so applied shall be deemed not to be an appropriation or conversion to the trustee's own use or to any use not authorized by the trust. *New.*

Offence and penalty

(7) Every person upon whom a trust is imposed by this section who knowingly appropriates or converts any part of any trust moneys referred to in subsection 1, 3 or 4 to his own use or to any use not authorized by the trust is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence, in addition to the corporation, and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 233, s. 3 (2), *amended.*

Limit of time for asserting claims to trust moneys

3. No action to assert any claim to trust moneys referred to in section 2 shall be commenced against a lender of money to a person upon whom a trust is imposed by that section except,

- (a) in the case of a claim by a contractor or subcontractor in cases not provided for in clauses *b*, *c* and *d*, within nine months after the completion or abandonment of the contract or subcontract;
- (b) in the case of a claim for materials, within nine months after the placing or furnishing of the last material;

(c) in the case of a claim for services, within nine months after the completion of the service; or

(d) in the case of a claim for wages, within nine months after the last work was done for which the claim is made. *New.*

4.—(1) Every agreement, oral or written, express or implied, on the part of any workman that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void. Agreements waiving application of Act are void

(2) Subsection 1 does not apply,

Exception

(a) to a manager, officer or foreman; or

(b) to any person whose wages are more than \$50 a day.

(3) No agreement deprives any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. Effect upon third party of agreement waiving lien R.S.O. 1960, c. 233, s. 4, *amended.*

CREATION OF LIENS

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who does any work upon or in respect of, or places or furnishes any materials to be used in, the making, constructing, erecting, fitting, altering, improving or repairing of any land, building, structure or works or the appurtenances to any of them for any owner, contractor or subcontractor by virtue thereof has a lien for the price of the work or materials upon the estate or interest of the owner in the land, building, structure or works and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work is done, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien. General right to a lien

(2) Except for the purpose of section 11, the lien given by subsection 1 does not attach to any public street or highway or to any work or improvement done thereon. Exception

Lien attaches where materials incorporated into building

(3) The lien given by subsection 1 attaches as therein set out where the materials delivered to be used are incorporated into the land, building, structure or works, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1.

Interpretation

(4) In subsection 1, "agent" includes the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. R.S.O. 1960, c. 233, s. 5, *amended*.

Lien for rented equipment

(5) A person who rents equipment to an owner, contractor or subcontractor for use on a contract site shall be deemed for the purposes of this Act to have performed a service for which he has a lien for the price of the rental of the equipment used on the contract site, limited, however in amount to the sum justly owed and due to the person entitled to the lien from the owner, builder, contractor or subcontractor in respect of the rental of the equipment. *New*.

When husband's interest liable for work done or materials furnished on land of spouse

6. Where work is done or materials are placed or furnished to be used upon or in respect of the land of a married woman, or in which she has an interest or an inchoate right of dower, with the privity or consent of her husband, he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or placing or furnishing the materials the person doing the work or placing or furnishing the materials has had actual notice to the contrary. R.S.O. 1960, c. 233, s. 6, *amended*.

Where estate charged is leasehold

7.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien if the person doing the work or placing or furnishing the materials gives notice in writing, by personal service, to the owner in fee simple or his agent of the work to be done or materials to be placed or furnished unless the owner in fee simple or his agent within fifteen days thereafter gives notice in writing, by personal service, to such person that he will not be responsible therefor.

Forfeiture or cancellation of lease, effect of on lienholder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease except for non-payment of rent, deprives any person otherwise entitled to a lien of the benefit of the lien, but the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

(3) Where the land and premises upon or in respect of which any work is done or materials are placed or furnished are encumbered by a mortgage or other charge that was registered in the proper registry office before any lien under this Act arose, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try an action under this Act. Prior mortgages

(4) The time at which the first lien arose shall be deemed to be the time at which the first work was done or the first materials placed or furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced and whether or not such lien is before the court. R.S.O. 1960, c. 233, s. 7 (1-4), *amended*. When first lien arose

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 14. R.S.O. 1960, c. 233, s. 7 (5). Future advances

(6) A registered agreement for the sale and purchase of land and any moneys *bona fide* secured or payable thereunder has the same priority over a lien as is provided for a mortgage and mortgage moneys in subsections 3 and 5, and for the purposes of this Act the seller shall be deemed to be a mortgagee, and any moneys *bona fide* secured and payable under such agreement shall be deemed to be mortgage moneys *bona fide* secured or advanced. R.S.O. 1960, c. 233, s. 7 (6), *amended*. Registered agreement for sale and purchase of land has same priority as mortgage

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1960, c. 233, s. 8. Application of insurance

9. Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1960, c. 233, s. 9. Limit of amount of owner's liability

Limit of
lien when
claimed by
other
than con-
tractor

10. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work has been done or the materials were placed or furnished. R.S.O. 1960, c. 233, s. 10, *amended*.

Holdback

11.—(1) In all cases, the person primarily liable upon a contract under or by virtue of which a lien may arise shall, as the work is done or the materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 15 per cent of the value of the work and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work, and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work or materials. R.S.O. 1960, c. 233, s. 11 (1), *amended*.

Reduction
in amount
retained

(2) Where a contract is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made and thirty-seven days have elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent of the subcontract price or, if there is no specific subcontract price, by 15 per cent of the actual value of the work done or materials placed or furnished under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act.

Idem

(3) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then, for the purposes of subsections 1, 2 and 3 of section 21 and section 23, that subcontract and any materials placed or furnished or to be placed or furnished thereunder and any work done or to be done thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or placed or furnished not later than the time at which the certificate was so given. R.S.O. 1960, c. 233, s. 11 (3, 4), *amended*.

(4) Where an architect, engineer or other person neglects or refuses to issue and deliver a certificate upon which payments are to be made under a contract or subcontract, the judge or officer having jurisdiction to try an action under this Act, upon application and upon being satisfied that the certificate should have been issued and delivered may, upon such terms and conditions as to costs and otherwise as he deems just, make an order that the work or materials to which the certificate would have related has been done or placed or furnished, as the case may be, and any such order has the same force and effect as if the certificate had been issued and delivered by the architect, engineer or other person. *New.*

Court order
in lieu of
certificate

(5) Where there is a lien under section 5, the lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable and where there is no lien on the land by virtue of subsection 2 of section 5, a claim for work done or materials placed or furnished is a charge upon the amount directed to be retained by this section. R.S.O. 1960, c. 233, s. 11 (5), *amended.*

Effect of
liens and
claims on
amounts
retained

(6) All payments up to 85 per cent as fixed by subsection 1 and payments permitted as a result of the operation of subsections 2 and 3 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien.

Payments
made in
good faith
without
notice of
lien

(7) Payment of the percentage required to be retained under this section may be validly made so as to discharge all claims in respect of such percentage after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings, and such payment constitutes valid payment in discharge of the owner to the amount thereof.

Payment of
percentage
and
discharge
of liens

(8) Every contract shall be deemed to be amended in so far as is necessary to be in conformity with this section. R.S.O. 1960, c. 233, s. 11 (5-9).

Amendment
of contracts

(9) Where the contractor or subcontractor makes default in completing his contract, the percentage required to be retained shall not, as against any lien claimant who by virtue

Where
percentage
not to be
applied

of subsection 5 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. R.S.O. 1960, c. 233, s. 11 (9), *amended*.

Payments made directly by owner to persons entitled to lien

12. If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 or to any person who but for subsection 2 of that section would be entitled to a lien under that section, for or on account of any debt, justly due to him for work done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. R.S.O. 1960, c. 233, s. 12 (1), *amended*.

Rights of subcontractor

13. Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1960, c. 233, s. 12 (2).

Priority of lien

14.—(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given to the person making such payments or after registration of a claim for the lien as hereinafter provided, and, in the absence of such notice in writing or the registration of a claim for lien, all such payments or advances have priority over any such lien. R.S.O. 1960, c. 233, s. 13 (1), *amended*.

Priority among lienholders

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage given to person entitled to lien void as against lienholders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether

given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1960, c. 233, s. 13 (2, 3).

PRIORITY OF WAGES

15.—(1) Every workman whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 15 per cent directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled, and all such workmen rank thereon *pari passu*. Priority of liens for wages

(2) Every workman is entitled to enforce a lien in respect of any contract or subcontract that has not been completed and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper persons, returnable in four days after service thereof before the judge or officer having jurisdiction to try an action under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit. Enforcing lien in such cases

(3) If the contract has not been completed when the lien is claimed by a workman, the percentage shall be calculated on the value of the work done or materials placed or furnished by the contractor or subcontractor by whom the workman is employed, having regard to the contract price, if any. Calculating percentage when contract not fulfilled

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a workman for his wages and every payment made for the purpose of defeating or impairing a lien are void. R.S.O. 1960, c. 233, s. 14, *amended*. Devices to defeat priority of workmen

REGISTRATION

16.—(1) A claim for a lien may be registered in the proper registry office and shall set out, Registration of claim for lien

- (a) the name and an address for service of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work was or is to be done, or the materials were or are to be placed or furnished, and the time within which the same was or was to be done or placed or furnished;

(b) a short description of the work done or to be done, or the materials placed or furnished or to be placed or furnished;

(c) the sum claimed as due or to become due;

(d) a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be; and

(e) the date of expiry of the period of credit if credit has been given. R.S.O. 1960, c. 233, s. 16 (1), *amended*.

R.S.O. 1960,
cc. 204, 348

Verification
of claim

(2) The claim shall be verified in duplicate by the affidavit of the person claiming the lien, or of his agent or assignee who has a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Lien
against
railway

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1960, c. 233, s. 16 (2, 3).

What may
be included
in claim

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but, where more than one lien is included in one claim, each claim for lien shall be verified by affidavit as provided in section 16.

Apportion-
ment of
claims

(2) The judge or officer trying the action has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims under subsection 1. R.S.O. 1960, c. 233, s. 17, *amended*.

Informality

18.—(1) Substantial compliance with sections 16, 17 and 29 is sufficient and no claim for lien is invalidated by reason of failure to comply with any of the requirements of such sections unless, in the opinion of the judge or officer trying the action, the owner, contractor or subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Registration
necessary

(2) Nothing in this section dispenses with the requirement of registration of the claim for lien. R.S.O. 1960, c. 233, s. 18, *amended*.

19. A duplicate of the claim for lien, bearing the registrar's certificate of registration, shall be filed on or before the trial of the action, where the action is to be tried in the County of York, in the office of the master of the Supreme Court, or, where the action is to be tried elsewhere, in the office of the clerk of the county or district court of the county or district in which the action is to be tried. R.S.O. 1960, c. 233, s. 19 (1), *amended*. Duplicate to be filed

20. Where a claim is so registered, the person entitled to a lien shall be deemed to be a purchaser *pro tanto* and a purchaser within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. R.S.O. 1960, c. 233, s. 20, *amended*. Status of lien claimant
R.S.O. 1960,
cc. 348, 204

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be. R.S.O. 1960, c. 233, s. 21 (1). Limit of time for registration

(2) A claim for lien for materials may be registered before or during the placing or furnishing thereof, or within thirty-seven days after the placing or furnishing of the last material so placed or furnished. R.S.O. 1960, c. 233, s. 21 (2), *amended*. Materials

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty-seven days after the completion of the service. R.S.O. 1960, c. 233, s. 21 (3). Services

(4) A claim for lien for wages may be registered at any time during the doing of the work for which the wages are claimed or within thirty-seven days after the last work was done for which the lien is claimed. R.S.O. 1960, c. 233, s. 21 (4), *amended*. Wages

(5) Where there is no lien on the land by virtue of subsection 2 of section 5, any person who is asserting a claim under subsection 5 of section 11 for work done or materials placed or furnished shall give notice in writing of his claim to the owner, to every person in whose hands are sums retained under section 11 to which his claim may relate and to the municipality in which the land is situate within thirty-seven days after the completion or abandonment of the work or the placing or furnishing of the materials. *New*. Notice of claim to holdback

EXPIRY AND DISCHARGE

Expiry of
liens

22.—(1) Every lien for which a claim is not registered ceases to exist on the expiration of the time limited in section 21 for the registration thereof.

Registration
of certificate
of action

(2) Upon an action under this Act being commenced, a certificate thereof shall be registered in the registry office in which the claim for lien is registered. R.S.O. 1960, c. 233, s. 22 (1), *part, amended.*

Vacating
orders

(3) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, the judge or an officer having jurisdiction to try the action may, upon the application *ex parte* of any interested person, make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1960, c. 233, s. 22, *amended.*

When lien
to cease
if registered
and not
proceeded
upon

23.—(1) Every lien for which a claim is registered ceases to exist on the expiration of ninety days after the work has been completed or the materials have been placed or furnished, or after the expiry of the period of credit, where such period is mentioned in the registered claim for lien, unless in the meantime an action is commenced to realize the claim or in which a subsisting claim may be realized, and a certificate is registered as provided by section 22. R.S.O. 1960, c. 233, s. 23, *amended.*

Expiration
of claim

(2) Every claim asserted under subsection 5 of section 11 for work done or materials placed or furnished ceases to exist on the expiration of ninety days after,

- (a) the work has been completed or abandoned;
- (b) the materials have been placed or furnished; or
- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in subsection 5 of section 21,

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

Idem

(3) Subsection 2 of section 22 does not apply to an action referred to in subsection 2, but sections 29, 30, 31, 32 and 34 to 38 do apply *mutatis mutandis* to such an action.

Assignment
or death of
lien
claimant

24. The rights of a lien claimant may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative. R.S.O. 1960, c. 233, s. 24, *amended.*

25.—(1) A claim for lien may be discharged by the registration of a receipt acknowledging payment, Discharge of lien

(a) where made by a lien claimant that is not a corporation, signed by the lien claimant or his agent duly authorized in writing and verified by affidavit; or

(b) where made by a lien claimant that is a corporation, sealed with its corporate seal. R.S.O. 1960, c. 233, s. 25 (1), *amended*.

(2) Upon application, the judge or officer having jurisdiction to try the action may, at any time, Security or payment into court and vacating lien and certificate of action

(a) allow security for or payment into court of the amount of the claim of the lien claimant and the amount of the claims of any other subsisting lien claimants together with such costs as he may fix, and thereupon order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated;

(b) upon any other proper ground, order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated; or

(c) upon proper grounds, dismiss the action. R.S.O. 1960, c. 233, s. 25 (4), *amended*.

(3) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause a or b of subsection 2, the lien does not cease to exist for the reason that no certificate of action is registered. Effect of order under subs. 2, cls. a or b

(4) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer, takes the place of the property discharged and is subject to the claims of every person who has at the time of the application a subsisting claim for lien or given notice of the claim under subsection 6 of section 11 or section 14 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, but such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security. Money paid into court

(5) Where the certificate required by section 22 or 23 has not been registered within the prescribed time and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the Where notice of application to vacate not requisite

R.S.O. 1960, cc. 204, 348 order vacating the lien may be made *ex parte* upon production of a certificate of search under *The Land Titles Act* or of a registrar's abstract under *The Registry Act*, as the case may be, together with a certified copy of the registered claim for lien. R.S.O. 1960, c. 233, s. 25 (5-7), *amended*.

Payment of money out of court

(6) Where money has been paid into court or a bond deposited in court pursuant to an order under subsection 2, the judge or officer may, upon such notice to the parties as he may require, order the money to be paid out to the persons entitled thereto or the delivery up of the bond for cancellation, as the case may be. 1961-62, c. 78, s. 1, *amended*.

Registration number

(7) An order discharging a claim for lien or vacating a certificate of action shall be registered by registering the order or a certificate thereof, under the seal of the court, that includes a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be, and a reference to the registration number of every registered claim for lien and certificate of action affected thereby. 1966, c. 84, s. 1, *amended*.

EFFECT OF TAKING SECURITY OR EXTENDING TIME

Effect generally

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the lien claimant agrees in writing that it has that effect. R.S.O. 1960, c. 233, s. 26 (1).

Where period of credit not expired

(2) Where any such promissory note or bill of exchange has been negotiated, the lien claimant does not thereby lose his right to claim for lien if, at the time of bringing his action to enforce it or where an action is brought by another lien claimant, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

Time for bringing action not extended

(3) Nothing in subsection 2 extends the time limited by this Act for bringing an action to enforce a claim for lien.

Time for bringing action by person who gave time for payment

(4) A person who has extended the time for payment of a claim for which he has a claim for lien in order to obtain the benefit of this section shall commence an action to enforce the claim within the time prescribed by this Act and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1960, c. 233, s. 26 (2-4), *amended*.

27. Where the period of credit in respect of a claim has not expired or there has been an extension of time for payment of the claim, the lien claimant may nevertheless, if an action is commenced by any other person to enforce a claim for lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1960, c. 233, s. 27, amended.

Proving claim in action by another person

LIEN CLAIMANT'S RIGHTS TO INFORMATION

28.—(1) Any lien claimant may in writing at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work was or is to be done or the materials were or are to be placed or furnished, if the contract or agreement is in writing or, if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and, if the owner or his agent does not, at the time of the demand or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Production of contract or agreement

(2) Any lien claimant may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work was or is to be done or the materials were or are to be placed or furnished and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and, if the mortgagee or vendor or his agent fails to inform the lien claimant at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lien claimant sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Statement of mortgagee or unpaid vendor

Production
of contract
or agree-
ment

(3) The judge or officer having jurisdiction to try an action under this Act may, on a summary application at any time before or after an action is commenced for the enforcement of the claim for lien, make an order requiring the owner or his agent or the mortgagee or his agent or the unpaid vendor or his agent or the contractor or his agent or the subcontractor or his agent, as the case may be, to produce and permit any lien claimant to inspect any such contract or agreement or mortgage or agreement for sale or the accounts or any other relevant document upon such terms as to costs as the judge or officer deems just. R.S.O. 1960, c. 233, s. 28, *amended*.

ACTIONS

How claim
enforceable

29.—(1) A claim for lien is enforceable in an action in the Supreme Court.

Statement
of claim,
filing of

(2) An action under this section shall be commenced by filing a statement of claim in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate.

Idem,
service

(3) The statement of claim shall be served within thirty days after it is filed, but the judge having jurisdiction to try the action or, in the County of York, the master may extend the time for service.

Statement
of defence

(4) The time for delivering the statement of defence in the action shall be the same as for entering an appearance in an action in the Supreme Court.

Parties

(5) It is not necessary to make any lien claimants parties defendant to the action, but all lien claimants served with the notice of trial shall for all purposes be deemed to be parties to the action.

Motion
to speed
trial

(6) After the commencement of the action, any lien claimant or other person interested may apply to the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court to speed the trial of the action. R.S.O. 1960, c. 233, s. 29, *amended*.

Lien
claimants
joining in
action

30. Any number of lien claimants claiming liens on the same land may join in an action, and an action brought by a lien claimant shall be deemed to be brought on behalf of himself and all other lien claimants. R.S.O. 1960, c. 233, s. 30, *amended*.

Tribunal
and place
of trial

31.—(1) Except in the County of York, the action shall be tried by the local judge of the Supreme Court in the county or district in which the action was commenced, but,

upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the action was commenced. R.S.O. 1960, c. 233, s. 31 (1, 2).

(2) In the County of York, the action shall be tried by a judge of the Supreme Court, but, Idem,
York
County

(a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer the whole action to the master for trial pursuant to section 69 of *The Judicature Act*; or R.S.O. 1960,
c. 197

(b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 68 or 69 of *The Judicature Act*. R.S.O. 1960, c. 233, s. 31 (3), *amended*. R.S.O. 1960,
c. 197

(3) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto. Application
to set aside
judgment
directing a
reference

(4) Where the action is referred to the master for trial, he may grant leave to amend any pleading. R.S.O. 1960, c. 233, s. 31 (4, 5). Amend-
ment of
pleadings
on reference

32. The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work done or materials furnished to the property in question. R.S.O. 1960, c. 233, s. 32 (1), *amended*. Powers of
local
judges
S.C.O., etc.

33. Where an owner enters into an entire contract for the supply of materials to be used in several buildings, the person supplying the materials may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but, in case the owner has sold one or more of the buildings, the judge or officer trying the action has juris- Where con-
tract covers
several
buildings

diction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract. R.S.O. 1960, c. 233, s. 32 (2), *amended*.

Power to
appoint a
receiver of
rents and
profits

34.—(1) At any time after the delivery of the statement of claim, the judge or officer having jurisdiction to try the action may, on the application of any lien claimant, mortgagee or other person interested, appoint a receiver of the rents and profits of the property against which the claim for lien is registered, upon such terms and upon the giving of such security or without security as the judge or officer deems just.

Power to
direct
sale and
appoint
trustee

(2) Any lien claimant, mortgagee or other person interested may make an application to the judge or officer at any time before or after judgment, which may hear *viva voce* or affidavit evidence or both and appoint, upon such terms and upon the giving of such security or without security as the judge or officer deems just, a trustee or trustees with power to manage, mortgage, lease and sell, or manage, mortgage, lease or sell, the property against which the claim for lien is registered, and the exercise of such powers shall be under the supervision and direction of the judge or officer, and with power, when so directed by the judge or officer, to complete or partially complete the property, and, in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over every claim of lien existing as of the date of the appointment.

Property
offered for
sale

(3) Any property directed to be sold under subsection 2 may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or officer so directs.

Proceeds
to be paid
into court

(4) The proceeds of any sale made by a trustee or trustees under subsection 2 shall be paid into court and are subject to the claims of all lien claimants, mortgagees or other persons interested in the property so sold as their respective rights are determined, and, in so far as applicable, section 39 applies.

Orders for
completion
of sale

(5) The judge or officer shall make all necessary orders for the completion of any mortgage, lease or sale authorized to be made under subsection 2.

Vesting
of title

(6) Any vesting order made of property sold by a trustee or trustees appointed under subsection 2 vests the title of the property free from all claims for liens, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this

section or elsewhere in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of her dower ascertained and deducted from the proceeds of the sale so paid into court. R.S.O. 1960, c. 233, s. 32 (3-8), *amended*.

35. At any time after delivery of the statement of claim and before judgment, or after judgment and pending the hearing and determination of any appeal, any lien claimant, mortgagee or other interested person may make an application to the judge or officer having jurisdiction to try the action, who may hear *viva voce* or affidavit evidence or both and make an order for the preservation of any property pending the determination of the action and any appeal. *New.*

Order for
preserva-
tion of
property

36. Where more actions than one are brought to realize liens in respect of the same land, the judge or officer having jurisdiction to try the action may, on the application of any party to any one of the actions or on the application of any other person interested, consolidate all such actions into one action and award the conduct of the consolidated action to any plaintiff as the judge or officer deems just. R.S.O. 1960, c. 233, s. 33, *amended*.

Consolida-
tion of
actions

37. Any lien claimant entitled to the benefit of an action may at any time apply to the judge or officer having jurisdiction to try the action for the carriage of the proceedings, and the judge or officer may make an order awarding such lien claimant the carriage of the proceedings. R.S.O. 1960, c. 233, s. 34, *amended*.

Transferring
carriage of
proceedings

38.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, either party may apply *ex parte* to a judge or officer having jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial, and the order, signed by the judge or officer, shall form part of the record of the proceedings.

Appointing
day for
trial

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial upon the solicitors for the defendants who appear by solicitors and upon the defendants who appear in person, and upon all the lienholders who have registered their claims as required by this Act or of whose claims he has notice, and upon all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial is to be served.

Notice of
trial and
service

Idem

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer having jurisdiction to try the action deems just.

Trial

(4) The judge, or where a reference for trial is directed, the master,

(a) shall try the action, including any set-off and counter-claim, and all questions that arise therein or that are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,

(i) in the case of a judge, in a judgment, and

(ii) in the case of a master, in a report,

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and after confirmation thereof, in the case of a report.

Power to vary form of judgment

(5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled.

Sale

(6) The judge or officer may order that the estate or interest charged with the lien be sold, and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale.

Letting in lien claimants who have not proved their claims at trial

(7) A lien claimant who did not prove his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim, on

such terms as to costs and otherwise as are deemed just, at any time before the amount realized in the action for the satisfaction of liens has been distributed, and, where his claim is allowed, the judgment or report shall be amended so as to include his claim.

(8) Any lien claimant for an amount not exceeding \$200 may be represented by an agent who is not a barrister and solicitor. Right of lien claimants to representation

(9) An action or reference under this Act may be tried by any judge or officer having jurisdiction to try the action or reference notwithstanding that the time and place for the trial or reference thereof were appointed and fixed by another judge or officer. R.S.O. 1960, c. 233, s. 35, *amended*. Action may be tried by any judge

(10) Any party to an action under this Act or any other interested person may at any time and from time to time apply to a judge or officer having jurisdiction to try the action or reference for directions as to pleadings, discovery, production or any other matter relating to the action or reference, including the cross-examination of a lien claimant or his agent or assignee on his affidavit verifying the claim. *New*. Applications for directions

39.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge or officer before whom the action was tried shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 38, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise. Report where sale is had

(2) The judge or officer before whom the action was tried may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. R.S.O. 1960, c. 233, s. 36 (1, 2). Completion of sale

40. Where a lien claimant fails to establish a lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1960, c. 233, s. 36 (3). Where lien not established

Right of
lienholders
whose claims
are not
payable to
share in
proceeds

41. Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1960, c. 233, s. 37.

STATED CASE

Stated case

42.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

Trans-
mission of
papers

(2) The stated case shall set forth the facts material for the determination of the question raised, and all papers necessary for the hearing of the stated case by the Court of Appeal shall be transmitted to the registrar of the Supreme Court. R.S.O. 1960, c. 233, s. 39, *amended*.

APPEAL

Appeal

43.—(1) Except where the amount of a judgment in respect of a claim or counterclaim is \$200 or less, an appeal lies from any judgment under this Act to the Court of Appeal. R.S.O. 1960, c. 233, s. 40 (1), *amended*.

Appeal from
reference

(2) Where a question is referred to the master for inquiry and report under subsection 2 of section 31, an appeal lies in the manner prescribed by the rules of court.

Confirma-
tion of
master's
report

(3) Where an action is referred to the master for trial under subsection 2 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time.

Appeal
from
judgment
or report

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury. R.S.O. 1960, c. 233, s. 40 (2, 3, 4).

Costs of
appeal

(5) The costs of an appeal shall not be governed by subsections 2 and 3 of section 45 but, subject to any order of the Court of Appeal, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. R.S.O. 1960, c. 233, s. 40 (5), *amended*.

FEES AND COSTS

44. The fee payable by every plaintiff, every plaintiff by ^{Fee} counterclaim and every lien claimant, including every person recovering a personal judgment, in any action to realize a lien under this Act is,

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000, plus \$1 for every \$1,000 or fraction thereof in excess of \$1,000,

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. R.S.O. 1960, c. 233, s. 41, *amended*.

45.—(1) Subject to subsections 2, 3, 4 and 5, any order as to costs in an action under this Act is in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 46, *amended*. Costs not otherwise provided for

(2) The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that, where a counterclaim is set up by a defendant, the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer who tries the action. R.S.O. 1960, c. 233, s. 42, *amended*. Limit of costs to plaintiffs

(3) Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer who tries the action may direct. R.S.O. 1960, c. 233, s. 43, *amended*. Limit of costs against plaintiffs

(4) Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1960, c. 233, s. 44. Costs where least expensive course not taken

Cost of drawing and registering and vacating registration of lien

(5) Where a lien is discharged or vacated under section 25 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer who tries the action may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. R.S.O. 1960, c. 233, s. 45.

RULES OF PRACTICE

Rules of practice

46.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. R.S.O. 1960, c. 233, s. 47 (1).

Interlocutory proceedings

(2) Except where otherwise provided by this Act, no interlocutory proceedings shall be permitted without the consent of the judge or officer having jurisdiction to try the action, and then only upon proper proof that such proceedings are necessary.

Assistance of experts

(3) The judge or officer having jurisdiction to try the action may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or person in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of any such person and direct payment thereof by any of the parties. R.S.O. 1960, c. 233, s. 47 (2, 3), *amended*.

Rules of practice

(4) Unless otherwise provided in this Act, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. *New*.

SERVICE OF DOCUMENTS

Service of documents

47. Except where otherwise directed by the judge or officer having jurisdiction to try the action, all documents relating to an action under this Act, other than statements of claim and notices of trial, are sufficiently served upon the intended recipient if sent by registered mail addressed to the intended recipient at his address for service. *New*.

LIENS ON CHATTELS

Right of chattel lienholder to sell chattel

48.—(1) Every person who has bestowed money, skill or materials upon any chattel or thing in the alteration or improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and material bestowed, has, while the lien exists but not afterwards, in case the amount to which he is entitled remains

unpaid for three months after it ought to have been paid, the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing on giving one week's notice by advertisement in a newspaper having general circulation in the municipality in which the work was done, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality.

(2) Such person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.S.O. 1960, c. 233, s. 48, *amended*. Application of proceeds of sale

FORMS

49. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. *New*. Forms

MISCELLANEOUS

50. *The Mechanics' Lien Act, The Mechanics' Lien Amendment Act, 1961-62, The Mechanics' Lien Amendment Act, 1962-63 and The Mechanics' Lien Amendment Act, 1966* are repealed. R.S.O. 1960, c. 233; 1961-62, c. 78; 1962-63, c. 79; 1966, c. 84, repealed

51. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

52. This Act may be cited as *The Mechanics' Lien Act, 1968-69*. Short title





1st Reading

December 12th, 1968

2nd Reading

February 20th, 1969

3rd Reading

June 6th, 1969

MR. WISHART

BILL 37

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to establish an Institute for the Prevention and
Cure of Birth Defects**

MR. SHULMAN

EXPLANATORY NOTE

The Bill provides for the establishment of an Institute for research into the causes and prevention or treatment of birth defects and for education in this field.

BILL 37

1968-69

An Act to establish an Institute for the Prevention and Cure of Birth Defects

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** In this Act, Interpre-
tation
- (a) "birth defect" means any malfunction, malformation or disease with which a child is born;
- (b) "Institute" means the Birth Defects Institute;
- (c) "Minister" means the Minister of Health;
- (d) "physician" means a duly qualified medical practitioner.
- 2.—(1)** A corporation to be known as the Birth Defects Institute
established Institute is established.
- (2) *The Corporations Act* does not apply to the Institute. R.S.O. 1960.
c. 71 does
not apply
- 3.—(1)** The Institute shall be composed of not fewer than Membership seven and not more than twenty members appointed by the Lieutenant Governor in Council.
- (2) The Lieutenant Governor in Council may designate Chairman one of the members to be chairman of the Institute.
- 4.** Five members of the Institute constitute a quorum. Quorum
- 5.** The head office of the Institute shall be at or near the Head office City of Toronto.
- 6.** The objects of the Institute are and it has power, Objects and
powers
- (a) to conduct and promote a programme of research in the incidence and causes of birth defects and in

methods of treatment, prevention and cure of birth defects and allied diseases and to publish from time to time the results of its programme;

- (b) to conduct and promote programmes of professional education and training of medical students, physicians, nurses, scientists and technicians in the causes and the methods of treatment, prevention and cure of birth defects; and
- (c) to conduct and promote clinical counselling services in appropriate places.

Further powers

7.—(1) For the furtherance of its objects, the Institute may,

- (a) establish, conduct, manage and operate facilities for research in the incidence and causes of birth defects and in methods of treatment, prevention and cure of birth defects and allied diseases;
- (b) enter into agreements with universities, hospitals and other institutions,
 - (i) for the conduct of research for the purposes set out in clause *a*, and
 - (ii) for the provision of clinical counselling services.

Idem. grants

(2) The Institute may make such grants as are deemed by the Institute necessary or desirable for the furtherance of its objects.

Reports of birth defects

8.—(1) Every physician who attends the birth of a child having a birth defect or, where no physician attends, the physician who attends the mother or child for post-natal care shall report to the Institute the particulars of the birth defect and such other information and records in his possession as the Institute requests.

Information confidential and privileged

(2) All information acquired by the Institute under subsection 1 is confidential and privileged in the hands of the Institute to the same extent as it is in the hands of the physician who supplied it, except that this subsection shall not preclude the Institute from publishing analyses of the reports and information for scientific and public health purposes in such a manner that the persons concerned remain anonymous.

9. The Institute may make such by-laws as are deemed ^{By-laws} expedient for its constitution and the administration of its affairs, and may do such other things as are deemed necessary or advisable to carry out its objects.

10. The Institute may acquire by purchase or lease any ^{Acquisition of land} land and buildings, and may erect buildings, and may acquire such equipment, instruments, appliances, materials and other things as are deemed necessary or advisable to carry out its objects.

11.—(1) The Institute may employ a director and such ^{Officers and staff} officers, clerks and servants as are deemed expedient.

(2) The Institute may engage the services of such ^{Experts} experts and other persons as are deemed expedient.

12. Each member of the Institute shall be paid his proper ^{Expenses} travelling and other expenses incurred in the work of the Institute.

13. The funds of the Institute consist of ^{Funds} moneys received by it from any source, including moneys appropriated for its use by the Legislature, and the Institute may disburse, expend or otherwise deal with any of its funds in such manner as it deems proper.

14. The accounts and financial transactions of the In- ^{Audit} stitute shall be audited annually by the Provincial Auditor, who shall make a report thereon to the Institute and to the Minister, and the cost of the audit and report shall be paid out of the funds of the Institute.

15. The Institute shall make a report annually to the ^{Annual report} Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

16.—(1) This Act, except section 8, comes into force on ^{Commencement} the day it receives Royal Assent.

(2) Section 8 comes into force on a day to be named by the ^{Idem} Lieutenant Governor by his proclamation.

17. This Act may be cited as *The Birth Defects Institute* ^{Short title} Act, 1968-69.





1st Reading

December 12th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 38

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to provide for the Certification of Dealers and Persons
engaged in the fitting and selling of Hearing Aids**

MR. SHULMAN

EXPLANATORY NOTE

The Bill requires a person engaged in the sale of or practice of fitting hearing aids to be the holder of a certificate of registration issued by the Minister of Health.

Requirements for registration are specified and provision is made for the examination of applicants for registration. Certificates of registration may be suspended or revoked by the Minister of Health on grounds specified in the Bill, and appeals from suspension or revocation may be made to a judge of a county or district court. The Advisory Council on Hearing Aids is established and is empowered to advise the Minister of Health on all matters relating to the Bill.

BILL 38

1968-69

**An Act to provide for the Certification of
Dealers and Persons engaged in the fitting and
selling of Hearing Aids**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "certificate of registration" means a certificate of registration issued by the Minister under this Act;
- (b) "Council" means the Advisory Council on Hearing Aids;
- (c) "Department" means the Department of Health;
- (d) "hearing aid" means any instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device;
- (e) "Minister" means the Minister of Health;
- (f) "practice of fitting hearing aids" means the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by any other means devised, and the consequent selection or adaptation or sale of hearing aids intended to compensate for hearing loss;
- (g) "prescribed" means prescribed by the regulations;
- (h) "regulations" means the regulations made under this Act;
- (i) "unethical conduct" means,

- (i) the obtaining of any fee or the making of any sale by fraud or misrepresentation,
- (ii) employing directly or indirectly any suspended or unregistered person to perform any work covered by this Act,
- (iii) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving, improbable or untruthful,
- (iv) advertising a particular model, type or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised,
- (v) representing that the services or advice of a duly qualified medical practitioner will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the word "doctor", "clinic" or other like words, abbreviations or symbols which tend to connote the medical profession when such use is not accurate,
- (vi) habitual intemperance,
- (vii) gross immorality,
- (viii) permitting another to use his certificate.

Delegation
of
Minister's
powers

2. The Minister may delegate any of the powers conferred upon him by or under this Act to the Deputy Minister of the Department or any other official of the Department designated by the Minister.

Unautho-
rized
practice
prohibited

3.—(1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or hold himself out as a person who practises the fitting of hearing aids unless he holds a current, unsuspended, unrevoked certificate of registration issued by the Minister as provided in this Act.

(2) The certificate required by subsection 1 shall be kept ^{Posting of certificates} conspicuously posted in the holder's office or place of business at all times.

4. Any person who practises the fitting of or dealing in ^{Receipts} hearing aids shall deliver to each person supplied with a hearing aid by him or at his order or direction, a receipt which shall contain his signature and show the address of his regular place of practice and the number of his certificate, together with a specification of the hearing aid furnished and the amount charged therefor.

5.—(1) This Act does not apply to a person while he is ^{Saving as to institutions of higher education, etc.} engaged in the practice of fitting hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or non-profit organization, that is primarily supported by voluntary contributions.

(2) This Act shall not be construed to prevent a duly ^{Saving as to duly qualified medical practitioners} qualified medical practitioner from treating or fitting hearing aids to the human ear.

6. An applicant for registration shall pay the prescribed ^{Registration requirements} fee and shall show to the satisfaction of the Minister that he,

(a) is a resident of Ontario;

(b) is a person of good moral character;

(c) is twenty-one years of age or older;

(d) has Grade 12 standing or such other academic standing as is, in the opinion of the Minister, equivalent thereto or has continuously engaged in the practice of fitting hearing aids in Ontario during the three years preceding the date this Act comes into force; and

(e) is free of contagious or infectious disease.

7.—(1) An applicant for registration who is notified by ^{Written and practical tests} the Minister that he has fulfilled the requirements of section 6 shall appear at a time and place and before such persons as the Minister may designate, to be examined by written and practical tests in order to demonstrate that he is qualified to practise the fitting of hearing aids.

(2) The Minister or persons designated by him shall hold ^{Examinations to be held yearly} at least one examination of the type prescribed in subsection 1 in each year, and such additional examinations as the volume of applications may make appropriate.

Content of
examina-
tions

8. The examination provided in subsection 1 of section 7 shall consist of,

- (a) tests of knowledge in the following areas as they pertain to the fitting of hearing aids,
 - (i) basic physics of sound,
 - (ii) the human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders,
 - (iii) structure and function of hearing aids; and
- (b) tests of proficiency in the following techniques as they pertain to the fitting of hearing aids,
 - (i) pure tone audiometry, including air conduction testing and bone conduction testing,
 - (ii) live voice or recorded voice speech audiometry, including speech reception, threshold testing and speech discrimination testing,
 - (iii) effective masking,
 - (iv) recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy,
 - (v) selection and adaption of hearing aids and testing of hearing aids,
 - (vi) taking earmold impressions.

Certificate
of
registration

9.—(1) Upon payment of the prescribed fee, the Minister shall register each applicant who satisfactorily passes the examination and thereupon the Minister shall issue to the applicant a certificate of registration.

Duration of
certificate

(2) A certificate of registration is effective for one year from the date of its issue.

Suspension
or revo-
cation of
certificate

10.—(1) Any person registered under this Act may, after a hearing of which he has received not less than ten days notice, have his certificate revoked or suspended for a fixed period by the Minister for any of the following causes:

1. His conviction of an offence involving moral turpitude.

2. Where his certificate has been secured by fraud or deceit practised upon the Minister.
3. For unethical conduct, or for gross ignorance or inefficiency in his profession.
4. Practising while knowingly suffering from a contagious or infectious disease.
5. Advertising professional methods or professional superiority.
6. Practising the fitting of hearing aids under a false or alias name.

(2) For the purposes of this section, the record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction. ^{Evidence of conviction}

(3) At the hearing referred to in subsection 1, the person registered is entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or agent. ^{Hearing}

(4) Notice of the decision of the Minister following a hearing under subsection 1, together with reasons in writing therefor, shall be served upon the person affected thereby, either personally or by registered mail addressed to such person at his last known place of address. ^{Notice of decision}

(5) Where the person affected by a decision after a hearing under subsection 1 deems himself aggrieved thereby, he may, within five days of receipt of the decision, appeal the decision to a judge of the county or district court of the county or district within which he carries on business, and the judge may confirm, revoke or modify the decision. ^{Appeal}

11.—(1) The Advisory Council on Hearing Aids is hereby established and shall consist of five members to be appointed by the Lieutenant Governor in Council. ^{Advisory Council on Hearing Aids established}

(2) Members of the Council shall be residents of Ontario. ^{Qualification of members}

(3) One member shall be a duly qualified medical practitioner who holds certification of otolaryngology from The Royal College of Physicians and Surgeons of Canada. ^{Idem}

(4) Three members shall be persons experienced in the fitting of hearing aids, who possess the qualifications pre- ^{Idem}

scribed in section 6, but all successors to the position of such members, who are appointed to the Council after the date on which the Minister first issues a certificate of registration as provided in section 9, shall be persons who hold valid certificates of registration under this Act.

Idem

(5) No member of the Council shall be an employee of the Department.

Duties of Council

12.—(1) The Council shall have the responsibility and duty of advising the Minister in all matters relating to this Act, shall prepare the examinations required by this Act, subject to the approval of the Minister, and shall assist the Minister in carrying out the provisions of this Act.

Minister to be guided

(2) The Minister shall consider and be guided by the recommendations of the Council in all matters relating to this Act.

Meetings of Council

13.—(1) The Council shall meet at least once each year at a place and time determined by the Council.

Idem

(2) The Council shall also meet at such other times and places as are specified by the Minister.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees payable on an application for registration and on the issuance of a certificate of registration;
- (b) prescribing forms and providing for their use;
- (c) governing the conduct of meetings of the Council;
- (d) regulating the practice and procedure on hearings under section 10;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Offence

15.—(1) Any person who contravenes any of the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for not more than ninety days, or to both.

(2) Where any provision of this Act is contravened, in addition to any proceeding had under subsection 1, such ^{Power to} ^{restrain} ^{by action} contravention may be restrained by action at the instance of the Minister.

16. This Act comes into force on a day to be named by ^{Commence-} ^{ment} the Lieutenant Governor by his proclamation.

17. This Act may be cited as *The Hearing Aid Sales Act*, short title *1968-69*.

of Dealers and Persons engaged in the
fitting and selling of Hearing Aids

1st Reading

December 16th, 1968

2nd Reading

3rd Reading

Mr. SHULMAN

BILL 39

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. SHULMAN

EXPLANATORY NOTE

The amendment prevents binding settlements or releases from being entered into by accident victims in haste or while under the stress of recent injury.

BILL 39

1968-69

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Insurance Act* is amended by adding thereto the following section: R.S.O. 1960,
e. 190,
amended

104a. Any agreement, release, waiver or settlement entered into by an injured person within fifteen days after the injury was incurred and given or entered into in respect of any claim under a policy of automobile insurance or accident insurance is voidable by the injured person by notice in writing delivered to the insurer or any office of the insurer or its agent or adjuster within thirty days after the agreement, release, waiver or settlement is entered into. Releases
and
settlements
voidable

2. This Act may be cited as *The Insurance Amendment Act, 1968-69*. Short title

1st Reading

December 17th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 40

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to provide for the Control of Fumes from Smelters

MR. MARTEL

EXPLANATORY NOTE

The purpose of the Bill is to require every smelter which smelts or roasts nickel-copper or iron ore to adopt and carry out a plan that comprises the best practicable means for controlling or preventing the discharge of noxious or offensive gas or fumes, or, where discharged, to render them harmless or inoffensive.

Application for approval of a plan is made to the Ontario Municipal Board, notice thereof being given to all interested government departments and municipalities.

BILL 40

1968-69

An Act to provide for the Control of Fumes from Smelters

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means the Ontario Municipal Board; and

(b) "smelter" means any person or corporation carrying on any undertaking that includes the smelting or roasting of nickel-copper or iron ore.

2. Every smelter, within three months after coming into force of this Act, or within one month after commencing its undertaking, shall prepare and submit to the Board an application for approval of a plan to control or prevent the discharge from the furnaces, chimneys or smokestacks, operated by the smelter of any noxious or offensive gas or fumes or to render such gas or fumes where discharged harmless or inoffensive.

Plan
to control
fumes

3. Every such application shall include evidence that the plan submitted represents the best practicable means for the purpose in the circumstances.

Evidence
of best
plan

4. The Board shall forward copies of every such application at the earliest possible date, by registered mail to the Minister of Mines, the Minister of Health, the Minister of Agriculture and Food, the Minister of Municipal Affairs and to the clerk of every municipality within a radius of thirty miles of the undertaking carried on by the smelter.

Notice

5. The Board shall fix a date for hearing the application, not less than two months and not more than four months after the receipt thereof, and reasonable notice of such hearing and of any adjournment thereof shall be given by the Board to every Minister and the clerk of every muni-

Hearing

cipality mentioned in section 4, any of whom may appear by counsel or otherwise and adduce evidence and make representations for or against the plan submitted or any alternative plan.

Duty of Board

6. The Board shall determine whether the plan submitted or any modification or variation thereof represents the best practicable means for the purpose in the circumstances, and whether any other plan ought to be considered or adopted.

Order of Board

7.—(1) Not more than three months after hearing the application, the Board shall make an order either approving the application or a modification or variation thereof or an alternative plan and requiring the smelter to institute and maintain such plan as may be approved by the Board.

Compliance

(2) The smelter shall, within three months from the date of the order, institute and maintain a plan in conformity therewith.

Penalty

8. Every smelter who erects, operates, maintains or carries on any undertaking in violation of this Act or fails to comply with any order of the Board, is guilty of an offence and on summary conviction is liable to a penalty of \$1,000, and each day's continuance of such violation or failure to comply shall constitute a new and distinct offence.

Acts of officers, agents

9. For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any order of the Board made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the smelter shall, in every case, be also deemed to be the act, omission or failure of the smelter as well as that of the officer, agent or other person.

Applica-
tion of
R.S.O. 1960.
c. 86

10. Nothing in this Act excludes the operation of any of the provisions of *The Damage by Fumes Arbitration Act*.

Short title

11. This Act may be cited as *The Fumes Control Act, 1968-69*.



1st Reading

December 17th, 1968

2nd Reading

3rd Reading

MR. MARTEL

BILL 41

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Ontario College of Art Act, 1968-69

MR. DAVIS

EXPLANATORY NOTE

This Bill reflects the recommendations of the report on the organizational structure and administration of the Ontario College of Art.

BILL 41

1968-69

The Ontario College of Art Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "academic staff" means the teachers, chairmen of teaching departments, and directors of academic divisions of the Ontario College of Art;
- (b) "College" means the Ontario College of Art;
- (c) "Council" means the Council of the Ontario College of Art. 1961-62, c. 15, s. 1, *amended*.

2.—(1) The Ontario College of Art is continued.

College

(2) The object of the College is to provide the opportunity and environment for the education and training of students and teachers in the fine and applied arts. 1961-62, c. 15, s. 2, *amended*.

Object

3.—(1) The Council of the Ontario College of Art is continued as a body corporate and, within two months after this Act comes into force, the Council shall be reconstituted to consist of,

Council
continued,
composition

- (a) the President;
- (b) nine members appointed by the Lieutenant Governor in Council;
- (c) six members elected from and by the full-time academic staff; and
- (d) three members elected from and by the students registered as full-time students at the College.

First
election

(2) The Council, within two months after this Act comes into force, shall provide for and conduct the first election of members under clauses *c* and *d* of subsection 1.

First
appoint-
ments

(3) Of the first members appointed under clause *b* of subsection 1, one-third shall be appointed to hold office for one year, one-third for two years and one-third for three years, and in each year thereafter three members shall be appointed to hold office for three years.

First
election by
academic
staff

(4) Of the first members elected under clause *c* of subsection 1, one-third shall be elected to hold office for one year, one-third for two years and one-third for three years, and in each year thereafter two members shall be elected to hold office for three years.

First
election
by students

(5) Of the first members elected under clause *d* of subsection 1, two shall be elected to hold office for one year and one for two years, and in each year thereafter one member shall be elected to hold office for one year and one for two years, and the question as to which of such members shall hold office for one year or two years shall be determined as may be provided for in the by-laws of the Council.

Eligibility
of students

(6) Every person registered as a full-time student at the College is eligible to be elected as a member of the Council under clause *d* of subsection 1.

Maximum
term for
students

(7) A member elected under clause *d* of subsection 1 ceases to hold office when he ceases to be registered as a full-time student at the College, and no such member shall in any event hold office for longer than three years.

Eligibility
for re-
appoint-
ment or
re-election

(8) Subject to subsection 7, members of Council if otherwise qualified are eligible for re-appointment or re-election.

Attendance
at meetings

(9) If within any fiscal year of the College a member of the Council not having been granted leave of absence by the Council attends less than 50 per cent of the regular meetings of the Council, he shall *ipso facto* vacate his office and the Council by resolution shall declare his membership vacant.

Vacancy

(10) Where a vacancy on the Council occurs before the term of office for which a member has been appointed or elected has expired, the vacancy shall be filled in the same manner and by the same authority as the member whose membership is vacant was appointed or elected, as the case may be, and the member so appointed or elected shall hold office for the remainder of the term of office of the member whose membership is vacant.

(9) The Council until reconstituted in accordance with this section shall consist of the present members of the Council. 1961-62, c. 15, s. 3, *amended*. Present Council

4. The Council shall elect a chairman from among the members appointed by the Lieutenant Governor in Council and, in the case of the absence or illness of the chairman, the Council may appoint one of its members to act as chairman *pro tempore*, and the member so appointed shall act as and have all the powers of the chairman. 1961-62, c. 15, s. 11, cl. a, *amended*. Chairman

5. Eight members, including not fewer than four appointed members and not fewer than four elected members, constitute a quorum of the Council. 1961-62, c. 15, s. 11, cl. d, *amended*. Quorum

6.—(1) The government, conduct, management and control of the College and of its property, revenues, expenditures, business and affairs are vested in the Council, and the Council has all powers necessary or convenient to perform its duties and achieve the object of the College and, without limiting the generality of the foregoing, may, Powers of Council

- (a) appoint and remove the President;
- (b) appoint and remove the heads of all divisions and departments, administrative officers, teaching staff and such other officers and employees as the Council deems necessary or expedient for the purposes of the College;
- (c) fix the numbers, duties, salaries and other emoluments of members of the staff of the College;
- (d) appoint such committees and boards, including divisional academic committees and boards, as it deems advisable and confer upon any of such committees or boards authority to act for the Council with respect to any matter or classes of matters;
- (e) establish such advisory bodies as it deems advisable;
- (f) create such divisions and departments as it deems advisable;
- (g) control, regulate and determine the educational policy of the College;

- (h) determine the courses of study and standards for admission to the College and for continued membership therein, and the qualifications for diplomas;
- (i) conduct examinations and appoint examiners;
- (j) deal with all matters arising in connection with the awarding of scholarships, bursaries, medals, prizes and other awards;
- (k) confer upon students of the College the diploma of "Associate of the Ontario College of Art" and the right to affix the letters "A.O.C.A." after their names, and issue such certificates of proficiency as may be provided for in the by-laws of the Council;
- (l) make by-laws and regulations for the conduct of its affairs, including the election of members.

Appoint-
ment and
removal of
officers

(2) No person shall be appointed or removed as head of a division or department, as a senior administrative officer or as a member of the teaching staff of the College, except on the recommendation of the President. 1961-62, c. 15, ss. 4, 6, 11, *part, amended.*

President

7. The President of the College is the chief executive officer of the College. 1961-62, c. 15, s. 5, *amended.*

Affiliation
with
university

8. The College may be affiliated with any university in Ontario where arrangements may be considered expedient for the use of common instruction and the granting of degrees. 1961-62, c. 15, s. 7.

Arrange-
ments with
Department
of
Education

9. The Council may arrange with the Department of Education for courses and examinations for teachers of art and supervisors of art instructors in schools in Ontario. 1961-62, c. 15, s. 8.

Property

10. The Council may purchase or otherwise acquire, take by gift, devise or bequest and hold such real and personal property as it may deem necessary for the purposes of the College, and may mortgage, sell or otherwise dispose of the same as occasion requires. 1961-62, c. 15, s. 9, *amended.*

Annual
report

11.—(1) The Council shall, after the close of each fiscal year, file with the Minister of University Affairs an annual report upon the affairs of the College.

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1961-62, c. 15, s. 12, *amended*.

12. *The College of Art Act, 1961-62* is repealed.

1961-62,
c. 15,
repealed

13. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Commence-
ment

14. This Act may be cited as *The Ontario College of Art Act, 1968-69*.

Short title

1st Reading

December 18th, 1968

2nd Reading

3rd Reading

Mr. DAVIS

BILL 41

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

The Ontario College of Art Act, 1968-69

MR. DAVIS



The Ontario College of Art Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "academic staff" means the teachers, chairmen of teaching departments, and directors of academic divisions of the Ontario College of Art;
- (b) "College" means the Ontario College of Art;
- (c) "Council" means the Council of the Ontario College of Art. 1961-62, c. 15, s. 1, *amended*.

2.—(1) The Ontario College of Art is continued.

College

(2) The object of the College is to provide the opportunity and environment for the education and training of students and teachers in the fine and applied arts. 1961-62, c. 15, s. 2, *amended*.

Object

3.—(1) The Council of the Ontario College of Art is continued as a body corporate and, within two months after this Act comes into force, the Council shall be reconstituted to consist of,

Council
continued,
composition

- (a) the President;
- (b) nine members appointed by the Lieutenant Governor in Council;
- (c) six members elected from and by the full-time academic staff; and
- (d) three members elected from and by the students registered as full-time students at the College.

First
election

(2) The Council, within two months after this Act comes into force, shall provide for and conduct the first election of members under clauses *c* and *d* of subsection 1.

First
appoint-
ments

(3) Of the first members appointed under clause *b* of subsection 1, one-third shall be appointed to hold office for one year, one-third for two years and one-third for three years, and in each year thereafter three members shall be appointed to hold office for three years.

First
election by
academic
staff

(4) Of the first members elected under clause *c* of subsection 1, one-third shall be elected to hold office for one year, one-third for two years and one-third for three years, and in each year thereafter two members shall be elected to hold office for three years.

First
election
by students

(5) Of the first members elected under clause *d* of subsection 1, two shall be elected to hold office for one year and one for two years, and in each year thereafter one member shall be elected to hold office for one year and one for two years, and the question as to which of such members shall hold office for one year or two years shall be determined as may be provided for in the by-laws of the Council.

Eligibility
of students

(6) Every person registered as a full-time student at the College is eligible to be elected as a member of the Council under clause *d* of subsection 1.

Maximum
term for
students

(7) A member elected under clause *d* of subsection 1 ceases to hold office when he ceases to be registered as a full-time student at the College, and no such member shall in any event hold office for longer than three years.

Eligibility
for re-
appoint-
ment or
re-election

(8) Subject to subsection 7, members of Council if otherwise qualified are eligible for re-appointment or re-election.

Attendance
at meetings

(9) If within any fiscal year of the College a member of the Council not having been granted leave of absence by the Council attends less than 50 per cent of the regular meetings of the Council, he shall *ipso facto* vacate his office and the Council by resolution shall declare his membership vacant.

Vacancy

(10) Where a vacancy on the Council occurs before the term of office for which a member has been appointed or elected has expired, the vacancy shall be filled in the same manner and by the same authority as the member whose membership is vacant was appointed or elected, as the case may be, and the member so appointed or elected shall hold office for the remainder of the term of office of the member whose membership is vacant.

(9) The Council until reconstituted in accordance with this ^{Present} section shall consist of the present members of the Council. ^{Council} 1961-62, c. 15, s. 3, *amended*.

4. The Council shall elect a chairman from among the ^{Chairman} members appointed by the Lieutenant Governor in Council and, in the case of the absence or illness of the chairman, the Council may appoint one of its members to act as chairman *pro tempore*, and the member so appointed shall act as and have all the powers of the chairman. 1961-62, c. 15, s. 11, cl. a, *amended*.

5. Eight members, including not fewer than four appointed ^{Quorum} members and not fewer than four elected members, constitute a quorum of the Council. 1961-62, c. 15, s. 11, cl. d, *amended*.

6.—(1) The government, conduct, management and control ^{Powers of} of the College and of its property, revenues, expenditures, ^{Council} business and affairs are vested in the Council, and the Council has all powers necessary or convenient to perform its duties and achieve the object of the College and, without limiting the generality of the foregoing, may,

- (a) appoint and remove the President;
- (b) appoint and remove the heads of all divisions and departments, administrative officers, teaching staff and such other officers and employees as the Council deems necessary or expedient for the purposes of the College;
- (c) fix the numbers, duties, salaries and other emoluments of members of the staff of the College;
- (d) appoint such committees and boards, including divisional academic committees and boards, as it deems advisable and confer upon any of such committees or boards authority to act for the Council with respect to any matter or classes of matters;
- (e) establish such advisory bodies as it deems advisable;
- (f) create such divisions and departments as it deems advisable;
- (g) control, regulate and determine the educational policy of the College;

- (h) determine the courses of study and standards for admission to the College and for continued membership therein, and the qualifications for diplomas;
- (i) conduct examinations and appoint examiners;
- (j) deal with all matters arising in connection with the awarding of scholarships, bursaries, medals, prizes and other awards;
- (k) confer upon students of the College the diploma of "Associate of the Ontario College of Art" and the right to affix the letters "A.O.C.A." after their names, and issue such certificates of proficiency as may be provided for in the by-laws of the Council;
- (l) make by-laws and regulations for the conduct of its affairs, including the election of members.

Appoint-
ment and
removal of
officers

(2) No person shall be appointed or removed as head of a division or department, as a senior administrative officer or as a member of the teaching staff of the College, except on the recommendation of the President. 1961-62, c. 15, ss. 4, 6, 11, *part, amended.*

President

7. The President of the College is the chief executive officer of the College. 1961-62, c. 15, s. 5, *amended.*

Affiliation
with
university

8. The College may be affiliated with any university in Ontario where arrangements may be considered expedient for the use of common instruction and the granting of degrees. 1961-62, c. 15, s. 7.

Arrange-
ments with
Department
of
Education

9. The Council may arrange with the Department of Education for courses and examinations for teachers of art and supervisors of art instructors in schools in Ontario. 1961-62, c. 15, s. 8.

Property

10. The Council may purchase or otherwise acquire, take by gift, devise or bequest and hold such real and personal property as it may deem necessary for the purposes of the College, and may mortgage, sell or otherwise dispose of the same as occasion requires. 1961-62, c. 15, s. 9, *amended.*

Annual
report

11.—(1) The Council shall, after the close of each fiscal year, file with the Minister of University Affairs an annual report upon the affairs of the College.

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1961-62, c. 15, s. 12, *amended*. Tabling

12. *The College of Art Act, 1961-62* is repealed.

1961-62,
c. 15,
repealed

13. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

14. This Act may be cited as *The Ontario College of Art Act, 1968-69*. Short title

1st Reading

December 18th, 1968

2nd Reading

November 20th, 1969

3rd Reading

December 2nd, 1969

MR. DAVIS

BILL 42

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Public Health Act

MR. DEANS

EXPLANATORY NOTE

The Bill requires that drugs and medicines be sold only in child-proof containers.

BILL 42

1968-69

An Act to amend The Public Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** *The Public Health Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 321,
amended

CHILD-PROOF CONTAINERS

- 79.—(1) No person shall sell or offer for sale a drug to which *The Pharmacy Act* applies or a medicine registered under the *Proprietary or Patent Medicine Act* (Canada) that is not contained in a container that bears the mark of approval of a testing organization under subsection 2. Sale of
drugs and
medicines in
approved
containers
R.S.O. 1960,
c. 295
R.S.C. 1952,
c. 220
- (2) The Lieutenant Governor in Council may make regulations designating an organization to test and approve the types, designs and specifications of containers suitable to make the contents inaccessible to small children and providing for the affixing of a mark of approval on containers manufactured in accordance with the approved type, design and specifications. Regulations
- 2.** This Act comes into force on the 1st day of July, 1969. Commence-
ment
- 3.** This Act may be cited as *The Public Health Amendment Act, 1968-69*. Short title

1st Reading

December 18th, 1968

2nd Reading

3rd Reading

MR. DEANS

BILL 43

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. SHULMAN

EXPLANATORY NOTE

The amendment requires persons under eighteen years of age to take an approved driver education course before being issued a driver's licence.

BILL 43

1968-69

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 18 of *The Highway Traffic Act* is amended by adding thereto the following subsection: R.S.O. 1960, c. 172, s. 18, amended

(1a) A licence shall not be issued to a person under the age of eighteen years to drive or operate a motor vehicle on a highway unless he has satisfactorily completed a driver education course designated by the Lieutenant Governor in Council by regulation. Driver education courses

2. This Act comes into force on the 1st day of July, 1969. Commencement

3. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*. Short title

1st Reading

December 18th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 44

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Municipal and School Tax Credit Assistance Act, 1967**

MR. STOKES

EXPLANATORY NOTE

The Bill removes the obligation to repay tax credits allowed under the Act.

BILL 44

1968-69

**An Act to amend The Municipal and School
Tax Credit Assistance Act, 1967**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.**—(1) Subsections 3, 4 and 5 of section 2 of *The Municipal and School Tax Credit Assistance Act, 1967* are repealed. 1967, c. 56, s. 2, subs. 3-5, repealed
- (2) Subsection 7 of the said section 2 is amended by striking out "and the manner in which applications for reimbursement may be made" in the second and third lines, so that the subsection shall read as follows: 1967, c. 56, s. 2, subs. 7, amended
- (7) The Lieutenant Governor in Council may make Regulations regulations prescribing forms for use under this Act and generally for the administration of this Act.
- 2.** This Act shall be deemed to have come into force on the Commence-ment 1st day of January, 1967.
- 3.** This Act may be cited as *The Municipal and School Tax Credit Assistance Amendment Act, 1968-69*. Short title

1st Reading

December 18th, 1968

2nd Reading

3rd Reading

MR. STOKES

BILL 45

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Schools Administration Act

MR. DAVIS

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment is to make it clear that trustees of a separate school board are not excepted from the application of this subsection.

SECTION 1—Subsection 2. The amendment provides for the payment of an honorarium to co-opted members of vocational committees on the same basis as other members of the committee.

An Act to amend The Schools Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 36 of *The Schools Administration Act*, as re-enacted by subsection 1 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “trustees” in the first line and inserting in lieu thereof “members of a board of education”, so that the subsection, exclusive of the table, shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 1
(1968, c. 121,
s. 10,
subs. 1),
amended

- (1) A board may pay to each trustee, except members of a board of education who are not entitled to vote on a motion that affects public schools exclusively, for each month an honorarium not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Honorarium
for trustees

.

(2) Subsection 3 of the said section 36, as re-enacted by subsection 4 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “appointed by the board” in the second and third lines, so that the subsection shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 3
(1968, c. 121,
s. 10,
subs. 4),
amended

- (3) A board of education may pay to each member of an advisory vocational committee, who is not a trustee, an honorarium for each month not exceeding one-half of the amount provided in subsection 1 based on the enrolment on the 30th day of September in the preceding year in all secondary schools which, on the 1st day of January of the current year, are operated by the board.

Members of
advisory
vocational
committees

R.S.O. 1960, c. 361, s. 100a, subss. 1 (1967, c. 90, s. 22), re-enacted

2. Subsection 1 of section 100a of *The Schools Administration Act*, as re-enacted by section 22 of *The Schools Administration Amendment Act, 1967*, is repealed and the following substituted therefor:

Fees for non-resident pupils, calculation

- (1) Where a board provides education for pupils whose fees are receivable from another board, from Canada, or from Ontario, the fees shall be calculated by the use of financial data and average daily enrolment in respect of elementary schools, secondary schools, or classes or schools for trainable retarded children, as the case may be, for the year in which such education is provided,
- (a) by ascertaining the gross current expenditure for the maintenance of the schools under the jurisdiction of the board, excluding expenditure for transportation, tuition fees and evening courses of study;
 - (b) by ascertaining the total gross revenue from all sources, excluding legislative grants, taxation, tuition fees and costs recoverable from Ontario;
 - (c) by deducting the amount determined under clause b from the amount determined under clause a;
 - (d) by ascertaining the average daily enrolment as adjusted by the application of the appropriate course weighting factors as prescribed in the regulations for the year in which such education is provided, of pupils at schools under the jurisdiction of the board;
 - (e) by dividing the amount determined under clause c by the average daily enrolment as adjusted under clause d;
 - (f) by multiplying the average daily enrolment as adjusted by the application of the appropriate course weighting factors, of pupils whose fees are receivable from another board, from Canada, or from Ontario, by the sum of,
 - (i) the amount determined under clause e, and

SECTION 2. The amendment provides for the calculation of non-resident fees involving the use of a uniform pupil accommodation charge in respect of capital costs, and for the calculation of non-resident fees for trainable retarded children.

- (ii) the pupil accommodation charge as prescribed in the regulations for the year in which such education is provided.

3. This Act shall be deemed to have come into force on ^{Commence-}the 1st day of January, 1969. _{ment}

4. This Act may be cited as *The Schools Administration* ^{Short title}*Amendment Act, 1968-69.*

1st Reading

December 19th, 1968

2nd Reading

3rd Reading

MR. DAVIS

BILL 45

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Schools Administration Act

MR. DAVIS

(Reprinted as amended by the Education and University Affairs Committee)

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment is to make it clear that trustees of a separate school board are not excepted from the application of this subsection.

SECTION 1—Subsection 2. The amendment provides for the payment of an honorarium to co-opted members of vocational committees on the same basis as other members of the committee.

**An Act to amend
The Schools Administration Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 36 of *The Schools Administration Act*, as re-enacted by subsection 1 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “trustees” in the first line and inserting in lieu thereof “members of a board of education”, so that the subsection, exclusive of the table, shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 1
(1968, c. 121,
s. 10,
subs. 1),
amended

- (1) A board may pay to each trustee, except members of a board of education who are not entitled to vote on a motion that affects public schools exclusively, for each month an honorarium not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Honorarium
for trustees

.

(2) Subsection 3 of the said section 36, as re-enacted by subsection 4 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “appointed by the board” in the second and third lines, so that the subsection shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 3
(1968, c. 121,
s. 10,
subs. 4),
amended

- (3) A board of education may pay to each member of an advisory vocational committee, who is not a trustee, an honorarium for each month not exceeding one-half of the amount provided in subsection 1 based on the enrolment on the 30th day of September in the preceding year in all secondary schools which, on the 1st day of January of the current year, are operated by the board.

Members of
advisory
vocational
committees

Commence-
ment **2.** This Act shall be deemed to have come into force on the 1st day of January, 1969.

Short title **3.** This Act may be cited as *The Schools Administration Amendment Act, 1968-69*.







An Act to amend
The Schools Administration Act

1st Reading

December 19th, 1968

2nd Reading

November 20th, 1969

3rd Reading

MR. DAVIS

*(Reprinted as amended by the Education and
University Affairs Committee)*

BILL 45

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Schools Administration Act

MR. DAVIS



**An Act to amend
The Schools Administration Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 36 of *The Schools Administration Act*, as re-enacted by subsection 1 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “trustees” in the first line and inserting in lieu thereof “members of a board of education”, so that the subsection, exclusive of the table, shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 1
(1968, c. 121,
s. 10,
sube. 1),
amended

- (1) A board may pay to each trustee, except members of a board of education who are not entitled to vote on a motion that affects public schools exclusively, for each month an honorarium not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Honorarium
for trustees

.

(2) Subsection 3 of the said section 36, as re-enacted by subsection 4 of section 10 of *The Schools Administration Amendment Act, 1968*, is amended by striking out “appointed by the board” in the second and third lines, so that the section shall read as follows:

R.S.O. 1960,
c. 361, s. 36,
subs. 3
(1968, c. 121,
s. 10,
sube. 4),
amended

- (3) A board of education may pay to each member of an advisory vocational committee, who is not a trustee, an honorarium for each month not exceeding one-half of the amount provided in subsection 1 based on the enrolment on the 30th day of September in the preceding year in all secondary schools which, on the 1st day of January of the current year, are operated by the board.

Members of
advisory
vocational
committees

- Commence-
ment **2.** This Act shall be deemed to have come into force on the 1st day of January, 1969.
- Short title **3.** This Act may be cited as *The Schools Administration Amendment Act, 1968-69*.







1st Reading

December 19th, 1968

2nd Reading

November 20th, 1969

3rd Reading

December 2nd, 1969

MR. DAVIS

BILL 46

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Secondary Schools and Boards of Education Act**

MR. DAVIS

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment excepts from the provisions of this Part schools established on lands held by the Crown in right of Canada or Ontario.

Subsection 2. There are a few portions of territory without municipal organization which are not in a school section or a high school district that have been included in a school division. This amendment deems such portions to be a district municipality within the school division.

SECTION 2—Subsection 1. The amendment is to correct a reference.

An Act to amend The Secondary Schools and Boards of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 81 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 362, s. 81
(1968, c. 122,
s. 8),
amended

(1a) This Part does not apply to a board, school section or high school district heretofore or hereafter established under section 12 of *The Public Schools Act* or under subsection 5 of section 12 or subsection 4a of section 51 of this Act.

Application
to schools
on exempt
land
R.S.O. 1960,
c. 330

(2) Subsection 3 of the said section 81 is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

R.S.O. 1960,
c. 362, s. 81
(1968, c. 122,
s. 8), subs. 3,
amended

(c) any part of territory without municipal organization that is designated by the regulation made under subsection 2 of section 82 as part of a school division and on the 31st day of December, 1968, was not in a school section or in a high school district,

2.—(1) Clause *b* of subsection 2 of section 84 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "3" in the first line and inserting in lieu thereof "4", so that the clause shall read as follows:

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 2,
cl. b,
amended

- (b) subject to subsection 4, all real and personal property vested in such boards and situate in the school division becomes vested in the divisional board.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8),
subs. 2,
cl. d,
amended

- (2) Clause *d* of subsection 2 of the said section 84 is amended by adding at the commencement thereof "the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and", so that the clause shall read as follows:

- (d) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 3,
amended

- (3) Subsection 3 of the said section 84 is amended by inserting after "1968" in the seventh line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Arbitration

- (3) Each divisional board shall, on or before the 15th day of March, 1969, appoint three or five arbitrators, who are not members of the divisional board or of a municipal council that has jurisdiction in the school division, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 2, had jurisdiction wholly in the school division in which the divisional board has jurisdiction.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 1,
amended

- (4) Subsection 4 of the said section 84 is amended by inserting after "1968" in the ninth line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Idem

- (4) Where a board that is dissolved under subsection 2 had jurisdiction in an area that after the 1st day of January, 1969, forms part of two or more school divisions, each divisional board shall, on or before the 15th day of March, 1969, designate two of the

Subsection 2. The amendment provides that the reserve for working funds and the balance in a reserve accumulated from transfers from revenue funds shall be dealt with in the same manner as the audited surplus or deficit.

Subsection 3. The amendment is to exclude lands and premises used as schools from the assets to be valued and adjusted by the arbitrators.

Subsection 4. The amendment is to exclude lands and premises used as schools from the assets to be valued and adjusted by the arbitrators.

Subsection 5. The amendment will permit a divisional board to pay to an arbitrator a fee other than the fee prescribed in section 99 of *The Schools Administration Act*.

arbitrators appointed by it under subsection 3 who shall collectively value and adjust in an equitable manner the assets and liabilities of such board as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 2.

(5) The said section 84 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8),
amended

(10) Notwithstanding subsection 3 of section 99 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the divisional board that appointed him.

Fees for
arbitrators
R.S.O. 1960,
c. 361

3. Part VI of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following section:

R.S.O. 1960,
c. 362, Pt. VI
(1968, c. 122,
s. 8),
amended

86a.—(1) Where any part of territory without municipal organization that in the year 1968 is not in a school section or a high school district is included in a school division and deemed a district municipality, for the purposes of section 86 the equalized assessment of the property rateable,

Equalized
assessment
in 1968 in
territory:
not in school
section or
high school
district

(a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all property rateable for public school purposes in the district municipality; and

1961-62,
c. 111

(b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all rateable property in the district municipality,

as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

(2) Where any part of territory without municipal organization that in the year 1968 is in a school section is included in a school division and deemed a district municipality for the purposes of section 86 the equalized assessment of the property rateable,

in school
section

- (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the school section, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
- (b) for secondary school purposes in the district municipality shall be the sum of the equalized assessment under clause a and the assessment of the property in the district municipality upon which rates are levied in the year 1968 by the separate school board of a separate school zone all or part of which is within the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

in high school district but not in school section

- (3) Where any part of territory without municipal organization that in the year 1968 is in a high school district but not in a school section is included in a school division and deemed a district municipality for the purposes of section 86 the equalized assessment of the property rateable,
 - (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on property rateable for public school purposes in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
 - (b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on all the rateable property in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

R.S.O. 1960, c. 362, s. 87, (1968, c. 122, s. 8), amended

4. Section 87 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary*

SECTION 3. Provision is made for the apportionment of costs for 1969 in respect of territory without municipal organization that is included in a school division.

SECTION 4. The portions of territory without municipal organization which are not now in a school section but will be included in a school division were not subject to taxation for public school purposes in 1968. For this reason, it is necessary to exclude them from the provisions for an adjusted rate provided in subsections 1, 2 and 3.

SECTION 5. Provision is made for levying rates in 1969 on properties in territory without municipal organization that were included in a school division.

Schools and Boards of Education Amendment Act, 1968, is amended by adding thereto the following subsection:

- (6) Subsections 1, 2 and 3 do not apply to a part of ^{Application to territory} territory without municipal organization that is ^{without municipal organization} deemed to be a district municipality under clause *b* or *c* of subsection 3 of section 81.

5. Section 88 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is ^{R.S.O. 1960, c. 362, s. 88 (1968, c. 122, s. 8),} amended by adding thereto the following subsections:

- (1a) The assessment of all property rateable for public ^{Assessments upon which rates to be levied in 1969 in territory: for public school purposes} school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for public school purposes shall be,

(a) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*; or ^{1961-62, c. 111}

(b) where the property in the year 1968 is situate in a school section, the assessment on which taxes for public school purposes in the year 1969 would have been levied by the board of such school section if such board had not been dissolved on the 1st day of January, 1969; or

(c) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of such high school district if such board had not been dissolved on the 1st day of January, 1969.

- (1b) The assessment of property rateable for secondary ^{for secondary school purposes} school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for secondary school purposes,

- (a) in respect of property rateable for public school purposes under subsection 1a, shall be the assessments determined under subsection 1a; and
- (b) in respect of property rateable for separate school purposes shall be,
- (i) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*, or
 - (ii) where the property in the year 1968 is situate in a school section, the assessment on which the taxes for separate school purposes in the year 1969 are levied by the board of the separate school zone or would have been levied by such board if the board had not been dissolved on the 1st day of January, 1969, or
 - (iii) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of the high school district if such board had not been dissolved on the 1st day of January, 1969.

1961-62,
c. 111

R.S.O. 1960,
c. 362, s. 97,
(1968, c. 122,
s. 8),
amended

6. Section 97 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

Application
of subss. 1, 2

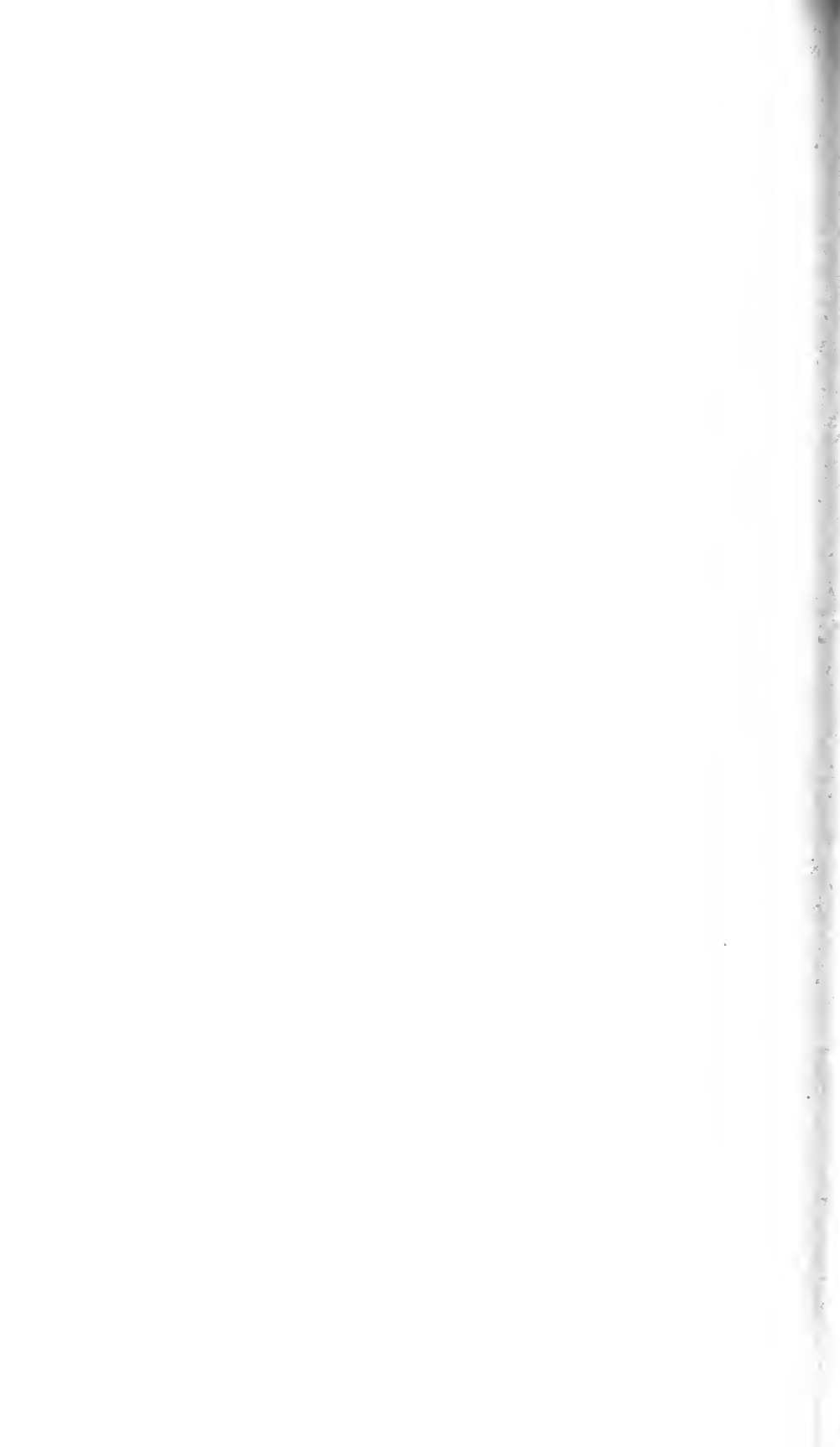
- (3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada.

R.S.O. 1960,
c. 362, s. 110
(1968, c. 122,
s. 9), subss. 1,
amended

7.—(1) Subsection 1 of section 110 of *The Secondary Schools and Boards of Education Act*, as enacted by section 9 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "2" in the eighth line and inserting in lieu thereof "1".

SECTION 6. The amendment is to make it clear that the provisions giving the right to certain pupils to attend school in another school division do not have the effect of extending the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or an agreement between boards or a board and the Federal Government.

SECTION 7. Subsections 1, 2 and 3 are amended so that the fee is based on the gross cost per pupil in respect of classes or schools for trainable retarded children rather than on twice the fee for other non-resident pupils. Subsection 3 is also amended so that it refers to the residence of the parent or guardian rather than the residence of the child and is thus made consistent with subsections 1 and 2.



(2) Subsection 2 of the said section 110 is amended by striking out "2" in the ninth line and inserting in lieu thereof "1". R.S.O. 1960, c. 362, s. 110 (1968, c. 122, s. 9), subs. 2, amended

(3) Subsection 3 of the said section 110 is amended by inserting after "but" in the second line "his parent or guardian" and by striking out "2" in the eleventh line and inserting in lieu thereof "1", so that the subsection shall read as follows: R.S.O. 1960, c. 362, s. 110 (1968, c. 122, s. 9), subs. 3, amended

(3) Where a child is admitted to a school for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a rural school section for which a board has been appointed under subsection 1 of section 12 of *The Public Schools Act* or that have been designated a high school district for which a board has been appointed under subsection 5 of section 12, the board shall pay to the divisional board a tuition fee in accordance with subsection 1 of section 100a of *The Schools Administration Act*. Admission of child resident on tax-exempt lands
R.S.O. 1960, cc. 330, 361

8.—(1) This Act, except subsection 1 of section 1 and section 7, shall be deemed to have come into force on the 23rd day of July, 1968. Commencement

(2) Subsection 1 of section 1 and section 7 shall be deemed to have come into force on the 1st day of January, 1969. Idem

9. This Act may be cited as *The Secondary Schools and Boards of Education Amendment Act, 1968-69*. Short title

An Act to amend The Secondary Schools
and Boards of Education Act

1st Reading

December 19th, 1968

2nd Reading

3rd Reading

MR. DAVIS

BILL 46

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Secondary Schools and Boards of Education Act**

MR. DAVIS

(Reprinted as amended by the Education and University Affairs Committee)

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment excepts from the provisions of this Part schools established on lands held by the Crown in right of Canada or Ontario.

Subsection 2. There are a few portions of territory without municipal organization which are not in a school section or a high school district that have been included in a school division. This amendment deems such portions to be a district municipality within the school division.

SECTION 2—Subsection 1. The amendment is to correct a reference.

BILL 46

1968-69

An Act to amend The Secondary Schools and Boards of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 81 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 362, s. 81
(1968, c. 122,
s. 8),
amended

(1a) This Part does not apply to a board, school section or high school district heretofore or hereafter established under section 12 of *The Public Schools Act* or under subsection 5 of section 12 or subsection 4a of section 51 of this Act.

Application
to schools
on exempt
land
R.S.O. 1960,
c. 330

(2) Subsection 3 of the said section 81 is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

R.S.O. 1960,
c. 362, s. 81
(1968, c. 122,
s. 8), subs. 3,
amended

(c) any part of territory without municipal organization that is designated by the regulation made under subsection 2 of section 82 as part of a school division and on the 31st day of December, 1968, was not in a school section or in a high school district,

2.—(1) Clause *b* of subsection 2 of section 84 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "3" in the first line and inserting in lieu thereof "4", so that the clause shall read as follows:

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 2,
cl. b,
amended

- (b) subject to subsection 4, all real and personal property vested in such boards and situate in the school division becomes vested in the divisional board.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8),
subs. 2,
cl. d,
amended

(2) Clause *d* of subsection 2 of the said section 84 is amended by adding at the commencement thereof "the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and", so that the clause shall read as follows:

- (d) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 3,
amended

(3) Subsection 3 of the said section 84 is amended by inserting after "1968" in the seventh line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Arbitration

- (3) Each divisional board shall, on or before the 15th day of March, 1969, appoint three or five arbitrators, who are not members of the divisional board or of a municipal council that has jurisdiction in the school division, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 2, had jurisdiction wholly in the school division in which the divisional board has jurisdiction.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 4,
amended

(4) Subsection 4 of the said section 84 is amended by inserting after "1968" in the ninth line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Idem

- (4) Where a board that is dissolved under subsection 2 had jurisdiction in an area that after the 1st day of January, 1969, forms part of two or more school divisions, each divisional board shall, on or before the 15th day of March, 1969, designate two of the

Subsection 2. The amendment provides that the reserve for working funds and the balance in a reserve accumulated from transfers from revenue funds shall be dealt with in the same manner as the audited surplus or deficit.

Subsection 3. The amendment is to exclude lands and premises used as schools from the assets to be valued and adjusted by the arbitrators.

Subsection 4. The amendment is to exclude lands and premises used as schools from the assets to be valued and adjusted by the arbitrators.

Subsection 5. The amendment will permit a divisional board to pay to an arbitrator a fee other than the fee prescribed in section 99 of *The Schools Administration Act*.

SECTION 3. Provision is made for the apportionment of costs for 1969 in respect of territory without municipal organization that is included in a school division.

arbitrators appointed by it under subsection 3 who shall collectively value and adjust in an equitable manner the assets and liabilities of such board as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 2.

(5) The said section 84 is amended by adding thereto the following subsection: R.S.O. 1960.
c. 362, s. 84
(1968, c. 122,
s. 8),
amended

(10) Notwithstanding subsection 3 of section 99 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the divisional board that appointed him. Fees for
arbitrators
R.S.O. 1960,
c. 361

3. Part VI of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following section: R.S.O. 1960,
c. 362, Pt. VI
(1968, c. 122,
s. 8),
amended

86a.—(1) Where any part of territory without municipal organization that in the year 1968 is not in a school section or a high school district is included in a school division and deemed a district municipality, for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable, Equalized
assessment
in 1968 in
territory:
not in school
section or
high school
district

(a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all property rateable for public school purposes in the district municipality; and 1961-62,
c. 111

(b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all rateable property in the district municipality.

(2) Where any part of territory without municipal organization that in the year 1968 is in a school section is included in a school division and deemed a district municipality for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable, in school
section

- (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the school section, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
- (b) for secondary school purposes in the district municipality shall be the sum of the equalized assessment under clause a and the assessment of the property in the district municipality upon which rates are levied in the year 1968 by the separate school board of a separate school zone all or part of which is within the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

in high
school
district but
not in
school
section

- (3) Where any part of territory without municipal organization that in the year 1968 is in a high school district but not in a school section is included in a school division and deemed a district municipality for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable,

- (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on property rateable for public school purposes in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
- (b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on all the rateable property in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

R.S.O. 1960,
c. 362, s. 87
(1968, c. 122,
s. 8),
amended

4. Section 87 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary*

SECTION 4. The portions of territory without municipal organization which are not now in a school section but will be included in a school division were not subject to taxation for public school purposes in 1968. For this reason, it is necessary to exclude them from the provisions for an adjusted rate provided in subsections 1, 2 and 3.

SECTION 5. Provision is made for levying rates in 1969 on properties in territory without municipal organization that were included in a school division.

Schools and Boards of Education Amendment Act, 1968, is amended by adding thereto the following subsections:

(1a) Where in a municipality the basis upon which the values of lands were ascertained in taking the assessment upon which taxes are levied in the year 1969 was different from that used in taking the assessment upon which taxes were levied in the year 1968, the adjusted rate, for the purpose of subsection 2 in such municipality, shall be adjusted by multiplying it by the ratio of the equalization factor provided by the Department of Municipal Affairs, based on the assessment on which taxes were levied in the year 1968, to the equalization factor provided by the Department of Municipal Affairs, based on the assessment on which taxes are levied in the year 1969. ^{Where reassessment in 1968}

(6) Subsections 1, 2 and 3 do not apply to a part of territory without municipal organization that is deemed to be a district municipality under clause *b* or *c* of subsection 3 of section 81. ^{Application to territory without municipal organization}

5. Section 88 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended ^{R.S.O. 1960, c. 362, s. 88 (1968, c. 122, s. 8),} amended by adding thereto the following subsections:

(1a) The assessment of all property rateable for public school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for public school purposes shall be, ^{Assessments upon which rates to be levied in 1969 in territory for public school purposes}

(a) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*; or ^{1961-62, c. 111}

(b) where the property in the year 1968 is situate in a school section, the assessment on which taxes for public school purposes in the year 1969 would have been levied by the board of such school section if such board had not been dissolved on the 1st day of January, 1969; or

- (c) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of such high school district if such board had not been dissolved on the 1st day of January, 1969.

for second-
ary school
purposes

- (1b) The assessment of property rateable for secondary school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for secondary school purposes,

- (a) in respect of property rateable for public school purposes under subsection 1a, shall be the assessments determined under subsection 1a; and

- (b) in respect of property rateable for separate school purposes shall be,

- (i) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*, or

- (ii) where the property in the year 1968 is situate in a school section, the assessment on which the taxes for separate school purposes in the year 1969 are levied by the board of the separate school zone or would have been levied by such board if the board had not been dissolved on the 1st day of January, 1969, or

- (iii) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of the high school district if such board had not been dissolved on the 1st day of January, 1969.

1961-62,
c. 111



SECTION 6. The amendment is to make it clear that the provisions giving the right to certain pupils to attend school in another school division do not have the effect of extending the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or an agreement between boards or a board and the Federal Government.

SECTION 7. The section is amended to correct the reference to refer to section 100a rather than subsection 2 of section 100a.

6. Section 97 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

- (3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada.

Application of subs. 1, 2

7.—(1) Subsection 1 of section 110 of *The Secondary Schools and Boards of Education Act*, as enacted by section 9 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "subsection 2 of" in the eighth and ninth lines.

R.S.O. 1960, c. 362, s. 110 (1968, c. 122, s. 9), subs. 1, amended

(2) Subsection 2 of the said section 110 is amended by striking out "subsection 2 of" in the ninth line.

R.S.O. 1960, c. 362, s. 110 (1968, c. 122, s. 9), subs. 2, amended

(3) Subsection 3 of the said section 110 is amended by inserting after "but" in the second line "his parent or guardian" and by striking out "subsection 2 of" in the eleventh line, so that the subsection shall read as follows:

R.S.O. 1960, c. 362, s. 110 (1968, c. 122, s. 9), subs. 3, amended

- (3) Where a child is admitted to a school for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a rural school section for which a board has been appointed under subsection 1 of section 12 of *The Public Schools Act* or that have been designated a high school district for which a board has been appointed under subsection 5 of section 12, the board shall pay to the divisional board a tuition fee in accordance with section 100a of *The Schools Administration Act*.

Admission of child resident on tax-exempt lands

R.S.O. 1960, cc. 330, 361

8.—(1) This Act, except subsection 1 of section 1 and section 7, shall be deemed to have come into force on the 23rd day of July, 1968.

Commencement

(2) Subsection 1 of section 1 and section 7 shall be deemed to have come into force on the 1st day of January, 1969.

Idem

9. This Act may be cited as *The Secondary Schools and Boards of Education Amendment Act, 1968-69*.

Short title

AN ACT to amend The Secondary Schools
and Boards of Education Act

1st Reading

December 19th, 1968

2nd Reading

November 20th, 1969

3rd Reading

MR. DAVIS

*(Reprinted as amended by the Education and
University Affairs Committee)*

BILL 46

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

**An Act to amend
The Secondary Schools and Boards of Education Act**

MR. DAVIS



BILL 46

1968-69

An Act to amend The Secondary Schools and Boards of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 81 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

(1a) This Part does not apply to a board, school section or high school district heretofore or hereafter established under section 12 of *The Public Schools Act* or under subsection 5 of section 12 or subsection 4a of section 51 of this Act.

(2) Subsection 3 of the said section 81 is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

(c) any part of territory without municipal organization that is designated by the regulation made under subsection 2 of section 82 as part of a school division and on the 31st day of December, 1968, was not in a school section or in a high school district,

.

2.—(1) Clause *b* of subsection 2 of section 84 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "3" in the first line and inserting in lieu thereof "4", so that the clause shall read as follows:

- (b) subject to subsection 4, all real and personal property vested in such boards and situate in the school division becomes vested in the divisional board.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8),
subs. 2,
cl. d,
amended

(2) Clause *d* of subsection 2 of the said section 84 is amended by adding at the commencement thereof "the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and", so that the clause shall read as follows:

- (d) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 3,
amended

(3) Subsection 3 of the said section 84 is amended by inserting after "1968" in the seventh line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Arbitration

- (3) Each divisional board shall, on or before the 15th day of March, 1969, appoint three or five arbitrators, who are not members of the divisional board or of a municipal council that has jurisdiction in the school division, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 2, had jurisdiction wholly in the school division in which the divisional board has jurisdiction.

R.S.O. 1960,
c. 362, s. 84
(1968, c. 122,
s. 8), subs. 4,
amended

(4) Subsection 4 of the said section 84 is amended by inserting after "1968" in the ninth line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Idem

- (4) Where a board that is dissolved under subsection 2 had jurisdiction in an area that after the 1st day of January, 1969, forms part of two or more school divisions, each divisional board shall, on or before the 15th day of March, 1969, designate two of the

arbitrators appointed by it under subsection 3 who shall collectively value and adjust in an equitable manner the assets and liabilities of such board as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 2.

(5) The said section 84 is amended by adding thereto the following subsection:

R.S.O. 1960.
c. 362, s. 84
(1968, c. 122,
s. 8),
amended

(10) Notwithstanding subsection 3 of section 99 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the divisional board that appointed him.

Fees for
arbitrators
R.S.O. 1960.
c. 361

3. Part VI of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following section:

R.S.O. 1960.
c. 362, Pt. VI
(1968, c. 122,
s. 8),
amended

86a.—(1) Where any part of territory without municipal organization that in the year 1968 is not in a school section or a high school district is included in a school division and deemed a district municipality, for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable,

Equalized
assessment
in 1968 in
territory:
not in school
section or
high school
district

(a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all property rateable for public school purposes in the district municipality; and

1961-62.
c. 111

(b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 under *The Provincial Land Tax Act, 1961-62* on all rateable property in the district municipality.

(2) Where any part of territory without municipal organization that in the year 1968 is in a school section is included in a school division and deemed a district municipality for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable,

in school
section

- (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the school section, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
- (b) for secondary school purposes in the district municipality shall be the sum of the equalized assessment under clause a and the assessment of the property in the district municipality upon which rates are levied in the year 1968 by the separate school board of a separate school zone all or part of which is within the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

in high
school
district but
not in
school
section

- (3) Where any part of territory without municipal organization that in the year 1968 is in a high school district but not in a school section is included in a school division and deemed a district municipality for the purposes of apportionment for the year 1969 under section 86 the equalized assessment of the property rateable,

- (a) for public school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on property rateable for public school purposes in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs; and
- (b) for secondary school purposes in the district municipality shall be the assessment upon which rates are levied in the year 1968 by the board of the high school district on all the rateable property in the district municipality, as adjusted by the application of the equalization factor based on such assessment and provided by the Department of Municipal Affairs.

R.S.O. 1960,
c. 202, s. 87,
1968, c. 122,
s. 8,
amended

4. Section 87 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary*

Schools and Boards of Education Amendment Act, 1968, is amended by adding thereto the following subsections:

(1a) Where in a municipality the basis upon which the values of lands were ascertained in taking the assessment upon which taxes are levied in the year 1969 was different from that used in taking the assessment upon which taxes were levied in the year 1968, the adjusted rate, for the purpose of subsection 2 in such municipality, shall be adjusted by multiplying it by the ratio of the equalization factor provided by the Department of Municipal Affairs, based on the assessment on which taxes were levied in the year 1968, to the equalization factor provided by the Department of Municipal Affairs, based on the assessment on which taxes are levied in the year 1969. Where reassessment in 1968

(6) Subsections 1, 2 and 3 do not apply to a part of territory without municipal organization that is deemed to be a district municipality under clause *b* or *c* of subsection 3 of section 81. Application to territory without municipal organization

5. Section 88 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsections: R.S.O. 1960, c. 362, s. 88 (1968, c. 122, s. 8), amended

(1a) The assessment of all property rateable for public school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for public school purposes shall be, Assessments upon which rates to be levied in 1969 in territory for public school purposes

(a) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*; or 1961-62, c. 111

(b) where the property in the year 1968 is situate in a school section, the assessment on which taxes for public school purposes in the year 1969 would have been levied by the board of such school section if such board had not been dissolved on the 1st day of January, 1969; or

(c) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of such high school district if such board had not been dissolved on the 1st day of January, 1969.

for secondary school purposes

(1b) The assessment of property rateable for secondary school purposes in territory without municipal organization that is deemed a district municipality upon which rates shall be levied in the year 1969 to raise the sum determined under section 86 for secondary school purposes,

(a) in respect of property rateable for public school purposes under subsection 1a, shall be the assessments determined under subsection 1a; and

(b) in respect of property rateable for separate school purposes shall be,

(i) where the property in the year 1968 is not situate in a school section or a high school district, the assessment upon which rates are levied in the year 1969 under *The Provincial Land Tax Act, 1961-62*, or

(ii) where the property in the year 1968 is situate in a school section, the assessment on which the taxes for separate school purposes in the year 1969 are levied by the board of the separate school zone or would have been levied by such board if the board had not been dissolved on the 1st day of January, 1969, or

(iii) where the property in the year 1968 is situate in a high school district but not in a school section, the assessment on which taxes for secondary school purposes in the year 1969 would have been levied by the board of the high school district if such board had not been dissolved on the 1st day of January, 1969.

1961-62,
c. 111

6. Section 97 of *The Secondary Schools and Boards of Education Act*, as enacted by section 8 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by adding thereto the following subsection:

- (3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada.

7.—(1) Subsection 1 of section 110 of *The Secondary Schools and Boards of Education Act*, as enacted by section 9 of *The Secondary Schools and Boards of Education Amendment Act, 1968*, is amended by striking out "subsection 2 of" in the eighth and ninth lines.

(2) Subsection 2 of the said section 110 is amended by striking out "subsection 2 of" in the ninth line.

(3) Subsection 3 of the said section 110 is amended by inserting after "but" in the second line "his parent or guardian" and by striking out "subsection 2 of" in the eleventh line, so that the subsection shall read as follows:

- (3) Where a child is admitted to a school for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a rural school section for which a board has been appointed under subsection 1 of section 12 of *The Public Schools Act* or that have been designated a high school district for which a board has been appointed under subsection 5 of section 12, the board shall pay to the divisional board a tuition fee in accordance with section 100a of *The Schools Administration Act*.

8.—(1) This Act, except subsection 1 of section 1 and section 7, shall be deemed to have come into force on the 23rd day of July, 1968.

(2) Subsection 1 of section 1 and section 7 shall be deemed to have come into force on the 1st day of January, 1969.

9. This Act may be cited as *The Secondary Schools and Boards of Education Amendment Act, 1968-69*.





1st Reading

December 19th, 1968

2nd Reading

November 20th, 1969

3rd Reading

December 2nd, 1969

MR. DAVIS

BILL 47

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Separate Schools Act

MR. DAVIS

EXPLANATORY NOTES

SECTION 1. The amendment is necessary to form a district municipality of those portions of territory without municipal organization that now form part of a combined separate school zone that will become part of a district combined separate school zone.

SECTION 2. The amendment corrects a reference.

SECTION 3—Subsection 1. The amendment corrects a reference.

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 74 of *The Separate Schools Act*, R.S.O. 1960, c. 368, s. 74, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by inserting after "Part" in the fourth line "and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under this Part", so that the subsection shall read as follows:

- (3) For the purposes of this Part, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under this Part and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under this Part shall be deemed to be a district municipality.

2. Subsection 4 of section 76 of *The Separate Schools Act*, R.S.O. 1960, c. 368, s. 76, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by striking out "1" in the fourth line and inserting in lieu thereof "3".

3.—(1) Clause *b* of subsection 1 of section 80 of *The Separate Schools Act*, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by striking out "2" in the first line and inserting in lieu thereof "3", so that the clause shall read as follows:

- (b) subject to subsection 3, all property vested in such boards and situate in the county or district combined separate school zone becomes vested in the county or district combined separate school board.

R.S.O. 1960,
c. 368, s. 80
(1968, c. 125,
s. 6), subs. 1,
cl. d,
amended

(2) Clause *d* of subsection 1 of the said section 80 is amended by adding at the commencement thereof "the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and", so that the clause shall read as follows:

(d) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts.

R.S.O. 1960,
c. 368, s. 80
(1968, c. 125,
s. 6), subs. 2,
amended

(3) Subsection 2 of the said section 80 is amended by inserting after "1968" in the eighth line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Arbitration

(2) Each county or district combined separate school board shall, on or before the 15th day of March, 1969, appoint three arbitrators who are not trustees of the board or members of a municipal council that has jurisdiction within the county or district combined separate school zone, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 1, had jurisdiction wholly in the area in which the county or district combined separate school board has jurisdiction.

R.S.O. 1960,
c. 368, s. 80
(1968, c. 125,
s. 6), subs. 3,
amended

(4) Subsection 3 of the said section 80 is amended by inserting after "manner" in the ninth line "the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner", so that the subsection shall read as follows:

Item

(3) Where a board that is dissolved under subsection 1 had jurisdiction in an area that, after the 1st day of January, 1969, forms part of two or more county or district combined separate school zones, each such county or district combined separate school board

Subsection 2. The amendment provides that the reserve for working funds and the balance in a reserve accumulated from transfers from revenue funds shall be dealt with in the same manner as the audited surplus or deficit.

Subsection 3. The amendment is to exclude lands and premises used as schools from the assets to be valued and adjusted by the arbitrators.

Subsection 4. Provision is made for arbitrators to value and adjust assets and liabilities other than lands and premises used as schools.

Subsection 5. The amendment will permit a county or district combined separate school board to pay to an arbitrator a fee other than the fee prescribed in section 99 of *The Schools Administration Act*.

SECTION 4. The amendment is to make it clear that the provisions giving the right to certain pupils to attend school in another combined separate school zone do not have the effect of extending the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or an agreement between boards or a board and the Federal Government.

shall, on or before the 15th day of March, 1969, designate two of the arbitrators appointed under subsection 2 who shall collectively value and adjust in an equitable manner the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 1.

(5) The said section 80 is amended by adding thereto the following subsection: R.S.O. 1960.
c. 368, s. 80
(1968, c. 125,
s. 6),
amended

(9) Notwithstanding subsection 3 of section 99 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the board that appointed him. Fees for
arbitrators
R.S.O. 1960,
c. 361

4. Section 86 of *The Separate Schools Act*, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by adding thereto the following subsection: R.S.O. 1960.
c. 368, s. 86
(1968, c. 125,
s. 6),
amended

(3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. Application
of subss. 1, 2

5. This Act shall be deemed to have come into force on the 23rd day of July, 1968. Commence-
ment

6. This Act may be cited as *The Separate Schools Amendment Act, 1968-69*. Short title

1st Reading

December 19th, 1968

2nd Reading

3rd Reading

MR. DAVIS

BILL 47

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Separate Schools Act

MR. DAVIS



BILL 47

1968-69

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 74 of *The Separate Schools Act*, R.S.O. 1960, c. 368, s. 74, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by inserting after "Part" in the fourth line "and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under this Part", so that the subsection shall read as follows: amended (1968, c. 125, s. 6), subs. 3,

(3) For the purposes of this Part, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under this Part and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under this Part shall be deemed to be a district municipality. Territory without municipal organization in zones deemed district municipalities

2. Subsection 4 of section 76 of *The Separate Schools Act*, R.S.O. 1960, c. 368, s. 76, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by striking out "1" in the fourth line and inserting in lieu thereof "3". amended (1968, c. 125, s. 6), subs. 4,

3.—(1) Clause *b* of subsection 1 of section 80 of *The Separate Schools Act*, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by striking out "2" in the first line and inserting in lieu thereof "3", so that the clause shall read as follows: R.S.O. 1960, c. 368, s. 80 (1968, c. 125, s. 6), subs. 1, cl. *b*, amended

(b) subject to subsection 3, all property vested in such boards and situate in the county or district combined separate school zone becomes vested in the county or district combined separate school board.

R.S.O. 1960, c. 368, s. 80 (1968, c. 125, s. 6), subs. 1, cl. d, amended (2) Clause *d* of subsection 1 of the said section 80 is amended by adding at the commencement thereof "the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and", so that the clause shall read as follows:

- (d) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts.

R.S.O. 1960, c. 368, s. 80 (1968, c. 125, s. 6), subs. 2, amended (3) Subsection 2 of the said section 80 is amended by inserting after "1968" in the eighth line "except lands and premises used as schools on such 31st day of December", so that the subsection shall read as follows:

Arbitration

- (2) Each county or district combined separate school board shall, on or before the 15th day of March, 1969, appoint three arbitrators who are not trustees of the board or members of a municipal council that has jurisdiction within the county or district combined separate school zone, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 1, had jurisdiction wholly in the area in which the county or district combined separate school board has jurisdiction.

R.S.O. 1960, c. 368, s. 80 (1968, c. 125, s. 6), subs. 3, amended (4) Subsection 3 of the said section 80 is amended by inserting after "manner" in the ninth line "the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner", so that the subsection shall read as follows:

Idem

- (3) Where a board that is dissolved under subsection 1 had jurisdiction in an area that, after the 1st day of January, 1969, forms part of two or more county or district combined separate school zones, each such county or district combined separate school board

shall, on or before the 15th day of March, 1969, designate two of the arbitrators appointed under subsection 2 who shall collectively value and adjust in an equitable manner the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 1.

(5) The said section 80 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 368, s. 80
(1968, c. 125,
s. 6),
amended

(9) Notwithstanding subsection 3 of section 99 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the board that appointed him.

Fees for
arbitrators
R.S.O. 1960,
c. 361

4. Section 86 of *The Separate Schools Act*, as enacted by section 6 of *The Separate Schools Amendment Act, 1968*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 368, s. 86
(1968, c. 125,
s. 6),
amended

(3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada.

Application
of subss. 1, 2

5. This Act shall be deemed to have come into force on the 23rd day of July, 1968.

Commence-
ment

6. This Act may be cited as *The Separate Schools Amendment Act, 1968-69*.

Short title





1st Reading

December 19th, 1968

2nd Reading

December 2nd, 1969

3rd Reading

December 8th, 1969

Mr. DAVIS

BILL 48

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Professional Engineers Act, 1968-69

MR. WISHART

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EXPLANATORY NOTES

GENERAL.—At the 1968 Session of the Legislature, Bill 42 was introduced which represented the first comprehensive revision of *The Professional Engineers Act* which was first passed in 1922. Bill 42 was not proceeded with in view of the publication at that time of the Report of the Royal Commission Inquiry into Civil Rights.

The changes made in this revision are designed to facilitate the Association of Professional Engineers of the Province of Ontario in the administration of its affairs and to bring the Act up to date in substance and form.

Most of the differences between this Bill and Bill 42 are changes to conform to the recommendations of the McRuer Report.

The Professional Engineers Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "by-law" means a by-law of the Association;
- (c) "chapter" means a group of members constituted and governed by by-law;
- (d) "council" means the council of the Association;
- (e) "graduate" means a graduate of a university in a course in any branch of engineering or science, the practice of which constitutes professional engineering and which is recognized by the council;
- (f) "licence" means a licence to practise professional engineering issued under this Act;
- (g) "licensee" means a person who holds a subsisting licence;
- (h) "member" means a member of the Association;
- (i) "practice of professional engineering" means the doing of one or more acts of advising on, reporting on, designing of or supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges,

cranes, drainage works, irrigation works, water-works, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete or reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric or electronic apparatus, electrical or electronic communication systems or equipment, mineral property, mining machinery, mining development, mining operations, gas or oil developments, smelters, refineries, metallurgical machinery, or equipment or apparatus for carrying out such operations, machinery, boilers or their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines or other mechanical structures, chemical or metallurgical machinery, apparatus or processes, or aircraft, and generally all other engineering works including the engineering works and installations relating to airports, airfields or landing strips or relating to town and community planning;

- (j) "professional engineer" means a person who is a member or licensee;
- (k) "region" means a geographical area of Ontario as defined by by-law;
- (l) "register" means the record of registrants maintained by the registrar;
- (m) "registrant" means a person recorded in the register as a member, licensee, an assistant to a professional engineer, a graduate or an undergraduate;
- (n) "registrar" means the registrar of the Association;
- (o) "regulation" means a regulation of the Association;
- (p) "undergraduate" means a student enrolled at but not graduated from a university in a course in any branch of engineering or science, the practice of which constitutes professional engineering and that is recognized by the council. R.S.O. 1960, c. 309, s. 1, amended.

Activities
not affected

2. Nothing in this Act prevents,

- (a) any person from performing his duties in the Canadian Armed Forces;



SECTION 2—Clause *e*. The exemption relating to mining work is revised. Provision is made in section 11 (6) for admission to membership in the Association of persons who are engaged in this field.

- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect; ^{R.S.O. 1960, c. 20}
- (c) any person who holds a certificate of qualification under *The Operating Engineers Act* from practising or designating himself as an operating engineer; ^{R.S.O. 1960, c. 282}
- (d) any person from practising as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or requires any such person to become registered or licensed under this Act in order to do any such thing. R.S.O. 1960, c. 309, s. 2, *amended*.

THE ASSOCIATION

3.—(1) The body politic and corporate known as the "Association of Professional Engineers of the Province of Ontario" incorporated under *The Professional Engineers Act, 1922*, c. 59 ^{Association continued} 1922 is hereby continued.

(2) All persons who are members of the Association when this Act comes into force or who hereafter are admitted as members constitute the Association. ^{Members} R.S.O. 1960, c. 309, s. 3 (1), *amended*.

(3) The objects of the Association are, Objects

- (a) to regulate the practice of professional engineering and to govern the profession in accordance with this Act, the regulations and the by-laws;
- (b) to establish and maintain standards of knowledge and skill among its members; and

(c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected.
New.

Head office (4) The head office of the Association shall be at the city of Toronto.

Property (5) The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1960, c. 309, s. 3 (4, 5).

THE COUNCIL

Council 4.—(1) There shall be a council which shall consist of a president, a first vice-president, a second vice-president, an immediate past president, two elected councillors-at-large, ten elected regional councillors and five appointed councillors, all of whom shall be members and residents of Ontario.

President and vice-presidents (2) The president and the vice-presidents shall have such qualifications as are prescribed by by-law and shall be elected annually by vote of the members. R.S.O. 1960, c. 309, s. 8 (1-3), *amended*.

Councillors-at-large (3) One councillor-at-large shall be elected each year for a two-year term by vote of the members. *New.*

Regional councillors (4) There shall be elected from each of the five regions established and defined by by-law two regional councillors, one to be elected from each region each year for a two-year term by vote of the members who are recorded as residents in that region at the time the election is held.

Appointed councillors (5) The five appointed councillors shall be appointed by the Lieutenant Governor in Council for a term of three years and shall be qualified respectively in the following fields of engineering:

1. Civil.
2. Mechanical, Aeronautical and Industrial.
3. Electrical.

SECTION 4—Subsection 4. The method of electing ten of the councillors is changed from a branch basis which is the basis in the present Act to a geographical basis.

Subsections 6, 7. These new provisions implement Recommendations 2 and 7 of the McRuer Report (page 1209 of Volume 3).

4. Chemical and Metallurgical.

5. Mining and Geology. R.S.O. 1960, c. 309, s. 8
(5, 6), *amended*.

(6) In addition to the councillors mentioned in subsection 1, the Lieutenant Governor in Council may appoint as coun-^{Lay councillor;}
cillors, ^{legal}
^{councillor}

(a) a person who is not a member; and

(b) a person who is a barrister and solicitor of at least ten years standing at the bar of Ontario,

both of whom are residents of Ontario.

(7) Persons appointed under subsection 6 shall serve for ^{Term}
a term of three years but are eligible for re-appointment.

(8) Where the president, a vice-president or a councillor ^{Vacancies}
resigns, is absent from three consecutive meetings of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as is provided by by-law, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. R.S.O. 1960, c. 309, s. 8 (6, 7), *amended*.

(9) No person shall be appointed or elected to the council ^{Councillors}
unless he is a Canadian citizen or other British subject, and ^{to be}
no person shall continue to hold any such office if he ceases to ^{Canadians}
be so qualified. *New*.

5. The council,

(a) shall appoint a registrar and a treasurer; and

(b) may appoint a secretary, an executive director and such other officials as the council deems fit,

Registrar,
treasurer,
secretary,
executive
director

and any two or more of such offices may be held by one person. *New*.

6. No action shall be brought against the council, any ^{Liability}
member or officer thereof or any person appointed by the ^{of council,}
council for anything done under this Act, any regulation ^{officers and}
or any by-law. R.S.O. 1960, c. 309, s. 29, *amended*. ^{members}

Regulations **7.** (1) The council may make regulations respecting any matter that is outside the scope of the power to enact by-laws specified in section 8 and, without limiting the generality of the foregoing,

- (a) prescribing the scope and conduct of examinations of candidates for registration;
- (b) prescribing the form of the summons referred to in subsection 10 of section 25;
- (c) respecting the practice and procedure for hearings held under this Act;
- (d) defining "professional misconduct" for the purpose of this Act and the regulations;
- (e) defining classes of specialists in the various fields of engineering;
- (f) prescribing the qualifications required of specialists or any class thereof;
- (g) providing for the designation of specialists upon application and examination or otherwise, for the suspension or revocation of such designations, and for the regulation and prohibition of the use of terms, titles or designations by professional engineers indicating specialization in any field of engineering;
- (h) regulating and prohibiting the use of terms, titles or designations by professional engineers in independent practice.

Approval (2) No regulation is effective,

- (a) until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and
- (b) until it has been approved by the Lieutenant Governor in Council. *New.*

By-laws **8.** (1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

- (a) respecting the determination and modification of the boundaries of regions and the determination of

SECTIONS 7 and 8. These sections implement Recommendations 25 and 26 of the McRuer Report (page 1211 of Volume 3).



regions in which members shall be deemed to reside for the purposes of the election of councillors;

- (b) prescribing procedures for the nomination and election of the councillors and the nomination and election of the president and the vice-presidents and the qualifications necessary to hold any such office;
- (c) prescribing the duties of the councillors and rules governing their conduct;
- (d) respecting the remuneration and reimbursement of members of the council;
- (e) respecting the calling, holding and conduct of meetings of the council and the Association;
- (f) providing for the establishment and regulation of chapters;
- (g) respecting the management of the property of the Association;
- (h) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;
- (i) respecting the application of the funds of the Association, and the investment and re-investment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under *The R.S.O. 1960, c. 71 Corporations Act*;
- (j) defining the composition and functions of the board of examiners;
- (k) providing for the establishment of scholarships, bursaries and prizes;
- (l) providing for the appointment of committees of the council and defining their composition and functions;
- (m) providing for the closing of the register and the restriction of recording changes of addresses of the registrants for a period of time not exceeding forty-

eight hours, exclusive of Sundays and holidays, immediately preceding any meeting of the members or any election;

- (n) respecting the registration of members and the recording of licensees, graduates, undergraduates and assistants to professional engineers;
- (o) for maintaining a system for the recording of registrants, their residence addresses and the regions in which they are resident and for the recording of the names of official representatives of partnerships, associations of persons or corporations;
- (p) providing for services to encourage and assist members in the development of their professional competence and conduct and in carrying on the practice of professional engineering;
- (q) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;
- (r) prescribing forms and providing for their use;
- (s) respecting all other things that are deemed necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval

(2) No by-law is effective until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and unless it has been approved by a majority of those voting within the prescribed time. R.S.O. 1960, c. 309, s. 5, cl. a, *amended*.

Construction

(3) As between a registrant and the Association, the ruling of the council on the construction and interpretation of any by-law is final. R.S.O. 1960, c. 309, s. 4 (2), *amended*.

Code of ethics

9.—(1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members and licensees must subscribe to and follow in the practice of professional engineering.

Copies

(2) Copies of the code of ethics shall be sent to the members and licensees and shall be available free of charge to members of the public who apply therefor. *New*.

SECTION 9. This new section implements Recommendation 9 of the McRuer Report (page 1209 of Volume 3).

SECTION 11. In clause *d* of subsection 1 the experience requirement is increased from five to six years to conform with the requirement in all other provinces of Canada.

Provision is also made for the admission in certain circumstances of persons who do not reside in Ontario.

10. The council may authorize participation by the Association in the activities of the Canadian Council of Professional Engineers, as a constituent association thereof. *New.* Canadian Council of Professional Engineers

MEMBERSHIP

11.—(1) Any applicant for membership who,

Qualification for membership

(a) resides,

(i) in Ontario,

(ii) out of Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional engineering in respect of such works or facilities or has a place of employment in Ontario and practises or proposes to practise professional engineering in Ontario on a full-time basis;

(b) is twenty-one or more years of age;

(c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to subsection 3 or 6;

(d) has had six or more years of experience in engineering work satisfactory to the council; and

(e) provides satisfactory evidence of good character,

shall be admitted as a member by the council.

(2) Each applicant for membership shall submit upon the prescribed form evidence of his educational qualifications and engineering experience, information as to his residence and at least three references as to his character and engineering experience, and he may be required by the council to verify the statements set out in his application by affidavit. R.S.O. 1960, c. 309, s. 10 (1, 2), *amended.*

Evidence of qualification

(3) The council may exempt an applicant from any of the examinations mentioned in clause *c* of subsection 1 if the council is of the opinion that the applicant has adequate academic and other qualifications. *New.* Credit for academic and other qualifications

Credit for
time spent
at a
university

(4) Where the applicant is a graduate, upon presenting evidence of the actual time during which he was under instruction as an undergraduate in a university, the council shall grant him the time spent under such instruction in reduction of the six-year period of engineering experience required by clause *d* of subsection 1, but only in so far as the total exemption granted does not exceed four years. R.S.O. 1960, c. 309, s. 10 (4), *amended*.

Board of
examiners
to consider
applications

(5) The council may for the purpose of subsection 3 or 4 require the board of examiners to consider and make recommendations to the council with respect to any applications for exemption, including an application for exemption of a graduate in honours science. *New*.

Saving

(6) The council shall exempt from the examinations mentioned in clause *c* of subsection 1 any person who resides in Ontario on the day this Act comes into force and who has been engaged in the performance of any engineering work specified in clause *e* of section 2 of *The Professional Engineers Act*, being chapter 309 of the Revised Statutes of Ontario, 1960, for a period or periods of not less than six years in the aggregate, if such person submits to the council, within one year from the day this Act comes into force, satisfactory evidence of having been so engaged. *New*.

Admission
of members
of other
associations

12. The council may, upon application and satisfactory proof of residence, admit as a member any person who resides in Ontario, or who resides out of Ontario under the circumstances set out in subclause ii of clause *a* of subsection 1 of section 11, and who furnishes satisfactory proof,

- (a) that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario; or
- (b) that he is a member of an association of professional engineers in another part of the Commonwealth or in the United States of America that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario.

Students
and
assistants

13. Persons who are engaged as assistants to professional engineers in categories recognized by the council and graduates and undergraduates who have not completed the period of engineering experience required by this Act and who con-

template applying for membership on the completion of the period of engineering experience may, upon application in the prescribed form, be recorded in the Association's register but not as members of the Association until fully qualified, and upon being so recorded are subject to the control of the council in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 13, *amended*.

14.—(1) The annual fee from a registrant shall be deemed to be a debt due to the Association and is recoverable from him in the name of the Association in any court of competent jurisdiction. R.S.O. 1960, c. 309, s. 24, *amended*. Annual fee

(2) Where the annual fee is not paid within six months from the date upon which it became due, the treasurer shall send a written notice of such default by prepaid mail addressed to the registrant's last address as shown on the register, and, if payment is not made within one month thereafter, the registrar, upon the direction of the council, shall delete or cause the name of the registrant to be deleted from the register, and thereupon the registrant ceases to be a member, a licensee, an assistant to a professional engineer, or a graduate or undergraduate recorded pursuant to section 13, as the case may be. R.S.O. 1960, c. 309, s. 25 (1), *amended*. Non-payment of annual fee

15. Any member who intends to withdraw from the practice of professional engineering and whose fees are paid up shall send written notice thereof to the registrar, whereupon the registrar shall delete his name from the register. R.S.O. 1960, c. 309, s. 25 (2), *amended*. Resignations

16. Any person who ceased to be a member under subsection 2 of section 14, upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any person whose name has been deleted from the register under section 15, upon payment of the fee for the current year, and, in either case, upon production of evidence of good character satisfactory to the council, shall, upon the direction of the council, have his name restored on the register. R.S.O. 1960, c. 309, s. 25 (3), *amended*. Restorations

LICENSING

17.—(1) The registrar may upon application issue a licence to any person who resides in Canada but not in Ontario and who furnishes satisfactory proof that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. Issue of licences to members of associations of other provinces

Issue of licences to consulting specialists

(2) Any person who does not reside in Canada but who in the opinion of the council is a consulting specialist in a field of professional engineering who has had not less than ten years experience in the practice of his profession, or who furnishes satisfactory evidence that he has qualifications at least equal to those required for registration as a professional engineer in Ontario, may, with the approval of the council, be issued a licence.

Issue of licences to persons from provinces without associations

(3) Any person practising or proposing to practise professional engineering who resides in a territory of Canada in which there is no association of professional engineers that has objects similar to those of the Association, may, with the approval of the council, be issued a licence.

Practise by applicant for a licence

(4) Where an applicant for a licence fails to obtain it promptly for any reason unrelated to his professional capacity or his own neglect, he may practise professional engineering in Ontario for a period of not more than three months without a licence.

Licence to be issued by the registrar

(5) The registrar shall issue a licence in the prescribed form to any person entitled thereto and shall specify therein the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued. R.S.O. 1960, c. 309, ss. 14, 22 (4), *amended*.

Additional conditions

(6) The council may direct that any licence issued under subsection 2 shall, in addition to the conditions mentioned in subsection 5, contain a condition that the licensee may practise professional engineering in Ontario only in collaboration with a member who shall sign and seal any plans and specifications together with the licensee. *New*.

Where licence not required

18. Any person who is employed as a professional engineer by a public service corporation carrying on an interprovincial undertaking or by the Government of Canada and who is by reason of his employment required to practise professional engineering in a province or territory of Canada other than that of his residence may practise professional engineering in Ontario without a licence, but he shall on demand of the council furnish satisfactory evidence that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. R.S.O. 1960, c. 309, s. 15, *amended*.

Seals, members

19. (1) Every member shall have a seal of a design approved by the council, the impression of which shall contain



SECTION 20. The provisions respecting the practice of professional engineering by partnerships, associations and corporations are revised in order to ensure a greater degree of control.

the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario". R.S.O. 1960, c. 309, s. 16, *amended*.

(2) Every licensee shall have a seal of a design approved by the council, the impression of which shall contain the name of the licensee and the words "Licensed Professional Engineer" and "Province of Ontario". Idem. licensees

(3) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature and seal of the professional engineer who prepared or approved them. *New.* Signature and use of seal

PARTNERSHIPS, CORPORATIONS

20.—(1) No partnership, association of persons or corporations as such shall be a member or a licensee, or shall, except as authorized by this section, practise professional engineering. Practise prohibited by partnerships and corporations

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering, Certificates of authorization

(a) if one of its principal or customary functions is to engage in the practice of professional engineering; and

(b) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member; or

(c) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a licensee, provided that the practice of professional engineering is restricted to the work specified in the licence of the licensee. R.S.O. 1960, c. 309, s. 18, *amended*.

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the registrar an application in the prescribed form containing, Applications for certificates

(a) the names and addresses of all its partners, members, officers or directors, as the case may be;

- (b) the names of all its partners, members of associations of persons, directors of corporations, or full-time employees of corporations, as the case may be; who are the members or licensees who will be in charge of professional engineering on its behalf;
- (c) from among the names specified under clause *b* the name or names of its official representative or representatives whose duty it is to ensure that this Act, and the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the registrar within thirty days after the effective date of the change.

Issue of certificates

(4) If subsection 3 is complied with, the registrar shall issue to the applicant a certificate of authorization.

Ipso facto revocation of certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional engineering until a new certificate of authorization is issued.

Reprimand of licensee, etc.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member or licensee, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application of ss. 24, 25 and 26

(7) Sections 24, 25 and 26 apply *mutatis mutandis* to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization. *New.*

EXAMINATIONS

Board

21. (1) The council shall appoint annually a board of examiners. R.S.O. 1960, c. 309, s. 19, *amended*.

Central examining board

(2) The council may establish conjointly with the council of any association in one or more of the provinces or territories of Canada that has objects similar to those of the Association a central examining board and may delegate to the central examining board all or any of the powers of the council respecting the examination of candidates for admission as members, but any examinations conducted by the central examining board shall be held in at least one place in Ontario. R.S.O. 1960, c. 309, s. 21, *amended*.



SECTION 24—Subsection 1. This new provision implements Recommendation 22 of the McRuer Report (page 1211 of Volume 3).

Subsection 2. This subsection implements Recommendation 14 of the McRuer Report (page 1210 of Volume 3).

SECTION 25—Subsection 1. The provisions of the Act dealing with discipline are revised in order to bring them into line with Recommendations 8, 16, 17, 19 and 20 of the McRuer Report (pages 1209–1211 of Volume 3) and also to set out more explicitly the powers of the council when dealing with disciplinary matters.

REGISTRAR

22.—(1) The registrar shall register in a system of recording approved by the council the names of the members, the licensees, the assistants to professional engineers, and the graduates and the undergraduates. R.S.O. 1960, c. 309, s. 22 (5), *amended*. Registrar to record members, etc.

(2) The registrar shall keep the register correct and in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 23, *amended*. Register to be correct

(3) The certificate of the registrar respecting the registration of a person is *prima facie* evidence of the facts certified to therein. R.S.O. 1960, c. 309, s. 27, *amended*. Evidence of membership

23.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and by the registrar, and bearing the seal of the Association. R.S.O. 1960, c. 309, s. 23 (1), *amended*. Certificate of membership

(2) Every member shall keep his certificate of membership prominently displayed in his place of business. R.S.O. 1960, c. 309, s. 22 (1). Certificate to be displayed

HEARINGS UPON APPLICATIONS

24.—(1) Where an applicant for membership or a licence has met the academic and experience requirements, or an applicant for restoration of his name on the register has paid the required fees and has produced the required evidence of good character, and his application is refused, the council shall, upon the written request of the applicant received by the registrar within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter. Hearing where application for membership, etc., refused

(2) Section 25 applies *mutatis mutandis* to any hearing conducted under this section except that upon any such hearing the council may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1960, c. 309, s. 26, *amended*. Conduct of hearing

HEARINGS, DISCIPLINARY

25.—(1) Subject to subsection 2, where the council finds that a person who is a member or licensee is guilty of professional misconduct or has obtained registration as a member Powers of council to discipline members

or has been issued a licence by reason of misrepresentation by such person, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the register.
2. Suspend the membership or licence of such person for such time as the council considers proper and direct that the re-instatement of such membership or licence on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership or licence of such person be cancelled and that the name of such person be removed from the register.
5. Direct that the decision of the council be published in detail or in summary in the official journal of the Association or in such other manner or medium as the council considers appropriate in any particular case.
6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member or licensee whose conduct was the subject of such proceedings.

Complainant
and hearing

(2) The council shall not take any action under subsection 1 unless,

- (a) a complaint under oath has been filed with the registrar and a copy thereof has been served on the person whose conduct is being investigated;
- (b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and
- (c) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so



Subsection 4. This new provision implements **Recommendation 11** of the McRuer Report (page 1210 of Volume 3).

Subsection 5. This new provision implements **Recommendation 12** of the McRuer Report (page 1210 of Volume 3).

Subsection 6. This new provision implements **Recommendation 35** of the McRuer Report (page 1262 of Volume 3).

Subsection 7. This new provision implements **Recommendation 15** of the McRuer Report (page 1210 of Volume 3).

Subsection 9. This new provision implements **Recommendations 13** and **44** of the McRuer Report (pages 1210 and 1263, respectively, of Volume 3).

Subsection 10. This new provision takes into account **Recommendations 151, 152, 169, 170, 172, 173 and 174** of the McRuer Report (pages 1278, 1280 and 1281, respectively, of Volume 3).

requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty. R.S.O. 1960, c. 309, s. 28 (1, 2), *amended*.

(3) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1960, c. 309, s. 28 (1, 2, 3), *amended*. Power to take sworn evidence

(4) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence. Failure to appear

(5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the registrar before the day fixed for the hearing, the council may conduct the hearing in public or otherwise as it thinks proper. Disciplinary hearings to be held in camera

(6) The council may adjourn any hearing at any time and from time to time. Adjournments

(7) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions and any such person may be compelled to attend and give evidence in the manner provided in subsection 10. Attendance of person being investigated

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*. Hearing of evidence R.S.O. 1960, c. 125

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed. Rules of evidence

(10) The president, a vice-president, the immediate past president or the registrar may, and the registrar upon application of a person whose conduct is being investigated shall, issue a summons in the form prescribed by regulation, commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to committal to prison on an Summons to witness

application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or
- (c) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Examination and cross-examination

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest.

Decisions

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision.

Record

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection 2, any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, provided that documents and things received in

Subsection 11. This new provision is designed to implement Recommendations 174 and 179 of the McRuer Report (page 1281 of Volume 3). It is based upon the corresponding provisions of the Tribunals of Inquiry (Evidence) Act, 1921 of the United Kingdom (see page 444 of Volume 1).

Subsection 12. This provision implements Recommendation 42 of the McRuer Report (page 1263 of Volume 3).

Subsection 13. This provision implements Recommendations 45 and 47 of the McRuer Report (page 1263 of Volume 3).

Subsection 14. This provision implements Recommendation 48 of the McRuer Report (page 1263 of Volume 3). The proviso has been added.

Subsection 15. This provision implements Recommendation 10 of the McRuer Report (pages 1209-10 of Volume 3).

evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated.

(15) Any document required to be served under this Act ^{Service of documents} upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient.

(16) Where a member or licensee has been suspended from practising under this section, he may, upon payment of all fees and other costs owing by him to the Association, apply to the council to be re-instated as a member or licensee, as the case may be, and the council may terminate the suspension of such member or licensee upon such terms as it considers proper. ^{Reinstatement after suspension}

(17) A person whose membership or licence has been cancelled under this section may apply to the council for membership or for a licence, as the case may be, and the council shall, subject to subsection 18, hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council considers proper to be fulfilled before the applicant is admitted to membership or granted a licence or to be observed by such member or licensee thereafter. ^{Re-admission after expulsion}

(18) Except with the consent of the council, no application ^{Idem} under subsection 17 shall be heard before the expiry of two years from the date of the cancellation of membership or licence or the date of the final disposition of any appeal.

(19) Upon a hearing for admission to membership or for the granting of a licence under subsection 17, the council shall follow, in so far as practicable, the procedure provided for in the case of a complaint under this section, and a former member or licensee has the same right of appeal from an order made by the council under subsection 17 as is provided in section 26. ^{Idem}

(20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president, a vice-president or the immediate past president, and may delegate to the ^{Committee of council}

committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council. *New.*

Practice
pending
appeal

(21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership or licence of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1960, c. 309, s. 28 (5), *amended.*

APPEALS

Appeal

26.—(1) Any person whom the council has refused to register for membership or whose name the council has refused to restore on the register or to whom the council has refused to issue a licence or who has been reprimanded or whose membership or licence is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Court of Appeal within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified
copies of
papers

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the registrar shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the council and any committee thereof appointed pursuant to subsection 20 of section 25 in dealing with and disposing of the matter complained of.

Failure to
pay costs

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the registrar, the appeal shall be deemed to be abandoned.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served upon the registrar, and the record shall consist of a copy, certified by the registrar, of the proceedings before the council or committee thereof, the evidence taken, the report of the council or committee thereof and all decisions, findings and orders of the council or committee thereof in the matter.

Practice

(5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court.

Subsection 21. This provision implements Recommendation 21 of the McKuer Report (page 1210 of Volume 3).

SECTION 26. This appeal section implements Recommendation 23 of the McKuer Report (page 1210 of Volume 3).



(6) Upon the hearing of an appeal under this section the Court of Appeal may make such order as the court deems proper or may refer the matter or any part thereof back to the council with such directions as the court deems proper. ^{Orders}

(7) The Court of Appeal may make such order as to the costs of the appeal as the court deems proper. ^{Costs} R.S.O. 1960, c. 309, s. 28 (4), *amended*.

OFFENCES

27.—(1) Every person, other than a member or a licensee, ^{Offences, persons} who,

(a) takes and uses orally or otherwise the title “Professional Engineer” or “Registered Professional Engineer” or uses any addition to or abbreviation of either such titles, or any words, name or designation that will lead to the belief that he is a professional engineer, a member or a licensee or, except as permitted by section 2, uses the title or designation “engineer” in such a manner as will lead to the belief that he is a professional engineer, a member or a licensee;

(b) advertises, holds himself out, or conducts himself in any way or by any means as a member or a licensee; or

(c) engages in the practice of professional engineering,

is guilty of an offence. R.S.O. 1960, c. 309, s. 30, *amended*.

(2) Every person who,

Idem

(a) wilfully procures or attempts to procure registration under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either verbal or written;

(b) knowingly makes any false statement in any application or declaration signed or filed by him under this Act,

is guilty of an offence. R.S.O. 1960, c. 309, s. 33, *part, amended*.

Offences,
partner-
ships,
associations
and
corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

- (a) practises professional engineering;
- (b) uses orally or otherwise any name, title, description or designation that will lead to the belief that it is entitled to practise professional engineering; or
- (c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional engineering,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional engineering in contravention of this Act, every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on summary conviction, liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 309, ss. 31, 33, *part, amended*.

Limitation
of
proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1960, c. 309, s. 35, *amended*.

LIMITATION OF ACTIONS

Limitation
of actions

28.—(1) Except as provided in subsection 2, an action against a member or a licensee for negligence or malpractice in connection with professional services requested of him or rendered by him or under his direction or control shall be commenced within and not later than twelve months after the cause of action arose.

Extension

(2) The court in which an action mentioned in subsection 1 has been or may be brought may extend the period of limitation specified therein either before or after it has expired if the court is satisfied that to do so is just.

SECTION 28. This new section implements Recommendations 29, 30 and 31 of the McRuer Report (page 1211 of Volume 3).



(3) This section does not apply to proceedings under section 25. *New.* Does not apply to disciplinary proceedings

TRANSITIONAL PROVISIONS

29.—(1) Notwithstanding section 4, the president, the vice-presidents and the elected councillors holding office when this Act comes into force shall continue to hold office until after the first annual election after this Act comes into force. Members of council

(2) Notwithstanding subsections 4 and 5 of section 4, at the first election of councillors after this Act comes into force, one councillor-at-large shall be elected for a two-year term and one councillor-at-large shall be elected for a one-year term and there shall be elected from each of the five regions mentioned in subsection 5 of section 4 one regional councillor for a two-year term and one regional councillor for a one-year term. *New.* First annual election

(3) Notwithstanding subsection 6 of section 4, all councillors who have been appointed by the Lieutenant Governor in Council and are holding office when this Act comes into force shall continue to hold office for the term designated in the order in council by which they were appointed. *New.* Appointed members

MISCELLANEOUS

30. *The Professional Engineers Act* is repealed. R.S.O. 1960, c. 309, repealed

31. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

32. This Act may be cited as *The Professional Engineers Act, 1968-69.* Short title





1st Reading

December 19th, 1968

2nd Reading

3rd Reading

MR. WISHART

BILL 48

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Professional Engineers Act, 1968-69

MR. WISHART

(Reprinted as amended by the Legal and Municipal Committee)

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EXPLANATORY NOTES

GENERAL. At the 1968 Session of the Legislature, Bill 42 was introduced which represented the first comprehensive revision of *The Professional Engineers Act* which was first passed in 1922. Bill 42 was not proceeded with in view of the publication at that time of the Report of the Royal Commission Inquiry into Civil Rights.

The changes made in this revision are designed to facilitate the Association of Professional Engineers of the Province of Ontario in the administration of its affairs and to bring the Act up to date in substance and form.

Most of the differences between this Bill and Bill 42 are changes to conform to the recommendations of the McRuer Report.

The Professional Engineers Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Inter-
pre-
tation

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "by-law" means a by-law of the Association;
- (c) "chapter" means a group of members constituted and governed by by-law;
- (d) "council" means the council of the Association;
- (e) "graduate" means a graduate of a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and which is recognized by the council;
- (f) "licence" means a licence to practise professional engineering issued under this Act;
- (g) "licensee" means a person who holds a subsisting licence;
- (h) "member" means a member of the Association;
- (i) "practice of professional engineering" means the doing of one or more acts of advising on, reporting on, designing of or supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges,

cranes, drainage works, irrigation works, water-works, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete or reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric or electronic apparatus, electrical or electronic communication systems or equipment, mineral property, mining machinery, mining development, mining operations, gas or oil developments, smelters, refineries, metallurgical machinery, or equipment or apparatus for carrying out such operations, machinery, boilers or their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines or other mechanical structures, chemical or metallurgical machinery, apparatus or processes, or aircraft, and generally all other engineering works including the engineering works and installations relating to airports, airfields or landing strips or relating to town and community planning;

- (j) "professional engineer" means a person who is a member or licensee;
- (k) "region" means a geographical area of Ontario as defined by by-law;
- (l) "register" means the record of registrants maintained by the registrar;
- (m) "registrant" means a person recorded in the register as a member, licensee, an assistant to a professional engineer, a graduate or an undergraduate;
- (n) "registrar" means the registrar of the Association;
- (o) "regulation" means a regulation of the Association;
- (p) "undergraduate" means a student enrolled at but not graduated from a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and that is recognized by the council. R.S.O. 1960, c. 309, s. 1, amended.

Activities
not affected

2. Nothing in this Act prevents,

- (a) any person from performing his duties in the Canadian Armed Forces;



SECTION 2—Clause *e*. The exemption relating to mining work is revised. Provision is made in section 11 (6) for admission to membership in the Association of persons who are engaged in this field.

- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect; R.S.O. 1960, c. 20
- (c) any person who holds a certificate of qualification under *The Operating Engineers Act* from practising or designating himself as an operating engineer; R.S.O. 1960, c. 282
- (d) any person from practising as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or requires any such person to become registered or licensed under this Act in order to do any such thing. R.S.O. 1960, c. 309, s. 2, *amended*.

THE ASSOCIATION

3.—(1) The body politic and corporate known as the "Association of Professional Engineers of the Province of Ontario" incorporated under *The Professional Engineers Act, 1922*, c. 59 Association continued 1922 is hereby continued.

(2) All persons who are members of the Association when this Act comes into force or who hereafter are admitted as members constitute the Association. Members R.S.O. 1960, c. 309, s. 3 (1), *amended*.

(3) The objects of the Association are, Objects

- (a) to regulate the practice of professional engineering and to govern the profession in accordance with this Act, the regulations and the by-laws;
- (b) to establish and maintain standards of knowledge and skill among its members; and
- (c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected.
New.

- Head office (4) The head office of the Association shall be at the city of Toronto.
- Property (5) The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1960, c. 309, s. 3 (4, 5).

THE COUNCIL

- Council 4.--(1) There shall be a council which shall consist of a president, a first vice-president, a second vice-president, an immediate past president, two elected councillors-at-large, ten elected regional councillors and five appointed councillors, all of whom shall be members and residents of Ontario.
- President and vice-presidents (2) The president and the vice-presidents shall have such qualifications as are prescribed by by-law and shall be elected annually by vote of the members. R.S.O. 1960, c. 309, s. 8 (1-3), *amended*.
- Councillors-at-large (3) One councillor-at-large shall be elected each year for a two-year term by vote of the members. *New*.
- Regional councillors (4) There shall be elected from each of the five regions established and defined by by-law two regional councillors, one to be elected from each region each year for a two-year term by vote of the members who are recorded as residents in that region at the time the election is held.
- Appointed councillors (5) The five appointed councillors shall be appointed by the Lieutenant Governor in Council for a term of three years and shall be qualified respectively in the following fields of engineering:
1. Civil.
 2. Mechanical, Aeronautical and Industrial.
 3. Electrical.
 4. Chemical and Metallurgical.
 5. Mining and Geology. R.S.O. 1960, c. 309, s. 8 (5, 6), *amended*.

(6) In addition to the councillors mentioned in subsection 1, the Lieutenant Governor in Council may appoint as councillors, Lay councillor; legal councillor

(a) a person who is not a member; and

(b) a person who is a barrister and solicitor of at least ten years standing at the bar of Ontario,

both of whom are residents of Ontario.

(7) Persons appointed under subsection 6 shall serve for a term of three years but are eligible for re-appointment. Term

(8) Where the president, a vice-president or a councillor resigns, is absent from three consecutive meetings of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as is provided by by-law, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. R.S.O. 1960, c. 309, s. 8 (6, 7), *amended*. Vacancies

(9) No person shall be appointed or elected to the council unless he is a Canadian citizen or other British subject, and no person shall continue to hold any such office if he ceases to be so qualified. *New*. Councillors to be Canadians

5. The council,

(a) shall appoint a registrar and a treasurer; and

(b) may appoint a secretary, an executive director and such other officials as the council deems fit,

Registrar, treasurer, secretary, executive director

and any two or more of such offices may be held by one person. *New*.

6. No action or other proceedings for damages shall be instituted against the council, or any member or official of the council or any person appointed by the council for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1960, c. 309, s. 29, *amended*. Liability of council, officers and members

Regulations **7.**—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 8 and, without limiting the generality of the foregoing,

- (a) prescribing the scope and conduct of examinations of candidates for registration;
- (b) prescribing the form of the summons referred to in subsection 10 of section 25;
- (c) respecting the practice and procedure for hearings held under this Act;
- (d) defining “professional misconduct” for the purpose of this Act and the regulations;
- (e) defining classes of specialists in the various fields of engineering;
- (f) prescribing the qualifications required of specialists or any class thereof;
- (g) providing for the designation of specialists upon application and examination or otherwise, for the suspension or revocation of such designations, and for the regulation and prohibition of the use of terms, titles or designations by professional engineers indicating specialization in any field of engineering;
- (h) regulating and prohibiting the use of terms, titles or designations by professional engineers in independent practice.

Approvals (2) No regulation is effective,

- (a) until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and
- (b) until it has been approved by the Lieutenant Governor in Council. *New.*

By-laws **8.** (1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

- (a) respecting the determination and modification of the boundaries of regions and the determination of

SECTION 4—Subsection 4. The method of electing ten of the councillors is changed from a branch basis which is the basis in the present Act to a geographical basis.

Subsections 6, 7. These new provisions implement Recommendations 2 and 7 of the McRuer Report (page 1209 of Volume 3).

regions in which members shall be deemed to reside for the purposes of the election of councillors;

- (b) prescribing procedures for the nomination and election of the councillors and the nomination and election of the president and the vice-presidents and the qualifications necessary to hold any such office;
- (c) prescribing the duties of the councillors and rules governing their conduct;
- (d) respecting the remuneration and reimbursement of members of the council;
- (e) respecting the calling, holding and conduct of meetings of the council and the Association;
- (f) providing for the establishment and regulation of chapters;
- (g) respecting the management of the property of the Association;
- (h) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;
- (i) respecting the application of the funds of the Association, and the investment and re-investment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under *The R.S.O. 1960, c. 71 Corporations Act*;
- (j) defining the composition and functions of the board of examiners;
- (k) providing for the establishment of scholarships, bursaries and prizes;
- (l) providing for the appointment of committees of the council and defining their composition and functions;
- (m) providing for the closing of the register and the restriction of recording changes of addresses of the registrants for a period of time not exceeding forty-

eight hours, exclusive of Sundays and holidays, immediately preceding any meeting of the members or any election;

- (n) respecting the registration of members and the recording of licensees, graduates, undergraduates and assistants to professional engineers;
- (o) for maintaining a system for the recording of registrants, their residence addresses and the regions in which they are resident and for the recording of the names of official representatives of partnerships, associations of persons or corporations;
- (p) providing for services to encourage and assist members in the development of their professional competence and conduct and in carrying on the practice of professional engineering;
- (q) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;
- (r) prescribing forms and providing for their use;
- (s) respecting all other things that are deemed necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval (2) No by-law is effective until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and unless it has been approved by a majority of those voting within the prescribed time. R.S.O. 1960, c. 309, s. 5, cl. a, *amended*.

Construction (3) As between a registrant and the Association, the ruling of the council on the construction and interpretation of any by-law is final. R.S.O. 1960, c. 309, s. 4 (2), *amended*.

Code of ethics 9. (1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members and licensees must subscribe to and follow in the practice of professional engineering.

1968 (2) Copies of the code of ethics shall be sent to the members and licensees and shall be available free of charge to members of the public who apply therefor. *New*.

SECTIONS 7 and 8. These sections implement Recommendations 25 and 26 of the McRuer Report (page 1211 of Volume 3).



SECTION 9. This new section implements Recommendation 9 of the McRuer Report (page 1209 of Volume 3).

SECTION 11. In clause *d* of subsection 1 the experience requirement is increased from five to six years to conform with the requirement in all other provinces of Canada.

Provision is also made for the admission in certain circumstances of persons who do not reside in Ontario.

10. The council may authorize participation by the Association in the activities of the Canadian Council of Professional Engineers, as a constituent association thereof. *New.* Canadian Council of Professional Engineers

MEMBERSHIP

11.—(1) Any applicant for membership who,

Qualification for membership

(a) resides,

(i) in Ontario,

(ii) out of Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional engineering in respect of such works or facilities or has a place of employment in Ontario and practises or proposes to practise professional engineering in Ontario on a full-time basis;

(b) is twenty-one or more years of age;

(c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to subsection 3 or 6;

(d) has had six or more years of experience in engineering work satisfactory to the council; and

(e) provides satisfactory evidence of good character,

shall be admitted as a member by the council.

(2) Each applicant for membership shall submit upon the prescribed form evidence of his educational qualifications and engineering experience, information as to his residence and at least three references as to his character and engineering experience, and he may be required by the council to verify the statements set out in his application by affidavit. R.S.O. 1960, c. 309, s. 10 (1, 2), *amended.* Evidence of qualification

(3) The council may exempt an applicant from any of the examinations mentioned in clause c of subsection 1 if the council is of the opinion that the applicant has adequate academic and other qualifications. *New.* Credit for academic and other qualifications

Credit for
time spent
at a
university

(4) Where the applicant is a graduate, upon presenting evidence of the actual time during which he was under instruction as an undergraduate in a university, the council shall grant him the time spent under such instruction in reduction of the six-year period of engineering experience required by clause *d* of subsection 1, but only in so far as the total exemption granted does not exceed four years. R.S.O. 1960, c. 309, s. 10 (4), *amended*.

Board of
examiners
to consider
applications

(5) The council may for the purpose of subsection 3 or 4 require the board of examiners to consider and make recommendations to the council with respect to any applications for exemption, including an application for exemption of a graduate in honours science. *New*.

Saving

(6) The council shall exempt from the examinations mentioned in clause *c* of subsection 1 any person who resides in Ontario on the day this Act comes into force and who has been engaged in the performance of any engineering work specified in clause *e* of section 2 of *The Professional Engineers Act*, being chapter 309 of the Revised Statutes of Ontario, 1960, for a period or periods of not less than six years in the aggregate, if such person submits to the council, within one year from the day this Act comes into force, satisfactory evidence of having been so engaged. *New*.

Admission
of members
of other
associations

12. The council may, upon application and satisfactory proof of residence, admit as a member any person who resides in Ontario, or who resides out of Ontario under the circumstances set out in subclause ii of clause *a* of subsection 1 of section 11, and who furnishes satisfactory proof,

- (a) that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario; or
- (b) that he is a member of an association of professional engineers in another part of the Commonwealth or in the United States of America that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario.

Students
and
assistants

13. Persons who are engaged as assistants to professional engineers in categories recognized by the council and graduates and undergraduates who have not completed the period of engineering experience required by this Act and who con-

template applying for membership on the completion of the period of engineering experience may, upon application in the prescribed form, be recorded in the Association's register but not as members of the Association until fully qualified, and upon being so recorded are subject to the control of the council in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 13, *amended*.

14.—(1) The annual fee from a registrant shall be deemed ^{Annual fee} to be a debt due to the Association and is recoverable from him in the name of the Association in any court of competent jurisdiction. R.S.O. 1960, c. 309, s. 24, *amended*.

(2) Where the annual fee is not paid within six months ^{Non-payment of annual fee} from the date upon which it became due, the treasurer shall send a written notice of such default by prepaid mail addressed to the registrant's last address as shown on the register, and, if payment is not made within one month thereafter, the registrar, upon the direction of the council, shall delete or cause the name of the registrant to be deleted from the register, and thereupon the registrant ceases to be a member, a licensee, an assistant to a professional engineer, or a graduate or undergraduate recorded pursuant to section 13, as the case may be. R.S.O. 1960, c. 309, s. 25 (1), *amended*.

15. Any member who intends to withdraw from the practice of professional engineering and whose fees are paid up shall send written notice thereof to the registrar, whereupon the registrar shall delete his name from the register. R.S.O. 1960, c. 309, s. 25 (2), *amended*. ^{Resignations}

16. Any person who ceased to be a member under subsection 2 of section 14, upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any person whose name has been deleted from the register under section 15, upon payment of the fee for the current year, and, in either case, upon production of evidence of good character satisfactory to the council, shall, upon the direction of the council, have his name restored on the register. R.S.O. 1960, c. 309, s. 25 (3), *amended*. ^{Restorations}

LICENSING

17.—(1) The registrar may upon application issue a licence ^{Issue of licences to members of associations of other provinces} to any person who resides in Canada but not in Ontario and who furnishes satisfactory proof that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association.

Issue of
licences to
consulting
specialists

(2) Any person who does not reside in Canada but who in the opinion of the council is a consulting specialist in a field of professional engineering who has had not less than ten years experience in the practice of his profession, or who furnishes satisfactory evidence that he has qualifications at least equal to those required for registration as a professional engineer in Ontario, may, with the approval of the council, be issued a licence.

Issue of
licences to
persons
from
provinces
without
associations

(3) Any person practising or proposing to practise professional engineering who resides in a territory of Canada in which there is no association of professional engineers that has objects similar to those of the Association, may, with the approval of the council, be issued a licence.

Practise by
applicant
for a
licence

(4) Where an applicant for a licence fails to obtain it promptly for any reason unrelated to his professional capacity or his own neglect, he may practise professional engineering in Ontario for a period of not more than three months without a licence.

Licence to
be issued
by the
registrar

(5) The registrar shall issue a licence in the prescribed form to any person entitled thereto and shall specify therein the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued. R.S.O. 1960, c. 309, ss. 14, 22 (4), *amended*.

Additional
conditions

(6) The council may direct that any licence issued under subsection 2 shall, in addition to the conditions mentioned in subsection 5, contain a condition that the licensee may practise professional engineering in Ontario only in collaboration with a member who shall sign and seal any plans and specifications together with the licensee. *New*.

Where
licence not
required

18. Any person who is employed as a professional engineer by a public service corporation carrying on an interprovincial undertaking or by the Government of Canada and who is by reason of his employment required to practise professional engineering in a province or territory of Canada other than that of his residence may practise professional engineering in Ontario without a licence, but he shall on demand of the council furnish satisfactory evidence that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. R.S.O. 1960, c. 309, s. 15, *amended*.

Seals,
members

19.—(1) Every member shall have a seal of a design approved by the council, the impression of which shall contain



SECTION 20. The provisions respecting the practice of professional engineering by partnerships, associations and corporations are revised in order to ensure a greater degree of control.

the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario". R.S.O. 1960, c. 309, s. 16, *amended*.

(2) Every licensee shall have a seal of a design approved ^{Idem, licensees} by the council, the impression of which shall contain the name of the licensee and the words "Licensed Professional Engineer" and "Province of Ontario".

(3) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature and seal of the professional engineer who prepared or approved them. *New*. ^{Signatures and use of seal}

PARTNERSHIPS, CORPORATIONS

20.—(1) No partnership, association of persons or corporation as such shall be a member or a licensee, or shall, except as authorized by this section, practise professional engineering. ^{Practice prohibited by partnerships and corporations}

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering, ^{Certificates of authorization}

(a) if one of its principal or customary functions is to engage in the practice of professional engineering; and

(b) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member; or

(c) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a licensee, provided that the practice of professional engineering is restricted to the work specified in the licence of the licensee. R.S.O. 1960, c. 309, s. 18, *amended*.

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the registrar an application in the prescribed form containing, ^{Applications for certificates}

(a) the names and addresses of all its partners, members, officers or directors, as the case may be;

- (b) the names of all its partners, members of associations of persons, directors of corporations, or full-time employees of corporations, as the case may be, who are the members or licensees who will be in charge of professional engineering on its behalf;
- (c) from among the names specified under clause *b* the name or names of its official representative or representatives whose duty it is to ensure that this Act, and the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the registrar within thirty days after the effective date of the change.

Issue of certificates

(4) If subsection 3 is complied with, the registrar shall issue to the applicant a certificate of authorization.

Ipso facto revocation of certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional engineering until a new certificate of authorization is issued.

Reprimand of licensee, etc.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member or licensee, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application of ss. 24, 25, 26

(7) Sections 24, 25 and 26 apply *mutatis mutandis* to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization.
New.

EXAMINATIONS

Board

21.—(1) The council shall appoint annually a board of examiners. R.S.O. 1960, c. 309, s. 19, *amended*.

Central examining board

(2) The council may establish conjointly with the council of any association in one or more of the provinces or territories of Canada that has objects similar to those of the Association a central examining board and may delegate to the central examining board all or any of the powers of the council respecting the examination of candidates for admission as members, but any examinations conducted by the central examining board shall be held in at least one place in Ontario. R.S.O. 1960, c. 309, s. 21, *amended*.



SECTION 24—Subsection 1. This new provision implements Recommendation 22 of the McKuer Report (page 1211 of Volume 3).

Subsection 2. This subsection implements Recommendation 14 of the McKuer Report (page 1210 of Volume 3).

SECTION 25—Subsection 1. The provisions of the Act dealing with discipline are revised in order to bring them into line with Recommendations 8, 16, 17, 19 and 20 of the McKuer Report (pages 1209–1211 of Volume 3) and also to set out more explicitly the powers of the council when dealing with disciplinary matters.

REGISTRAR

22.—(1) The registrar shall register in a system of recording approved by the council the names of the members, the licensees, the assistants to professional engineers, and the graduates and the undergraduates. R.S.O. 1960, c. 309, s. 22 (5), *amended*. Registrar to record members, etc.

(2) The registrar shall keep the register correct and in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 23, *amended*. Register to be correct

(3) The certificate of the registrar respecting the registration of a person is *prima facie* evidence of the facts certified to therein. R.S.O. 1960, c. 309, s. 27, *amended*. Evidence of membership

23.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and by the registrar, and bearing the seal of the Association. R.S.O. 1960, c. 309, s. 23 (1), *amended*. Certificate of membership

(2) Every member shall keep his certificate of membership prominently displayed in his place of business. R.S.O. 1960, c. 309, s. 22 (1). Certificate to be displayed

HEARINGS UPON APPLICATIONS

24.—(1) Where an applicant for membership or a licence has met the academic and experience requirements, or an applicant for restoration of his name on the register has paid the required fees and has produced the required evidence of good character, and his application is refused, the council shall, upon the written request of the applicant received by the registrar within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter. Hearing where application for membership, etc., refused

(2) Section 25 applies *mutatis mutandis* to any hearing conducted under this section except that upon any such hearing the council may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1960, c. 309, s. 26, *amended*. Conduct of hearing

HEARINGS, DISCIPLINARY

25.—(1) Subject to subsection 2, where the council finds that a person who is a member or licensee is guilty of professional misconduct or has obtained registration as a member Powers of council to discipline members

or has been issued a licence by reason of misrepresentation by such person, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the register.
2. Suspend the membership or licence of such person for such time as the council considers proper and direct that the re-instatement of such membership or licence on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership or licence of such person be cancelled and that the name of such person be removed from the register.
5. Direct that the decision of the council be published in detail or in summary in the official journal of the Association or in such other manner or medium as the council considers appropriate in any particular case.
6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member or licensee whose conduct was the subject of such proceedings.

Complaint
and hearing

(2) The council shall not take any action under subsection 1 unless,

- (a) a complaint under oath has been filed with the registrar and a copy thereof has been served on the person whose conduct is being investigated;
- (b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and
- (c) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so



Subsection 4. This new provision implements Recommendation 11 of the McRuer Report (page 1210 of Volume 3).

Subsection 5. This new provision implements Recommendation 12 of the McRuer Report (page 1210 of Volume 3).

Subsection 6. This new provision implements Recommendation 35 of the McRuer Report (page 1262 of Volume 3).

Subsection 7. This new provision implements Recommendation 15 of the McRuer Report (page 1210 of Volume 3).

Subsection 9. This new provision implements Recommendations 13 and 44 of the McRuer Report (pages 1210 and 1263, respectively, of Volume 3).

Subsection 10. This new provision takes into account Recommendations 151, 152, 169, 170, 172, 173 and 174 of the McRuer Report (pages 1278, 1280 and 1281, respectively, of Volume 3).

Subsection 11. This new provision is designed to implement Recommendations 174 and 179 of the McRuer Report (page 1281 of Volume 3). It is based upon the corresponding provisions of the Tribunals of Inquiry (Evidence) Act, 1921 of the United Kingdom (see page 444 of Volume 1).

Subsection 12. This provision implements Recommendation 42 of the McRuer Report (page 1263 of Volume 3).

Subsection 13. This provision implements Recommendations 45 and 47 of the McRuer Report (page 1263 of Volume 3).

Subsection 14. This provision implements Recommendation 48 of the McRuer Report (page 1263 of Volume 3). The proviso has been added.

Subsection 15. This provision implements Recommendation 10 of the McRuer Report (pages 1209-10 of Volume 3).

requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty. R.S.O. 1960, c. 309, s. 28 (1, 2), *amended*.

(3) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1960, c. 309, s. 28 (1, 2, 3), *amended*. Power to take sworn evidence

(4) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence. Failure to appear

(5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the registrar before the day fixed for the hearing, the council may conduct the hearing in public or otherwise as it thinks proper. Disciplinary hearings to be held *in camera*

(6) The council may adjourn any hearing at any time and from time to time. Adjournments

(7) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection 10. Attendance of person being investigated

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*. Hearing of evidence
R.S.O. 1960,
c. 125

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed. Rules of evidence

(10) The president, a vice-president, the immediate past president or the registrar may, and the registrar upon application of a person whose conduct is being investigated shall, issue a summons in the form prescribed by regulation, commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to committal to prison on an Summons to witness

application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

(a) on being duly summoned to appear as a witness makes default in attending; or

(b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or

(c) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Examination and cross-examination

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest.

Decisions

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision.

Record

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection 2, any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, provided that documents and things received in

Subsection 21. This provision implements Recommendation 21 of the McRuer Report (page 1210 of Volume 3).

SECTION 26. This appeal section implements Recommendation 23 of the McRuer Report (page 1210 of Volume 3).



evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated.

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient. ^{Service of documents}

(16) Where a member or licensee has been suspended from practising under this section, he may, upon payment of all fees and other costs owing by him to the Association, apply to the council to be re-instated as a member or licensee, as the case may be, and the council may terminate the suspension of such member or licensee upon such terms as it considers proper. ^{Reinstatement after suspension}

(17) A person whose membership or licence has been cancelled under this section may apply to the council for membership or for a licence, as the case may be, and the council shall, subject to subsection 18, hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council considers proper to be fulfilled before the applicant is admitted to membership or granted a licence or to be observed by such member or licensee thereafter. ^{Re-admission after expulsion}

(18) Except with the consent of the council, no application under subsection 17 shall be heard before the expiry of two years from the date of the cancellation of membership or licence or the date of the final disposition of any appeal. ^{Idem}

(19) Upon a hearing for admission to membership or for the granting of a licence under subsection 17, the council shall follow, in so far as practicable, the procedure provided for in the case of a complaint under this section, and a former member or licensee has the same right of appeal from an order made by the council under subsection 17 as is provided in section 26. ^{Idem}

(20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president, a vice-president or the immediate past president, and may delegate to the ^{Committee of council}

committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council. *New.*

Practice
pending
appeal

(21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership or licence of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1960, c. 309, s. 28 (5), *amended.*

APPEALS

Appeal

26.—(1) Any person whom the council has refused to register for membership or whose name the council has refused to restore on the register or to whom the council has refused to issue a licence or who has been reprimanded or whose membership or licence is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Court of Appeal within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified
copies of
papers

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the registrar shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the council and any committee thereof appointed pursuant to subsection 20 of section 25 in dealing with and disposing of the matter complained of.

Failure to
pay costs

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the registrar, the appeal shall be deemed to be abandoned.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served upon the registrar, and the record shall consist of a copy, certified by the registrar, of the proceedings before the council or committee thereof, the evidence taken, the report of the council or committee thereof and all decisions, findings and orders of the council or committee thereof in the matter.

Practice

(5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court.

(6) Upon the hearing of an appeal under this section the ^{Orders} Court of Appeal may make such order as the court deems proper or may refer the matter or any part thereof back to the council with such directions as the court deems proper.

(7) The Court of Appeal may make such order as to the ^{Costs} costs of the appeal as the court deems proper. R.S.O. 1960, c. 309, s. 28 (4), *amended*.

OFFENCES

27.—(1) Every person, other than a member or a licensee, ^{Offences,} _{persons} who,

- (a) takes and uses orally or otherwise the title "Professional Engineer" or "Registered Professional Engineer" or uses any addition to or abbreviation of either such titles, or any words, name or designation that will lead to the belief that he is a professional engineer, a member or a licensee or, except as permitted by section 2, uses the title or designation "engineer" in such a manner as will lead to the belief that he is a professional engineer, a member or a licensee;
- (b) advertises, holds himself out, or conducts himself in any way or by any means as a member or a licensee; or
- (c) engages in the practice of professional engineering,

is guilty of an offence. R.S.O. 1960, c. 309, s. 30, *amended*.

(2) Every person who,

Idem

- (a) wilfully procures or attempts to procure registration under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either verbal or written;
- (b) knowingly makes any false statement in any application or declaration signed or filed by him under this Act,

is guilty of an offence. R.S.O. 1960, c. 309, s. 33, *part, amended*.

Offences,
partner-
ships,
associations
and
corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

- (a) practises professional engineering;
- (b) uses orally or otherwise any name, title, description or designation that will lead to the belief that it is entitled to practise professional engineering; or
- (c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional engineering,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional engineering in contravention of this Act, every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on summary conviction, liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 309, ss. 31, 33, *part, amended*.

Limitation
of
proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1960, c. 309, s. 35, *amended*.

LIMITATION OF ACTIONS

Limitation
of actions

28.—(1) Except as provided in subsection 2, an action against a member or a licensee for negligence or malpractice in connection with professional services requested of him or rendered by him or under his direction or control shall be commenced within and not later than twelve months after the cause of action arose.

Extension

(2) The court in which an action mentioned in subsection 1 has been or may be brought may extend the period of limitation specified therein either before or after it has expired if the court is satisfied that to do so is just.

SECTION 28. This new section implements Recommendations 29, 30 and 31 of the McRuer Report (page 1211 of Volume 3).



(3) This section does not apply to proceedings under section 25. *New.* Does not apply to disciplinary proceedings

TRANSITIONAL PROVISIONS

29.—(1) Notwithstanding section 4, the president, the vice-presidents and the elected councillors holding office when this Act comes into force shall continue to hold office until after the first annual election after this Act comes into force. Members of council

(2) Notwithstanding subsections 4 and 5 of section 4, at the first election of councillors after this Act comes into force, one councillor-at-large shall be elected for a two-year term and one councillor-at-large shall be elected for a one-year term and there shall be elected from each of the five regions mentioned in subsection 5 of section 4 one regional councillor for a two-year term and one regional councillor for a one-year term. *New.* First annual election

(3) Notwithstanding subsection 6 of section 4, all councillors who have been appointed by the Lieutenant Governor in Council and are holding office when this Act comes into force shall continue to hold office for the term designated in the order in council by which they were appointed. *New.* Appointed members

MISCELLANEOUS

30. *The Professional Engineers Act* is repealed. R.S.O. 1960, c. 309, repealed

31. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

32. This Act may be cited as *The Professional Engineers Act, 1968-69.* Short title





1st Reading

December 19th, 1968

2nd Reading

May 26th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Legal and Municipal Committee)*

BILL 48

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Professional Engineers Act, 1968-69

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

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EXPLANATORY NOTES

GENERAL--At the 1968 Session of the Legislature, Bill 42 was introduced which represented the first comprehensive revision of *The Professional Engineers Act* which was first passed in 1922. Bill 42 was not proceeded with in view of the publication at that time of the Report of the Royal Commission Inquiry into Civil Rights.

The changes made in this revision are designed to facilitate the Association of Professional Engineers of the Province of Ontario in the administration of its affairs and to bring the Act up to date in substance and form.

Most of the differences between this Bill and Bill 42 are changes to conform to the recommendations of the McRuer Report.

The Professional Engineers Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

**Interpre-
tation**

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "by-law" means a by-law of the Association;
- (c) "chapter" means a group of members constituted and governed by by-law;
- (d) "council" means the council of the Association;
- (e) "graduate" means a graduate of a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and which is recognized by the council;
- (f) "licence" means a licence to practise professional engineering issued under this Act;
- (g) "licensee" means a person who holds a subsisting licence;
- (h) "member" means a member of the Association;
- (i) "practice of professional engineering" means the doing of one or more acts of advising on, reporting on, designing of or supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges,

cranes, drainage works, irrigation works, water-works, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete or reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric or electronic apparatus, electrical or electronic communication systems or equipment, mineral property, mining machinery, mining development, mining operations, gas or oil developments, smelters, refineries, metallurgical machinery, or equipment or apparatus for carrying out such operations, machinery, boilers or their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines or other mechanical structures, chemical or metallurgical machinery, apparatus or processes, or aircraft, and generally all other engineering works including the engineering works and installations relating to airports, airfields or landing strips or relating to town and community planning;

- (j) "professional engineer" means a person who is a member or licensee;
- (k) "region" means a geographical area of Ontario as defined by by-law;
- (l) "register" means the record of registrants maintained by the registrar;
- (m) "registrant" means a person recorded in the register as a member, licensee, an assistant to a professional engineer, a graduate or an undergraduate;
- (n) "registrar" means the registrar of the Association;
- (o) "regulation" means a regulation of the Association;
- (p) "undergraduate" means a student enrolled at but not graduated from a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and that is recognized by the council. R.S.O. 1960, c. 309, s. 1, *amended*.

Activities
not affected

2. Nothing in this Act prevents,

- (a) any person from performing his duties in the Canadian Armed Forces;



SECTION 2—Clause *e*. The exemption relating to mining work is revised. Provision is made in section 11 (6) for admission to membership in the Association of persons who are engaged in this field.

- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect; R.S.O. 1960 c. 20
- (c) any person who holds a certificate of qualification under *The Operating Engineers Act* from practising or designating himself as an operating engineer; R.S.O. 1960 c. 282
- (d) any person from practising as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or requires any such person to become registered or licensed under this Act in order to do any such thing. R.S.O. 1960, c. 309, s. 2, *amended*.

THE ASSOCIATION

3.—(1) The body politic and corporate known as the "Association of Professional Engineers of the Province of Ontario" incorporated under *The Professional Engineers Act, 1922* is hereby continued. Association continued 1922, c. 59

(2) All persons who are members of the Association when this Act comes into force or who hereafter are admitted as members constitute the Association. Members R.S.O. 1960, c. 309, s. 3 (1), *amended*.

(3) The objects of the Association are, Objects

- (a) to regulate the practice of professional engineering and to govern the profession in accordance with this Act, the regulations and the by-laws;
- (b) to establish and maintain standards of knowledge and skill among its members; and
- (c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected. *New.*

- Head office** (4) The head office of the Association shall be at the city of Toronto.
- Property** (5) The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1960, c. 309, s. 3 (4, 5).

THE COUNCIL

- Council** 4.—(1) There shall be a council which shall consist of a president, a first vice-president, a second vice-president, an immediate past president, two elected councillors-at-large, ten elected regional councillors and five appointed councillors, all of whom shall be members and residents of Ontario.
- President and vice-presidents** (2) The president and the vice-presidents shall have such qualifications as are prescribed by by-law and shall be elected annually by vote of the members. R.S.O. 1960, c. 309, s. 8 (1-3), *amended*.
- Councillors-at-large** (3) One councillor-at-large shall be elected each year for a two-year term by vote of the members. *New*.
- Regional councillors** (4) There shall be elected from each of the five regions established and defined by by-law two regional councillors, one to be elected from each region each year for a two-year term by vote of the members who are recorded as residents in that region at the time the election is held.
- Appointed councillors** (5) The five appointed councillors shall be appointed by the Lieutenant Governor in Council for a term of three years and shall be qualified respectively in the following fields of engineering:
1. Civil.
 2. Mechanical, Aeronautical and Industrial.
 3. Electrical.
 4. Chemical and Metallurgical.
 5. Mining and Geology. R.S.O. 1960, c. 309, s. 8 (5, 6), *amended*.

SECTION 4—Subsection 4. The method of electing ten of the councillors is changed from a branch basis which is the basis in the present Act to a geographical basis.

Subsections 6, 7. These new provisions implement Recommendations 2 and 7 of the McRuer Report (page 1209 of Volume 3).

(6) In addition to the councillors mentioned in subsection 1, the Lieutenant Governor in Council may appoint as coun-^{Lay councillor}
cillors, ^{legal}
^{councillor}

(a) a person who is not a member; and

(b) a person who is a barrister and solicitor of at least ten years standing at the bar of Ontario,

both of whom are residents of Ontario.

(7) Persons appointed under subsection 6 shall serve for a term of three years but are eligible for re-appointment. ^{Term}

(8) Where the president, a vice-president or a councillor resigns, is absent from three consecutive meetings of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as is provided by by-law, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. R.S.O. 1960, c. 309, s. 8 (6, 7), *amended*. ^{Vacancies}

(9) No person shall be appointed or elected to the council unless he is a Canadian citizen or other British subject, and no person shall continue to hold any such office if he ceases to be so qualified. *New*. ^{Councillors to be Canadians}

5. The council,

(a) shall appoint a registrar and a treasurer; and

(b) may appoint a secretary, an executive director and such other officials as the council deems fit,

^{Registrar, treasurer, secretary, executive director}

and any two or more of such offices may be held by one person. *New*.

6. No action or other proceedings for damages shall be instituted against the council, or any member or official of the council or any person appointed by the council for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1960, c. 309, s. 29, *amended*. ^{Liability of council, officers and members}

Regulations 7.—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 8 and, without limiting the generality of the foregoing,

- (a) prescribing the scope and conduct of examinations of candidates for registration;
- (b) prescribing the form of the summons referred to in subsection 10 of section 25;
- (c) respecting the practice and procedure for hearings held under this Act;
- (d) defining "professional misconduct" for the purpose of this Act and the regulations;
- (e) defining classes of specialists in the various fields of engineering;
- (f) prescribing the qualifications required of specialists or any class thereof;
- (g) providing for the designation of specialists upon application and examination or otherwise, for the suspension or revocation of such designations, and for the regulation and prohibition of the use of terms, titles or designations by professional engineers indicating specialization in any field of engineering;
- (h) regulating and prohibiting the use of terms, titles or designations by professional engineers in independent practice.

Approvals (2) No regulation is effective,

- (a) until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and
- (b) until it has been approved by the Lieutenant Governor in Council. *New.*

By-laws 8.—(1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

- (a) respecting the determination and modification of the boundaries of regions and the determination of

SECTIONS 7 and 8. These sections implement Recommendations 25 and 26 of the McRuer Report (page 1211 of Volume 3).



regions in which members shall be deemed to reside for the purposes of the election of councillors;

- (b) prescribing procedures for the nomination and election of the councillors and the nomination and election of the president and the vice-presidents and the qualifications necessary to hold any such office;
- (c) prescribing the duties of the councillors and rules governing their conduct;
- (d) respecting the remuneration and reimbursement of members of the council;
- (e) respecting the calling, holding and conduct of meetings of the council and the Association;
- (f) providing for the establishment and regulation of chapters;
- (g) respecting the management of the property of the Association;
- (h) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;
- (i) respecting the application of the funds of the Association, and the investment and re-investment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under *The R.S.O. 1960, c. 71 Corporations Act*;
- (j) defining the composition and functions of the board of examiners;
- (k) providing for the establishment of scholarships, bursaries and prizes;
- (l) providing for the appointment of committees of the council and defining their composition and functions;
- (m) providing for the closing of the register and the restriction of recording changes of addresses of the registrants for a period of time not exceeding forty-

eight hours, exclusive of Sundays and holidays, immediately preceding any meeting of the members or any election;

- (n) respecting the registration of members and the recording of licensees, graduates, undergraduates and assistants to professional engineers;
- (o) for maintaining a system for the recording of registrants, their residence addresses and the regions in which they are resident and for the recording of the names of official representatives of partnerships, associations of persons or corporations;
- (p) providing for services to encourage and assist members in the development of their professional competence and conduct and in carrying on the practice of professional engineering;
- (q) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;
- (r) prescribing forms and providing for their use;
- (s) respecting all other things that are deemed necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval

(2) No by-law is effective until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and unless it has been approved by a majority of those voting within the prescribed time. R.S.O. 1960, c. 309, s. 5, cl. a, *amended*.

Construction

(3) As between a registrant and the Association, the ruling of the council on the construction and interpretation of any by-law is final. R.S.O. 1960, c. 309, s. 4 (2), *amended*.

Code of ethics

9.—(1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members and licensees must subscribe to and follow in the practice of professional engineering.

Copies

(2) Copies of the code of ethics shall be sent to the members and licensees and shall be available free of charge to members of the public who apply therefor. *New*.

SECTION 9. This new section implements Recommendation 9 of the McRuer Report (page 1209 of Volume 3).

SECTION 11. In clause *d* of subsection 1 the experience requirement is increased from five to six years to conform with the requirement in all other provinces of Canada.

Provision is also made for the admission in certain circumstances of persons who do not reside in Ontario.

10. The council may authorize participation by the Association in the activities of the Canadian Council of Professional Engineers, as a constituent association thereof. *New.*

Canadian
Council of
Professional
Engineers

MEMBERSHIP

11.—(1) Any applicant for membership who,

Qualifica-
tion for
membership

(a) resides,

(i) in Ontario,

(ii) out of Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional engineering in respect of such works or facilities or has a place of employment in Ontario and practises or proposes to practise professional engineering in Ontario on a full-time basis;

(b) is twenty-one or more years of age;

(c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to subsection 3 or 6;

(d) has had six or more years of experience in engineering work satisfactory to the council; and

(e) provides satisfactory evidence of good character,

shall be admitted as a member by the council.

(2) Each applicant for membership shall submit upon the prescribed form evidence of his educational qualifications and engineering experience, information as to his residence and at least three references as to his character and engineering experience, and he may be required by the council to verify the statements set out in his application by affidavit. R.S.O. 1960, c. 309, s. 10 (1, 2), *amended.*

Evidence of
qualification

(3) The council may exempt an applicant from any of the examinations mentioned in clause *c* of subsection 1 if the council is of the opinion that the applicant has adequate academic and other qualifications. *New.*

Credit for
academic
and other
qualifica-
tions

Credit for
time spent
at a
university

(4) Where the applicant is a graduate, upon presenting evidence of the actual time during which he was under instruction as an undergraduate in a university, the council shall grant him the time spent under such instruction in reduction of the six-year period of engineering experience required by clause *d* of subsection 1, but only in so far as the total exemption granted does not exceed four years. R.S.O. 1960, c. 309, s. 10 (4), *amended*.

Board of
examiners
to consider
applications

(5) The council may for the purpose of subsection 3 or 4 require the board of examiners to consider and make recommendations to the council with respect to any applications for exemption, including an application for exemption of a graduate in honours science. *New*.

Saving

(6) The council shall exempt from the examinations mentioned in clause *c* of subsection 1 any person who resides in Ontario on the day this Act comes into force and who has been engaged in the performance of any engineering work specified in clause *e* of section 2 of *The Professional Engineers Act*, being chapter 309 of the Revised Statutes of Ontario, 1960, for a period or periods of not less than six years in the aggregate, if such person submits to the council, within one year from the day this Act comes into force, satisfactory evidence of having been so engaged. *New*.

Admission
of members
of other
associations

12. The council may, upon application and satisfactory proof of residence, admit as a member any person who resides in Ontario, or who resides out of Ontario under the circumstances set out in subclause ii of clause *a* of subsection 1 of section 11, and who furnishes satisfactory proof,

- (a) that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario; or
- (b) that he is a member of an association of professional engineers in another part of the Commonwealth or in the United States of America that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario.

Students
and
assistants

13. (1) Persons who are engaged as assistants to professional engineers in categories recognized by the council and graduates and undergraduates who have not completed the period of engineering experience required by this Act and who contemplate applying for membership on the completion of the period of engineering experience may, upon application in

the prescribed form, be recorded in the register but not as members of the Association until fully qualified, and upon being so recorded are subject to the control of the council in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 13, *amended*.

(2) Any registrant whose name is recorded in the register pursuant to subsection 1 may, upon application, have his name deleted from the register. Deletion of names

14.—(1) The annual fee from a registrant shall be deemed to be a debt due to the Association and is recoverable from him in the name of the Association in any court of competent jurisdiction. R.S.O. 1960, c. 309, s. 24, *amended*. Annual fee

(2) Where the annual fee is not paid within six months from the date upon which it became due, the treasurer shall send a written notice of such default by prepaid mail addressed to the registrant's last address as shown on the register, and, if payment is not made within one month thereafter, the registrar, upon the direction of the council, shall delete or cause the name of the registrant to be deleted from the register, and thereupon the registrant ceases to be a member, a licensee, an assistant to a professional engineer, or a graduate or undergraduate recorded pursuant to section 13, as the case may be. R.S.O. 1960, c. 309, s. 25 (1), *amended*. Non-payment of annual fee

15. Any member who intends to withdraw from the practice of professional engineering and whose fees are paid up shall send written notice thereof to the registrar, whereupon the registrar shall delete his name from the register. R.S.O. 1960, c. 309, s. 25 (2), *amended*. Resignations

16. Any person who ceased to be a member under subsection 2 of section 14, upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any person whose name has been deleted from the register under section 15, upon payment of the fee for the current year, and, in either case, upon production of evidence of good character satisfactory to the council, shall, upon the direction of the council, have his name restored on the register. R.S.O. 1960, c. 309, s. 25 (3), *amended*. Restorations

LICENSING

17.—(1) The registrar may upon application issue a licence to any person who resides in Canada but not in Ontario and who furnishes satisfactory proof that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. Issue of licences to members of associations of other provinces

Issue of
licences to
consulting
specialists

(2) Any person who does not reside in Canada but who in the opinion of the council is a consulting specialist in a field of professional engineering who has had not less than ten years experience in the practice of his profession, or who furnishes satisfactory evidence that he has qualifications at least equal to those required for registration as a professional engineer in Ontario, may, with the approval of the council, be issued a licence.

Issue of
licences to
persons
from
provinces
without
associations

(3) Any person practising or proposing to practise professional engineering who resides in a territory of Canada in which there is no association of professional engineers that has objects similar to those of the Association, may, with the approval of the council, be issued a licence.

Practise by
applicant
for a
licence

(4) Where an applicant for a licence fails to obtain it promptly for any reason unrelated to his professional capacity or his own neglect, he may practise professional engineering in Ontario for a period of not more than three months without a licence.

Licence to
be issued
by the
registrar

(5) The registrar shall issue a licence in the prescribed form to any person entitled thereto and shall specify therein the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued. R.S.O. 1960, c. 309, ss. 14, 22 (4), *amended*.

Additional
conditions

(6) The council may direct that any licence issued under subsection 2 shall, in addition to the conditions mentioned in subsection 5, contain a condition that the licensee may practise professional engineering in Ontario only in collaboration with a member who shall sign and seal any plans and specifications together with the licensee. *New*.

Where
licence not
required

18. Any person who is employed as a professional engineer by a public service corporation carrying on an interprovincial undertaking or by the Government of Canada and who is by reason of his employment required to practise professional engineering in a province or territory of Canada other than that of his residence may practise professional engineering in Ontario without a licence, but he shall on demand of the council furnish satisfactory evidence that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. R.S.O. 1960, c. 309, s. 15, *amended*.

Seals,
members

19.—(1) Every member shall have a seal of a design approved by the council, the impression of which shall contain



SECTION 20. The provisions respecting the practice of professional engineering by partnerships, associations and corporations are revised in order to ensure a greater degree of control.

the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario". R.S.O. 1960, c. 309, s. 16, *amended*.

(2) Every licensee shall have a seal of a design approved by the council, the impression of which shall contain the name of the licensee and the words "Licensed Professional Engineer" and "Province of Ontario". ^{Idem, licensees}

(3) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature and seal of the professional engineer who prepared or approved them. ^{Signature and use of seal} *New*.

PARTNERSHIPS, CORPORATIONS

20.—(1) No partnership, association of persons or corporation as such shall be a member or a licensee, or shall, except as authorized by this section, practise professional engineering. ^{Practice prohibited by partnerships and corporations}

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering. ^{Certificates of authorization}

- (a) if one of its principal or customary functions is to engage in the practice of professional engineering; and
- (b) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member; or
- (c) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a licensee, provided that the practice of professional engineering is restricted to the work specified in the licence of the licensee. R.S.O. 1960, c. 309, s. 18, *amended*.

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the registrar an application in the prescribed form containing, ^{Applications for certificates}

- (a) the names and addresses of all its partners, members, officers or directors, as the case may be;

- (b) the names of all its partners, members of associations of persons, directors of corporations, or full-time employees of corporations, as the case may be, who are the members or licensees who will be in charge of professional engineering on its behalf;
- (c) from among the names specified under clause *b* the name or names of its official representative or representatives whose duty it is to ensure that this Act, and the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the registrar within thirty days after the effective date of the change.

Issue of
certificates

(4) If subsection 3 is complied with, the registrar shall issue to the applicant a certificate of authorization.

Ipso facto
revocation
of
certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional engineering until a new certificate of authorization is issued.

Reprimand
of licensee,
etc.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member or licensee, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application
of ss. 24, 25,
26

(7) Sections 24, 25 and 26 apply *mutatis mutandis* to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization.
New.

EXAMINATIONS

Board

21.—(1) The council shall appoint annually a board of examiners. R.S.O. 1960, c. 309, s. 19, *amended*.

Central
examining
board

(2) The council may establish conjointly with the council of any association in one or more of the provinces or territories of Canada that has objects similar to those of the Association a central examining board and may delegate to the central examining board all or any of the powers of the council respecting the examination of candidates for admission as members, but any examinations conducted by the central examining board shall be held in at least one place in Ontario. R.S.O. 1960, c. 309, s. 21, *amended*.

REGISTRAR

22.—(1) The registrar shall register in a system of recording approved by the council the names of the members, the licensees, the assistants to professional engineers, and the graduates and the undergraduates. R.S.O. 1960, c. 309, s. 22 (5), *amended*. Registrar to record members, etc.

(2) The registrar shall keep the register correct and in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 23, *amended*. Register to be correct

(3) The certificate of the registrar respecting the registration of a person is *prima facie* evidence of the facts certified to therein. R.S.O. 1960, c. 309, s. 27, *amended*. Evidence of membership

(4) The registrar shall send to the Lieutenant Governor in Council quarterly as of the last days of March, June, September and December in each year a report containing, with respect to the immediately preceding three-month period, the names of the persons, Quarterly report

(a) who have been granted partial exemption from examinations;

(b) who have been granted no exemption from examinations;

(c) who have been refused permission to write examinations; or

(d) who have not been admitted to membership in the Association, because,

(i) their experience in engineering work was not satisfactory to the Council, or

(ii) they did not provide satisfactory evidence of good character,

giving, in each case, the reason for the decision, together with such further information and particulars with respect to such matters as the Lieutenant Governor in Council may require.

23.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and by the registrar, and bearing the seal of the Association. R.S.O. 1960, c. 309, s. 23 (1), *amended*. Certificate of membership

(2) Every member shall keep his certificate of membership prominently displayed in his place of business. R.S.O. 1960, c. 309, s. 22 (1). Certificate to be displayed

HEARINGS, UPON APPLICATIONS

Hearing where application for membership, etc., refused

24.—(1) Where an applicant for membership or a licence has met the academic and experience requirements, or an applicant for restoration of his name on the register has paid the required fees and has produced the required evidence of good character, and his application is refused, the council shall, upon the written request of the applicant received by the registrar within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter.

Conduct of hearing

(2) Section 25 applies *mutatis mutandis* to any hearing conducted under this section except that upon any such hearing the council may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1960, c. 309, s. 26, *amended*.

HEARINGS, DISCIPLINARY

Powers of council to discipline members

25.—(1) Subject to subsection 2, where the council finds that a person who is a member or licensee is guilty of professional misconduct or has obtained registration as a member or has been issued a licence by reason of misrepresentation by such person, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the register.
2. Suspend the membership or licence of such person for such time as the council considers proper and direct that the re-instatement of such membership or licence on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership or licence of such person be cancelled and that the name of such person be removed from the register.
5. Direct that the decision of the council be published in detail or in summary in the official journal of the Association or in such other manner or medium as the council considers appropriate in any particular case.

SECTION 24—Subsection 1. This new provision implements Recommendation 22 of the McRuer Report (page 1211 of Volume 3).

Subsection 2. This subsection implements Recommendation 14 of the McRuer Report (page 1210 of Volume 3).

SECTION 25—Subsection 1. The provisions of the Act dealing with discipline are revised in order to bring them into line with Recommendations 8, 16, 17, 19 and 20 of the McRuer Report (pages 1209–1211 of Volume 3) and also to set out more explicitly the powers of the council when dealing with disciplinary matters.

Subsection 4. This new provision implements Recommendation 11 of the McRuer Report (page 1210 of Volume 3).

Subsection 5. This new provision implements Recommendation 12 of the McRuer Report (page 1210 of Volume 3).

Subsection 6. This new provision implements Recommendation 35 of the McRuer Report (page 1262 of Volume 3).

Subsection 7. This new provision implements Recommendation 15 of the McRuer Report (page 1210 of Volume 3).

6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member or licensee whose conduct was the subject of such proceedings.

(2) The council shall not take any action under subsection 1 ^{Complaint and bearing} unless,

(a) a complaint under oath has been filed with the registrar and a copy thereof has been served on the person whose conduct is being investigated;

(b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

(c) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty.
R.S.O. 1960, c. 309, s. 28 (1, 2), *amended*.

(3) Any person presiding at a hearing may administer ^{Power to take sworn evidence} oaths to witnesses and require them to give evidence under oath. R.S.O. 1960, c. 309, s. 28 (1, 2, 3), *amended*.

(4) If the person whose conduct is being investigated fails ^{Failure to appear} to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence.

(5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the registrar before the day fixed for the hearing, the council shall conduct the hearing in public or otherwise as it thinks proper. ^{Disciplinary hearings to be held in camera}

(6) The council may adjourn any hearing at any time and ^{Adjournments} from time to time.

(7) A person whose conduct is being investigated, if ^{Attendance of person being investigated} present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection 10, but such person shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*. <sup>R.S.O. 1960, c. 125
R.S.C. 1952, c. 307</sup>

Hearing of evidence
R.S.O. 1960,
c. 125

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*.

Rules of evidence

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed.

Summons to witness

(10) The president, a vice-president, the immediate past president or the registrar may, and the registrar upon application of a person whose conduct is being investigated shall, issue a summons in the form prescribed by regulation, commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or
- (c) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Subsection 9. This new provision implements Recommendations 13 and 44 of the McRuer Report (pages 1210 and 1263, respectively, of Volume 3).

Subsection 10. This new provision takes into account Recommendations 151, 152, 169, 170, 172, 173 and 174 of the McRuer Report (pages 1278, 1280 and 1281, respectively, of Volume 3).

Subsection 11. This new provision is designed to implement Recommendations 174 and 179 of the McRuer Report (page 1281 of Volume 3). It is based upon the corresponding provisions of the Tribunals of Inquiry (Evidence) Act, 1921 of the United Kingdom (see page 444 of Volume 1).

Subsection 12. This provision implements Recommendation 42 of the McRuer Report (page 1263 of Volume 3).

Subsection 13. This provision implements Recommendations 45 and 47 of the McRuer Report (page 1263 of Volume 3).

Subsection 14. This provision implements Recommendation 48 of the McRuer Report (page 1263 of Volume 3). The proviso has been added.

Subsection 15. This provision implements Recommendation 10 of the McRuer Report (pages 1209-10 of Volume 3).

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest. Examination and cross-examination

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision. Decisions

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection 2, any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, provided that documents and things received in evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated. Record

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient. Service of documents

(16) Where a member or licensee has been suspended from practising under this section, he may, upon payment of all fees and other costs owing by him to the Association, apply to the council to be re-instated as a member or licensee, as the case may be, and the council may terminate the suspension of such member or licensee upon such terms as it considers proper. Reinstatement after suspension

(17) A person whose membership or licence has been cancelled under this section may apply to the council for membership or for a licence, as the case may be, and the council shall, subject to subsection 18, hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council Re-admission after expulsion

considers proper to be fulfilled before the applicant is admitted to membership or granted a licence or to be observed by such member or licensee thereafter.

Idem (18) Except with the consent of the council, no application under subsection 17 shall be heard before the expiry of two years from the date of the cancellation of membership or licence or the date of the final disposition of any appeal.

Idem (19) Upon a hearing for admission to membership or for the granting of a licence under subsection 17, the council shall follow, in so far as practicable, the procedure provided for in the case of a complaint under this section, and a former member or licensee has the same right of appeal from an order made by the council under subsection 17 as is provided in section 26.

Committee of council (20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president, a vice-president or the immediate past president, and may delegate to the committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council. *New.*

Practice pending appeal (21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership or licence of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1960, c. 309, s. 28 (5), *amended.*

APPEALS

Appeal **26.**—(1) Any person whom the council has refused to register for membership or whose name the council has refused to restore on the register or to whom the council has refused to issue a licence or who has been reprimanded or whose membership or licence is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Court of Appeal within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified copies of papers (2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the registrar shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the council

Subsection 21. This provision implements Recommendation 21 of the McRuer Report (page 1210 of Volume 3).

SECTION 26. This appeal section implements Recommendation 23 of the McRuer Report (page 1210 of Volume 3).



and any committee thereof appointed pursuant to subsection 20 of section 25 in dealing with and disposing of the matter complained of.

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the registrar, the appeal shall be deemed to be abandoned. ^{Failure to pay costs}

(4) An appeal under this section shall be by motion, notice of which shall be served upon the registrar, and the record shall consist of a copy, certified by the registrar, of the proceedings before the council or committee thereof, the evidence taken, the report of the council or committee thereof and all decisions, findings and order of the council or committee thereof in the matter. ^{Procedure and record}

(5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court. ^{Practice}

(6) Upon the hearing of an appeal under this section the Court of Appeal may make such order as the court deems proper or may refer the matter or any part thereof back to the council with such directions as the court deems proper. ^{Orders}

(7) The Court of Appeal may make such order as to the costs of the appeal as the court deems proper. R.S.O. 1960, c. 309, s. 28 (4), *amended*. ^{Costs}

OFFENCES

27.—(1) Every person, other than a member or a licensee, ^{Offences, persons} who,

(a) takes and uses orally or otherwise the title “Professional Engineer” or “Registered Professional Engineer” or uses any addition to or abbreviation of either such titles, or any words, name or designation that will lead to the belief that he is a professional engineer, a member or a licensee or, except as permitted by section 2, uses the title or designation “engineer” in such a manner as will lead to the belief that he is a professional engineer, a member or a licensee;

(b) advertises, holds himself out, or conducts himself in any way or by any means as a member or a licensee; or

(c) engages in the practice of professional engineering, is guilty of an offence. R.S.O. 1960, c. 309, s. 30, *amended*.

Idem

(2) Every person who,

(a) wilfully procures or attempts to procure registration under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either verbal or written;

(b) knowingly makes any false statement in any application or declaration signed or filed by him under this Act,

is guilty of an offence. R.S.O. 1960, c. 309, s. 33, *part, amended*.

Offences,
partner-
ships,
associations
and
corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

(a) practises professional engineering;

(b) uses orally or otherwise any name, title, description or designation that will lead to the belief that it is entitled to practise professional engineering; or

(c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional engineering,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional engineering in contravention of this Act, every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on summary conviction, liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 309, ss. 31, 33, *part, amended*.

Limitation
of
proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1960, c. 309, s. 35, *amended*.



SECTION 28. This new section implements Recommendations 29, 30 and 31 of the McRuer Report (page 1211 of Volume 3).

LIMITATION OF ACTIONS

28.—(1) Except as provided in subsection 2, an action ^{Limitation of actions} against a member or a licensee for negligence or malpractice in connection with professional services requested of him or rendered by him or under his direction or control shall be commenced within and not later than twelve months after the cause of action arose.

(2) The court in which an action mentioned in subsection 1 ^{Extension} has been or may be brought may extend the period of limitation specified therein either before or after it has expired if the court is satisfied that to do so is just.

(3) This section does not apply to proceedings under ^{Does not apply to disciplinary proceedings} section 25. *New.*

TRANSITIONAL PROVISIONS

29.—(1) Notwithstanding section 4, the president, the ^{Members of council} vice-presidents and the elected councillors holding office when this Act comes into force shall continue to hold office until after the first annual election after this Act comes into force.

(2) Notwithstanding subsections 4 and 5 of section 4, at ^{First annual election} the first election of councillors after this Act comes into force, one councillor-at-large shall be elected for a two-year term and one councillor-at-large shall be elected for a one-year term and there shall be elected from each of the five regions mentioned in subsection 4 of section 4 one regional councillor for a two-year term and one regional councillor for a one-year term. *New.*

(3) Notwithstanding subsection 6 of section 4, all councillors ^{Appointed members} who have been appointed by the Lieutenant Governor in Council and are holding office when this Act comes into force shall continue to hold office for the term designated in the order in council by which they were appointed. *New.*

MISCELLANEOUS

30. *The Professional Engineers Act* is repealed. ^{R.S.O. 1960, c. 309, repealed}

31. This Act comes into force on a day to be named by ^{Commencement} the Lieutenant Governor by his proclamation.

32. This Act may be cited as *The Professional Engineers Act, 1968-69.* ^{Short title}

1st Reading

December 19th, 1968

2nd Reading

May 26th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 48

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

The Professional Engineers Act, 1968-69

MR. WISHART



The Professional Engineers Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Inter-
pre-
tation

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "by-law" means a by-law of the Association;
- (c) "chapter" means a group of members constituted and governed by by-law;
- (d) "council" means the council of the Association;
- (e) "graduate" means a graduate of a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and which is recognized by the council;
- (f) "licence" means a licence to practise professional engineering issued under this Act;
- (g) "licensee" means a person who holds a subsisting licence;
- (h) "member" means a member of the Association;
- (i) "practice of professional engineering" means the doing of one or more acts of advising on, reporting on, designing of or supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges,

cranes, drainage works, irrigation works, water-works, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete or reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric or electronic apparatus, electrical or electronic communication systems or equipment, mineral property, mining machinery, mining development, mining operations, gas or oil developments, smelters, refineries, metallurgical machinery, or equipment or apparatus for carrying out such operations, machinery, boilers or their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines or other mechanical structures, chemical or metallurgical machinery, apparatus or processes, or aircraft, and generally all other engineering works including the engineering works and installations relating to airports, airfields or landing strips or relating to town and community planning;

- (j) "professional engineer" means a person who is a member or licensee;
- (k) "region" means a geographical area of Ontario as defined by by-law;
- (l) "register" means the record of registrants maintained by the registrar;
- (m) "registrant" means a person recorded in the register as a member, licensee, an assistant to a professional engineer, a graduate or an undergraduate;
- (n) "registrar" means the registrar of the Association;
- (o) "regulation" means a regulation of the Association;
- (p) "undergraduate" means a student enrolled at but not graduated from a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and that is recognized by the council. R.S.O. 1960, c. 309, s. 1, *amended*.

Activities
not affected

2. Nothing in this Act prevents,

- (a) any person from performing his duties in the Canadian Armed Forces;

- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect; R.S.O. 1960, c. 20
- (c) any person who holds a certificate of qualification under *The Operating Engineers Act* from practising or designating himself as an operating engineer; R.S.O. 1960, c. 232
- (d) any person from practising as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or requires any such person to become registered or licensed under this Act in order to do any such thing. R.S.O. 1960, c. 309, s. 2, *amended*.

THE ASSOCIATION

3.—(1) The body politic and corporate known as the "Association of Professional Engineers of the Province of Ontario" incorporated under *The Professional Engineers Act, 1922* is hereby continued. Association continued 1922, c. 59

(2) All persons who are members of the Association when this Act comes into force or who hereafter are admitted as members constitute the Association. Members R.S.O. 1960, c. 309, s. 3 (1), *amended*.

(3) The objects of the Association are, Objects

- (a) to regulate the practice of professional engineering and to govern the profession in accordance with this Act, the regulations and the by-laws;
- (b) to establish and maintain standards of knowledge and skill among its members; and
- (c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected.

New.

- Head office** (4) The head office of the Association shall be at the city of Toronto.
- Property** (5) The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1960, c. 309, s. 3 (4, 5).

THE COUNCIL

- Council** 4.—(1) There shall be a council which shall consist of a president, a first vice-president, a second vice-president, an immediate past president, two elected councillors-at-large, ten elected regional councillors and five appointed councillors, all of whom shall be members and residents of Ontario.
- President and vice-presidents** (2) The president and the vice-presidents shall have such qualifications as are prescribed by by-law and shall be elected annually by vote of the members. R.S.O. 1960, c. 309, s. 8 (1-3), *amended*.
- Councillors-at-large** (3) One councillor-at-large shall be elected each year for a two-year term by vote of the members. *New*.
- Regional councillors** (4) There shall be elected from each of the five regions established and defined by by-law two regional councillors, one to be elected from each region each year for a two-year term by vote of the members who are recorded as residents in that region at the time the election is held.
- Appointed councillors** (5) The five appointed councillors shall be appointed by the Lieutenant Governor in Council for a term of three years and shall be qualified respectively in the following fields of engineering:
1. Civil.
 2. Mechanical, Aeronautical and Industrial.
 3. Electrical.
 4. Chemical and Metallurgical.
 5. Mining and Geology. R.S.O. 1960, c. 309, s. 8 (5, 6), *amended*.

(6) In addition to the councillors mentioned in subsection 1, the Lieutenant Governor in Council may appoint as councillors, ^{Lay councillor; legal councillor}

(a) a person who is not a member; and

(b) a person who is a barrister and solicitor of at least ten years standing at the bar of Ontario,

both of whom are residents of Ontario.

(7) Persons appointed under subsection 6 shall serve for a term of three years but are eligible for re-appointment. ^{Term}

(8) Where the president, a vice-president or a councillor resigns, is absent from three consecutive meetings of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as is provided by by-law, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. R.S.O. 1960, c. 309, s. 8 (6, 7), *amended*. ^{Vacancies}

(9) No person shall be appointed or elected to the council unless he is a Canadian citizen or other British subject, and no person shall continue to hold any such office if he ceases to be so qualified. *New*. ^{Councillors to be Canadians}

5. The council,

(a) shall appoint a registrar and a treasurer; and

(b) may appoint a secretary, an executive director and such other officials as the council deems fit,

Registrar,
treasurer,
secretary,
executive
director

and any two or more of such offices may be held by one person. *New*.

6. No action or other proceedings for damages shall be instituted against the council, or any member or official of the council or any person appointed by the council for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1960, c. 309, s. 29, *amended*. ^{Liability of council, officers and members}

Regulations 7.—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 8 and, without limiting the generality of the foregoing,

- (a) prescribing the scope and conduct of examinations of candidates for registration;
- (b) prescribing the form of the summons referred to in subsection 10 of section 25;
- (c) respecting the practice and procedure for hearings held under this Act;
- (d) defining “professional misconduct” for the purpose of this Act and the regulations;
- (e) defining classes of specialists in the various fields of engineering;
- (f) prescribing the qualifications required of specialists or any class thereof;
- (g) providing for the designation of specialists upon application and examination or otherwise, for the suspension or revocation of such designations, and for the regulation and prohibition of the use of terms, titles or designations by professional engineers indicating specialization in any field of engineering;
- (h) regulating and prohibiting the use of terms, titles or designations by professional engineers in independent practice.

Approvals

(2) No regulation is effective,

- (a) until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and
- (b) until it has been approved by the Lieutenant Governor in Council. *New.*

By-laws

8.—(1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

- (a) respecting the determination and modification of the boundaries of regions and the determination of

regions in which members shall be deemed to reside for the purposes of the election of councillors;

- (b) prescribing procedures for the nomination and election of the councillors and the nomination and election of the president and the vice-presidents and the qualifications necessary to hold any such office;
- (c) prescribing the duties of the councillors and rules governing their conduct;
- (d) respecting the remuneration and reimbursement of members of the council;
- (e) respecting the calling, holding and conduct of meetings of the council and the Association;
- (f) providing for the establishment and regulation of chapters;
- (g) respecting the management of the property of the Association;
- (h) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;
- (i) respecting the application of the funds of the Association, and the investment and re-investment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under *The R.S.O. 1960, e. 71 Corporations Act*;
- (j) defining the composition and functions of the board of examiners;
- (k) providing for the establishment of scholarships, bursaries and prizes;
- (l) providing for the appointment of committees of the council and defining their composition and functions;
- (m) providing for the closing of the register and the restriction of recording changes of addresses of the registrants for a period of time not exceeding forty-

eight hours, exclusive of Sundays and holidays, immediately preceding any meeting of the members or any election;

- (n) respecting the registration of members and the recording of licensees, graduates, undergraduates and assistants to professional engineers;
- (o) for maintaining a system for the recording of registrants, their residence addresses and the regions in which they are resident and for the recording of the names of official representatives of partnerships, associations of persons or corporations;
- (p) providing for services to encourage and assist members in the development of their professional competence and conduct and in carrying on the practice of professional engineering;
- (q) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;
- (r) prescribing forms and providing for their use;
- (s) respecting all other things that are deemed necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval

(2) No by-law is effective until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and unless it has been approved by a majority of those voting within the prescribed time. R.S.O. 1960, c. 309, s. 5, cl. a, *amended*.

Construction

(3) As between a registrant and the Association, the ruling of the council on the construction and interpretation of any by-law is final. R.S.O. 1960, c. 309, s. 4 (2), *amended*.

Code of ethics

9.—(1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members and licensees must subscribe to and follow in the practice of professional engineering.

Copies

(2) Copies of the code of ethics shall be sent to the members and licensees and shall be available free of charge to members of the public who apply therefor. *New*.

10. The council may authorize participation by the Association in the activities of the Canadian Council of Professional Engineers, as a constituent association thereof. *New.* Canadian Council of Professional Engineers

MEMBERSHIP

11.—(1) Any applicant for membership who,

Qualification for membership

(a) resides,

(i) in Ontario,

(ii) out of Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional engineering in respect of such works or facilities or has a place of employment in Ontario and practises or proposes to practise professional engineering in Ontario on a full-time basis;

(b) is twenty-one or more years of age;

(c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to subsection 3 or 6;

(d) has had six or more years of experience in engineering work satisfactory to the council; and

(e) provides satisfactory evidence of good character,

shall be admitted as a member by the council.

(2) Each applicant for membership shall submit upon the prescribed form evidence of his educational qualifications and engineering experience, information as to his residence and at least three references as to his character and engineering experience, and he may be required by the council to verify the statements set out in his application by affidavit. R.S.O. 1960, c. 309, s. 10 (1, 2), *amended.* Evidence of qualification

(3) The council may exempt an applicant from any of the examinations mentioned in clause *c* of subsection 1 if the council is of the opinion that the applicant has adequate academic and other qualifications. *New.* Credit for academic and other qualifications

Credit for
time spent
at a
university

(4) Where the applicant is a graduate, upon presenting evidence of the actual time during which he was under instruction as an undergraduate in a university, the council shall grant him the time spent under such instruction in reduction of the six-year period of engineering experience required by clause *d* of subsection 1, but only in so far as the total exemption granted does not exceed four years. R.S.O. 1960, c. 309, s. 10 (4), *amended*.

Board of
examiners
to consider
applications

(5) The council may for the purpose of subsection 3 or 4 require the board of examiners to consider and make recommendations to the council with respect to any applications for exemption, including an application for exemption of a graduate in honours science. *New*.

Saving

(6) The council shall exempt from the examinations mentioned in clause *c* of subsection 1 any person who resides in Ontario on the day this Act comes into force and who has been engaged in the performance of any engineering work specified in clause *e* of section 2 of *The Professional Engineers Act*, being chapter 309 of the Revised Statutes of Ontario, 1960, for a period or periods of not less than six years in the aggregate, if such person submits to the council, within one year from the day this Act comes into force, satisfactory evidence of having been so engaged. *New*.

Admission
of members
of other
associations

12. The council may, upon application and satisfactory proof of residence, admit as a member any person who resides in Ontario, or who resides out of Ontario under the circumstances set out in subclause ii of clause *a* of subsection 1 of section 11, and who furnishes satisfactory proof,

- (a) that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario; or
- (b) that he is a member of an association of professional engineers in another part of the Commonwealth or in the United States of America that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario.

Students
and
assistants

13. (1) Persons who are engaged as assistants to professional engineers in categories recognized by the council and graduates and undergraduates who have not completed the period of engineering experience required by this Act and who contemplate applying for membership on the completion of the period of engineering experience may, upon application in

the prescribed form, be recorded in the register but not as members of the Association until fully qualified, and upon being so recorded are subject to the control of the council in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 13, *amended*.

(2) Any registrant whose name is recorded in the register pursuant to subsection 1 may, upon application, have his name deleted from the register. ^{Deletion of names}

14.—(1) The annual fee from a registrant shall be deemed to be a debt due to the Association and is recoverable from him in the name of the Association in any court of competent jurisdiction. R.S.O. 1960, c. 309, s. 24, *amended*. ^{Annual fee}

(2) Where the annual fee is not paid within six months from the date upon which it became due, the treasurer shall send a written notice of such default by prepaid mail addressed to the registrant's last address as shown on the register, and, if payment is not made within one month thereafter, the registrar, upon the direction of the council, shall delete or cause the name of the registrant to be deleted from the register, and thereupon the registrant ceases to be a member, a licensee, an assistant to a professional engineer, or a graduate or undergraduate recorded pursuant to section 13, as the case may be. R.S.O. 1960, c. 309, s. 25 (1), *amended*. ^{Non-payment of annual fee}

15. Any member who intends to withdraw from the practice of professional engineering and whose fees are paid up shall send written notice thereof to the registrar, whereupon the registrar shall delete his name from the register. R.S.O. 1960, c. 309, s. 25 (2), *amended*. ^{Resignations}

16. Any person who ceased to be a member under subsection 2 of section 14, upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any person whose name has been deleted from the register under section 15, upon payment of the fee for the current year, and, in either case, upon production of evidence of good character satisfactory to the council, shall, upon the direction of the council, have his name restored on the register. R.S.O. 1960, c. 309, s. 25 (3), *amended*. ^{Restorations}

LICENSING

17.—(1) The registrar may upon application issue a licence to any person who resides in Canada but not in Ontario and who furnishes satisfactory proof that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. ^{Issue of licences to members of associations of other provinces}

Issue of licences to consulting specialists

(2) Any person who does not reside in Canada but who in the opinion of the council is a consulting specialist in a field of professional engineering who has had not less than ten years experience in the practice of his profession, or who furnishes satisfactory evidence that he has qualifications at least equal to those required for registration as a professional engineer in Ontario, may, with the approval of the council, be issued a licence.

Issue of licences to persons from provinces without associations

(3) Any person practising or proposing to practise professional engineering who resides in a territory of Canada in which there is no association of professional engineers that has objects similar to those of the Association, may, with the approval of the council, be issued a licence.

Practise by applicant for a licence

(4) Where an applicant for a licence fails to obtain it promptly for any reason unrelated to his professional capacity or his own neglect, he may practise professional engineering in Ontario for a period of not more than three months without a licence.

Licence to be issued by the registrar

(5) The registrar shall issue a licence in the prescribed form to any person entitled thereto and shall specify therein the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued. R.S.O. 1960, c. 309, ss. 14, 22 (4), *amended*.

Additional condition

(6) The council may direct that any licence issued under subsection 2 shall, in addition to the conditions mentioned in subsection 5, contain a condition that the licensee may practise professional engineering in Ontario only in collaboration with a member who shall sign and seal any plans and specifications together with the licensee. *New*.

Where licence not required

18. Any person who is employed as a professional engineer by a public service corporation carrying on an interprovincial undertaking or by the Government of Canada and who is by reason of his employment required to practise professional engineering in a province or territory of Canada other than that of his residence may practise professional engineering in Ontario without a licence, but he shall on demand of the council furnish satisfactory evidence that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. R.S.O. 1960, c. 309, s. 15, *amended*.

Seals, members

19.—(1) Every member shall have a seal of a design approved by the council, the impression of which shall contain

the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario". R.S.O. 1960, c. 309, s. 16, *amended*.

(2) Every licensee shall have a seal of a design approved by the council, the impression of which shall contain the name of the licensee and the words "Licensed Professional Engineer" and "Province of Ontario". Idem, licensees

(3) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature and seal of the professional engineer who prepared or approved them. *New*. Signature and use of seal

PARTNERSHIPS, CORPORATIONS

20.—(1) No partnership, association of persons or corporation as such shall be a member or a licensee, or shall, except as authorized by this section, practise professional engineering. Practice prohibited by partnerships and corporations

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering. Certificates of authorization

(a) if one of its principal or customary functions is to engage in the practice of professional engineering; and

(b) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member; or

(c) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a licensee, provided that the practice of professional engineering is restricted to the work specified in the licence of the licensee. R.S.O. 1960, c. 309, s. 18, *amended*.

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the registrar an application in the prescribed form containing, Applications for certificates

(a) the names and addresses of all its partners, members, officers or directors, as the case may be;

- (b) the names of all its partners, members of associations of persons, directors of corporations, or full-time employees of corporations, as the case may be, who are the members or licensees who will be in charge of professional engineering on its behalf;
- (c) from among the names specified under clause b the name or names of its official representative or representatives whose duty it is to ensure that this Act, and the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the registrar within thirty days after the effective date of the change.

Issue of certificatee

(4) If subsection 3 is complied with, the registrar shall issue to the applicant a certificate of authorization.

Ipso facto revocation of certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional engineering until a new certificate of authorization is issued.

Reprimand of licensee, etc.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member or licensee, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application of ss. 24, 25, 26

(7) Sections 24, 25 and 26 apply *mutatis mutandis* to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization. *New.*

EXAMINATIONS

Board

21.—(1) The council shall appoint annually a board of examiners. R.S.O. 1960, c. 309, s. 19, *amended.*

Central examining board

(2) The council may establish conjointly with the council of any association in one or more of the provinces or territories of Canada that has objects similar to those of the Association a central examining board and may delegate to the central examining board all or any of the powers of the council respecting the examination of candidates for admission as members, but any examinations conducted by the central examining board shall be held in at least one place in Ontario. R.S.O. 1960, c. 309, s. 21, *amended.*

REGISTRAR

22.—(1) The registrar shall register in a system of recording approved by the council the names of the members, the licensees, the assistants to professional engineers, and the graduates and the undergraduates. R.S.O. 1960, c. 309, s. 22 (5), *amended*. Registrar to record members, etc.

(2) The registrar shall keep the register correct and in accordance with this Act, the regulations and the by-laws. R.S.O. 1960, c. 309, s. 23, *amended*. Register to be correct

(3) The certificate of the registrar respecting the registration of a person is *prima facie* evidence of the facts certified to therein. R.S.O. 1960, c. 309, s. 27, *amended*. Evidence of membership

(4) The registrar shall send to the Lieutenant Governor in Council quarterly as of the last days of March, June, September and December in each year a report containing, with respect to the immediately preceding three-month period, the names of the persons, Quarterly report

- (a) who have been granted partial exemption from examinations;
- (b) who have been granted no exemption from examinations;
- (c) who have been refused permission to write examinations; or
- (d) who have not been admitted to membership in the Association, because,
 - (i) their experience in engineering work was not satisfactory to the Council, or
 - (ii) they did not provide satisfactory evidence of good character,

giving, in each case, the reason for the decision, together with such further information and particulars with respect to such matters as the Lieutenant Governor in Council may require.

23.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and by the registrar, and bearing the seal of the Association. R.S.O. 1960, c. 309, s. 23 (1), *amended*. Certificate of membership

(2) Every member shall keep his certificate of membership prominently displayed in his place of business. R.S.O. 1960, c. 309, s. 22 (1). Certificate to be displayed

HEARINGS, UPON APPLICATIONS

Hearing where application for membership, etc., refused

24.—(1) Where an applicant for membership or a licence has met the academic and experience requirements, or an applicant for restoration of his name on the register has paid the required fees and has produced the required evidence of good character, and his application is refused, the council shall, upon the written request of the applicant received by the registrar within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter.

Conduct of hearing

(2) Section 25 applies *mutatis mutandis* to any hearing conducted under this section except that upon any such hearing the council may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1960, c. 309, s. 26, *amended*.

HEARINGS, DISCIPLINARY

Powers of council to discipline members

25.—(1) Subject to subsection 2, where the council finds that a person who is a member or licensee is guilty of professional misconduct or has obtained registration as a member or has been issued a licence by reason of misrepresentation by such person, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the register.
2. Suspend the membership or licence of such person for such time as the council considers proper and direct that the re-instatement of such membership or licence on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership or licence of such person be cancelled and that the name of such person be removed from the register.
5. Direct that the decision of the council be published in detail or in summary in the official journal of the Association or in such other manner or medium as the council considers appropriate in any particular case.

6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member or licensee whose conduct was the subject of such proceedings.

(2) The council shall not take any action under subsection 1 ^{Complaint and hearing} unless,

(a) a complaint under oath has been filed with the registrar and a copy thereof has been served on the person whose conduct is being investigated;

(b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

(c) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty.
R.S.O. 1960, c. 309, s. 28 (1, 2), *amended*.

(3) Any person presiding at a hearing may administer ^{Power to take sworn evidence} oaths to witnesses and require them to give evidence under oath. R.S.O. 1960, c. 309, s. 28 (1, 2, 3), *amended*.

(4) If the person whose conduct is being investigated fails ^{Failure to appear} to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence.

(5) Hearings shall be held *in camera*, but if the person whose ^{Disciplinary hearings to be held in camera} conduct is being investigated requests otherwise by a notice in writing delivered to the registrar before the day fixed for the hearing, the council shall conduct the hearing in public or otherwise as it thinks proper.

(6) The council may adjourn any hearing at any time and ^{Adjournments} from time to time.

(7) A person whose conduct is being investigated, if ^{Attendance of person being investigated} present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection 10, but such person shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*.
R.S.O. 1960, c. 125
R.S.C. 1952, c. 307

Hearing of evidence
R.S.O. 1960,
c. 125

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*.

Rules of evidence

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed.

Summons to witness

(10) The president, a vice-president, the immediate past president or the registrar may, and the registrar upon application of a person whose conduct is being investigated shall, issue a summons in the form prescribed by regulation, commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or
- (c) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest. Examination and cross-examination

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision. Decisions

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection 2, any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, provided that documents and things received in evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated. Record

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient. Service of documents

(16) Where a member or licensee has been suspended from practising under this section, he may, upon payment of all fees and other costs owing by him to the Association, apply to the council to be re-instated as a member or licensee, as the case may be, and the council may terminate the suspension of such member or licensee upon such terms as it considers proper. Reinstatement after suspension

(17) A person whose membership or licence has been cancelled under this section may apply to the council for membership or for a licence, as the case may be, and the council shall, subject to subsection 18, hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council Re-admission after expulsion

considers proper to be fulfilled before the applicant is admitted to membership or granted a licence or to be observed by such member or licensee thereafter.

Idem (18) Except with the consent of the council, no application under subsection 17 shall be heard before the expiry of two years from the date of the cancellation of membership or licence or the date of the final disposition of any appeal.

Idem (19) Upon a hearing for admission to membership or for the granting of a licence under subsection 17, the council shall follow, in so far as practicable, the procedure provided for in the case of a complaint under this section, and a former member or licensee has the same right of appeal from an order made by the council under subsection 17 as is provided in section 26.

Committee of council (20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president, a vice-president or the immediate past president, and may delegate to the committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council. *New.*

Practice pending appeal (21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership or licence of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1960, c. 309, s. 28 (5), *amended.*

APPEALS

Appeal **26.**—(1) Any person whom the council has refused to register for membership or whose name the council has refused to restore on the register or to whom the council has refused to issue a licence or who has been reprimanded or whose membership or licence is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Court of Appeal within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified copies of papers (2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the registrar shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the council

and any committee thereof appointed pursuant to subsection 20 of section 25 in dealing with and disposing of the matter complained of.

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the registrar, the appeal shall be deemed to be abandoned. ^{Failure to pay costs}

(4) An appeal under this section shall be by motion, notice of which shall be served upon the registrar, and the record shall consist of a copy, certified by the registrar, of the proceedings before the council or committee thereof, the evidence taken, the report of the council or committee thereof and all decisions, findings and order of the council or committee thereof in the matter. ^{Procedure and record}

(5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court. ^{Practice}

(6) Upon the hearing of an appeal under this section the Court of Appeal may make such order as the court deems proper or may refer the matter or any part thereof back to the council with such directions as the court deems proper. ^{Orders}

(7) The Court of Appeal may make such order as to the costs of the appeal as the court deems proper. R.S.O. 1960, c. 309, s. 28 (4), *amended*. ^{Costs}

OFFENCES

27.—(1) Every person, other than a member or a licensee, who, ^{Offences, persons}

(a) takes and uses orally or otherwise the title "Professional Engineer" or "Registered Professional Engineer" or uses any addition to or abbreviation of either such titles, or any words, name or designation that will lead to the belief that he is a professional engineer, a member or a licensee or, except as permitted by section 2, uses the title or designation "engineer" in such a manner as will lead to the belief that he is a professional engineer, a member or a licensee;

(b) advertises, holds himself out, or conducts himself in any way or by any means as a member or a licensee; or

(c) engages in the practice of professional engineering, is guilty of an offence. R.S.O. 1960, c. 309, s. 30, *amended*.

Idem

(2) Every person who,

(a) wilfully procures or attempts to procure registration under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either verbal or written;

(b) knowingly makes any false statement in any application or declaration signed or filed by him under this Act,

is guilty of an offence. R.S.O. 1960, c. 309, s. 33, *part, amended*.

Offences,
partner-
ships,
associations
and
corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

(a) practises professional engineering;

(b) uses orally or otherwise any name, title, description or designation that will lead to the belief that it is entitled to practise professional engineering; or

(c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional engineering,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional engineering in contravention of this Act, every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on summary conviction, liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 309, ss. 31, 33, *part, amended*.

Limitation
of
proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1960, c. 309, s. 35, *amended*.

LIMITATION OF ACTIONS

28.—(1) Except as provided in subsection 2, an action ^{Limitation of actions} against a member or a licensee for negligence or malpractice in connection with professional services requested of him or rendered by him or under his direction or control shall be commenced within and not later than twelve months after the cause of action arose.

(2) The court in which an action mentioned in subsection 1 ^{Extension} has been or may be brought may extend the period of limitation specified therein either before or after it has expired if the court is satisfied that to do so is just.

(3) This section does not apply to proceedings under ^{Does not apply to disciplinary proceedings} section 25. *New.*

TRANSITIONAL PROVISIONS

29.—(1) Notwithstanding section 4, the president, the ^{Members of council} vice-presidents and the elected councillors holding office when this Act comes into force shall continue to hold office until after the first annual election after this Act comes into force.

(2) Notwithstanding subsections 4 and 5 of section 4, at ^{First annual election} the first election of councillors after this Act comes into force, one councillor-at-large shall be elected for a two-year term and one councillor-at-large shall be elected for a one-year term and there shall be elected from each of the five regions mentioned in subsection 4 of section 4 one regional councillor for a two-year term and one regional councillor for a one-year term. *New.*

(3) Notwithstanding subsection 6 of section 4, all councillors ^{Appointed members} who have been appointed by the Lieutenant Governor in Council and are holding office when this Act comes into force shall continue to hold office for the term designated in the order in council by which they were appointed. *New.*

MISCELLANEOUS

30. *The Professional Engineers Act* is repealed. ^{R.S.O. 1960, c. 309, repealed}

31. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. ^{Commencement}

32. This Act may be cited as *The Professional Engineers Act, 1968-69.* ^{Short title}





1st Reading

December 19th, 1968

2nd Reading

May 26th, 1969

3rd Reading

June 27th, 1969

MR. WISHART

BILL 49

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Securities Act, 1966

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 49

1968-69

An Act to amend The Securities Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Securities Act, 1966* is amended by adding thereto 1966, c. 142,
amended the following section:

6a. Every registered broker, broker-dealer, investment Security dealer or sub-broker-dealer shall maintain a bond or insurance that would indemnify all persons from all loss of securities or of moneys for investment held by the broker, broker-dealer, investment dealer or sub-broker-dealer due to his defalcation, fraud or bankruptcy and shall furnish the Director with proof and particulars of the bonding or insurance.

2. This Act comes into force on the 1st day of September, Commence-
ment 1969.

3. This Act may be cited as *The Securities Amendment Act*, Short title 1968-69.

1st Reading

December 19th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 50

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The County Judges Act

MR. WISHART

EXPLANATORY NOTE

The amendments increase the junior judges in Carleton County **from** one to two and in York County from ten to fourteen.

BILL 50

1968-69

An Act to amend The County Judges Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The County Judges Act*, as re-enacted by section 1 of *The County Judges Amendment Act, 1968*, is amended by striking out “Carleton” in the second line, so that the subsection shall read as follows:

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 1,
amended

(1) A junior judge may be appointed for the county court of each of the counties of Lincoln and Welland and for the district court of each of the districts of Cochrane, Sudbury and Thunder Bay.

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 2,
amended

(2) Subsection 2 of the said section 2 is amended by inserting after “of” where it occurs the third time in the second line “Carleton”, so that the subsection shall read as follows:

(2) Two junior judges may be appointed for the county court of each of the counties of Carleton, Essex and Wentworth.

(3) Subsection 4 of the said section 2 is amended by striking out “Ten” in the first line and inserting in lieu thereof “Fourteen”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 4,
amended

(4) Fourteen junior judges may be appointed for the county court of the county of York.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The County Judges Amendment Act, 1968-69*.

Short title

1st Reading

December 20th, 1968

2nd Reading

3rd Reading

MR. WISHART

BILL 50

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The County Judges Act

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The amendments increase the junior judges in Carleton County from one to two and in York County from ten to fourteen.

BILL 50

1968-69

An Act to amend The County Judges Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The County Judges Act*, as re-enacted by section 1 of *The County Judges Amendment Act, 1968*, is amended by striking out "Carleton" in the second line, so that the subsection shall read as follows:

R.S.O. 1960.
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 1,
amended

(1) A junior judge may be appointed for the county court of each of the counties of Lincoln and Welland and for the district court of each of the districts of Cochrane, Sudbury and Thunder Bay.

Junior
judges

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor:

R.S.O. 1960.
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 2,
re-enacted

(2) Two junior judges may be appointed for the county court of the Regional Municipality of Ottawa-Carleton and of each of the counties Essex and Wentworth.

Idem

(3) Subsection 4 of the said section 2 is amended by striking out "Ten" in the first line and inserting in lieu thereof "Fourteen", so that the subsection shall read as follows:

R.S.O. 1960.
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 4,
amended

(4) Fourteen junior judges may be appointed for the county court of the county of York.

Idem

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The County Judges Amendment Act, 1968-69*.

Short title

1st Reading

December 20th, 1968

2nd Reading

February 19th, 1969

3rd Reading

MR. WISHART

(Reprinted as amended by
the Committee of the Whole House)

BILL 50

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The County Judges Act

MR. WISHART



BILL 50

1968-69

An Act to amend The County Judges Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The County Judges Act*, as re-enacted by section 1 of *The County Judges Amendment Act, 1968*, is amended by striking out “Carleton” in the second line, so that the subsection shall read as follows:

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 1,
amended

(1) A junior judge may be appointed for the county court of each of the counties of Lincoln and Welland and for the district court of each of the districts of Cochrane, Sudbury and Thunder Bay.

Junior
judges

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 2,
re enacted

(2) Two junior judges may be appointed for the county court of the Regional Municipality of Ottawa-Carleton and of each of the counties of Essex and Wentworth.

Idem

(3) Subsection 4 of the said section 2 is amended by striking out “Ten” in the first line and inserting in lieu thereof “Fourteen”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 77, s. 2
(1968, c. 22,
s. 1), subs. 4,
amended

(4) Fourteen junior judges may be appointed for the county court of the county of York.

Idem

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The County Judges Amendment Act, 1968-69*.

Short title

1st Reading

December 20th, 1968

2nd Reading

February 19th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 51

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Workmen's Compensation Act

MR. JACKSON

EXPLANATORY NOTE

The amendment provides that a total disability allowance paid to a workman will not be reduced where his disability becomes partial until suitable employment is reasonably available.

BILL 51

1968-69

**An Act to amend
The Workmen's Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 41 of *The Workmen's Compensation Act*, as amended by section 5 of *The Workmen's Compensation Amendment Act, 1962-63*, is further amended by adding thereto the following subsection: R.S.O. 1960, c. 437, s. 41, amended

(2) Where a workman is in receipt of an allowance in respect of a temporary total disability that becomes a temporary partial disability, the reduced compensation referred to in subsection 1 shall commence from the time employment in a suitable employment or business becomes reasonably available. Idem

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Workmen's Compensation Amendment Act, 1968-69*. Short title

1st Reading

December 20th, 1968

2nd Reading

3rd Reading

Mr. JACKSON

BILL 52

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Child Welfare Act, 1965

MR. SHULMAN

EXPLANATORY NOTE

The Bill prevents children leaving the Province for adoption unless adoption opportunities have been exhausted in Ontario and the adopting home meets Ontario standards.

BILL 52

1968-69

An Act to amend The Child Welfare Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Child Welfare Act, 1965* is amended by adding ^{1965, c. 14,} thereto the following section: amended

84a. A children's aid society shall not place a child for adoption and no interim custody order or adoption order shall be made where the adopting parents are ordinarily resident outside of Ontario unless, ^{Where adoptive home outside Ontario}

- (a) the availability of the child for adoption has been advertised at least once each week for sixteen weeks in a newspaper having general circulation throughout Ontario and at least two months have elapsed since the sixteenth publication;
- (b) there is no prospect of adopting parents being found who are ordinarily resident in Ontario and otherwise qualified; and
- (c) the qualifications of the adopting parents have been investigated by the children's aid society personally by its own staff and meet the standards required for adoptions in Ontario.

2. Section 1 does not apply to adoption orders in respect of children placed for adoption before this Act comes into force. ^{Application of section 1}

3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

4. This Act may be cited as *The Child Welfare Amendment Act, 1968-69*. ^{Short title}

1st Reading

December 20th, 1968

2nd Reading

3rd Reading

MR. SHULMAN

BILL 53

2ND SESSION, 28TH LEGISLATURE, ONTARIO
17 ELIZABETH II, 1968-69

An Act to amend The Securities Act, 1966

MR. SHULMAN

EXPLANATORY NOTE

The amendment requires that shareholders of public corporations be notified of material changes in the corporate affairs that affect the value of the shares.

An Act to amend The Securities Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Securities Act, 1966* is amended by adding thereto ^{1966, c. 142,} the following section: ^{amended}

- 129a.—(1) Where a material change or development occurs ^{Notice of material changes} in the affairs of a corporation, the directors shall cause a notice giving the particulars of the change to be sent to each registered shareholder as soon as is practicable but not later than the tenth day of the month immediately following the month in which the change occurs.
- (2) For the purposes of subsection 1, a material change or ^{What constitutes material change} development includes,
- (a) an actual or proposed change in the control of the corporation;
 - (b) an actual or proposed acquisition or disposition of material assets;
 - (c) any proposed take-over, merger, consolidation, amalgamation or reorganization;
 - (d) any material discoveries, changes or developments in the corporation's resources, technology, products or contracts that would materially increase or decrease the earnings of the corporation;
 - (e) any proposed change in capital structure, including stock splits or stock dividends;

- (f) any indicated increase or decrease of earnings of more than recent average size and any changes in dividends;
- (g) any other change in the affairs of the corporation that could reasonably be expected to affect materially the value of the share.

Short title

2. This Act may be cited as *The Securities Amendment Act, 1968-69*.







1st Reading

February 4th, 1969

2nd Reading

3rd Reading

MR. SUTCLIFFE

BILL 54

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Medical Act

MR. SHULMAN

EXPLANATORY NOTES

SECTION 1—Subsection 1. A lay member is added to the composition of the Council of the College of Physicians and Surgeons of Ontario to be appointed by the Lieutenant Governor in Council.

Subsection 2. Complementary to subsection 1.

SECTION 2. The lay member of the Council is to be one of the five-member discipline committee.

An Act to amend The Medical Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 3 of *The Medical Act* is amended by adding thereto the following paragraph: R.S.O. 1960, c. 234, s. 3, subs. 1, amended

1a. One member who is not a legally qualified medical practitioner, to be appointed by the Lieutenant Governor in Council. Lay member

(2) Subsection 3 of the said section 3 is amended by inserting after "subsection 1" in the first and second lines "other than the member appointed by the Lieutenant Governor in Council", so that the subsection shall read as follows: R.S.O. 1960, c. 234, s. 3, subs. 3, amended

(3) Every member of the Council appointed under subsection 1 other than the member appointed by the Lieutenant Governor in Council shall be a legally qualified medical practitioner resident in Ontario. All members but one to be practitioners

2. Subsection 1 of section 34 of *The Medical Act*, as re-enacted by section 1 of *The Medical Amendment Act, 1962-63*, is amended by inserting after "Council" in the second line "one of whom shall be the member who is not a legally qualified medical practitioner", so that the subsection shall read as follows: R.S.O. 1960, c. 234, s. 34 (1962-63, c. 80, s. 1), subs. 1, amended

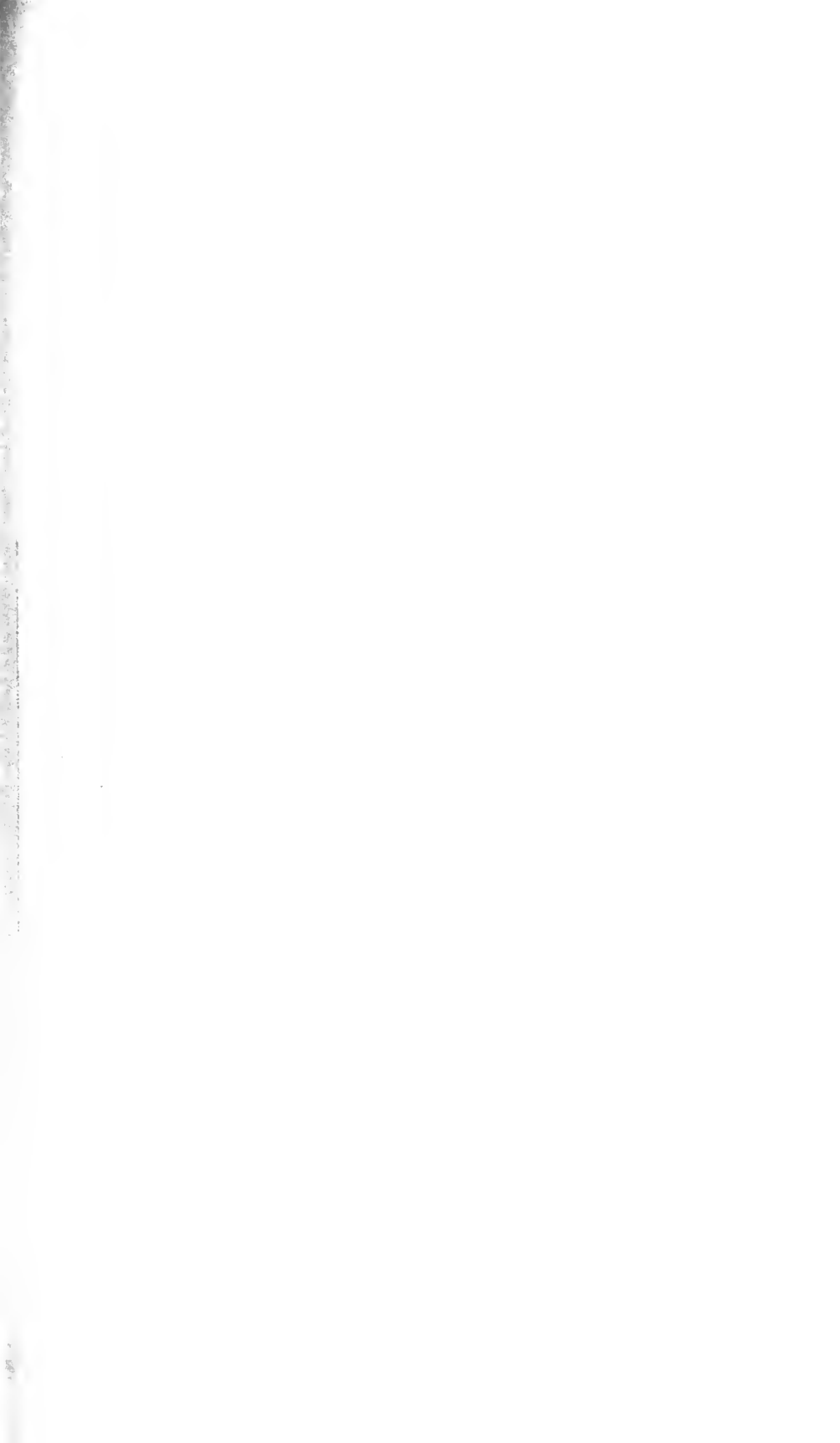
(1) The Council shall appoint five members of the Council, one of whom shall be the member who is not a legally qualified medical practitioner, as a committee to be known as the discipline committee for the purpose of exercising the disciplinary functions designated by this Act. Discipline committee

3. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commencement

Short title **4.** This Act may be cited as *The Medical Amendment Act, 1968-69*.







1st Reading

February 6th, 1969

2nd Reading

3rd Reading

MR. SUTTMAN

BILL 55

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Department of Correctional Services Act, 1968**

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 55

1968-69

**An Act to amend
The Department of Correctional
Services Act, 1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Department of Correctional Services Act, 1968* is ^{1968, c. 27,} amended ^{amended} by adding thereto the following section:

20a. The Lieutenant Governor in Council may establish ^{Conjugal} a conjugal ^{visiting} visiting programme ^{programme} under which persons detained in a correctional institution or any class thereof may, under such terms and conditions as are specified, receive visits from the husbands or wives of such persons for the purpose of continuing or resuming their marital relations.

2. Subsection 1 of section 34 of *The Department of Correctional Services Act, 1968* is ^{1968, c. 27,} amended ^{s. 34,} by adding thereto the ^{subs. 1,} following clause: ^{amended}

(ca) establishing and governing the conjugal visiting programme referred to in section 20a.

3. This Act comes into force on the day it receives Royal ^{Commencement} Assent.

4. This Act may be cited as *The Department of Correctional Services Amendment Act, 1968-69*. ^{Short title}

1st Reading

February 10th, 1969

2nd Reading

3rd Reading

MR. SUTTMAN

BILL 56

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Apprenticeship and Tradesmen's
Qualification Act, 1964**

MR. BALES

EXPLANATORY NOTE

These provisions are designed to clarify the intent of the Act as to the persons who may work in, or be employed in, a certified trade.

BILL 56

1968-69

An Act to amend The Apprenticeship and Tradesmen's Qualification Act, 1964

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 10 of *The Apprenticeship and Tradesmen's Qualification Act, 1964* is repealed and the following substituted therefor: 1964, c. 3, s. 10, subs. 2, re-enacted

(2) No person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 3, shall work or be employed in a certified trade unless he holds a subsisting certificate of qualification in the certified trade. Persons who may work in a certified trade

(2a) No person shall employ any person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 3, in a certified trade unless the person employed holds a subsisting certificate of qualification in the certified trade. Persons who may be employed in a certified trade

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Apprenticeship and Tradesmen's Qualification Amendment Act, 1968-69*. Short title

1st Reading

February 11th, 1969

2nd Reading

3rd Reading

MR. BATES

BILL 56

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Apprenticeship and Tradesmen's
Qualification Act, 1964**

MR. BALES



BILL 56

1968-69

An Act to amend The Apprenticeship and Tradesmen's Qualification Act, 1964

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 10 of *The Apprenticeship and Tradesmen's Qualification Act, 1964* is repealed and the following substituted therefor: 1964, c. 3, s. 10, subs. 2, re-enacted

(2) No person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 3, shall work or be employed in a certified trade unless he holds a subsisting certificate of qualification in the certified trade. Persons who may work in a certified trade

(2a) No person shall employ any person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 3, in a certified trade unless the person employed holds a subsisting certificate of qualification in the certified trade. Persons who may be employed in a certified trade

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Apprenticeship and Tradesmen's Qualification Amendment Act, 1968-69*. Short title

1st Reading

February 11th, 1969

2nd Reading

March 17th, 1969

3rd Reading

March 25th, 1969

MR. BALES

BILL 57

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Human Tissue Act, 1962-63

MR. BURR

EXPLANATORY NOTES

SECTION 1. The amendment permits the use of a donor's body without the authorization of next of kin where he dies outside a hospital.

SECTIONS 2 and 3. The amendments permit the use of a body of a person who is not a donor to be authorized by the nearest class of next of kin who are available, notwithstanding that persons in a closer relationship exist but are not available.

BILL 57

1968-69

**An Act to amend
The Human Tissue Act, 1962-63**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Human Tissue Act, 1962-63* is repealed and the following substituted therefor: 1962-63,
c. 59, s. 3,
re-enacted

3. Where a donor dies in a place other than a hospital, the first person who has knowledge of the death and also that the deceased is a donor shall immediately notify the coroner who may authorize and require that the body be handed over to such hospital or other institution as the coroner designates as appropriate for the purposes of the donor's request. Death
outside
hospital

2. Section 4 of *The Human Tissue Act, 1962-63* is amended by adding thereto the following subsection: 1962-63,
c. 59, s. 4,
amended

(2) Where the person required to give the authorization referred to in subsection 1 is not available within the time necessary for effective use of the body, the next succeeding person referred to in subsection 1 who is available may give the authorization. Where not
available

3. Section 4a of *The Human Tissue Act, 1962-63*, as enacted by section 1 of *The Human Tissue Amendment Act, 1967*, is amended by adding thereto the following subsection: 1962-63,
c. 59, s. 4a
(1967, c. 38,
s. 1),
amended

(3) Where the person required to give the authorization referred to in subsection 1 is not available within the time necessary for effective use of the body, the next succeeding person referred to in subsection 1 who is available may give the authorization. Where not
available

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. This Act may be cited as *The Human Tissue Amendment Act, 1968-69*. Short title

1st Reading

February 11th, 1969

2nd Reading

3rd Reading

MR. BURR

BILL 58

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Securities Act, 1966

MR. SHULMAN

EXPLANATORY NOTE

In addition to the liability of an insider to compensate a person or company for direct loss suffered as a result of use of confidential information in the manner specified, the Bill makes it an offence to so use such information.

BILL 58

1968-69

An Act to amend The Securities Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 113 of *The Securities Act, 1966* ^{1966, c. 142, s. 113,} is amended by adding at the end thereof "and in addition is ^{subs. 1,} guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000", so that the subsection shall read as follows:

- (1) Every insider of a corporation or associate or affiliate ^{Liability of insiders} of such insider, who, in connection with a transaction relating to the capital securities of the corporation, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person or company for any direct loss suffered by such person or company as a result of such transaction, unless such information was known or ought reasonably to have been known to such person or company at the time of such transaction, and is also accountable to the corporation for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction and in addition is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Securities Amendment* ^{Short title} *Act, 1968-69*.

1st Reading

February 11th, 1969

2nd Reading

3rd Reading

MR. SUTCLIFFE

BILL 59

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Mental Health Act, 1967

MR. SHULMAN

EXPLANATORY NOTE

The Bill requires that where a person charged with or convicted of an offence is ordered to attend a psychiatric facility for examination, he be examined by at least one psychiatrist.

BILL 59

1968-69

An Act to amend The Mental Health Act, 1967

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 14 of *The Mental Health Act, 1967* is amended by adding at the end thereof "and the person shall be examined by at least one psychiatrist", so that the subsection shall read as follows: 1967, c. 51, s. 14, subs. 1, amended

(1) Where a judge or magistrate has reason to believe that a person who appears before him charged with or convicted of an offence suffers from mental disorder, the judge or magistrate may order the person to attend a psychiatric facility for examination, and the person shall be examined by at least one psychiatrist. Judge's order for examination

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Mental Health Amendment Act, 1968-69*. Short title

The Mental Health Act, 1967

1st Reading

February 12th, 1969

2nd Reading

3rd Reading

MR. SHELMAN

BILL 60

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Partnerships Registration Act

MR. WISHART

EXPLANATORY NOTE

Self-explanatory.

BILL 60

1968-69

An Act to amend The Partnerships Registration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Partnerships Registration Act* is amended by adding thereto the following sections: R.S.O. 1960,
c. 289,
amended

CENTRAL REGISTRY

16. Notwithstanding anything in this Act or in *The Limited Partnerships Act*, the Lieutenant Governor in Council may make regulations providing for the establishment of a central registry of all declarations, certificates and records under this Act and under *The Limited Partnerships Act* and may in the regulations make provision,
- Central
registry
R.S.O. 1960,
c. 215
- (a) for the filing in the central registry of declarations under this Act and certificates under *The Limited Partnerships Act* in respect of any registry division;
 - (b) respecting the books and records to be kept in the central registry;
 - (c) requiring the payment of fees to the Registrar of Partnerships upon the performance of any official function under this Act;
 - (d) prescribing forms and providing for their use;
 - (e) providing for the microfilming of declarations and certificates filed in the central registry;
 - (f) governing the custody and destruction of declarations and certificates filed in the central registry.

- Registrar of Partnerships 17.—(1) There shall be a Registrar of Partnerships who, subject to subsection 2, shall be appointed by the Lieutenant Governor in Council.
- Idem (2) Until such time as a Registrar of Partnerships is appointed under subsection 1, the registrar for the registry division of Toronto is *ex officio* the Registrar of Partnerships and shall act under the direction of the Inspector of Legal Offices.
- Deputies (3) The Registrar of Partnerships may designate one or more persons on the staff of his office to act on his behalf.
- Functions (4) It shall be the function of the Registrar of Partnerships to supervise the operation of the central registry and the centralization of records under this Act.
- Seal (5) The Registrar of Partnerships shall have a seal of office in such form as the Lieutenant Governor in Council approves.
- Location of central registry 18. The central registry may be located in such place as the Lieutenant Governor in Council orders and until such an order is made shall be operated in conjunction with the registry office for the registry division of Toronto.
- Commencement **2.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.
- Short title **3.** This Act may be cited as *The Partnerships Registration Amendment Act, 1968-69.*







1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 60

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Partnerships Registration Act

MR. WISHART

BILL 60

1968-69

An Act to amend The Partnerships Registration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Partnerships Registration Act* is amended by adding thereto the following sections: R.S.O. 1960,
c.289,
amended

CENTRAL REGISTRY

16. Notwithstanding anything in this Act or in *The Limited Partnerships Act*, the Lieutenant Governor in Council may make regulations providing for the establishment of a central registry of all declarations, certificates and records under this Act and under *The Limited Partnerships Act* and may in the regulations make provision, Central
registry
R.S.O. 1960,
c. 215
- (a) for the filing in the central registry of declarations under this Act and certificates under *The Limited Partnerships Act* in respect of any registry division;
 - (b) respecting the books and records to be kept in the central registry;
 - (c) requiring the payment of fees to the Registrar of Partnerships upon the performance of any official function under this Act;
 - (d) prescribing forms and providing for their use;
 - (e) providing for the microfilming of declarations and certificates filed in the central registry;
 - (f) governing the custody and destruction of declarations and certificates filed in the central registry.

- Registrar of Partnerships 17.—(1) There shall be a Registrar of Partnerships who, subject to subsection 2, shall be appointed by the Lieutenant Governor in Council.
- Idem (2) Until such time as a Registrar of Partnerships is appointed under subsection 1, the registrar for the registry division of Toronto is *ex officio* the Registrar of Partnerships and shall act under the direction of the Inspector of Legal Offices.
- Deputies (3) The Registrar of Partnerships may designate one or more persons on the staff of his office to act on his behalf.
- Functions (4) It shall be the function of the Registrar of Partnerships to supervise the operation of the central registry and the centralization of records under this Act.
- Seal (5) The Registrar of Partnerships shall have a seal of office in such form as the Lieutenant Governor in Council approves.
- Location of central registry 18. The central registry may be located in such place as the Lieutenant Governor in Council orders and until such an order is made shall be operated in conjunction with the registry office for the registry division of Toronto.
- Commencement **2.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.
- Short title **3.** This Act may be cited as *The Partnerships Registration Amendment Act, 1968-69.*







1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 61

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Commissioners for taking
Affidavits Act**

MR. WISHART

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment would add **controllers and aldermen of municipalities other than cities, (e.g., the boroughs of Metropolitan Toronto), as *ex officio* commissioners.**

Subsection 2. The chairman, vice-chairman and **secretary-treasurer of improvement districts are added as *ex officio* commissioners.**

SECTION 2. The provision repealed makes **commissioners officers of the Supreme Court.**

SECTION 3. The amendment removes the words limiting the **taking of affidavits to court actions, thus permitting the taking of affidavits required by a statute and states the present practice of making limited appointments.**

BILL 61

1968-69

An Act to amend The Commissioners for taking Affidavits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 2 of *The Commissioners for taking Affidavits Act* is amended by striking out “city” in the third line and inserting in lieu thereof “municipality”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 59, s. 2,
subs. 4,
amended

(4) The head of every municipal council, the reeve of every town, every deputy reeve and every controller and alderman of a municipality is *ex officio* a commissioner for taking affidavits in the county or district in which the municipality is situate.

Heads of
municipal
councils,
etc.

(2) The said section 2, as amended by section 1 of *The Commissioners for taking Affidavits Amendment Act, 1964*, is further amended by adding thereto the following subsection:

R.S.O. 1960,
c. 59, s. 2,
amended

(5) The chairman, vice-chairman and secretary-treasurer of every improvement district are *ex officio* commissioners for taking affidavits in the county or district in which the improvement district is situate.

Improve-
ment
districts

2. Section 4 of *The Commissioners for taking Affidavits Act* is repealed.

R.S.O. 1960,
c. 59, s. 4,
repealed

3. Subsection 1 of section 6 of *The Commissioners for taking Affidavits Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 59, s. 6,
subs. 1,
re-enacted

(1) The Lieutenant Governor may by commission empower any person of the age of twenty-one years or over to administer oaths and take affidavits authorized by law within or outside Ontario or subject to such limits as to duration, territory or purpose as the Lieutenant Governor specifies in the appointment.

Appoint-
ment
of com-
missioners

- Past oaths validated **4.** The chairmen, vice-chairmen and secretary-treasurers of improvement districts and the controllers and aldermen of municipalities other than cities shall be deemed to have always been *ex officio* commissioners for taking affidavits.
- Commencement **5.** This Act comes into force on the day it receives Royal Assent.
- Short title **6.** This Act may be cited as *The Commissioners for taking Affidavits Amendment Act, 1968-69.*

SECTION 4. The amendment in section 1 of the Bill removes doubts that exist as to the capacity of the officials named to take affidavits. This section would remove doubts as to the validity of oaths taken in the past in a mistaken interpretation of the law.





1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 61

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Commissioners for taking
Affidavits Act**

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1—Subsection 1. The amendment would add **controllers and aldermen of municipalities other than cities, (e.g., the boroughs of Metropolitan Toronto), as *ex officio* commissioners.**

Subsection 2. The **chairman, vice-chairman and secretary-treasurer of improvement districts are added as *ex officio* commissioners.**

SECTION 2. The provision repealed makes **commissioners officers of the Supreme Court.**

SECTION 3. The amendment removes the words limiting the taking of affidavits to court actions, thus permitting the taking of affidavits required by a statute and states the present practice of making **limited appointments.**

BILL 61

1968-69

An Act to amend The Commissioners for taking Affidavits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 2 of *The Commissioners for taking Affidavits Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 59, s. 2,
subs 4,
re-enacted

(4) The head of every municipal council, the reeve of every town, every deputy reeve and every controller and alderman of a municipality is *ex officio* a commissioner for taking affidavits in the county, district or regional municipality in which the municipality is situate. Heads of
municipal
councils,
etc.

(2) The said section 2, as amended by section 1 of *The Commissioners for taking Affidavits Amendment Act, 1964*, is further amended by adding thereto the following subsection: R.S.O. 1960,
c. 59, s. 2,
amended

(5) The chairman, vice-chairman and secretary-treasurer of every improvement district are *ex officio* commissioners for taking affidavits in the county or district in which the improvement district is situate. Improve-
ment
districts

2. Section 4 of *The Commissioners for taking Affidavits Act* is repealed. R.S.O. 1960,
c. 59, s. 4,
repealed

3. Subsection 1 of section 6 of *The Commissioners for taking Affidavits Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 59, s. 6,
subs. 1,
re-enacted

(1) The Lieutenant Governor may by commission empower any person of the age of twenty-one years or over to administer oaths and take affidavits authorized by law within or outside Ontario or subject to such limits as to duration, territory or purpose as the Lieutenant Governor specifies in the appointment. Appoint-
ment
of com-
missioners

- Past oaths validated **4.** The chairmen, vice-chairmen and secretary-treasurers of improvement districts and the controllers and aldermen of municipalities other than cities shall be deemed to have always been *ex officio* commissioners for taking affidavits.
- Commencement **5.** This Act comes into force on the day it receives Royal Assent.
- Short title **6.** This Act may be cited as *The Commissioners for taking Affidavits Amendment Act, 1968-69*.

SECTION 4. The amendment in section 1 of the Bill removes doubts that exist as to the capacity of the officials named to take affidavits. This section would remove doubts as to the validity of oaths taken in the past in a mistaken interpretation of the law.





1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 61

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Commissioners for taking
Affidavits Act**

MR. WISHART



BILL 61

1968-69

An Act to amend The Commissioners for taking Affidavits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 2 of *The Commissioners for taking Affidavits Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 59, s. 2,
subs 4,
re-enacted

(4) The head of every municipal council, the reeve of every town, every deputy reeve and every controller and alderman of a municipality is *ex officio* a commissioner for taking affidavits in the county, district or regional municipality in which the municipality is situate. Heads of
municipal
councils,
etc.

(2) The said section 2, as amended by section 1 of *The Commissioners for taking Affidavits Amendment Act, 1964*, is further amended by adding thereto the following subsection: R.S.O. 1960,
c. 59, s. 2,
amended

(5) The chairman, vice-chairman and secretary-treasurer of every improvement district are *ex officio* commissioners for taking affidavits in the county or district in which the improvement district is situate. Improve-
ment
districts

2. Section 4 of *The Commissioners for taking Affidavits Act* is repealed. R.S.O. 1960,
c. 59, s. 4,
repealed

3. Subsection 1 of section 6 of *The Commissioners for taking Affidavits Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 59, s. 6,
subs. 1,
re-enacted

(1) The Lieutenant Governor may by commission empower any person of the age of twenty-one years or over to administer oaths and take affidavits authorized by law within or outside Ontario or subject to such limits as to duration, territory or purpose as the Lieutenant Governor specifies in the appointment. Appoint-
ment
of com-
missioners

Past oaths
validated

4. The chairmen, vice-chairmen and secretary-treasurers of improvement districts and the controllers and aldermen of municipalities other than cities shall be deemed to have always been *ex officio* commissioners for taking affidavits.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Commissioners for taking Affidavits Amendment Act, 1968-69*.







1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 62

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to provide for the Consolidation and Revision
of the Statutes**

MR. WISHART

EXPLANATORY NOTE

This Act will authorize the preparation and publication of the **Revised Statutes of Ontario, 1970** in a manner similar to the current revision, the **Revised Statutes of Ontario, 1960**.

BILL 62

1968-69

An Act to provide for the Consolidation and Revision of the Statutes

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Warner Cox Alcombrack, one of Her Majesty's ^{Commissioners,} Counsel, and Arthur Norman Stone, one of Her Majesty's ^{appoint-} Counsel, Legislative Counsel and Associate Legislative ^{ment} Counsel respectively, or such other person or persons as the Lieutenant Governor in Council may appoint, are hereby appointed commissioners under the direction of the Minister of Justice and Attorney General to consolidate and revise the public general statutes of Ontario in accordance with this Act.

(2) The commissioners and such persons as may assist ^{remunera-} them shall be paid such remuneration for their services under ^{tion} this Act, out of the moneys voted by the Legislature for the purposes of this Act, as the Lieutenant Governor in Council may fix.

2. The commissioners shall examine the Revised Statutes ^{Duties} of Ontario, 1960, and the public general statutes of Ontario of Ontario enacted after the 31st day of December, 1960, and before the 1st day of August, 1970, and shall arrange, consolidate and revise such statutes in accordance with this Act.

3. In the performance of their duties under this Act, the ^{Powers} commissioners may omit any enactment that is not of general application or that is obsolete, may alter the numbering and arrangement of any enactment, may make such alterations in language and punctuation as are requisite to obtain a uniform mode of expression, and may make such amendments as are necessary to bring out more clearly what is deemed to be the intention of the Legislature or to reconcile seemingly inconsistent enactments or to correct clerical, grammatical or typographical errors.

Printed roll **4.** As soon as the commissioners report the completion of the consolidation and revision authorized by this Act, the Lieutenant Governor may cause a printed roll thereof, attested by his signature and countersigned by the Minister of Justice and Attorney General, to be deposited in the office of the Clerk of the Assembly.

Appendices **5.** There shall be appended to the roll,

(a) an appendix marked "Appendix A", similar in form to Appendix A appended to the Revised Statutes of Ontario, 1960, containing certain Imperial Acts and parts of Acts relating to property and civil rights that were consolidated in The Revised Statutes of Ontario, 1897, Volume III, pursuant to chapter 13 of the Statutes of Ontario, 1902, that are not repealed by the Revised Statutes of Ontario, 1970 and are in force in Ontario subject thereto; and

(b) an appendix marked "Appendix B", similar in form to Appendix B appended to the Revised Statutes of Ontario, 1960, containing certain Imperial statutes and statutes of Canada relating to the constitution and boundaries of Ontario.

Schedules **6.**—(1) There shall be appended to the roll,

(a) a schedule marked "Schedule A", similar in form to Schedule A appended to the Revised Statutes of Ontario, 1960, showing the Acts contained in the Revised Statutes of Ontario, 1960 and the other Acts that are repealed in whole or in part from the day upon which the Revised Statutes of Ontario, 1970 take effect and the extent of such repeal; and

(b) a schedule marked "Schedule B", similar in form to Schedule B appended to the Revised Statutes of Ontario, 1960, showing the Acts and parts of Acts that are repealed, superseded and consolidated in the Revised Statutes of Ontario, 1970 and showing also the portions of the Revised Statutes of Ontario, 1960 and Acts passed thereafter that are not consolidated.

Effect of mention of an Act in schedules (2) The mention of an Act or a part thereof in a schedule shall not be construed as a declaration that the Act or part was or was not in force immediately before the coming into force of the Revised Statutes of Ontario, 1970.

Proclamation **7.**—(1) After the deposit of the roll pursuant to section 4, the Lieutenant Governor may by proclamation declare the

day upon which the roll will come into force and have effect as law by the designation "Revised Statutes of Ontario, 1970".

(2) On and after the day so proclaimed, the roll shall be in force and effect by the said designation to all intents as though the same were expressly embodied in and enacted by this Act to come into force and have effect on and after that day, and on and after that day all the enactments in the several Acts and parts of Acts in Schedule A thereto shall be repealed to the extent mentioned in the third column of the schedule.

8. Any reference in an unrepealed and unconsolidated Act or in an instrument or document to an Act or enactment repealed and consolidated shall, after the Revised Statutes of Ontario, 1970 come into force, be held, as regards any subsequent transaction, matter or thing, to be a reference to the Act or enactment in the Revised Statutes of Ontario, 1970 having the same effect as such repealed and consolidated Act or enactment.

9. Copies of the Revised Statutes of Ontario, 1970 as printed by the Queen's Printer shall be received as evidence of the Revised Statutes of Ontario, 1970 in all courts and places whatsoever.

10.—(1) The laws relating to the distribution of the printed copies of the sessional statutes do not apply to the Revised Statutes of Ontario, 1970, but the latter shall be distributed as the Lieutenant Governor in Council directs.

(2) The Lieutenant Governor in Council may make a list of the persons and classes of persons to whom the Revised Statutes of Ontario, 1970 may be distributed free of charge and may fix the price at which copies may be sold by the Queen's Printer.

11. This Act shall be printed with the Revised Statutes of Ontario, 1970 and is subject to the same rules of construction as the Revised Statutes of Ontario, 1970.

12. A chapter of the Revised Statutes of Ontario, 1970 may be cited and referred to in any Act, proceeding, instrument or document whatever either by its title as an Act or by using the expression "Revised Statutes of Ontario, 1970, chapter ", or the abbreviation "R.S.O. 1970, c. ", adding in each case the number of the particular chapter.

13. This Act may be cited as *The Statutes Revision Act, 1968-69.*





and Revision of the Statutes

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 62

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to provide for the Consolidation and Revision of the Statutes

MR. WISHART



An Act to provide for the Consolidation and Revision of the Statutes

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Warner Cox Alcombrack, one of Her Majesty's ^{Commissioners,} Counsel, and Arthur Norman Stone, one of Her Majesty's ^{appoint-} Counsel, Legislative Counsel and Associate Legislative Counsel respectively, or such other person or persons as the Lieutenant Governor in Council may appoint, are hereby appointed commissioners under the direction of the Minister of Justice and Attorney General to consolidate and revise the public general statutes of Ontario in accordance with this Act.

(2) The commissioners and such persons as may assist ^{remunera-} them shall be paid such remuneration for their services under this Act, out of the moneys voted by the Legislature for the purposes of this Act, as the Lieutenant Governor in Council may fix.

2. The commissioners shall examine the Revised Statutes ^{Duties} of Ontario, 1960, and the public general statutes of Ontario enacted after the 31st day of December, 1960, and before the 1st day of August, 1970, and shall arrange, consolidate and revise such statutes in accordance with this Act.

3. In the performance of their duties under this Act, the ^{Powers} commissioners may omit any enactment that is not of general application or that is obsolete, may alter the numbering and arrangement of any enactment, may make such alterations in language and punctuation as are requisite to obtain a uniform mode of expression, and may make such amendments as are necessary to bring out more clearly what is deemed to be the intention of the Legislature or to reconcile seemingly inconsistent enactments or to correct clerical, grammatical or typographical errors.

Printed roll **4.** As soon as the commissioners report the completion of the consolidation and revision authorized by this Act, the Lieutenant Governor may cause a printed roll thereof, attested by his signature and countersigned by the Minister of Justice and Attorney General, to be deposited in the office of the Clerk of the Assembly.

Appendices **5.** There shall be appended to the roll,

(a) an appendix marked "Appendix A", similar in form to Appendix A appended to the Revised Statutes of Ontario, 1960, containing certain Imperial Acts and parts of Acts relating to property and civil rights that were consolidated in The Revised Statutes of Ontario, 1897, Volume III, pursuant to chapter 13 of the Statutes of Ontario, 1902, that are not repealed by the Revised Statutes of Ontario, 1970 and are in force in Ontario subject thereto; and

(b) an appendix marked "Appendix B", similar in form to Appendix B appended to the Revised Statutes of Ontario, 1960, containing certain Imperial statutes and statutes of Canada relating to the constitution and boundaries of Ontario.

Schedules **6.** (1) There shall be appended to the roll,

(a) a schedule marked "Schedule A", similar in form to Schedule A appended to the Revised Statutes of Ontario, 1960, showing the Acts contained in the Revised Statutes of Ontario, 1960 and the other Acts that are repealed in whole or in part from the day upon which the Revised Statutes of Ontario, 1970 take effect and the extent of such repeal; and

(b) a schedule marked "Schedule B", similar in form to Schedule B appended to the Revised Statutes of Ontario, 1960, showing the Acts and parts of Acts that are repealed, superseded and consolidated in the Revised Statutes of Ontario, 1970 and showing also the portions of the Revised Statutes of Ontario, 1960 and Acts passed thereafter that are not consolidated.

Effect of mention of an Act in schedules (2) The mention of an Act or a part thereof in a schedule shall not be construed as a declaration that the Act or part was or was not in force immediately before the coming into force of the Revised Statutes of Ontario, 1970.

Proclamation **7.** (1) After the deposit of the roll pursuant to section 4, the Lieutenant Governor may by proclamation declare the

day upon which the roll will come into force and have effect as law by the designation "Revised Statutes of Ontario, 1970".

(2) On and after the day so proclaimed, the roll shall be in force and effect by the said designation to all intents as though the same were expressly embodied in and enacted by this Act to come into force and have effect on and after that day, and on and after that day all the enactments in the several Acts and parts of Acts in Schedule A thereto shall be repealed to the extent mentioned in the third column of the schedule.

8. Any reference in an unrepealed and unconsolidated Act or in an instrument or document to an Act or enactment repealed and consolidated shall, after the Revised Statutes of Ontario, 1970 come into force, be held, as regards any subsequent transaction, matter or thing, to be a reference to the Act or enactment in the Revised Statutes of Ontario, 1970 having the same effect as such repealed and consolidated Act or enactment.

9. Copies of the Revised Statutes of Ontario, 1970 as printed by the Queen's Printer shall be received as evidence of the Revised Statutes of Ontario, 1970 in all courts and places whatsoever.

10.—(1) The laws relating to the distribution of the printed copies of the sessional statutes do not apply to the Revised Statutes of Ontario, 1970, but the latter shall be distributed as the Lieutenant Governor in Council directs.

(2) The Lieutenant Governor in Council may make a list of the persons and classes of persons to whom the Revised Statutes of Ontario, 1970 may be distributed free of charge and may fix the price at which copies may be sold by the Queen's Printer.

11. This Act shall be printed with the Revised Statutes of Ontario, 1970 and is subject to the same rules of construction as the Revised Statutes of Ontario, 1970.

12. A chapter of the Revised Statutes of Ontario, 1970 may be cited and referred to in any Act, proceeding, instrument or document whatever either by its title as an Act or by using the expression "Revised Statutes of Ontario, 1970, chapter ", or the abbreviation "R.S.O. 1970, c. ", adding in each case the number of the particular chapter.

13. This Act may be cited as *The Statutes Revision Act, 1968-69*.





1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 63

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to provide for the Consolidation and Revision of
the Regulations**

MR. WISHART

EXPLANATORY NOTE

This Act will authorize the preparation and publication of the **Revised Regulations of Ontario, 1970** which will contain all the living regulations in consolidated and revised form that have been filed under *The Regulations Act* up to the end of 1970.

An Act to provide for the Consolidation and Revision of the Regulations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Warner Cox Alcombrack, one of Her Majesty's ^{Commissioners, appointment} Counsel, and William Russell Anderson, one of Her Majesty's Counsel, Legislative Counsel and Registrar of Regulations respectively, or such other person or persons as the Lieutenant Governor in Council may appoint, are hereby appointed commissioners under the direction of the Minister of Justice and Attorney General to consolidate and revise in accordance with this Act the regulations filed under *The Regulations Act*. ^{R.S.O. 1960, c. 349}

(2) The commissioners and such persons as may assist ^{Remuneration} them shall be paid such remuneration for their services under this Act, out of the moneys voted by the Legislature for the purposes of this Act, as the Lieutenant Governor in Council may fix.

2. The commissioners shall examine the Revised Regulations of Ontario, 1960, and the regulations filed under *The Regulations Act* after the 1st day of January, 1961, and before the 31st day of December, 1970, and shall arrange, consolidate and revise such regulations in accordance with this Act. ^{Duties}

3. In the performance of their duties under this Act, the commissioners may omit any regulation that is obsolete, may ^{Powers} alter the numbering and arrangement of any regulation, may make such alterations in language and punctuation as are requisite to obtain a uniform mode of expression, and may make such amendments as are necessary to bring out more clearly what is deemed to be the intention of the authority that made the regulation or to reconcile seemingly inconsistent provisions or to correct clerical, grammatical or typographical errors.

Printed roll
to be
deposited
with Clerk
of Assembly

4. As soon as the commissioners report the completion of the consolidation and revision, the Lieutenant Governor may cause a printed roll thereof, attested by his signature and countersigned by the Minister of Justice and Attorney General, to be deposited in the office of the Clerk of the Assembly.

Proclama-
tion

5.—(1) After the deposit of the roll pursuant to section 4, the Lieutenant Governor may by proclamation declare the day upon which the roll will come into force and have effect as law by the designation "Revised Regulations of Ontario, 1970".

Idem

(2) On and after the day so proclaimed, all regulations and parts of regulations not contained in the roll are revoked.

Copies
printed by
Queen's
Printer to
be
evidence

6. Copies of the Revised Regulations of Ontario, 1970 as printed by the Queen's Printer shall be received as evidence of the regulations as consolidated and revised under this Act in all courts and places whatsoever.

Distribution
of copies

7.—(1) The Revised Regulations of Ontario, 1970 shall be distributed as the Lieutenant Governor in Council directs.

Idem

(2) The Lieutenant Governor in Council may make a list of the persons and classes of persons to whom the Revised Regulations of Ontario, 1970 may be distributed free of charge and may fix the price at which copies may be sold by the Queen's Printer.

This Act
to be
printed with
R.R.O. 1970

8. This Act shall be printed with the Revised Regulations of Ontario, 1970 and is subject to the same rules of construction as the Revised Statutes of Ontario, 1970.

How regula-
tions may
be cited

9. Regulations in the Revised Regulations of Ontario, 1970 may be cited and referred to as "Revised Regulations of Ontario, 1970, Regulation ", or the abbreviation "R.R.O. 1970, Reg. ", adding in each case the number of the particular regulation.

Short title

10. This Act may be cited as *The Regulations Revision Act, 1968-69.*







1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 63

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to provide for the Consolidation and Revision of the Regulations

MR. WISHART

BILL 63

1968-69

An Act to provide for the Consolidation and Revision of the Regulations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Warner Cox Alcombrack, one of Her Majesty's ^{Commissioners,} Counsel, and William Russell Anderson, one of Her Majesty's ^{appoint-} Counsel, Legislative Counsel and Registrar of Regulations ^{ment} respectively, or such other person or persons as the Lieutenant Governor in Council may appoint, are hereby appointed commissioners under the direction of the Minister of Justice and Attorney General to consolidate and revise in accordance with this Act the regulations filed under *The Regulations Act*. ^{R.S.O. 1960,} ^{c. 349}

(2) The commissioners and such persons as may assist ^{Remunera-} them shall be paid such remuneration for their services under ^{tion} this Act, out of the moneys voted by the Legislature for the purposes of this Act, as the Lieutenant Governor in Council may fix.

2. The commissioners shall examine the Revised Regu- ^{Duties} lations of Ontario, 1960, and the regulations filed under *The Regulations Act* after the 1st day of January, 1961, and before the 31st day of December, 1970, and shall arrange, consolidate and revise such regulations in accordance with this Act.

3. In the performance of their duties under this Act, the ^{Powers} commissioners may omit any regulation that is obsolete, may alter the numbering and arrangement of any regulation, may make such alterations in language and punctuation as are requisite to obtain a uniform mode of expression, and may make such amendments as are necessary to bring out more clearly what is deemed to be the intention of the authority that made the regulation or to reconcile seemingly inconsistent provisions or to correct clerical, grammatical or typographical errors.

Printed roll
to be
deposited
with Clerk
of Assembly

4. As soon as the commissioners report the completion of the consolidation and revision, the Lieutenant Governor may cause a printed roll thereof, attested by his signature and countersigned by the Minister of Justice and Attorney General, to be deposited in the office of the Clerk of the Assembly.

Proclama-
tion

5.—(1) After the deposit of the roll pursuant to section 4, the Lieutenant Governor may by proclamation declare the day upon which the roll will come into force and have effect as law by the designation "Revised Regulations of Ontario, 1970".

Idem

(2) On and after the day so proclaimed, all regulations and parts of regulations not contained in the roll are revoked.

Copies
printed by
Queen's
Printer to
be
evidence

6. Copies of the Revised Regulations of Ontario, 1970 as printed by the Queen's Printer shall be received as evidence of the regulations as consolidated and revised under this Act in all courts and places whatsoever.

Distribution
of copies

7.—(1) The Revised Regulations of Ontario, 1970 shall be distributed as the Lieutenant Governor in Council directs.

Idem

(2) The Lieutenant Governor in Council may make a list of the persons and classes of persons to whom the Revised Regulations of Ontario, 1970 may be distributed free of charge and may fix the price at which copies may be sold by the Queen's Printer.

This Act
to be
printed with
R.R.O. 1970

8. This Act shall be printed with the Revised Regulations of Ontario, 1970 and is subject to the same rules of construction as the Revised Statutes of Ontario, 1970.

How regula-
tions may
be cited

9. Regulations in the Revised Regulations of Ontario, 1970 may be cited and referred to as "Revised Regulations of Ontario, 1970, Regulation ", or the abbreviation "R.R.O. 1970, Reg. ", adding in each case the number of the particular regulation.

Short title

10. This Act may be cited as *The Regulations Revision Act 1968-69*.







1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 64

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Summary Convictions Act

MR. WISHART

EXPLANATORY NOTE

The amendment permits a warrant of committal for default in payment of a fine to be executed by peace officers anywhere in Ontario.

BILL 64

1968-69

**An Act to amend
The Summary Convictions Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Summary Convictions Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 387,
amended

12a. A warrant for committal upon default in payment of a fine or of money ordered to be paid may be issued and executed according to its terms in the same manner as a warrant for the arrest of an accused under Part XIV of the *Criminal Code* (Canada). Committal
for default
in payment
of fine

1953-54,
c. 51 (Can.)

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Summary Convictions Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 64

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Summary Convictions Act

MR. WISHART



BILL 64

1968-69

**An Act to amend
The Summary Convictions Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Summary Convictions Act* is amended by adding thereto the following section: R.S.O. 1960,
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for default
in payment
of fine

1953-54,
c. 51 (Can.)

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Summary Convictions Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 31st, 1969

MR. WISHART

BILL 65

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Change of Name Act

MR. WISHART

EXPLANATORY NOTE

The amendments ensure more reliable information necessary for amending vital statistics records in Ontario or other jurisdictions as a result of a change of name order.

BILL 65

1968-69

An Act to amend The Change of Name Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 12 of *The Change of Name Act* R.S.O. 1960, c. 49, s. 12, is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause: subs. 3, amended

- (c) where practicable, a certificate of the registration of the birth of the applicant and of each other person whose name may be changed as a result of the application and a certificate of the registration of the marriage where the spouse is named in the application.

2.—(1) Section 17 of *The Change of Name Act* is amended R.S.O. 1960, c. 49, s. 17, by inserting after "affidavit" in the third line "and any certificate of registration of birth or marriage or the particulars contained therein", so that the section shall read as follows: amended

17. The clerk of the court shall enter the order and transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit and any certificate of registration of birth or marriage or the particulars contained therein, to the Registrar General. Certified copy to Registrar General

(2) The said section 17 is further amended by adding thereto the following subsection: R.S.O. 1960, c. 49, s. 17, amended

- (2) Where the Registrar General receives a certificate of birth or marriage under subsection 1, the Registrar General shall, Return of certificates

R.S.O. 1960,
c. 419

- (a) where the certificate was issued in respect of a birth or marriage that was registered in Ontario, re-issue the certificate in accordance with section 27 of *The Vital Statistics Act*, without payment of any fee therefor, and send the re-issued certificate to the applicant;
- (b) where the certificate was issued in respect of a birth or marriage that was registered outside Ontario, return the certificate to the applicant.

- Application **3.** This Act applies in respect of applications for change of name made after three months after this Act comes into force.
- Commence-
ment **4.** This Act comes into force on the day it receives Royal Assent.
- Short title **5.** This Act may be cited as *The Change of Name Amendment Act, 1968-69*.







1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 65

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Change of Name Act

MR. WISHART



BILL 65

1968-69

An Act to amend The Change of Name Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 12 of *The Change of Name Act* is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

R.S.O. 1960,
c. 49, s. 12,
subs. 3,
amended

- (c) where practicable, a certificate of the registration of the birth of the applicant and of each other person whose name may be changed as a result of the application and a certificate of the registration of the marriage where the spouse is named in the application.

2.—(1) Section 17 of *The Change of Name Act* is amended by inserting after "affidavit" in the third line "and any certificate of registration of birth or marriage or the particulars contained therein", so that the section shall read as follows:

R.S.O. 1960,
c. 49, s. 17,
amended

17. The clerk of the court shall enter the order and transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit and any certificate of registration of birth or marriage or the particulars contained therein, to the Registrar General.

Certified
copy to
Registrar
General

(2) The said section 17 is further amended by adding thereto the following subsection:

R.S.O. 1960,
c. 49, s. 17,
amended

- (2) Where the Registrar General receives a certificate of birth or marriage under subsection 1, the Registrar General shall,

Return of
certificates ↴

R.S.O. 1960,
c. 419

- (a) where the certificate was issued in respect of a birth or marriage that was registered in Ontario, re-issue the certificate in accordance with section 27 of *The Vital Statistics Act*, without payment of any fee therefor, and send the re-issued certificate to the applicant;
- (b) where the certificate was issued in respect of a birth or marriage that was registered outside Ontario, return the certificate to the applicant.

- Application **3.** This Act applies in respect of applications for change of name made after three months after this Act comes into force.
- Commence-
ment **4.** This Act comes into force on the day it receives Royal Assent.
- Short title **5.** This Act may be cited as *The Change of Name Amendment Act, 1968-69*.







1st Reading

February 13th, 1969

2nd Reading

February 20th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 66

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Matrimonial Causes Act

MR. WISHART

EXPLANATORY NOTE

The amendment provides that the disbursements of the Official Guardian in investigating and reporting on matters affecting children when there is a divorce action will be paid by the parties and not by the Province.

BILL 66

1968-69

An Act to amend The Matrimonial Causes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 6 of *The Matrimonial Causes Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 232, s. 6,
subs. 7,
re-enacted

(7) The petitioner in an action for divorce shall pay the disbursements incurred by the Official Guardian in an investigation in respect of the action and the Official Guardian shall not file his report of the investigation with the court until such disbursements have been paid.

Disburse-
ments of
Official
Guardian

(7a) The disbursements of the Official Guardian payable under subsection 7 shall be deemed to be costs incurred in the action for the purposes of any award as to costs by the judge.

Disburse-
ments as
costs in
action

2. This Act applies to investigations in respect of actions for the dissolution of marriage commenced after this Act comes into force.

Application

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. This Act may be cited as *The Matrimonial Causes Amendment Act, 1968-69*.

Short title

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 66

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Matrimonial Causes Act

MR. WISHART



BILL 66

1968-69

An Act to amend The Matrimonial Causes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 6 of *The Matrimonial Causes Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 232, s. 6,
subs. 7,
re-enacted

(7) The petitioner in an action for divorce shall pay the disbursements incurred by the Official Guardian in an investigation in respect of the action and the Official Guardian shall not file his report of the investigation with the court until such disbursements have been paid.

Disburse-
ments of
Official
Guardian

(7a) The disbursements of the Official Guardian payable under subsection 7 shall be deemed to be costs incurred in the action for the purposes of any award as to costs by the judge.

Disburse-
ments as
costs in
action

2. This Act applies to investigations in respect of actions for the dissolution of marriage commenced after this Act comes into force.

Applloation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. This Act may be cited as *The Matrimonial Causes Amendment Act, 1968-69*.

Short title

1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 67

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Deserted Wives' and Children's Maintenance Act**

MR. WISHART

EXPLANATORY NOTE

The provision repealed provides that the amount a father may be ordered to pay for the maintenance of each deserted child shall not exceed \$20 a week.

BILL 67

1968-69

**An Act to amend The Deserted Wives' and
Children's Maintenance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 2 of *The Deserted Wives' and Children's Maintenance Act* is repealed. R.S.O. 1960,
c. 105, s. 2,
subs. 2,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Deserted Wives' and Children's Maintenance Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 67

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Deserted Wives' and Children's Maintenance Act**

MR. WISHART



BILL 67

1968-69

An Act to amend The Deserted Wives' and Children's Maintenance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 2 of *The Deserted Wives' and Children's Maintenance Act* is repealed. R.S.O. 1960,
c. 105, s. 2,
subs. 2,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Deserted Wives' and Children's Maintenance Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 68

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Jurors Act

MR. WISHART

EXPLANATORY NOTE

The amendment increases the maximum number of petit jurors who may be summoned at a Supreme Court sittings in the Regional Municipality of Ottawa-Carleton from 225 to 350. This compares with 800 in York County, 350 in Wentworth County and 225 in other counties.

BILL 68

1968-69

An Act to amend The Jurors Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 52 of *The Jurors Act*, as amended by section 1 of *The Jurors Amendment Act, 1961-62*, is further amended by striking out "and" at the end of clause *b*, by adding "and" at the end of clause *c* and by adding thereto the following clause:

R.S.O. 1960,
c. 199, s. 52,
subs. 1,
amended

(*d*) in the Regional Municipality of Ottawa-Carleton,
350,

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Jurors Amendment Act, 1968-69*.

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 68

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Jurors Act

MR. WISHART



BILL 68

1968-69

An Act to amend The Jurors Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 52 of *The Jurors Act*, as amended ^{R.S.O. 1960,} by section 1 of *The Jurors Amendment Act, 1961-62*, is further ^{c. 199, s. 52,} amended by striking out "and" at the end of clause *b*, ^{subs. 1,} by adding "and" at the end of clause *c* and by adding thereto ^{amended} the following clause:

(*d*) in the Regional Municipality of Ottawa-Carleton,
350,

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Jurors Amendment Act*, Short title ^{1968-69.}

1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 69

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Judicature Act

MR. WISHART

EXPLANATORY NOTE

The amendment gives the Chief Justice of Ontario, instead of the Lieutenant Governor in Council, the duty of fixing the date for the annual meeting of the council of judges of the Supreme Court.

BILL 69

1968-69

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 112 of *The Judicature Act* is amended by striking out "Lieutenant Governor in Council" in the fourth line and inserting in lieu thereof "Chief Justice of Ontario", so that the subsection shall read as follows:

R.S.O. 1960.
c. 197, s. 112
subs. 1.
amended

(1) A council of the judges of the Supreme Court, of which due notice shall be given to all of them, shall assemble at least once in every year on such day as is fixed by the Chief Justice of Ontario for the purpose of considering the operation of this Act and of the rules and the working of the offices and the arrangements relative to the duties of the officers of the court, and of enquiring and examining into any defects that appear to exist in the system of procedure or the administration of justice in the Supreme Court or in any other court or by any other authority.

Council of
Judges

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Judicature Amendment Act, 1968-69*.

Short title

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 69

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Judicature Act

MR. WISHART



BILL 69

1968-69

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 112 of *The Judicature Act* is amended by striking out "Lieutenant Governor in Council" in the fourth line and inserting in lieu thereof "Chief Justice of Ontario", so that the subsection shall read as follows: R.S.O. 1960, c. 197, s. 112; subs. 1, amended

(1) A council of the judges of the Supreme Court, of which due notice shall be given to all of them, shall assemble at least once in every year on such day as is fixed by the Chief Justice of Ontario for the purpose of considering the operation of this Act and of the rules and the working of the offices and the arrangements relative to the duties of the officers of the court, and of enquiring and examining into any defects that appear to exist in the system of procedure or the administration of justice in the Supreme Court or in any other court or by any other authority. Council of judges

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Judicature Amendment Act*, 1968-69. Short title

1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 70

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act respecting the Department of Justice

MR. WISHART

EXPLANATORY NOTE

The Bill continues the Department of the Attorney General as the Department of Justice and vests in the Minister of Justice and Attorney General the functions set out in section 6 of the Bill. The functions, heretofore unwritten, are made statutory as recommended by the Royal Commission on Civil Rights.

BILL 70

1968-69

An Act respecting the Department of Justice

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

(a) "Department" means the Department of Justice;

(b) "Minister" means the Minister of Justice and Attorney General.

2.—(1) The department of the public service heretofore known as the Department of the Attorney General is continued under the name "Department of Justice".

Department continued

(2) The Minister shall preside over and have charge of the Department.

Minister to have charge

3.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Justice and Deputy Attorney General who shall be the deputy head of the Department.

Deputy Minister

(2) Such officers, clerks and servants may be appointed under *The Public Service Act, 1961-62* as are required from time to time for the proper conduct of the business of the Department.

Staff

1961-62, c. 121

4. The moneys required for the purposes of the Department shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys required by Department

5. The Minister,

Functions

(a) is the Law Officer of the Executive Council;

(b) shall see that the administration of public affairs is in accordance with the law;

- (c) shall superintend all matters connected with the administration of justice in Ontario;
- (d) shall perform the duties and have the powers that belong to the Attorney General and Solicitor General of England by law or usage, so far as those duties and powers are applicable to Ontario, and also shall perform the duties and have the powers that, up to the time of the *British North America Act, 1867* came into effect, belonged to the offices of the Attorney General and Solicitor General in the provinces of Canada and Upper Canada and which, under the provisions of that Act, are within the scope of the powers of the Legislature;
- (e) shall advise the Government upon all matters of law connected with legislative enactments and upon all matters of law referred to him by the Government;
- (f) shall advise the Government upon all matters of a legislative nature and superintend all Government measures of a legislative nature;
- (g) shall advise the heads of the departments and agencies of Government upon all matters of law connected with such departments and agencies;
- (h) shall conduct and regulate all litigation for and against the Crown or any department or agency of Government in respect of any subject within the authority or jurisdiction of the Legislature;
- (i) shall superintend all matters connected with judicial, registry and land titles offices;
- (j) shall perform such other functions as are assigned to him by the Legislature or by the Lieutenant Governor in Council.

Designation
of depart-
mental
legal
officers as
employees of
Department

6. The Lieutenant Governor in Council may designate any employee in any department or agency of Government who is a member of the bar of Ontario to be an employee of the Department and thereupon such employee becomes an employee of the Department.

Annual
report

7. The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

8. After this section comes into force, all annual reports required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 7 and need not be submitted in accordance with such other Act. ^{Deemed to include other reports}

9.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Section 8 comes into force on a day to be named by the Lieutenant Governor by his proclamation. ^{Idem}

10. This Act may be cited as *The Department of Justice Act, 1968-69*. ^{Short title}





1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 70

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act respecting the Department of Justice

MR. WISHART



BILL 70

1968-69

An Act respecting the Department of Justice

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation
 - (a) "Department" means the Department of Justice;
 - (b) "Minister" means the Minister of Justice and Attorney General.

- 2.—(1) The department of the public service heretofore known as the Department of the Attorney General is continued under the name "Department of Justice". Depart-
ment
continued
 - (2) The Minister shall preside over and have charge of the Department. Minister
to have
charge

- 3.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Justice and Deputy Attorney General who shall be the deputy head of the Department. Deputy
Minister
 - (2) Such officers, clerks and servants may be appointed under *The Public Service Act, 1961-62* as are required from time to time for the proper conduct of the business of the Department. Staff
1961-62,
c. 121

4. The moneys required for the purposes of the Department shall be paid out of the moneys appropriated therefor by the Legislature. Moneys
required by
Depart-
ment

5. The Minister, Functions
 - (a) is the Law Officer of the Executive Council;
 - (b) shall see that the administration of public affairs is in accordance with the law;

- (c) shall superintend all matters connected with the administration of justice in Ontario;
- (d) shall perform the duties and have the powers that belong to the Attorney General and Solicitor General of England by law or usage, so far as those duties and powers are applicable to Ontario, and also shall perform the duties and have the powers that, up to the time of the *British North America Act, 1867* came into effect, belonged to the offices of the Attorney General and Solicitor General in the provinces of Canada and Upper Canada and which, under the provisions of that Act, are within the scope of the powers of the Legislature;
- (e) shall advise the Government upon all matters of law connected with legislative enactments and upon all matters of law referred to him by the Government;
- (f) shall advise the Government upon all matters of a legislative nature and superintend all Government measures of a legislative nature;
- (g) shall advise the heads of the departments and agencies of Government upon all matters of law connected with such departments and agencies;
- (h) shall conduct and regulate all litigation for and against the Crown or any department or agency of Government in respect of any subject within the authority or jurisdiction of the Legislature;
- (i) shall superintend all matters connected with judicial, registry and land titles offices;
- (j) shall perform such other functions as are assigned to him by the Legislature or by the Lieutenant Governor in Council.

Designation
of depart-
mental
legal
officers as
employees of
Department

6. The Lieutenant Governor in Council may designate any employee in any department or agency of Government who is a member of the bar of Ontario to be an employee of the Department and thereupon such employee becomes an employee of the Department.

Annual
report

7. The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

8. After this section comes into force, all annual reports required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 7 and need not be submitted in accordance with such other Act. Deemed to include other reports

9.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

10. This Act may be cited as *The Department of Justice Act, 1968-69*. Short title

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1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 71

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Fines and Forfeitures Act

Mr. WISHART

EXPLANATORY NOTE

The amendment is to implement a recommendation of the Royal Commission Inquiry into Civil Rights and prohibits the payment of any portion of a fine to persons acting as informers or prosecutors.

BILL 71

1968-69

**An Act to amend
The Fines and Forfeitures Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Fines and Forfeitures Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 143, s. 2,
re-enacted

2.—(1) Where a fine has been imposed for a contravention of an Act of the Legislature or a regulation made thereunder and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown. Recovery of
fines
by action

(2) Notwithstanding any general or special Act, no fine recovered for a contravention of an Act of the Legislature or a by-law or regulation made thereunder or any part of such fine shall be paid to a person acting as an informer or a prosecutor. No fines
payable to
informer
or prosecutor

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Fines and Forfeitures Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 71

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Fines and Forfeitures Act

MR. WISHART

11A

BILL 71

1968-69

An Act to amend The Fines and Forfeitures Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Fines and Forfeitures Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 143, s. 2,
re-enacted
 - 2.—(1) Where a fine has been imposed for a contravention of an Act of the Legislature or a regulation made thereunder and no other provision is made for its recovery, it is recoverable with costs by a civil action at the suit of the Crown. Recovery of
fines
by action
 - (2) Notwithstanding any general or special Act, no fine recovered for a contravention of an Act of the Legislature or a by-law or regulation made thereunder or any part of such fine shall be paid to a person acting as an informer or a prosecutor. No fines
payable to
informer
or prosecutor
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Fines and Forfeitures Amendment Act, 1968-69*. Short title

1st Reading

February 13th, 1969

2nd Reading

March 10th, 1969

3rd Reading

March 25th, 1969

MR. WISHART

BILL 72

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Cemeteries Act

MR. SHULMAN

EXPLANATORY NOTE

Self-explanatory.

BILL 72

1968-69

An Act to amend The Cemeteries Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 78 of *The Cemeteries Act* is amended by inserting at the commencement thereof “Subject to subsection 3”, so that the subsection shall read as follows: R.S.O. 1960, c. 47, s. 78, subs. 1, amended

(1) Subject to subsection 3, no body shall be cremated unless a certificate in the prescribed form, signed by a coroner of the municipality in which the death took place, has been deposited with the owner, which certificate shall contain the statement that the cause of death has been definitely ascertained and that there exists no reason for further inquiry or examination. Coroner's certificate

(2) The said section 78 is amended by adding thereto the following subsection: R.S.O. 1960, c. 47, s. 78, amended

(3) Where a coroner has investigated the circumstances of a death and has issued his warrant to bury the body, the certificate mentioned in subsection 1 need not be filed. Saving

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Cemeteries Amendment Act, 1968-69*. Short title

1st Reading

February 17th, 1969

2nd Reading

3rd Reading

MR. SUTMAN

BILL 73

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to regulate the Procurement and to provide for the
Welfare of Animals used in Teaching and Research

MR. STEWART

EXPLANATORY NOTE

The purpose of the Bill is to regulate the procurement of animals used in teaching and research and to provide for their welfare.

The principal provisions of the Bill include the following:

1. Dealers who supply animals to research facilities are required to be licensed, and research facilities are required to be registered.
2. The qualifications to be met by an applicant for a licence as a dealer are specified, and grounds for suspending or revoking licences are set out.
3. The Research Animal Dealer Licence Review Board is established and is empowered to direct the granting, refusal, revocation or suspension of a licence as a dealer. An appeal is provided to a justice of the Court of Appeal from an order of the Review Board refusing to grant or suspending or revoking a licence.
4. The operator of a pound is required, except in certain specified circumstances, to sell any unclaimed dog or cat that is in the pound to a dealer or operator of a research facility within specified time limits.
5. The purchase of animals for use in a research facility other than from a licensed dealer or from the operator of a pound is prohibited except in specified circumstances.
6. Inspection of dealers' premises and research facilities is provided for along with other ancillary matters.

**An Act to regulate the Procurement and
to provide for the Welfare of Animals used
in Teaching and Research**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "animal" means a live, non-human vertebrate;
- (b) "dealer" means a person who, for consideration, supplies animals to a research facility or to another such person;
- (c) "Director" means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (d) "foal" means a young horse;
- (e) "inspector" means an inspector appointed under this Act;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "pound" includes premises that are used for the detention, maintenance or disposal of dogs or cats that,
 - (i) have been abandoned,
 - (ii) have strayed,
 - (iii) have been impounded pursuant to a by-law of a municipality, or
 - (iv) have been left by the owner at the premises to be disposed of by the operator thereof;

- (h) "redemption period" means that period of time within which the owner of a dog or cat that has been impounded in a pound has the right to redeem it;
- (i) "regulations" means the regulations made under this Act;
- (j) "research" means the use of animals in connection with studies, investigation and teaching in any field of knowledge, and, without limiting the generality of the foregoing, includes the use of animals for the performance of tests, the diagnosis of disease and the production and testing of preparations intended for use in the diagnosis, prevention and treatment of any disease or condition;
- (k) "research facility" means premises on which animals are used in research and includes premises used in connection therewith for the collecting, assembling, breeding or maintaining of animals and includes farms on which pregnant mares are kept for the production of urine;
- (l) "Review Board" means the Research Animal Dealer Licence Review Board;
- (m) "veterinarian" means a person registered under *The Veterinarians Act*.

R.S.O. 1960,
c. 416

LICENCES

Dealer
required
to be
licensed

2.—(1) No person shall commence or continue to be a dealer without a licence as a dealer from the Director unless he is exempt under this Act or the regulations.

Saving as to
certain
sales

(2) A dealer is exempt from subsection 1 respecting the sale of cattle, fish, goats, horses, poultry, reptiles, sheep, swine or game animals or fur-bearing animals as defined in *The Game and Fish Act, 1961-62*, but in all other respects he is subject to the provisions of this Act and the regulations.

1961-62,
c. 48

Require-
ments for
licensing

(3) No person shall be granted a licence as a dealer unless he,

- (a) is experienced in the proper care and handling of animals;

- (b) possesses all pens, cages, compounds, vehicles, tools, implements, buildings and dietary materials necessary to properly care for and handle animals on his premises;
- (c) has not been convicted of an offence relating to cruelty, maltreatment or neglect of animals under any Act; and
- (d) does not employ or have associated with him in connection with his operations as a dealer any person who has been convicted of an offence relating to cruelty, maltreatment or neglect of animals under any Act.

(4) A licence as a dealer may be suspended or revoked ^{Suspension or revocation of licence} where,

- (a) the dealer has not properly maintained any of the facilities, equipment or materials referred to in clause *b* of subsection 3; or
- (b) the dealer or any person employed by him or associated with him in connection with his operations as a dealer has been convicted of an offence,
 - (i) under this Act or the regulations, or
 - (ii) relating to cruelty, maltreatment or neglect of animals under any other Act.

3.—(1) A board to be known as the “Research Animal Dealer Licence Review Board” is hereby established and shall ^{Research Animal Dealer Licence Review Board established} consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom shall be members of the public service in the employ of the Department of Agriculture and Food, and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may appoint one ^{Chairman and vice-chairman} of the members of the Review Board as chairman and another of the members as vice-chairman.

(3) A majority of the members of the Review Board ^{Quorum} constitutes a quorum.

(4) The members of the Review Board shall receive such ^{Remuneration} remuneration and expenses as the Lieutenant Governor in Council determines.

Issue of
licence

4.—(1) Subject to subsection 10, the Director shall issue a licence as a dealer to an applicant therefor unless, in his opinion, the applicant does not comply with subsection 3 of section 2.

Reference
to Review
Board

(2) The Director shall direct a reference to the Review Board where,

(a) he is of the opinion that an applicant for a licence as a dealer does not comply with subsection 3 of section 2; or

(b) in the case of a licensee, he is of the opinion that clause *a* or clause *b* of subsection 4 of section 2 applies.

Notice of
reference

(3) The Director shall direct a reference to the Review Board by giving the chairman of the Review Board and the applicant or licensee, as the case may be, notice in writing thereof and the notice shall be served upon the applicant or licensee either personally or by registered mail addressed to the applicant or licensee at his last known address.

Contents of
notice

(4) A notice under subsection 3 shall specify the grounds on which the reference has been directed.

Withdrawal
of reference

(5) Where an applicant or licensee who has received a notice under subsection 3 adduces proof, within ten days of service of the notice, to the satisfaction of the Director that he complies with subsection 3 of section 2 or is not a licensee to whom clause *a* or clause *b* of subsection 4 of section 2 applies, the Director shall withdraw the reference and shall thereupon notify the applicant or licensee, as the case may be, and the chairman of the Review Board accordingly.

Notification
of hearing

(6) Upon receipt of a notice under subsection 3, the chairman of the Review Board shall fix a time, date and place at which the Review Board will hear the matter and shall thereupon notify the applicant or licensee thereof either personally or by registered mail addressed to the applicant or licensee at his last known address.

Time of
hearing

(7) Unless withdrawn pursuant to subsection 5, the Review Board shall hold a hearing on a reference directed to it under subsection 2 not less than fifteen days and not more than thirty days after service of the notice referred to in subsection 3.

Rights of
person
affected

(8) Every person whose licence or right to be licensed may be affected by a hearing under this Act is entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent at the hearing.

(9) The Review Board may, after the hearing referred to in subsection 7, order the Director not to issue a licence or may order the Director to suspend or revoke a licence where, in the opinion of the Review Board, the applicant does not comply with subsection 3 of section 2 or is a licensee to whom clause *a* or *b* of subsection 4 of section 2 applies and shall otherwise order that the licence be issued or that the licence remain in full force and effect and the Director shall comply with an order of the Review Board.

Powers of
Review
Board

(10) The Director shall not issue a licence to any person who formerly held a licence as a dealer and whose licence was revoked less than one year before the date of the application.

When
licence
not to
issue

(11) Notice of the order of the Review Board made under subsection 9, together with reasons in writing for its decision shall be served forthwith upon the person whose licence or right to be licensed is affected thereby in the manner prescribed for service of a notice in subsection 3.

Notice of
decision
of Review
Board

5.—(1) A person who has been refused a licence or whose licence has been suspended or revoked may appeal the order of the Review Board to a justice of appeal of the Court of Appeal.

Appeal

(2) Every appeal under subsection 1 shall be by notice of motion served upon the Director and the chairman of the Review Board within thirty days of the service of the notice referred to in subsection 11 of section 4, and the practice and procedure in relation to the appeal shall be the same as on an appeal from a judgment of a judge of the Supreme Court in an action.

Form of
appeal

(3) The chairman of the Review Board shall certify to the Registrar of the Supreme Court,

Material
on appeal

(a) the notices referred to in subsections 3, 6 and 11 of section 4;

(b) the order of the Review Board together with written reasons for its decision; and

(c) all written submissions to the Review Board and other material including documentary evidence received by it in connection with the hearing.

(4) Where an appeal is taken under this section, the judge may substitute his opinion for that of the Review Board and may by his order confirm, revoke or modify the order of the

Power of
judge on
appeal

Review Board and may direct the Director to take such action as the Director may be authorized or required to take under this Act and as the judge deems proper, and thereupon the Director shall act accordingly.

Order of
judge
final

(5) The order of the judge is final.

RESEARCH FACILITIES

Research
facility
required
to be
registered

6. No person shall operate a research facility unless the research facility is registered in accordance with the regulations.

Purchase
of animal

7. Subject to section 10, no person shall purchase an animal for use in a research facility from any person other than from a dealer who is,

- (a) the holder of a licence as a dealer; or
- (b) exempt under this Act or the regulations from the provisions of subsection 1 of section 2 respecting the animal.

INSPECTORS

Appoint-
ment of
chief
inspector
and
inspectors

8.—(1) The Minister may appoint a chief inspector and such other inspectors as he deems necessary, and, notwithstanding any other Act, such inspectors have exclusive authority to initiate proceedings to enforce the provisions of this Act and the regulations.

Certificate
of appoint-
ment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Powers of
inspectors

(3) Subject to subsections 4, 5, 6, 7 and 8, an inspector may, for the purpose of carrying out his duties under this Act,

- (a) enter any premises, car, truck or other conveyance in which he believes on reasonable and probable grounds there are animals that are used, or that are intended to be used, in research and inspect the premises, car, truck or other conveyance, any facilities or equipment therein and any animal therein;
- (b) enter any pound and inspect the pound, any facilities or equipment therein and any animal therein; and

(c) demand the production or furnishing by the owner or custodian of any books, records, documents or extracts therefrom relating to animals that,

(i) are in a pound, or

(ii) he believes on reasonable and probable grounds are used or intended to be used in research.

(4) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the owner or tenant unless, Entry of dwellings R.S.O. 1960, c. 387

(a) the occupant is a licensed dealer; and

(b) he has reasonable grounds for believing that the occupant is maintaining in such part animals that are used or intended to be used in research.

(5) An inspector shall exercise his powers under subsection 3 only between sunrise and sunset unless authorized by a justice by warrant under section 14 of *The Summary Convictions Act* to execute the warrant at night. When powers to be exercised

(6) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them provided such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them. Production and photocopying of records, etc.

(7) Where a book, record, document or extract has been photocopied under subsection 6, a photocopy purporting to be certified by the Minister, or a person thereunto authorized by the Minister, to be a copy made pursuant to subsection 6 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. Certification of photocopy

(8) Where an inspector makes a demand under clause c of subsection 3, the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required. Demand to be in writing

(9) *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* does not apply in respect of animals in the possession of a licensed dealer or the operator of a registered research facility. 1955, c. 58, not to apply

Obstruction
of
inspector

9. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

POUNDS

Redemption
period

10.—(1) Subject to subsection 2, the redemption period shall be forty-eight hours, or such longer period as the regulations prescribe.

Idem

(2) The operator of a pound may fix a redemption period that is longer than the redemption period prescribed by or under this Act upon filing notice in writing thereof with the Director, and no such redemption period shall be changed except with the approval in writing of the Director.

Sale of dog
or cat in a
pound
required

(3) Except where,

- (a) the dog or cat has been redeemed by the person who was the owner of the dog or cat before it came into possession of the operator of the pound;
- (b) the person who owned the dog or cat before it came into the possession of the operator of the pound has requested in writing that the dog or cat be destroyed;
- (c) the dog or cat has been sold or disposed of by gift to a *bona fide* purchaser or donee,
 - (i) as a pet,
 - (ii) for use in hunting, or
 - (iii) for working purposes;
- (d) the operator of the pound has satisfied all requests from operators of research facilities or from dealers for a dog or cat, as the case may be; or
- (e) an inspector has ordered that the dog or cat be destroyed pursuant to subsection 7,

the operator of a pound shall sell to the operator of a research facility or to a dealer who has so requested, any dog or cat that is in the pound, and the operator of the pound is not required to be licensed as a dealer in respect of such sale.

Time
within
which sale
to be made

(4) The sale of a dog or cat to the operator of a research facility or to a dealer shall be made,

- (a) where the dog or cat has been impounded, within five days after the redemption period has expired; or

(b) where the dog or cat has not been impounded, within five days after the dog or cat came into possession of the operator of the pound.

(5) The price at which the operator of a pound shall sell a dog or cat to the operator of a research facility or to a dealer under subsection 3 shall not, Maximum price at which dog or cat shall be sold

(a) where no maximum price has been prescribed in the regulations respecting the dog or cat, exceed a price that is reasonable having regard to all the circumstances; or

(b) exceed the maximum price prescribed in the regulations respecting the dog or cat.

(6) The operator of a pound shall satisfy a request from the operator of a research facility for a dog or cat in priority to a similar request from a dealer. Priority of sale requests

(7) An inspector or veterinarian may order a dog or cat to be destroyed where the dog or cat, Order for destruction of dog or cat

(a) is in a pound, on a dealer's premises or in a research facility;

(b) has not, where it is in a pound, been redeemed by its owner within the redemption period; and

(c) may not be suitable for use in research by reason of ill health, injury, malnutrition, excessive age or other infirmity.

(8) This section does not apply to an animal that by reason of being suspected of being infected with any communicable disease is confined in a pound pursuant to *The Public Health Act* or the *Animal Contagious Diseases Act* (Canada). Saving as to certain animals
R.S.O. 1960,
c. 321
R.S.C. 1952,
c. 9

FOALS

11.—(1) The operator of a research facility who keeps pregnant mares for the production of urine shall not sell or dispose of by gift or otherwise a foal that is less than ninety days old unless, Sale or disposition of foals

(a) the dam thereof has died; or

(b) the dam thereof is sold or otherwise disposed of with the foal to the same person.

(2) The owner of a foal referred to in subsection 1 may destroy the foal. Destruction of foal

OFFENCES

Offence **12.—(1)** Every person who contravenes any of the provisions of this Act, other than subsection 6 of section 10, or the regulations, other than a regulation made under clause *i, j, k* or *l* of section 13, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both, and for a subsequent offence to a fine of not less than \$500 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

Idem (2) Every person who contravenes the provisions of subsection 6 of section 10 or of a regulation made under clause *i, j, k* or *l* of section 13, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not less than \$25 and not more than \$100.

REGULATIONS

Regulations **13.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the manner of issuing licences, prescribing their duration and the fees payable therefor;
- (b) prescribing procedures for hearings under section 4;
- (c) prescribing the facilities and equipment to be provided by a dealer, the operator of a research facility, or a pound or any class thereof;
- (d) prescribing standards for the health, welfare and care of animals, or any class thereof, in a research facility, on a dealer's premises or in a pound;
- (e) prescribing facilities and equipment for the transportation of animals that are used or are intended to be used by a research facility;
- (f) providing for the registration of research facilities, prescribing the fees payable therefor and prescribing terms and conditions for such registration that are related to the care of animals;
- (g) classifying research facilities, requiring the operators of any class of research facility to provide for the services of a veterinarian in connection with the care of animals in the research facility and prescribing the terms and conditions on which such services shall be provided in respect of any such class;

(h) requiring the establishment of animal care committees in connection with research facilities, providing for their composition and requiring any such committee to be responsible for co-ordinating and reviewing,

(i) the activities and procedures,

(ii) the standards of care and facilities, and

(iii) the training and qualifications of personnel that are engaged in the care of animals,

in the research facility in connection with which it is established;

(i) prescribing the records to be made and kept by the operator of a research facility, a dealer or the operator of a pound, or any class thereof, and prescribing the places at which such records shall be kept;

(j) prescribing methods for the identification of animals;

(k) subject to subsection 1 of section 10, prescribing the redemption period in respect of dogs or cats or any class thereof;

(l) determining from time to time the maximum prices that shall be paid for dogs or cats or any class thereof by the operators of research facilities or by dealers to the operators of pounds and determining different prices for different parts of Ontario;

(m) providing for the exemption from this Act or the regulations, or any provision thereof, of any person or class of persons, or any animal or class of animals and prescribing the terms and conditions therefor;

(n) prescribing forms and providing for their use;

(o) respecting any matter necessary or advisable to carry out effectively the purpose of this Act.

14. The moneys required for the purposes of administering ^{Moneys} this Act shall, until the 31st day of March, 1969, be paid out of the Consolidated Revenue Fund, and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

15. This Act comes into force on a day to be named by ^{Commence-} the Lieutenant Governor by his proclamation _{ment}.

16. This Act may be cited as *The Research Animals Act*, ^{Short title} 1968-69.



to provide for the Welfare of Animals
used in Teaching and Research

1st Reading

February 19th, 1969

2nd Reading

3rd Reading

MR. STEWART

BILL 74

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955**

MR. WISHART

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. Repeals sections 12, 13 and 14 of the Act and enacts in lieu thereof sections 12, 13, 14, 14*a*, 14*b*, 14*c* and 14*d* that provide as follows:

Section 12 provides for entry into a building or place under the authority of a warrant issued by a justice of the peace authorizing the inspection of such building or place and all animals found therein for the purpose of ascertaining whether any animal therein is in distress.

Under the Act as now constituted, entry may be effected without a warrant.

BILL 74

1968-69

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is repealed and the following substituted therefor: 1955, c. 58, s. 1, re-enacted

1. In this Act,

Interpre-
tation

- (a) "animal" includes a domestic fowl or a bird that is kept as a pet;
- (b) "Board" means the Animal Care Review Board;
- (c) "distress" means the state of being in need of proper care, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;
- (d) "veterinarian" means a person registered under *The Veterinarians Act*.

R.S.O. 1960,
c. 416

2. Sections 12, 13 and 14 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* are repealed and the following substituted therefor: 1955, c. 58, ss. 12-14, re-enacted

- 12.—(1) Where a justice of the peace is satisfied by information on oath in Form 1 that there are reasonable grounds for believing that there is in any building or place, other than a public place, an animal that is in distress, he may at any time issue a warrant in Form 2 under his hand authorizing an inspector or an agent of the Society named therein to enter therein either by himself or accompanied

Search
warrant

by a veterinarian and inspect the building or place and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Authority of
veterinarian
to inspect
animals

- (2) A veterinarian who has entered a building or place with an inspector or an agent of the Society pursuant to a warrant issued under subsection 1 may examine any animal in the building or place for the purpose of ascertaining whether the animal is in distress.

When
warrant
to be
executed

- (3) Every warrant issued under subsection 1 shall be executed between sunrise and sunset unless the justice by the warrant authorizes the inspector or an agent of the Society to execute it at night.

Authority
to supply
necessaries
to animals

- (4) Where an inspector or an agent of the Society has entered any building or place pursuant to this Act and finds therein an animal in distress he may, in addition to any other action he is authorized to take under this Act, supply the animal with food, care or treatment.

Order to
owner of
animals,
etc.

- 13.—(1) Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

(a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or

(b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to
be in
writing

- (2) Every order under subsection 1 shall be in writing and shall have printed or written thereon the provisions of subsections 1 and 2 of section 14c.

Service
of order

- (3) Every order under subsection 1 shall be served upon the owner or custodian personally or by registered mail addressed to the owner or custodian at his last known place of address.

Time for
compliance
with order

- (4) Where an inspector or an agent of the Society makes an order under subsection 1 he shall specify in the order the time within which any action required by the order shall be performed.

Section 13 provides for the making of orders to the owners or custodians of animals that are in distress and for reinspection of such animals to ensure compliance with orders made in respect thereof.

Section 14 provides for,

- (a) the removal of an animal under the conditions set forth therein from the building or place where it is; and
- (b) the destruction of an animal under the conditions set forth therein.

- (5) Every person who is served with an order under subsection 3 shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed. ^{Idem}
- (6) Where an order made under subsection 1 remains in force, ^{Authority to enter building or place, etc.}
- (a) respecting an animal that was in a public place at the time the order was made; or
- (b) respecting an animal that was inspected pursuant to a warrant issued under section 12,

an inspector or an agent of the Society may, for the purpose of determining whether the order has been complied with, enter without a warrant any building or place in which the animal is located and inspect the animal and the building or place where the animal is kept and, if, in his opinion, the order has been complied with, he shall revoke the order by notice in writing served forthwith upon the owner or custodian in the manner prescribed for service of an order in subsection 3.

- 14.—(1) An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where, ^{Taking possession of animal}
- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
- (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
- (c) an order respecting the animal has been made under section 13 and the order has not been complied with.
- (2) An inspector or an agent of the Society may destroy an animal, ^{Destruction of animal}
- (a) with the consent of the owner; or

(b) where a veterinarian has examined the animal and has advised the inspector or agent in writing that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering.

Notice

(3) Where an inspector or an agent of the Society has removed or destroyed an animal under subsection 1 he shall forthwith notify the owner or custodian of the animal, if known, of his action by notice in writing served upon the owner or custodian in the manner prescribed for service of an order in subsection 3 of section 13.

Liability of owner for expenses

14a.--(1) Where an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve upon the owner or custodian of the animal a statement of account respecting the food, care or treatment by mailing the same by registered mail to the owner or custodian at his last known place of address and the owner or custodian is, subject to subsection 6 of section 14c, thereupon liable for the amount specified in the statement of account.

Power to sell

(2) Where the owner or custodian refuses to pay an account for which he is liable under subsection 1 within five days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Board established

14b.--(1) A board to be known as the Animal Care Review Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman, vice-chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) A majority of the members of the Board constitutes a quorum.

Remuneration of members

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Section 14*a* provides for the collection by the Society of the expenses incurred by it in providing an animal in distress with food, care or treatment.

Section 14*b* provides for the establishment of the Animal Care Review Board.

Section 14c provides for a review by the Board of orders made under the Act and the removal of animals.

- 14c.—(1) Where the owner or custodian of any animal ^{Appeal to Board} deems himself aggrieved by an order made under subsection 1 of section 13 or by the removal of an animal under subsection 1 of section 14, he may, within five days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chairman of the Board.
- (2) Where, in the opinion of the owner or custodian of ^{Application for revocation of order} an animal in respect of which an order has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chairman of the Board.
- (3) Within five days of the receipt of a notice under sub- ^{Notice of hearing} section 1 or 2, the chairman of the Board shall,
- (a) fix a time, date and place at which the Board will hear the matter; and
 - (b) notify the Society and the person who issued the notice of the time, date and place fixed under clause *a* either personally or by registered mail addressed to the Society at its head office and to the person who issued the notice at his last known place of address.
- (4) The date fixed for a hearing shall be not more than ^{Date of hearing} ten days after the receipt of a notice under subsection 1 or 2.
- (5) At a hearing, the Society and the owner or custodian ^{Procedure at hearing} are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent.
- (6) After a hearing or, with the consent of the Society ^{Powers of Board} and the person who issued the notice under subsection 1 or 2, without a hearing, the Board may,
- (a) respecting an order made under subsection 1 of section 13, confirm, revoke or modify the order appealed against;
 - (b) respecting the removal of an animal under subsection 1 of section 14, order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 1 of section 13; or

(c) order that the whole or any part of the cost of complying with an order or providing food, care or treatment to an animal be paid by the Society.

Notice of decision

(7) Notice of the decision of the Board made under subsection 6, together with reasons in writing for its decision, shall be served forthwith upon the Society and the owner or custodian in the manner prescribed for service of a notice in subsection 3.

Inspector, etc., not personally liable

14d. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act.

1955, c. 58, amended

3. The Ontario Society for the Prevention of Cruelty to Animals Act, 1955 is amended by adding thereto the following forms:

FORM 1

The Ontario Society for the Prevention of Cruelty to Animals Act, 1955
(Section 12 (1))

INFORMATION TO OBTAIN A WARRANT

Province of Ontario
County of

The information of _____, of _____
in the County (or District, etc.) of _____, taken the
day of _____ in the year _____,
before me, _____ a Justice of the Peace for
the County (or District, etc.) of _____ who
says that he has reasonable grounds for believing that there is an
animal in distress on the premises of _____
of _____, in the County (or District, etc.) of _____

(here add the grounds for belief, whatever they may be).

Wherefore (he) prays that a warrant may be granted to him
and to _____ a veterinarian of the _____
of _____, in the County (or District, etc.) of _____
to inspect the premises of the said _____
and all animals found therein for the purpose of ascertaining
whether there is therein any animal in distress.

Sworn, etc.

J.P. for (Name of County or District)

Section 14*d* is self-explanatory.

SECTION 3. Complementary to section 12 of the Act, as re-enacted by section 2 of the Bill.



FORM 2

The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

(Section 12 (1))

WARRANT

Province of Ontario
County of

To....., an inspector or an agent of The Ontario Society for the Prevention of Cruelty to Animals (*and to..... a veterinarian of the..... of..... in the County (or District, etc.) of.....*)

Whereas it appears on the oath of..... of the..... of..... in the County (or District, etc.) of..... that there are reasonable grounds for believing that there is an animal in distress on the premises of..... of the..... in the County (or District, etc.) of..... This is therefore to authorize you to enter between the hours of (*as the Justice directs*) into the said premises and to inspect the premises and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Dated at....., in the said County (or District, etc.) of..... this..... day of....., in the year.....

.....
J. P. for (Name of County or District)

4. This Act comes into force on the day it receives Royal Assent. **Commencement**

5. This Act may be cited as *The Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 1968-69.* **Short title**

The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955

1st Reading

February 19th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 74

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**Act to amend The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955**

MR. WISHART

(Reprinted for consideration by the Agriculture and Food Committee)

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. Repeals sections 12, 13 and 14 of the Act and **enacts in lieu thereof sections 12, 13, 14, 14a, 14b, 14c and 14d that provide as follows:**

Section 12 provides for entry into a building or place for the inspection of animals in distress.

BILL 74

1968-69

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is repealed and the following substituted therefor: ^{1955, c. 58, s. 1, re-enacted}

1. In this Act,

Interpre-
tation

- (a) "animal" includes a domestic fowl or a bird that is kept as a pet;
- (b) "Board" means the Animal Care Review Board;
- (c) "distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;
- (d) "veterinarian" means a person registered under *The Veterinarians Act*.

R.S.O. 1960,
c. 416

2. Sections 12, 13 and 14 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* are repealed and the following substituted therefor: ^{1955, c. 58, ss. 12-14, re-enacted}

- 12.—(1) Where a justice of the peace is satisfied by information on oath in Form 1 that there are reasonable grounds for believing that there is in any building or place, other than a public place, an animal that is in distress, he may at any time issue a warrant in Form 2 under his hand authorizing an inspector or an agent of the Society named therein to enter therein either by himself or accompanied

Search
warrant

by a veterinarian and inspect the building or place and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Entry
without
warrant

(2) Where an inspector or agent of the Society observes an animal in immediate distress, he may enter, without warrant, any premises, building or place other than a dwelling place either by himself or accompanied by a veterinarian for the purposes of subsections 3 and 5 and sections 13 and 14.

Authority of
veterinarian
to inspect
animals

(3) A veterinarian who has entered a building or place with an inspector or an agent of the Society may examine any animal in the building or place for the purpose of ascertaining whether the animal is in distress.

When
warrant
to be
executed

(4) Every warrant issued under subsection 1 shall be executed between sunrise and sunset unless the justice by the warrant authorizes the inspector or an agent of the Society to execute it at night.

Authority
to supply
necessaries
to animals

(5) Where an inspector or an agent of the Society has entered any building or place pursuant to this Act and finds therein an animal in distress he may, in addition to any other action he is authorized to take under this Act, supply the animal with food, care or treatment.

Order to
owner of
animals,
etc.

13. (1) Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

(a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or

(b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to
be in
writing

(2) Every order under subsection 1 shall be in writing and shall have printed or written thereon the provisions of subsections 1 and 2 of section 14c.

Service
of order

(3) Every order under subsection 1 shall be served upon the owner or custodian personally or by registered mail addressed to the owner or custodian at his last known place of address.

Section 13 provides for the making of orders to the owners or custodians of animals that are in distress and for re-inspection of such animals to ensure compliance with orders made in respect thereof.

Section 14 provides for,

- (a) the removal of an animal under the conditions set forth therein from the building or place where it is; and
- (b) the destruction of an animal under the conditions set forth therein.

- (4) Where an inspector or an agent of the Society makes an order under subsection 1 he shall specify in the order the time within which any action required by the order shall be performed. ^{Time for compliance with order}
- (5) Every person who is served with an order under subsection 3 shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed. ^{Idem}
- (6) Where an order made under subsection 1 remains in force, an inspector or an agent of the Society may, for the purpose of determining whether the order has been complied with, enter without a warrant any building or place in which the animal is located and inspect the animal and the building or place where the animal is kept and, if, in his opinion, the order has been complied with, he shall revoke the order by notice in writing served forthwith upon the owner or custodian in the manner prescribed for service of an order in subsection 3. ^{Authority to enter building or place, etc.}
- 14.—(1) An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where, ^{Taking possession of animal}
- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
 - (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
 - (c) an order respecting the animal has been made under section 13 and the order has not been complied with.
- (2) An inspector or an agent of the Society may destroy an animal, ^{Destruction of animal}
- (a) with the consent of the owner; or

(b) where a veterinarian has examined the animal and has advised the inspector or agent in writing that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering.

Notice

(3) Where an inspector or an agent of the Society has removed or destroyed an animal under subsection 1 he shall forthwith notify the owner or custodian of the animal, if known, of his action by notice in writing served upon the owner or custodian in the manner prescribed for service of an order in subsection 3 of section 13.

Liability of owner for expenses

14a.—(1) Where an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve upon the owner or custodian of the animal a statement of account respecting the food, care or treatment by mailing the same by registered mail to the owner or custodian at his last known place of address and the owner or custodian is, subject to subsection 6 of section 14c, thereupon liable for the amount specified in the statement of account.

Power to sell

(2) Where the owner or custodian refuses to pay an account for which he is liable under subsection 1 within five days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Board established

14b.—(1) A board to be known as the Animal Care Review Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman, vice-chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) A majority of the members of the Board constitutes a quorum.

Remuneration of members

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Section 14*a* provides for the collection by the Society of the expenses incurred by it in providing an animal in distress with food, care or treatment.

Section 14*b* provides for the establishment of the Animal Care Review Board.

Section 14c provides for a review by the Board of orders made under the Act and the removal of animals.

- 14c.—(1) Where the owner or custodian of any animal deems himself aggrieved by an order made under subsection 1 of section 13 or by the removal of an animal under subsection 1 of section 14, he may, within five days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chairman of the Board. ^{Appeal to Board}
- (2) Where, in the opinion of the owner or custodian of an animal in respect of which an order has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chairman of the Board. ^{Application for revocation of order}
- (3) Within five days of the receipt of a notice under subsection 1 or 2, the chairman of the Board shall, ^{Notice of hearing}
- (a) fix a time, date and place at which the Board will hear the matter; and
 - (b) notify the Society and the person who issued the notice of the time, date and place fixed under clause *a* either personally or by registered mail addressed to the Society at its head office and to the person who issued the notice at his last known place of address.
- (4) The date fixed for a hearing shall be not more than ten days after the receipt of a notice under subsection 1 or 2. ^{Date of hearing}
- (5) At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent. ^{Procedure at hearing}
- (6) After a hearing or, with the consent of the Society and the person who issued the notice under subsection 1 or 2, without a hearing, the Board may, ^{Powers of Board}
- (a) respecting an order made under subsection 1 of section 13, confirm, revoke or modify the order appealed against;
 - (b) respecting the removal of an animal under subsection 1 of section 14, order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 1 of section 13; or

(c) order that the whole or any part of the cost of complying with an order or providing food, care or treatment to an animal be paid by the Society.

Notice of decision

(7) Notice of the decision of the Board made under subsection 6, together with reasons in writing for its decision, shall be served forthwith upon the Society and the owner or custodian in the manner prescribed for service of a notice in subsection 3.

Appeal

14d—(1) The Society or the owner or custodian may appeal the decision of the Board to a judge of the county or district court of the county or district in which the animal was at the time the order or seizure was made.

Notice of appeal

(2) The appeal shall be made by filing a notice of appeal with the clerk of the court and serving a copy thereof on the other parties before the Board within fifteen days after the notice of the Board's decision is served on the appellant under subsection 7 of section 14c.

Date of hearing

(3) The appellant or any person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he considers appropriate, and the decision of the judge is final.

Inspector, etc., not personally liable

14e. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act.

1955, c. 58, amended

3. *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is amended by adding thereto the following forms:

Section 14*d* provides for an appeal from the Animal Care Review Board.

Section 14*e* is self-explanatory.

SECTION 3. Complementary to section 12 of the Act, as re-enacted by section 2 of the Bill.



FORM 1

*The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955*

(Section 12 (1))

INFORMATION TO OBTAIN A WARRANT

Province of Ontario
County of

The information of....., of.....
in the County (or District, etc.) of..... taken the
.....day of.....in the year.....
before me, a Justice of the Peace for
the County (or District, etc.) of..... who
says that he has reasonable grounds for believing that there is an
animal in distress on the premises of.....
of..... in the County (or District, etc.) of.....

(here add the grounds for belief, whatever they may be).

Wherefore (he) prays that a warrant may be granted to him
(and to..... a veterinarian of the.....
of..... in the County (or District, etc.) of.....)
to inspect the premises of the said.....
and all animals found therein for the purpose of ascertaining
whether there is therein any animal in distress.

Sworn, etc.

.....
J.P. for (Name of County or District)

FORM 2

The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

(Section 12 (1))

WARRANT

Province of Ontario
County of

To....., an inspector or an agent of The Ontario Society for the Prevention of Cruelty to Animals (and to..... a veterinarian of the..... of..... in the County (or District, etc.) of.....)

Whereas it appears on the oath of..... of the..... of..... in the County (or District, etc.) of..... that there are reasonable grounds for believing that there is an animal in distress on the premises of..... of the..... in the County (or District, etc.) of..... This is therefore to authorize you to enter between the hours of (as the Justice directs) into the said premises and to inspect the premises and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Dated at....., in the said County (or District, etc.) of..... this..... day of..... in the year.....

.....
J. P. for (Name of County or District)

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 1968-69.*







The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955

1st Reading

February 19th, 1969

2nd Reading

November 12th, 1969

3rd Reading

Mr. WISLART

*(Reprinted for consideration by
the Agriculture and Food Committee)*

BILL 74

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**Act to amend The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955**

MR. WISHART

(Reprinted as amended by the Agriculture and Food Committee)

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. Repeals sections 12, 13 and 14 of the Act and enacts in lieu thereof sections 12, 13, 14, 14a, 14b, 14c and 14d that provide as follows:

Section 12 provides for entry into a building or place for the inspection of animals in distress.

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is repealed and the following substituted therefor: 1955, c. 58 s. 1, re-enacted

1. In this Act,

Interpre-
tation

(a) "animal" includes a domestic fowl or a bird that is kept as a pet;

(b) "Board" means the Animal Care Review Board;

(c) "distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;

(d) "veterinarian" means a person registered under *The Veterinarians Act*.

R.S.O. 1960,
c. 416

2. Sections 12, 13 and 14 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* are repealed and the following substituted therefor: 1955, c. 58, ss. 12-14, re-enacted

12.—(1) Where a justice of the peace is satisfied by information on oath in Form 1 that there are reasonable grounds for believing that there is in any building or place, other than a public place, an animal that is in distress, he may at any time issue a warrant in Form 2 under his hand authorizing an inspector or an agent of the Society named therein to enter therein either by himself or accompanied

Search
warrant

by a veterinarian and inspect the building or place and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Entry without warrant

- (2) Where an inspector or agent of the Society observes an animal in immediate distress, he may enter, without warrant, any premises, building or place other than a dwelling place either by himself or accompanied by a veterinarian for the purposes of subsections 3 and 5 and sections 13 and 14.

Authority of veterinarian to inspect animals

- (3) A veterinarian who has entered a building or place with an inspector or an agent of the Society may examine any animal in the building or place for the purpose of ascertaining whether the animal is in distress.

When warrant to be executed

- (4) Every warrant issued under subsection 1 shall be executed between sunrise and sunset unless the justice by the warrant authorizes the inspector or an agent of the Society to execute it at night.

Authority to supply necessities to animals

- (5) Where an inspector or an agent of the Society has entered any building or place pursuant to this Act and finds therein an animal in distress he may, in addition to any other action he is authorized to take under this Act, supply the animal with food, care or treatment.

Order to owner of animals, etc.

- 13.—(1) Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

- (a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or
 (b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to be in writing

- (2) Every order under subsection 1 shall be in writing and shall have printed or written thereon the provisions of subsections 1 and 2 of section 14c.

Serving of order

- (3) Every order under subsection 1 shall be served upon the owner or custodian personally or by registered mail addressed to the owner or custodian at his last known place of address.

Section 13 provides for the making of orders to the owners or custodians of animals that are in distress and for re-inspection of such animals to ensure compliance with orders made in respect thereof.

Section 14 provides for,

- (a) the removal of an animal under the conditions set forth therein from the building or place where it is; and
- (b) the destruction of an animal under the conditions set forth therein.

- (4) Where an inspector or an agent of the Society makes an order under subsection 1 he shall specify in the order the time within which any action required by the order shall be performed. ^{Time for compliance with order}
- (5) Every person who is served with an order under subsection 3 shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed. ^{Idem}
- (6) Where an order made under subsection 1 remains in force, an inspector or an agent of the Society may, for the purpose of determining whether the order has been complied with, enter without a warrant any building or place in which the animal is located and inspect the animal and the building or place where the animal is kept and, if, in his opinion, the order has been complied with, he shall revoke the order by notice in writing served forthwith upon the owner or custodian in the manner prescribed for service of an order in subsection 3. ^{Authority to enter building or place, etc.}
- 14.—(1) An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where, ^{Taking possession of animal}
- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
 - (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
 - (c) an order respecting the animal has been made under section 13 and the order has not been complied with.
- (2) An inspector or an agent of the Society may destroy an animal, ^{Destruction of animal}
- (a) with the consent of the owner; or

(b) where a veterinarian has examined the animal and has advised the inspector or agent in writing that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering.

Notice

- (3) Where an inspector or an agent of the Society has removed or destroyed an animal under subsection 1 he shall forthwith notify the owner or custodian of the animal, if known, of his action by notice in writing served upon the owner or custodian in the manner prescribed for service of an order in subsection 3 of section 13.

Liability of owner for expenses

- 14a.—(1) Where an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve upon the owner or custodian of the animal a statement of account respecting the food, care or treatment by mailing the same by registered mail to the owner or custodian at his last known place of address and the owner or custodian is, subject to subsection 6 of section 14c, thereupon liable for the amount specified in the statement of account.

Power to sell

- (2) Where the owner or custodian refuses to pay an account for which he is liable under subsection 1 within five days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Board established

- 14b.—(1) A board to be known as the Animal Care Review Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman, vice-chairman

- (2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

- (3) A majority of the members of the Board constitutes a quorum.

Remuneration of members

- (4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Section 14a provides for the collection by the Society of the expenses incurred by it in providing an animal in distress with food, care or treatment.

Section 14b provides for the establishment of the Animal Care Review Board.

Section 14c provides for a review by the Board of orders made under the Act and the removal of animals.

- 14c.—(1) Where the owner or custodian of any animal ^{Appeal to Board} deems himself aggrieved by an order made under subsection 1 of section 13 or by the removal of an animal under subsection 1 of section 14, he may, within five days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chairman of the Board.
- (2) Where, in the opinion of the owner or custodian of ^{Application for revocation of order} an animal in respect of which an order has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chairman of the Board.
- (3) Within five days of the receipt of a notice under sub- ^{Notice of hearing} section 1 or 2, the chairman of the Board shall,
- (a) fix a time, date and place at which the Board will hear the matter; and
 - (b) notify the Society and the person who issued the notice of the time, date and place fixed under clause *a* either personally or by registered mail addressed to the Society at its head office and to the person who issued the notice at his last known place of address.
- (4) The date fixed for a hearing shall be not more than ^{Date of hearing} ten days after the receipt of a notice under subsection 1 or 2.
- (5) At a hearing, the Society and the owner or custodian ^{Procedure at hearing} are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent.
- (6) After a hearing or, with the consent of the Society ^{Powers of Board} and the person who issued the notice under subsection 1 or 2, without a hearing, the Board may,
- (a) respecting an order made under subsection 1 of section 13, confirm, revoke or modify the order appealed against;
 - (b) respecting the removal of an animal under subsection 1 of section 14, order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 1 of section 13; or

(c) order that the whole or any part of the cost of complying with an order or providing food, care or treatment to an animal be paid by the Society.

Notice of decision

(7) Notice of the decision of the Board made under subsection 6, together with reasons in writing for its decision, shall be served forthwith upon the Society and the owner or custodian in the manner prescribed for service of a notice in subsection 3.

Appeal

14d—(1) The Society or the owner or custodian may appeal the decision of the Board to a judge of the county or district court of the county or district in which the animal was at the time the order or seizure was made.

Notice of appeal

(2) The appeal shall be made by filing a notice of appeal with the clerk of the court and serving a copy thereof on the other parties before the Board within fifteen days after the notice of the Board's decision is served on the appellant under subsection 7 of section 14c.

Date of hearing

(3) The appellant or any person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he considers appropriate, and the decision of the judge is final.

Inspector, etc., not personally liable

14e. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act.

1955, c. 58, amended

3. *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is amended by adding thereto the following forms:

Section 14*d* provides for an appeal from the Animal Care Review Board.

Section 14*e* is self-explanatory.

SECTION 3. Complementary to section 12 of the Act, as re-enacted by section 2 of the Bill.



FORM 1

*The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955*

(Section 12 (1))

INFORMATION TO OBTAIN A WARRANT

Province of Ontario
County of

The information of....., of.....
in the County (or District, etc.) of.....taken the
.....day of.....in the year.....,
before me, a Justice of the Peace for
the County (or District, etc.) of.....who
says that he has reasonable grounds for believing that there is an
animal in distress on the premises of.....
of.....in the County (or District, etc.) of.....
.....
(here add the grounds for belief, whatever they may be).

Wherefore (he) prays that a warrant may be granted to him
(and to..... a veterinarian of the.....
of..... in the County (or District, etc.) of.....)
to inspect the premises of the said.....
and all animals found therein for the purpose of ascertaining
whether there is therein any animal in distress.

Sworn, etc.
J.P. for *(Name of County or District)*

FORM 2

*The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955*

(Section 12 (1))

WARRANT

Province of Ontario
County of

To....., an inspector or
an agent of The Ontario Society for the Prevention of Cruelty to
Animals (and to.....
a veterinarian of the.....of.....
in the County (or District, etc.) of.....)

Whereas it appears on the oath of.....
of the.....of.....in the County
(or District, etc.) of.....that there are
reasonable grounds for believing that there is an animal in distress
on the premises of.....of the.....
in the County (or District, etc.) of..... This
is therefore to authorize you to enter between the hours of (as the
Justice directs) into the said premises and to inspect the premises
and all animals found therein for the purpose of ascertaining
whether there is therein any animal in distress.

Dated at....., in the said County (or District,
etc.) of.....this.....day of.....
in the year.....

.....
J. P. for (Name of County or District)

Commencement

4. This Act comes into force on the day it receives Royal
Assent.

Short title

5. This Act may be cited as *The Ontario Society for the
Prevention of Cruelty to Animals Amendment Act, 1968-69.*







The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955

1st Reading

February 19th, 1969

2nd Reading

November 12th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Agriculture and Food Committee)*

BILL 74

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**Act to amend The Ontario Society for the Prevention of
Cruelty to Animals Act, 1955**

MR. WISHART



BILL 74

1968-69

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

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1. Section 1 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is repealed and the following substituted therefor: 1955, c. 58, s. 1, re-enacted

1. In this Act,

Interpre-
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- (a) "animal" includes a domestic fowl or a bird that is kept as a pet;
- (b) "Board" means the Animal Care Review Board;
- (c) "distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;
- (d) "veterinarian" means a person registered under *The Veterinarians Act*.

R.S.O. 1960,
c. 416

2. Sections 12, 13 and 14 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* are repealed and the following substituted therefor: 1955, c. 58, ss. 12-14, re-enacted

- 12.—(1) Where a justice of the peace is satisfied by information on oath in Form 1 that there are reasonable grounds for believing that there is in any building or place, other than a public place, an animal that is in distress, he may at any time issue a warrant in Form 2 under his hand authorizing an inspector or an agent of the Society named therein to enter therein either by himself or accompanied

Search
warrant

by a veterinarian and inspect the building or place and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Entry
without
warrant

- (2) Where an inspector or agent of the Society observes an animal in immediate distress, he may enter, without warrant, any premises, building or place other than a dwelling place either by himself or accompanied by a veterinarian for the purposes of subsections 3 and 5 and sections 13 and 14.

Authority of
veterinarian
to inspect
animals

- (3) A veterinarian who has entered a building or place with an inspector or an agent of the Society may examine any animal in the building or place for the purpose of ascertaining whether the animal is in distress.

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warrant
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- (4) Every warrant issued under subsection 1 shall be executed between sunrise and sunset unless the justice by the warrant authorizes the inspector or an agent of the Society to execute it at night.

Authority
to supply
necessaries
to animals

- (5) Where an inspector or an agent of the Society has entered any building or place pursuant to this Act and finds therein an animal in distress he may, in addition to any other action he is authorized to take under this Act, supply the animal with food, care or treatment.

Order to
owner of
animals,
etc.

- 13.—(1) Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

- (a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or
(b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to
be in
writing

- (2) Every order under subsection 1 shall be in writing and shall have printed or written thereon the provisions of subsections 1 and 2 of section 14c.

Service
of order

- (3) Every order under subsection 1 shall be served upon the owner or custodian personally or by registered mail addressed to the owner or custodian at his last known place of address.

(4) Where an inspector or an agent of the Society makes an order under subsection 1 he shall specify in the order the time within which any action required by the order shall be performed. Time for compliance with order

(5) Every person who is served with an order under subsection 3 shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed. Idem

(6) Where an order made under subsection 1 remains in force, an inspector or an agent of the Society may, for the purpose of determining whether the order has been complied with, enter without a warrant any building or place in which the animal is located and inspect the animal and the building or place where the animal is kept and, if, in his opinion, the order has been complied with, he shall revoke the order by notice in writing served forthwith upon the owner or custodian in the manner prescribed for service of an order in subsection 3. Authority to enter building or place, etc.

14.—(1) An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where, Taking possession of animal

(a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;

(b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 13 and the order has not been complied with.

(2) An inspector or an agent of the Society may destroy an animal, Destruction of animal

(a) with the consent of the owner; or

(b) where a veterinarian has examined the animal and has advised the inspector or agent in writing that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering.

Notice

(3) Where an inspector or an agent of the Society has removed or destroyed an animal under subsection 1 he shall forthwith notify the owner or custodian of the animal, if known, of his action by notice in writing served upon the owner or custodian in the manner prescribed for service of an order in subsection 3 of section 13.

Liability
of owner for
expenses

14a.—(1) Where an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve upon the owner or custodian of the animal a statement of account respecting the food, care or treatment by mailing the same by registered mail to the owner or custodian at his last known place of address and the owner or custodian is, subject to subsection 6 of section 14c, thereupon liable for the amount specified in the statement of account.

Power
to sell

(2) Where the owner or custodian refuses to pay an account for which he is liable under subsection 1 within five days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Board
established

14b.—(1) A board to be known as the Animal Care Review Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman,
vice-
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) A majority of the members of the Board constitutes a quorum.

Remunera-
tion of
members

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

- 14c.—(1) Where the owner or custodian of any animal ^{Appeal to Board} deems himself aggrieved by an order made under subsection 1 of section 13 or by the removal of an animal under subsection 1 of section 14, he may, within five days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chairman of the Board.
- (2) Where, in the opinion of the owner or custodian of ^{Application for revocation of order} an animal in respect of which an order has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chairman of the Board.
- (3) Within five days of the receipt of a notice under sub- ^{Notice of hearing} section 1 or 2, the chairman of the Board shall,
- (a) fix a time, date and place at which the Board will hear the matter; and
 - (b) notify the Society and the person who issued the notice of the time, date and place fixed under clause *a* either personally or by registered mail addressed to the Society at its head office and to the person who issued the notice at his last known place of address.
- (4) The date fixed for a hearing shall be not more than ^{Date of hearing} ten days after the receipt of a notice under subsection 1 or 2.
- (5) At a hearing, the Society and the owner or custodian ^{Procedure at hearing} are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent.
- (6) After a hearing or, with the consent of the Society ^{Powers of Board} and the person who issued the notice under subsection 1 or 2, without a hearing, the Board may,
- (a) respecting an order made under subsection 1 of section 13, confirm, revoke or modify the order appealed against;
 - (b) respecting the removal of an animal under subsection 1 of section 14, order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 1 of section 13; or

(c) order that the whole or any part of the cost of complying with an order or providing food, care or treatment to an animal be paid by the Society.

Notice of
decision

(7) Notice of the decision of the Board made under subsection 6, together with reasons in writing for its decision, shall be served forthwith upon the Society and the owner or custodian in the manner prescribed for service of a notice in subsection 3.

Appeal

14d—(1) The Society or the owner or custodian may appeal the decision of the Board to a judge of the county or district court of the county or district in which the animal was at the time the order or seizure was made.

Notice of
appeal

(2) The appeal shall be made by filing a notice of appeal with the clerk of the court and serving a copy thereof on the other parties before the Board within fifteen days after the notice of the Board's decision is served on the appellant under subsection 7 of section 14c.

Date of
hearing

(3) The appellant or any person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he considers appropriate, and the decision of the judge is final.

Inspector,
etc., not
personally
liable

14e. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act.

1955, c. 38,
amended

3. *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* is amended by adding thereto the following forms:

FORM 1

*The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955*

(Section 12 (1))

INFORMATION TO OBTAIN A WARRANT

Province of Ontario
County of

The information of....., of.....
in the County (or District, etc.) of..... taken the
.....day of.....in the year.....,
before me, a Justice of the Peace for
the County (or District, etc.) of..... who
says that he has reasonable grounds for believing that there is an
animal in distress on the premises of.....
of.....in the County (or District, etc.) of.....
.....
(here add the grounds for belief, whatever they may be).

Wherefore (he) prays that a warrant may be granted to him
(and to.....a veterinarian of the.....
of.....in the County (or District, etc.) of.....)
to inspect the premises of the said.....
and all animals found therein for the purpose of ascertaining
whether there is therein any animal in distress.

Sworn, etc.
J.P. for (Name of County or District)

FORM 2

The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

(Section 12 (1))

WARRANT

Province of Ontario
County of

To....., an inspector or an agent of The Ontario Society for the Prevention of Cruelty to Animals (*and to*....., a veterinarian of the..... of..... in the County (or District, etc.) of.....)

Whereas it appears on the oath of..... of the..... of..... in the County (or District, etc.) of..... that there are reasonable grounds for believing that there is an animal in distress on the premises of..... of the..... in the County (or District, etc.) of..... This is therefore to authorize you to enter between the hours of (*as the Justice directs*) into the said premises and to inspect the premises and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Dated at....., in the said County (or District, etc.) of..... this..... day of....., in the year.....

.....
J. P. for (*Name of County or District*)

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 1968-69.*



1st Reading

February 19th, 1969

2nd Reading

November 12th, 1969

3rd Reading

December 17th, 1969

Mr. WISHART

BILL 75

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Separate Schools Act

MR. MARTEL

EXPLANATORY NOTE

The Bill would permit a non-Catholic ratepayer whose spouse is Roman Catholic to elect to be a separate school supporter.

BILL 75

1968-69

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 47 of *The Separate Schools Act*, as amended by ^{R.S.O. 1960, c. 368, s. 47,} section 7 of *The Separate Schools Amendment Act, 1962-63*, is ^{amended} further amended by adding thereto the following subsection:

(3b) Any person paying rates in a separate school zone who is not a Roman Catholic but whose spouse is Roman Catholic may elect by notice in writing given to the clerk of the municipality on or before the 30th day of September in any year to be a separate school supporter and for the purposes of this Act and *The Assessment Act* such person shall be deemed to be a separate school supporter for the following year and every subsequent year until the election is revoked in the same manner as that in which it was made. ^{Election where spouse is non-Catholic ratepayer} ^{R.S.O. 1960, c. 23}

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

3. This Act may be cited as *The Separate Schools Amendment Act, 1968-69*. ^{Short title}

1st Reading

February 19th, 1969

2nd Reading

3rd Reading

MR. MARTEL

BILL 76

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pension Benefits Act, 1965

MR. MACNAUGHTON

EXPLANATORY NOTE

The amendment prohibits withdrawal of contributions from a plan, except voluntary additional contributions or upon termination of employment or of the plan.

BILL 76

1968-69

**An Act to amend
The Pension Benefits Act, 1965**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 21 of *The Pension Benefits Act, 1965* is amended by adding thereto the following clause: 1965, c. 96,
s. 21,
subs. 2,
amended

(c) an employee shall not withdraw any part of his contributions, not including voluntary additional contributions, paid under the plan in respect of service in Ontario or in a designated province on or after the qualification date, other than after,

(i) the termination of his employment, or

(ii) the termination or winding up of the plan,

prior to his attaining retirement age and in circumstances where he is not entitled to a deferred life annuity under subsection 1.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Pension Benefits Amendment Act, 1968-69*. Short title

1st Reading

February 20th, 1969

2nd Reading

3rd Reading

MR. MACNAUGHTON

BILL 76

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pension Benefits Act, 1965

MR. MACNAUGHTON



BILL 76

1968-69

**An Act to amend
The Pension Benefits Act, 1965**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 21 of *The Pension Benefits Act, 1965* is amended by adding thereto the following clause: 1965, c. 96,
s. 21,
subs. 2,
amended

(c) an employee shall not withdraw any part of his contributions, not including voluntary additional contributions, paid under the plan in respect of service in Ontario or in a designated province on or after the qualification date, other than after,

(i) the termination of his employment, or

(ii) the termination or winding up of the plan,

prior to his attaining retirement age and in circumstances where he is not entitled to a deferred life annuity under subsection 1.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Pension Benefits Amendment Act, 1968-69*. Short title

The Pension Benefits Act, 1965

1st Reading

February 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. MACNAUGHTON

BILL 77

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Police Act

MR. SHULMAN

EXPLANATORY NOTE

The Bill prohibits police officers tapping the telephone of any person for the purpose of overhearing conversations transmitted to or from it, except upon the authorization of a judge of the Supreme Court. Penalties are provided for a breach of the provision.

An Act to amend The Police Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Police Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 298,
amended

- 47a.—(1) In this section, “tap” or “tapping” when used in relation to the telephone of any person, means to overhear or record or to attempt to overhear or record by any attachment, device or other means whatever, other than the unaided human ear, conversation transmitted to or from such telephone, by any person who is not a party to the conversation. Interpre-
tation
- (2) No member of a police force shall tap the telephone of any person, except under the authority of an order made under subsection 3. Order
required
to tap
telephone
- (3) A member of a police force may apply *ex parte* to a judge of the Supreme Court for an order authorizing him to tap the telephone of a person named and identified in the application. Application
to judge
- (4) Where the judge is satisfied by such affidavit or other evidence as is adduced before him that the tapping of the telephone of the named and identified person will afford evidence of a contravention of the *Criminal Code* (Canada) or of the provisions of any other statute of Canada or Ontario, for which contravention is punishable by imprisonment, he may on such terms and conditions and with such limitations as to him seem fit, authorize the member of the police force named in the order to tap the telephone of the named and identified person, and for that purpose to utilize such attachment or device or employ such other methods as are specified in the order. Judge may
authorize
tapping of
telephone
of named
person
1953-54,
c. 51 (Can.)

- Offence (5) A member of a police force who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than two years, or to both.
- Commencement **2.** This Act comes into force on the day it receives Royal Assent.
- Short title **3.** This Act may be cited as *The Police Amendment Act, 1968-69*.







1st Reading

February 20th, 1969

2nd Reading

3rd Reading

MR. SHULMAN

BILL 78

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Tobacco Tax Act, 1965

MR. WHITE

EXPLANATORY NOTE

The tax on each cigarette purchased by a consumer is increased from three-tenths of 1 cent to four-tenths of 1 cent.

BILL 78

1968-69

An Act to amend The Tobacco Tax Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of subsection 1 of section 2 of *The Tobacco Tax Act, 1965*, as re-enacted by section 1 of *The Tobacco Tax Amendment Act, 1968*, is repealed and the following substituted therefor:

(a) four-tenths of 1 cent on every cigarette purchased by him.

2. This Act shall be deemed to have come into force on the 5th day of March, 1969.

3. This Act may be cited as *The Tobacco Tax Amendment Act, 1968-69*.

The Tobacco Tax Act, 1965

1st Reading

March 4th, 1969

2nd Reading

3rd Reading

MR. WHITE

BILL 78

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Tobacco Tax Act, 1965

MR. WHITE



BILL 78

1968-69

An Act to amend The Tobacco Tax Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of subsection 1 of section 2 of *The Tobacco Tax Act, 1965*, as re-enacted by section 1 of *The Tobacco Tax Amendment Act, 1968*, is repealed and the following substituted therefor:

(a) four-tenths of 1 cent on every cigarette purchased by him.

2. This Act shall be deemed to have come into force on the 5th day of March, 1969.

3. This Act may be cited as *The Tobacco Tax Amendment Act, 1968-69*.

1965,
c. 130, s. 2,
subs. 1
(1968, c. 137,
s. 1) cl. a,
re-enacted

Commence-
ment

Short title

EXPLANATORY NOTES

GENERAL. The administration of *The Retail Sales Tax Act, 1960-61* and *The Hospitals Tax Act* was transferred to the Minister of Revenue by *The Department of Revenue Act, 1968*. In addition, during the last year, for greater economy and efficiency, the Hospitals Tax Branch was integrated with the Retail Sales Tax Branch. The majority of the amendments contained in this Bill reflect the organizational changes mentioned in that the pertinent provisions of *The Hospitals Tax Act* have been incorporated into *The Retail Sales Tax Act, 1960-61* and the responsibility and duties under the latter Act are transferred to the Minister of Revenue. *The Hospitals Tax Act* will be repealed. In addition, the base of the retail sales tax is broadened to include transient accommodation.

The following notes are explanations of the amendments except those that reflect the organizational changes.

SECTION 1—Subsection 1. The provisions of *The Hospitals Tax Act* referring to a tax on a purchaser of a ticket to a place of amusement are transferred to *The Retail Sales Tax Act, 1960-61*. The amendment provides for this transfer and it is self-explanatory.

Subsection 2. Reference to the Comptroller of Revenue is deleted. The primary responsibility for this Act is placed on the Minister of Revenue.

Subsection 3. The definition of "fair value" is amended to apply to a taxable service.

Subsection 5. The amendment for clarification refers to metropolitan and regional municipal corporations. The interpretation section is broadened to define place of amusement and price of admission both of which were defined in similar terms in *The Hospitals Tax Act*.

BILL 79

1968-69

**An Act to amend
The Retail Sales Tax Act, 1960-61**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 1 of section 1 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 1,
re-enacted

1. "admission" includes entry to a place of amusement where any charge is made or fee is collected before or after entry.

(2) Paragraph 2 of the said section 1 is repealed.

1960-61,
c. 91, s. 1,
par. 2,
repealed

(3) Clause *a* of paragraph 5 of the said section 1 is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 5, cl. a,
re-enacted

- (a) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on account of the price of the tangible personal property purchased or taxable service received.

(4) Paragraph 6 of the said section 1, as re-enacted by subsection 1 of section 1 of *The Retail Sales Tax Amendment Act, 1961-62*, is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 6
(1961-62,
c. 126, s. 1,
subs. 1),
re-enacted

6. "Minister" means Minister of Revenue.

(5) Paragraph 7 of the said section 1 is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 7,
re-enacted

R.S.O. 1960,
cc. 191, 98

7. "person", in addition to its meaning in *The Interpretation Act*, includes Her Majesty in right of Ontario, a municipal corporation, including a metropolitan or regional municipal corporation, or a local board thereof, as defined in *The Department of Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature.
- 7a. "place of amusement" means a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held, and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise.
- 7b. "price of admission" includes every charge made to or fee collected from a purchaser by a vendor before or after admission to a place of amusement.

1960-61,
c. 91, s. 1,
par. 8
(1962-63,
c. 127, s. 1,
subs. 1),
re-enacted

(6) Paragraph 8 of the said section 1, as re-enacted by subsection 1 of section 1 of *The Retail Sales Tax Amendment Act, 1962-63*, is repealed and the following substituted therefor:

8. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense and includes a person who purchases admission for himself to a place of amusement, or a person for whom admission to a place of amusement is purchased by another person.

1960-61,
c. 91, s. 1,
par. 11,
cl. a,
amended

(7) Clause a of paragraph 11 of the said section 1 is amended by adding at the end thereof "or renders to another person a taxable service", so that the clause shall read as follows:

- (a) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price

Subsection 6. The definition of a “purchaser” is broadened to include a person who acquires or receives a taxable service and a person who purchases admission to a place of amusement. The latter incorporates the provision previously contained in *The Hospitals Tax Act*.

Subsection 7. The definition of “sale” is broadened to include the rendering of a service to another person.

Subsection 8. Reference to telephone and telegraph service is deleted from the definition of "tangible personal property". These are included in the definition of a taxable service.

Subsection 9. Taxable service is defined.

Subsection 10. Transient accommodation is defined.

Subsection 11. The definition of vendor is broadened to include persons who provide taxable services and persons who operate places of amusement. The latter incorporates a similar provision previously contained in *The Hospitals Tax Act*.

or other consideration a person delivers to another person tangible personal property or renders to another person a taxable service.

(8) Paragraph 13 of the said section 1, as re-enacted by section 1 of *The Retail Sales Tax Amendment Act, 1966*, is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 13
(1966,
c. 138, s. 1),
re-enacted

13. "tangible personal property" means property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural or manufactured gas.

(9) The said section 1 is amended by adding thereto the following paragraph:

1960-61,
c. 91, s. 1,
amended

15. "taxable service" means,

- (a) telephone services, including long distance calls;
- (b) telegraph services; and
- (c) transient accommodation.

(10) Paragraph 16 of the said section 1 is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 16,
re-enacted

16. "transient accommodation" means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house, or boarding house, if such house has accommodation for less than four tenants.

(11) Paragraph 18 of the said section 1 is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 18,
re-enacted

18. "vendor" means a person who, in the ordinary course of his business,

- (a) sells tangible personal property;
- (b) sells or renders a taxable service; or
- (c) operates a place of amusement.

1960-61,
c. 91,
s. 2, subs. 1,
re-enacted

2.—(1) Subsection 1 of section 2 of *The Retail Sales Tax Act, 1960-61*, as amended by subsection 1 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is repealed and the following substituted therefor:

Tax on
purchaser,
of tangible
personal
property

(1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection 1a, shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 5 per cent of the fair value thereof.

of liquor,
beer, wine,
meals

(1a) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:

1. liquor, beer or wine;
2. prepared meals sold at a price of over \$2.50.

of taxable
service

(1b) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

of admission
to place of
amusement

(1c) Every purchaser of admission to a place of amusement shall pay to Her Majesty in right of Ontario a tax on the price of admission as follows:

| PRICE OF ADMISSION | TAX |
|---|-----------|
| More than 75 cents and not more than 84 cents | — 6 cents |
| " " 84 " " " " " 90 " | — 7 " |
| " " 90 " " " " " 92 " | — 8 " |

and where the price of admission is more than 92 cents, a tax at the rate of 10 per cent, calculated upon the price of admission.

1960-61,
c. 91, s. 2,
subs. 2,
re-enacted

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor:

When tax
payable

(2) A purchaser shall pay the tax imposed by this Act at the time of the sale.

1960-61,
c. 91, s. 2,
subs. 3,
re-enacted

(3) Subsection 4 of the said section 2 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

SECTION 2—Subsection 1. Under subsection 1a, the rate of tax imposed on a purchaser of liquor, beer, wine and meals over \$2.50 is increased from 5 per cent to 10 per cent and the exemption on meals consumed off the premises is removed. In part, this incorporates a provision of *The Hospitals Tax Act*. Subsection 1b imposes a tax at the rate of 5 per cent on a purchaser of a taxable service. Subsection 1c incorporates a similar provision previously contained in *The Hospitals Tax Act*.

Subsection 2. The amendment is intended to clarify the meaning of the subsection.

Subsection 4. The subsection repealed was redundant.

Subsection 5. Although the administration of this Act was transferred to the Minister of Revenue, the Treasurer of Ontario will continue to receive moneys payable to Her Majesty the Queen under this Act.

Subsection 6. The additional subsection is for clarification purposes.

Subsection 8. Where exempt property is put to a taxable use, it will be taxable at that time.

SECTION 3—Subsection 1. The amendment is complementary to sections 1 and 2 of the Bill.

(4) Subsection 5 of the said section 2, as amended by subsection 2 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is repealed. 1960-61, c. 91, s. 2, subs. 5, repealed

(5) Subsection 6 of the said section 2, as amended by subsection 1 of section 1 of *The Retail Sales Tax Amendment Act, 1965*, is further amended by inserting after "Treasurer" in the fifth line "of Ontario". 1960-61, c. 91, s. 2, subs. 6, amended

(6) The said section 2 is amended by adding thereto the following subsection: 1960-61, c. 91, s. 2, amended

(6a) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Treasurer of Ontario may refund such amount upon receipt of satisfactory evidence that the amount was wrongfully paid. Idem

(7) Subsection 7 of the said section 2, as amended by subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1964* and subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the ninth line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 2, subs. 7, amended

(8) The said section 2 is amended by adding thereto the following subsection: 1960-61, c. 91, s. 2, amended

(10) Where tangible personal property has been purchased exempt from the tax imposed by this Act, and the tangible personal property is subsequently put to a taxable use, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of change of use. Where exempt property put to taxable use

3.—(1) Subsection 1 of section 3 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61, c. 91, s. 3, subs. 1, re-enacted

(1) No vendor shall sell any tangible personal property or taxable services or operate a place of amusement unless he has been granted upon his application a permit for each place in Ontario where he transacts business and such permit is in force at the time of the sale. Vendor permits

(2) Subsection 2 of the said section 3 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 3, subs. 2, amended

1960-61,
c. 91, s. 3,
subs. 3,
amended

(3) Subsection 3 of the said section 3, as amended by section 3 of *The Retail Sales Tax Amendment Act, 1964*, is further amended by striking out "Comptroller" in the first line and in the amendment of 1964 and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 3,
subs. 4,
amended

(4) Subsection 4 of the said section 3 is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 4,
re-enacted

4. Section 4 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor:

Sales in
bulk,
R.S.O. 1960,
c. 43

4.—(1) No person shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable by such person have been paid.

Idem

(2) Every person purchasing stock through a sale in bulk as defined in *The Bulk Sales Act* shall obtain from the person selling such stock the duplicate copy of the certificate furnished under subsection 1, and, if he fails to do so, he is responsible for payment to the Treasurer of Ontario of all taxes collectable or payable by the person thus disposing of his stock through a sale in bulk.

1960-61,
c. 91, s. 5,
pars. 1, 2,
re-enacted

5.—(1) Paragraphs 1 and 2 of section 5 of *The Retail Sales Tax Act, 1960-61* are repealed and the following substituted therefor:

1. food products for human consumption except candies and other confections and soft drinks;
2. prepared meals sold at a price of \$2.50 or less.

1960-61,
c. 91, s. 5,
par. 9,
amended

(2) Paragraph 9 of the said section 5, as amended by subsection 3 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the amendment of 1966 and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 10,
amended

(3) Paragraph 10 of the said section 5, as amended by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the amendment of 1966 and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 12
(1967, c. 88,
s. 2, subs. 1),
amended

(4) Paragraph 12 of the said section 5, as re-enacted by subsection 1 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

SECTION 4. The section is revised for clarification purposes.

SECTION 5—Subsection 1. Food products continue to be exempt and the exemption limit for prepared meals is raised from \$1.50 to \$2.50.

Subsection 10. The exemption on production machinery is removed.

(5) Paragraph 16 of the said section 5 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 16, amended

(6) Paragraph 18 of the said section 5 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 18, amended

(7) Paragraph 24 of the said section 5, as re-enacted by subsection 6 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 24 (1966, c. 138, s. 3, subs. 6), amended

(8) Paragraph 25 of the said section 5, as re-enacted by subsection 6 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 25 (1966, c. 138, s. 3, subs. 6), amended

(9) Paragraph 37 of the said section 5, as re-enacted by subsection 8 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 37 (1966, c. 138, s. 3, subs. 8), amended

(10) Paragraph 38 of the said section 5, as re-enacted by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 2 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is repealed. 1960-61, c. 91, s. 5, par. 38 (1961-62, c. 126, s. 3, subs. 4), repealed

(11) Paragraph 39 of the said section 5, as re-enacted by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 39 (1961-62, c. 126, s. 3, subs. 4), amended

(12) Paragraph 44 of the said section 5, as enacted by subsection 7 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 44 (1961-62, c. 126, s. 3, subs. 7), amended

(13) Paragraph 45 of the said section 5, as re-enacted by subsection 7 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 45 (1961-62, c. 126, s. 3, subs. 7), amended

(14) Paragraph 48 of the said section 5, as re-enacted by subsection 8 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 48 (1961-62, c. 126, s. 3, subs. 8), amended

1960-61,
c. 91, s. 5,
par. 50,
amended

(15) Paragraph 50 of the said section 5 is amended by striking out "by the glass", so that the paragraph shall read as follows:

50. draft beer sold on licensed premises.

1960-61,
c. 91, s. 5,
par. 51,
repealed

(16) Paragraph 51 of the said section 5 is repealed.

1960-61,
c. 91, s. 5,
par. 53,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(17) Paragraph 53 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 56
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(18) Paragraph 56 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 10 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 57
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(19) Paragraph 57 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 11 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 58,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(20) Paragraph 58 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and in the third line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 5,
par. 59
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(21) Paragraph 59 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 61
(1961,
c. 101, s. 4),
amended

(22) Paragraph 61 of the said section 5, as enacted by section 4 of *The Retail Sales Tax Amendment Act, 1964* and amended by subsection 12 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 65
(1966,
c. 126, s. 3,
subs. 14),
amended

(23) Paragraph 65 of the said section 5, as enacted by subsection 14 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" and inserting in lieu thereof "Minister".

Subsection 15. Draft beer whether or not sold by the glass in licensed premises continues to be exempt.

Subsection 16. The amendment is complementary to the repeal of *The Hospitals Tax Act*.

Subsection 24. The amendment is intended to clarify the Act and is complementary to section 2.

SECTION 6—Subsection 2. The provisions contained in this amendment are similar to those contained in *The Hospitals Tax Act*.

- (24) The said section 5 is amended by adding thereto the following subsections: ^{1960-61, c. 91, s. 5, amended}
- (2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act. ^{Exceptions}
- (3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. ^{Idem}
- 6.**—(1) Section 5*b* of *The Retail Sales Tax Act, 1960-61*, ^{1960-61, c. 91, s. 5*b*} as enacted by section 4 of *The Retail Sales Tax Amendment Act, 1961-62*, ^{(1961-62, c. 126, s. 4), amended} is amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".
- (2) The said section 5*b* is further amended by adding thereto the following subsections: ^{1960-61, c. 91, s. 5*b* (1961-62, c. 126, s. 4), amended}
- (2) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the vendor made to the Minister at least ten days before the tax would otherwise be payable, exempt the purchaser from the payment and the vendor from collection of the tax imposed by subsection 1*c* of section 2. ^{Idem}
- (3) Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes was collected and paid to Her Majesty in right of Ontario in accordance with subsection 1*c* of section 2, and where the vendor files with the Minister a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Minister is satisfied that the organization is one the operations of which are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, there may be paid to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the vendor as the price of admission to such place of amusement. ^{Idem}

Canadian
per-
formances

- (4) Where application of the vendor is made to the Minister at least ten days before the tax imposed by subsection 1c of section 2 would otherwise be payable and the Minister is satisfied that the performers in a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Minister may, in his absolute discretion, exempt the purchaser from the payment and the vendor from the collection of the tax imposed by subsection 1c of section 2.

1960-61,
c. 91, s. 6,
subs. 1,
amended

- 7.** Subsection 1 of section 6 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 7,
amended

- 8.** Section 7 of *The Retail Sales Tax Act, 1960-61* is amended by inserting after "Treasurer" in the fifth line "of Ontario".

1960-61,
c. 91, s. 8,
amended

- 9.** Section 8 of *The Retail Sales Tax Act, 1960-61* is amended by inserting after "Treasurer" in the second line "of Ontario".

1960-61,
c. 91, s. 9,
subs. 1,
amended

- 10.** Subsection 1 of section 9 of *The Retail Sales Tax Act, 1960-61*, as amended by section 5 of *The Retail Sales Tax Amendment Act, 1961-62*, is further amended by striking out "Treasurer" in the first line and in the fourth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 10,
subs. 1,
amended

- 11.—(1)** Subsection 1 of section 10 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 10,
subs. 2
(1964,
c. 104, s. 6),
amended

- (2)** Subsection 2 of the said section 10, as enacted by section 6 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 12,
(1964,
c. 104, s. 7),
subs. 2,
amended

- 12.** Subsection 2 of section 12 of *The Retail Sales Tax Act, 1960-61*, as re-enacted by section 7 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Treasurer" in the first line and in the eleventh line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 13,
subs. 1,
re-enacted

- 13.—(1)** Subsection 1 of section 13 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor:

SECTION 13—Subsection 1. The amendment is complementary to sections 1, 2 and 3 of the Bill.



- (1) Where a vendor fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor. Assessment of tax collected
- (2) Subsection 2 of the said section 13 is amended by striking out "Comptroller" in the seventh line and in the eighth line and inserting in lieu thereof in each instance "Minister". 1960-61, c. 91, s. 13, subs. 2, amended
- (3) Subsection 3 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 13, subs. 3, amended
- (4) Subsection 4 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by inserting after "Treasurer" in the fifth line "of Ontario". 1960-61, c. 91, s. 13, subs. 4, amended
- (5) Subsection 6 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 13, subs. 6, amended
- (6) Subsection 8 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 13, subs. 8, amended
- 14.** Subsection 2 of section 14 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line, in the third line and in the eleventh line and inserting in lieu thereof in each instance "Minister". 1960-61, c. 91, s. 14, subs. 2, amended
- 15.** Section 15 of *The Retail Sales Tax Act, 1960-61*, as re-enacted by section 6 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by section 8 of *The Retail Sales Tax Amendment Act, 1964*, is further amended by striking out "Comptroller" in the fifth line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 15, (1961-62, c. 126, s. 6), amended
- 16.—**(1) Subsection 1 of section 17 of *The Retail Sales Tax Act, 1960-61*, as amended by section 4 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the fourth line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 17, subs. 1, amended
- (2) Subsection 2 of the said section 17 is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 17, subs. 2, amended

1960-61,
c. 91, s. 17,
subs. 3,
amended

(3) Subsection 3 of the said section 17 is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 18,
subs. 1,
amended

17.—(1) Subsection 1 of section 18 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the third line and in the seventh line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 18,
subs. 2,
amended

(2) Subsection 2 of the said section 18 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 18,
subs. 3,
amended

(3) Subsection 3 of the said section 18 is amended by striking out "Treasurer" in the first line and "Comptroller" in the second line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 18,
subs. 5,
amended

(4) Subsection 5 of the said section 18 is amended by striking out "Treasurer" in the fifth line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 18,
subs. 6,
amended

(5) Subsection 6 of the said section 18 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 19,
subs. 1,
amended

18. Subsection 1 of section 19 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 20,
subs. 3,
cl. c,
subcl. iv,
amended

19. Subclause iv of clause c of subsection 3 of section 20 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 21,
amended

20. Section 21 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 24,
subs. 1,
amended

21.—(1) Subsection 1 of section 24 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 24,
subs. 2,
amended

(2) Subsection 2 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 24,
subs. 3,
amended

(3) Subsection 3 of the said section 24, as amended by section 5 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".



SECTION 23. The rates of interest on amounts payable to or to be remitted to the Treasurer will be such as are prescribed by the Lieutenant Governor in Council from time to time.

(4) Subsection 4 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by striking out "Office of the Comptroller of Revenue" in the fifth and sixth lines and inserting in lieu thereof "Department of Revenue".

1960-61,
c. 91, s. 24,
amended
subs. 4,

(5) Subsection 5 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 24,
amended
subs. 5,

(6) Subsection 6 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by striking out "Office of the Comptroller of Revenue" in the third and fourth lines and inserting in lieu thereof "Department of Revenue".

1960-61,
c. 91, s. 24,
amended
subs. 6,

(7) Subsection 7 of the said section 24 is amended by striking out "Office of the Comptroller of Revenue" in the fourth line and inserting in lieu thereof "Department of Revenue" and by striking out "Comptroller" in the sixth line and in the seventh line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 24,
amended
subs. 7,

22. Section 26 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 26,
amended

23.—(1) Section 27 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor:

1960-61,
c. 91, s. 27,
re-enacted

27.—(1) Any amount payable or to be remitted to the Treasurer of Ontario under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer of Ontario to the day of payment or until thirty days following the day on which a notice of assessment is mailed under subsection 4 or 6 of section 13, whichever is the earlier date.

Interest

(2) The amount due as shown by a notice of assessment made under subsection 4 or 6 of section 13 shall, if it is not paid within thirty days from the day of mailing of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing of the notice of assessment until the day of payment.

Idem

24.—(1) Subsection 1 of section 28 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by inserting after "Treasurer" in the seventh line "of Ontario".

1960-61,
c. 91, s. 28,
amended
subs. 1,

1960-61,
c. 91, s. 28,
subs. 2,
amended

(2) Subsection 2 of the said section 28 is amended by inserting after "Treasurer" in the first line "of Ontario".

1960-61,
c. 91, s. 28,
subs. 3,
amended

(3) Subsection 3 of the said section 28 is amended by inserting after "Treasurer" in the sixth line "of Ontario".

1960-61,
c. 91, s. 29,
subs. 1,
cl. a,
amended

25.—(1) Clause *a* of subsection 1 of section 29 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and in the fifth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 29,
subs. 1,
cl. b,
amended

(2) Clause *b* of subsection 1 of the said section 29 is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91,
s. 29,
subs. 2,
amended

(3) Subsection 2 of the said section 29 is amended by striking out "Treasurer or the Comptroller" in the third line and inserting in lieu thereof "Minister" and by striking out "Treasurer or of any officer of the Office of the Comptroller of Revenue" in the eighth and ninth lines and inserting in lieu thereof "Minister or of any officer of the Department of Revenue".

1960-61,
c. 91,
s. 31,
subs. 1,
amended

26.—(1) Subsection 1 of section 31 of *The Retail Sales Tax Act, 1960-61*, as amended by section 6 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the first line and in the fourth line and inserting in lieu thereof in each instance "Minister", by inserting after "Treasurer" in the second line "of Ontario" and by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 31,
subs. 2,
amended

(2) Subsection 2 of the said section 31 is amended by inserting after "Treasurer" in the second line "of Ontario" and by striking out "Comptroller" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 31,
subs. 3
(1964,
c. 104, s. 11),
amended

(3) Subsection 3 of the said section 31, as enacted by section 11 of *The Retail Sales Tax Amendment Act, 1964*, is amended by inserting after "Treasurer" in the fifth line and in the seventh line "of Ontario" and by striking out "Treasurer" in the eighth line and in the fourteenth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 31,
subs. 4
(1964,
c. 104, s. 11),
amended

(4) Subsection 4 of the said section 31, as enacted by section 11 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Treasurer" in the third line and in the eighth line and inserting in lieu thereof in each instance "Minister" and by inserting after "Treasurer" in the sixth line and in the seventh line "of Ontario".



SECTION 29—Subsection 2. Authority is provided to make regulations to prescribe the rates of interest for the purposes of section 27. Complementary to section 23 of the Bill.

27.—(1) Subsection 3 of section 35 of *The Retail Sales Tax Act, 1960-61* is amended by striking out “Comptroller” in the first line and in the fifth line and inserting in lieu thereof in each instance “Minister”. 1960-61, c. 91, s. 35, subs. 3, amended

(2) Subsection 4 of the said section 35 is amended by striking out “Comptroller” in the second line and inserting in lieu thereof “Minister”. 1960-61, c. 91, s. 35, subs. 4, amended

(3) Subsection 7 of the said section 35 is amended by inserting after “Treasurer” in the second line “of Ontario”. 1960-61, c. 91, s. 35, subs. 7, amended

28. Section 36 of *The Retail Sales Tax Act, 1960-61* is amended by striking out “Comptroller” in the third line and inserting in lieu thereof “Minister”. 1960-61, c. 91, s. 36, amended

29.—(1) Clause *c* of subsection 2 of section 39 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61, c. 91, s. 39, subs. 2, cl. c, re-enacted

(*c*) authorizing or requiring the Deputy Minister or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act.

(2) Subsection 2 of the said section 39, as amended by section 12 of *The Retail Sales Tax Amendment Act, 1964* and section 7 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by adding thereto the following clause: 1960-61, c. 91, s. 39, subs. 2, amended

(*h*) prescribing the rates of interest payable on amounts payable to or to be remitted to the Treasurer of Ontario under this Act.

30. This Act comes into force on the 1st day of April, 1969. Commencement

31. This Act may be cited as *The Retail Sales Tax Amendment Act, 1968-69*. Short title

The Retail Sales Tax Act, 1960-61

1st Reading

March 4th, 1969

2nd Reading

3rd Reading

MR. WHITE

BILL 79

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Retail Sales Tax Act, 1960-61

MR. WHITE



BILL 79

1968-69

**An Act to amend
The Retail Sales Tax Act, 1960-61**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 1 of section 1 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 1,
re-enacted

1. "admission" includes entry to a place of amusement where any charge is made or fee is collected before or after entry.

(2) Paragraph 2 of the said section 1 is repealed. 1960-61,
c. 91, s. 1,
par. 2,
repealed

(3) Clause *a* of paragraph 5 of the said section 1 is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 5, cl. *a*,
re-enacted

(*a*) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on account of the price of the tangible personal property purchased or taxable service received.

(4) Paragraph 6 of the said section 1, as re-enacted by subsection 1 of section 1 of *The Retail Sales Tax Amendment Act, 1961-62*, is repealed and the following substituted therefor: 1960-61,
c. 91 s. 1,
par. 6
(1961-62,
c. 126, s. 1,
subs. 1),
re-enacted

6. "Minister" means Minister of Revenue.

(5) Paragraph 7 of the said section 1 is repealed and the following substituted therefor: 1960-61,
c. 91, s. 1,
par. 7,
re-enacted

R.S.O. 1960,
cc. 191, 98

7. "person", in addition to its meaning in *The Interpretation Act*, includes Her Majesty in right of Ontario, a municipal corporation, including a metropolitan or regional municipal corporation, or a local board thereof, as defined in *The Department of Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature.
- 7a. "place of amusement" means a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held, and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise.
- 7b. "price of admission" includes every charge made to or fee collected from a purchaser by a vendor before or after admission to a place of amusement.

1960-61,
c. 91, s. 1,
par. 8
(1962-63,
c. 127, s. 1,
subs. 1),
re-enacted

(6) Paragraph 8 of the said section 1, as re-enacted by subsection 1 of section 1 of *The Retail Sales Tax Amendment Act, 1962-63*, is repealed and the following substituted therefor:

8. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense and includes a person who purchases admission for himself to a place of amusement, or a person for whom admission to a place of amusement is purchased by another person.

1960-61,
c. 91, s. 1,
par. 11,
cl. a,
amended

(7) Clause a of paragraph 11 of the said section 1 is amended by adding at the end thereof "or renders to another person a taxable service", so that the clause shall read as follows:

- (a) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price

or other consideration a person delivers to another person tangible personal property or renders to another person a taxable service.

(8) Paragraph 13 of the said section 1, as re-enacted by section 1 of *The Retail Sales Tax Amendment Act, 1966*, is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 13
(1966,
c. 138, s. 1),
re-enacted

13. "tangible personal property" means property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural or manufactured gas.

(9) The said section 1 is amended by adding thereto the following paragraph:

1960-61,
c. 91, s. 1,
amended

15. "taxable service" means,

(a) telephone services, including long distance calls;

(b) telegraph services; and

(c) transient accommodation.

(10) Paragraph 16 of the said section 1 is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 16,
re-enacted

16. "transient accommodation" means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house, or boarding house, if such house has accommodation for less than four tenants.

(11) Paragraph 18 of the said section 1 is repealed and the following substituted therefor:

1960-61,
c. 91, s. 1,
par. 18,
re-enacted

18. "vendor" means a person who, in the ordinary course of his business,

(a) sells tangible personal property;

(b) sells or renders a taxable service; or

(c) operates a place of amusement.

1960-61,
c. 91,
s. 2, subs. 1,
re-enacted

2.—(1) Subsection 1 of section 2 of *The Retail Sales Tax Act, 1960-61*, as amended by subsection 1 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is repealed and the following substituted therefor:

Tax on
purchaser,
of tangible
personal
property

(1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection 1a, shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 5 per cent of the fair value thereof.

of liquor,
beer, wine,
meals

(1a) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:

1. liquor, beer or wine;

2. prepared meals sold at a price of over \$2.50.

of taxable
service

(1b) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

of admission
to place of
amusement

(1c) Every purchaser of admission to a place of amusement shall pay to Her Majesty in right of Ontario a tax on the price of admission as follows:

| PRICE OF ADMISSION | TAX |
|---|-----------|
| More than 75 cents and not more than 84 cents | — 6 cents |
| " " 84 " " " " " 90 " | — 7 " |
| " " 90 " " " " " 92 " | — 8 " |

and where the price of admission is more than 92 cents, a tax at the rate of 10 per cent, calculated upon the price of admission.

1960-61,
c. 91, s. 2,
subs. 2,
re-enacted

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor:

When tax
payable

(2) A purchaser shall pay the tax imposed by this Act at the time of the sale.

1960-61,
c. 91, s. 2,
subs. 4,
amended

(3) Subsection 4 of the said section 2 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

(4) Subsection 5 of the said section 2, as amended by sub-section 2 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is repealed. 1960-61, c. 91, s. 2, subs. 5, repealed

(5) Subsection 6 of the said section 2, as amended by sub-section 1 of section 1 of *The Retail Sales Tax Amendment Act, 1965*, is further amended by inserting after "Treasurer" in the fifth line "of Ontario". 1960-61, c. 91, s. 2, subs. 6, amended

(6) The said section 2 is amended by adding thereto the following subsection: 1960-61, c. 91, s. 2, amended

(6a) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Treasurer of Ontario may refund such amount upon receipt of satisfactory evidence that the amount was wrongfully paid. Idem

(7) Subsection 7 of the said section 2, as amended by subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1964* and subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the ninth line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 2, subs. 7, amended

(8) The said section 2 is amended by adding thereto the following subsection: 1960-61, c. 91, s. 2, amended

(10) Where tangible personal property has been purchased exempt from the tax imposed by this Act, and the tangible personal property is subsequently put to a taxable use, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of change of use. Where exempt property put to taxable use

3.—(1) Subsection 1 of section 3 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61, c. 91, s. 3, subs. 1, re-enacted

(1) No vendor shall sell any tangible personal property or taxable services or operate a place of amusement unless he has been granted upon his application a permit for each place in Ontario where he transacts business and such permit is in force at the time of the sale. Vendor permits

(2) Subsection 2 of the said section 3 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 3, subs. 2, amended

1960-61,
c. 91, s. 3,
subs. 3,
amended

(3) Subsection 3 of the said section 3, as amended by section 3 of *The Retail Sales Tax Amendment Act, 1964*, is further amended by striking out "Comptroller" in the first line and in the amendment of 1964 and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 3,
subs. 4,
amended

(4) Subsection 4 of the said section 3 is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 4,
re-enacted

4. Section 4 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor:

Sales in
bulk,
R.S.O. 1960,
c. 43

4.—(1) No person shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable by such person have been paid.

Idem

(2) Every person purchasing stock through a sale in bulk as defined in *The Bulk Sales Act* shall obtain from the person selling such stock the duplicate copy of the certificate furnished under subsection 1, and, if he fails to do so, he is responsible for payment to the Treasurer of Ontario of all taxes collectable or payable by the person thus disposing of his stock through a sale in bulk.

1960-61,
c. 91, s. 5,
pars. 1, 2,
re-enacted

5.—(1) Paragraphs 1 and 2 of section 5 of *The Retail Sales Tax Act, 1960-61* are repealed and the following substituted therefor:

1. food products for human consumption except candies and other confections and soft drinks;

2. prepared meals sold at a price of \$2.50 or less.

1960-61,
c. 91, s. 5,
par. 9,
amended

(2) Paragraph 9 of the said section 5, as amended by subsection 3 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the amendment of 1966 and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 10,
amended

(3) Paragraph 10 of the said section 5, as amended by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the amendment of 1966 and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 12
(1967, c. 88,
s. 2, subs. 1),
amended

(4) Paragraph 12 of the said section 5, as re-enacted by subsection 1 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

- (5) Paragraph 16 of the said section 5 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 16, amended
- (6) Paragraph 18 of the said section 5 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 18, amended
- (7) Paragraph 24 of the said section 5, as re-enacted by subsection 6 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 24 (1966, c. 138, s. 3, subs. 6), amended
- (8) Paragraph 25 of the said section 5, as re-enacted by subsection 6 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 25 (1966, c. 138, s. 3, subs. 6), amended
- (9) Paragraph 37 of the said section 5, as re-enacted by subsection 8 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 37 (1966, c. 138, s. 3, subs. 8), amended
- (10) Paragraph 38 of the said section 5, as re-enacted by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 2 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is repealed. 1960-61, c. 91, s. 5, par. 38 (1961-62, c. 126, s. 3, subs. 4), repealed
- (11) Paragraph 39 of the said section 5, as re-enacted by subsection 4 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 3 of section 2 of *The Retail Sales Tax Amendment Act, 1967*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 39 (1961-62, c. 126, s. 3, subs. 4), amended
- (12) Paragraph 44 of the said section 5, as enacted by subsection 7 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 44 (1961-62, c. 126, s. 3, subs. 7), amended
- (13) Paragraph 45 of the said section 5, as re-enacted by subsection 7 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 45 (1961-62, c. 126, s. 3, subs. 7), amended
- (14) Paragraph 48 of the said section 5, as re-enacted by subsection 8 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister". 1960-61, c. 91, s. 5, par. 48 (1961-62, c. 126, s. 3, subs. 8), amended

1960-61,
c. 91, s. 5,
par. 50,
amended

(15) Paragraph 50 of the said section 5 is amended by striking out "by the glass", so that the paragraph shall read as follows:

50. draft beer sold on licensed premises.

1960-61,
c. 91, s. 5,
par. 51,
repealed

(16) Paragraph 51 of the said section 5 is repealed.

1960-61,
c. 91, s. 5,
par. 53,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(17) Paragraph 53 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 56
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(18) Paragraph 56 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 10 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 57,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(19) Paragraph 57 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by subsection 11 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 58,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(20) Paragraph 58 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and in the third line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 5,
par. 59,
(1961-62,
c. 126, s. 3,
subs. 9),
amended

(21) Paragraph 59 of the said section 5, as enacted by subsection 9 of section 3 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 61
(1964,
c. 104, s. 4),
amended

(22) Paragraph 61 of the said section 5, as enacted by section 4 of *The Retail Sales Tax Amendment Act, 1964* and amended by subsection 12 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 5,
par. 65
(1966,
c. 138, s. 3,
subs. 11),
amended

(23) Paragraph 65 of the said section 5, as enacted by subsection 14 of section 3 of *The Retail Sales Tax Amendment Act, 1966*, is amended by striking out "Treasurer" and inserting in lieu thereof "Minister".

(24) The said section 5 is amended by adding thereto the following subsections: ^{1960-61, c. 91, s. 5, amended}

(2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act. ^{Exceptions}

(3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. ^{Idem}

6.—(1) Section 5b of *The Retail Sales Tax Act, 1960-61*, as enacted by section 4 of *The Retail Sales Tax Amendment Act, 1961-62*, is amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister". ^{1960-61, c. 91, s. 5b (1961-62, c. 126, s. 4), amended}

(2) The said section 5b is further amended by adding thereto the following subsections: ^{1960-61, c. 91, s. 5b (1961-62, c. 126, s. 4), amended}

(2) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the vendor made to the Minister at least ten days before the tax would otherwise be payable, exempt the purchaser from the payment and the vendor from collection of the tax imposed by subsection 1c of section 2. ^{Idem}

(3) Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes was collected and paid to Her Majesty in right of Ontario in accordance with subsection 1c of section 2, and where the vendor files with the Minister a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Minister is satisfied that the organization is one the operations of which are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, there may be paid to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the vendor as the price of admission to such place of amusement. ^{Idem}

Canadian
per-
formances

- (4) Where application of the vendor is made to the Minister at least ten days before the tax imposed by subsection 1c of section 2 would otherwise be payable and the Minister is satisfied that the performers in a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Minister may, in his absolute discretion, exempt the purchaser from the payment and the vendor from the collection of the tax imposed by subsection 1c of section 2.

1960-61,
c. 91, s. 6,
subs. 1,
amended

7. Subsection 1 of section 6 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 7,
amended

8. Section 7 of *The Retail Sales Tax Act, 1960-61* is amended by inserting after "Treasurer" in the fifth line "of Ontario".

1960-61,
c. 91, s. 8,
amended

9. Section 8 of *The Retail Sales Tax Act, 1960-61* is amended by inserting after "Treasurer" in the second line "of Ontario".

1960-61,
c. 91, s. 9,
subs. 1,
amended

10. Subsection 1 of section 9 of *The Retail Sales Tax Act, 1960-61*, as amended by section 5 of *The Retail Sales Tax Amendment Act, 1961-62*, is further amended by striking out "Treasurer" in the first line and in the fourth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 10,
subs. 1,
amended

- 11.—(1) Subsection 1 of section 10 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 10,
subs. 2
(1964,
c. 104, s. 6),
amended

- (2) Subsection 2 of the said section 10, as enacted by section 6 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 12,
(1964,
c. 104, s. 7),
subs. 2,
amended

12. Subsection 2 of section 12 of *The Retail Sales Tax Act, 1960-61*, as re-enacted by section 7 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Treasurer" in the first line and in the eleventh line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 13,
subs. 1,
re-enacted

- 13.—(1) Subsection 1 of section 13 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor:

(1) Where a vendor fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor. Assessment
of tax
collected

(2) Subsection 2 of the said section 13 is amended by striking out "Comptroller" in the seventh line and in the eighth line and inserting in lieu thereof in each instance "Minister". 1960-61,
c. 91, s. 13,
subs. 2,
amended

(3) Subsection 3 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 13,
subs. 3,
amended

(4) Subsection 4 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by inserting after "Treasurer" in the fifth line "of Ontario". 1960-61,
c. 91, s. 13,
subs. 4,
amended

(5) Subsection 6 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 13,
subs. 6,
amended

(6) Subsection 8 of the said section 13 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 13,
subs. 8,
amended

14. Subsection 2 of section 14 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line, in the third line and in the eleventh line and inserting in lieu thereof in each instance "Minister". 1960-61,
c. 91, s. 14,
subs. 2,
amended

15. Section 15 of *The Retail Sales Tax Act, 1960-61*, as re-enacted by section 6 of *The Retail Sales Tax Amendment Act, 1961-62* and amended by section 8 of *The Retail Sales Tax Amendment Act, 1964*, is further amended by striking out "Comptroller" in the fifth line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 15,
(1961-62,
c. 126, s. 6),
amended

16.—(1) Subsection 1 of section 17 of *The Retail Sales Tax Act, 1960-61*, as amended by section 4 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Treasurer" in the fourth line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 17,
subs. 1,
amended

(2) Subsection 2 of the said section 17 is amended by striking out "Comptroller" in the second line and inserting in lieu thereof "Minister". 1960-61,
c. 91, s. 17,
subs. 2,
amended

1960-61, c. 91, s. 17, subs. 3, amended (3) Subsection 3 of the said section 17 is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 18, subs. 1, amended **17.**—(1) Subsection 1 of section 18 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the third line and in the seventh line and inserting in lieu thereof in each instance "Minister".

1960-61, c. 91, s. 18, subs. 2, amended (2) Subsection 2 of the said section 18 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 18, subs. 3, amended (3) Subsection 3 of the said section 18 is amended by striking out "Treasurer" in the first line and "Comptroller" in the second line and inserting in lieu thereof in each instance "Minister".

1960-61, c. 91, s. 18, subs. 5, amended (4) Subsection 5 of the said section 18 is amended by striking out "Treasurer" in the fifth line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 18, subs. 6, amended (5) Subsection 6 of the said section 18 is amended by striking out "Treasurer" in the second line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 19, subs. 1, amended **18.** Subsection 1 of section 19 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 20, subs. 3, cl. c, subcl. iv, amended **19.** Subclause iv of clause c of subsection 3 of section 20 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 21, amended **20.** Section 21 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 24, subs. 1, amended **21.**—(1) Subsection 1 of section 24 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 24, subs. 2, amended (2) Subsection 2 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

1960-61, c. 91, s. 24, subs. 3, amended (3) Subsection 3 of the said section 24, as amended by section 5 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister".

(4) Subsection 4 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by striking out "Office of the Comptroller of Revenue" in the fifth and sixth lines and inserting in lieu thereof "Department of Revenue". ^{1960-61, c. 91, s. 24, subs. 4, amended}

(5) Subsection 5 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". ^{1960-61, c. 91, s. 24, subs. 5, amended}

(6) Subsection 6 of the said section 24 is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by striking out "Office of the Comptroller of Revenue" in the third and fourth lines and inserting in lieu thereof "Department of Revenue". ^{1960-61, c. 91, s. 24, subs. 6, amended}

(7) Subsection 7 of the said section 24 is amended by striking out "Office of the Comptroller of Revenue" in the fourth line and inserting in lieu thereof "Department of Revenue" and by striking out "Comptroller" in the sixth line and in the seventh line and inserting in lieu thereof in each instance "Minister". ^{1960-61, c. 91, s. 24, subs. 7, amended}

22. Section 26 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister". ^{1960-61, c. 91, s. 26, amended}

23.—(1) Section 27 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: ^{1960-61, c. 91, s. 27, re-enacted}

27.—(1) Any amount payable or to be remitted to the Treasurer of Ontario under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer of Ontario to the day of payment or until thirty days following the day on which a notice of assessment is mailed under subsection 4 or 6 of section 13, whichever is the earlier date. ^{Interest}

(2) The amount due as shown by a notice of assessment made under subsection 4 or 6 of section 13 shall, if it is not paid within thirty days from the day of mailing of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing of the notice of assessment until the day of payment. ^{Idem}

24.—(1) Subsection 1 of section 28 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Comptroller" in the first line and inserting in lieu thereof "Minister" and by inserting after "Treasurer" in the seventh line "of Ontario". ^{1960-61, c. 91, s. 28, subs. 1, amended}

1960-61,
c. 91, s. 28,
subs. 2,
amended

(2) Subsection 2 of the said section 28 is amended by inserting after "Treasurer" in the first line "of Ontario".

1960-61,
c. 91, s. 28,
subs. 3,
amended

(3) Subsection 3 of the said section 28 is amended by inserting after "Treasurer" in the sixth line "of Ontario".

1960-61,
c. 91, s. 29,
subs. 1,
cl. a,
amended

25.—(1) Clause *a* of subsection 1 of section 29 of *The Retail Sales Tax Act, 1960-61* is amended by striking out "Treasurer" in the first line and in the fifth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 29,
subs. 1,
cl. b,
amended

(2) Clause *b* of subsection 1 of the said section 29 is amended by striking out "Treasurer" in the first line and inserting in lieu thereof "Minister".

1960-61,
c. 91,
s. 29,
subs. 2,
amended

(3) Subsection 2 of the said section 29 is amended by striking out "Treasurer or the Comptroller" in the third line and inserting in lieu thereof "Minister" and by striking out "Treasurer or of any officer of the Office of the Comptroller of Revenue" in the eighth and ninth lines and inserting in lieu thereof "Minister or of any officer of the Department of Revenue".

1960-61,
c. 91,
s. 31,
subs. 1,
amended

26.—(1) Subsection 1 of section 31 of *The Retail Sales Tax Act, 1960-61*, as amended by section 6 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by striking out "Comptroller" in the first line and in the fourth line and inserting in lieu thereof in each instance "Minister", by inserting after "Treasurer" in the second line "of Ontario" and by striking out "Treasurer" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 31,
subs. 2,
amended

(2) Subsection 2 of the said section 31 is amended by inserting after "Treasurer" in the second line "of Ontario" and by striking out "Comptroller" in the third line and inserting in lieu thereof "Minister".

1960-61,
c. 91, s. 31,
subs. 3
(1964,
c. 104, s. 11),
amended

(3) Subsection 3 of the said section 31, as enacted by section 11 of *The Retail Sales Tax Amendment Act, 1964*, is amended by inserting after "Treasurer" in the fifth line and in the seventh line "of Ontario" and by striking out "Treasurer" in the eighth line and in the fourteenth line and inserting in lieu thereof in each instance "Minister".

1960-61,
c. 91, s. 31,
subs. 4
(1964,
c. 104, s. 11),
amended

(4) Subsection 4 of the said section 31, as enacted by section 11 of *The Retail Sales Tax Amendment Act, 1964*, is amended by striking out "Treasurer" in the third line and in the eighth line and inserting in lieu thereof in each instance "Minister" and by inserting after "Treasurer" in the sixth line and in the seventh line "of Ontario".

27.—(1) Subsection 3 of section 35 of *The Retail Sales Tax Act, 1960-61* is amended by striking out “Comptroller” in the first line and in the fifth line and inserting in lieu thereof in each instance “Minister”. 1960-61, c. 91, s. 35, subs. 3, amended

(2) Subsection 4 of the said section 35 is amended by striking out “Comptroller” in the second line and inserting in lieu thereof “Minister”. 1960-61, c. 91, s. 35, subs. 4, amended

(3) Subsection 7 of the said section 35 is amended by inserting after “Treasurer” in the second line “of Ontario”. 1960-61, c. 91, s. 35, subs. 7, amended

28. Section 36 of *The Retail Sales Tax Act, 1960-61* is amended by striking out “Comptroller” in the third line and inserting in lieu thereof “Minister”. 1960-61, c. 91, s. 36, amended

29.—(1) Clause *c* of subsection 2 of section 39 of *The Retail Sales Tax Act, 1960-61* is repealed and the following substituted therefor: 1960-61, c. 91, s. 39, subs. 2, cl. c, re-enacted

(*c*) authorizing or requiring the Deputy Minister or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act.

(2) Subsection 2 of the said section 39, as amended by section 12 of *The Retail Sales Tax Amendment Act, 1964* and section 7 of *The Retail Sales Tax Amendment Act, 1966*, is further amended by adding thereto the following clause: 1960-61, c. 91, s. 39, subs. 2, amended

(*h*) prescribing the rates of interest payable on amounts payable to or to be remitted to the Treasurer of Ontario under this Act.

30. This Act comes into force on the 1st day of April, 1969. Commencement

31. This Act may be cited as *The Retail Sales Tax Amendment Act, 1968-69*. Short title



16-10-1911

16-10-1911

16-10-1911

1st Reading

March 4th, 1969

2nd Reading

March 13th, 1969

3rd Reading

March 25th, 1969

MR. WHITE

BILL 80

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to repeal The Hospitals Tax Act

MR. WHITE

EXPLANATORY NOTE

The pertinent provisions of the Act have been incorporated into *The Retail Sales Tax Act, 1960-61.*

BILL 80

1968-69

An Act to repeal The Hospitals Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Hospitals Tax Act, The Hospitals Tax Amendment Act, 1961-62* and *The Hospitals Tax Amendment Act, 1964* are repealed. R.S.O. 1960, c. 178; 1961-62, c. 56; 1964, c. 40, repealed

2. This Act comes into force on the 1st day of April, 1969. Commencement

3. This Act may be cited as *The Hospitals Tax Repeal Act, 1968-69*. Short title

1st Reading

March 4th, 1969

2nd Reading

3rd Reading

Mr. WHITE

BILL 80

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to repeal The Hospitals Tax Act

MR. WHITE

BILL 80

1968-69

An Act to repeal The Hospitals Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Hospitals Tax Act, The Hospitals Tax Amendment Act, 1961-62* and *The Hospitals Tax Amendment Act, 1964* are repealed. R.S.O. 1960,
c. 178;
1961-62,
c. 56;
1964, c. 40,
repealed
2. This Act comes into force on the 1st day of April, 1969. Commence-
ment
3. This Act may be cited as *The Hospitals Tax Repeal Act, 1968-69*. Short title

1st Reading

March 4th, 1969

2nd Reading

March 13th, 1969

3rd Reading

March 25th, 1969

Mr. WHITE

BILL 81

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Residential Property Tax Reduction Act, 1968**

MR. McKEOUGH

EXPLANATORY NOTES

SECTION 1. The amendment makes provision for land being separately assessed in 1969 for the purposes of the Act.

SECTION 2.—Subsection 1. The amendment requires every taxpayer to pay not less than 50 per cent of the taxes levied on his property.

BILL 81

1968-69

**An Act to amend
The Residential Property Tax Reduction Act,
1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Residential Property Tax Reduction Act, 1968* is amended by striking out "1967" in the third line and in the eighth line and inserting in lieu thereof in each instance "1968" and by striking out "1968" in the fourth line and inserting in lieu thereof "1969", so that the subsection shall read as follows:

1968, c. 118,
s. 1, subs. 2,
amended

(2) Where any person who has an interest as owner or tenant in any land believes that any part or parts of such land should have been separately assessed in the year 1968, he may apply in the year 1969 to the treasurer of the local municipality, and, if the treasurer is satisfied that this is the case, he may so certify, and thereupon such part or parts of such land shall be deemed to have been separately assessed in the year 1968 for the purposes of this Act.

Where part
of land
assessed in
1968 should
have been
separately
assessed

2.—(1) Section 2 of *The Residential Property Tax Reduction Act, 1968* is amended by striking out "the amount" in the fifth line and inserting in lieu thereof "50 per cent", so that the section shall read as follows:

1968, c. 118,
s. 2,
amended

2. Notwithstanding any general or special Act, every local municipality shall reduce the municipal taxes required to be paid in each year by the amount that is produced by the application of the equalized mill rate to \$2,000 of the assessment of any residential property or 50 per cent of the total of the municipal taxes on such residential property, whichever is the lesser, provided that where taxes are levied under section 53 of *The Assessment Act*, the reduction to

Reduction
of
municipal
taxes

R.S.O. 1960,
c. 23

be made under this section shall be the proportion of the reduction that would otherwise be made under this section that the number of months remaining in the year, after such levy bears to the number 12, and such reduction shall, for the purposes of section 3, be deemed to be made on the date that the payment of the first instalment of taxes is required to be made by by-law passed under section 120 of *The Assessment Act*.

R.S.O. 1960,
c. 23

1968, c. 118,
s. 2,
amended

(2) The said section 2 is further amended by adding thereto the following subsection:

Re tenants
of Crown
property,
etc.

- (2) Where a payment in lieu of taxes is made to a local municipality by the Crown in right of Ontario or any agency thereof or The Hydro-Electric Power Commission of Ontario in any year in respect of residential property, the Crown, agency or Commission shall reduce the payment in lieu of taxes by the amount that a tenant thereof would otherwise be entitled to under this Act if the residential property were liable to taxation at the mill rate that was used in the calculation of such payment in lieu of taxes and shall pay or allow as a reduction in rent such amount to the tenant.

1968, c. 118,
s. 5,
amended

3. Section 5 of *The Residential Property Tax Reduction Act, 1968* is amended by adding thereto the following subsection:

Payment of
amount of
reduction
allowed
tenants of
Crown

- (3) Every local municipality may apply to the Department requesting that it be reimbursed for the amount by which payments to it in lieu of taxes have been reduced by the Crown in right of Canada or Ontario and any agency thereof and The Hydro-Electric Power Commission of Ontario for the purpose of paying or allowing as a reduction in rent to tenants of the Crown, agency or Commission amounts that such tenants would otherwise be entitled to under this Act if the residential properties occupied by them were liable to taxation at the mill rate that was used in the calculation of such payment in lieu of taxes, and the Treasurer of Ontario shall pay to the municipality the total amount of such reductions.

1968, c. 118,
s. 8, subs. 1,
repealed

4. Subsection 1 of section 8 of *The Residential Property Tax Reduction Act, 1968* is repealed.

Reduction
of taxes re
tenants of
Crown, etc.,
in 1968

5. The Treasurer of Ontario is authorized to reimburse in the year 1969 the Crown in right of Canada or any agency

Subsection 2. The amendment confers on tenants of residential property of the Crown in right of Ontario or The Hydro-Electric Power Commission of Ontario the same benefits as received by other tenants in Ontario. This provision is made retroactive to include the year 1968.

SECTION 3. The amendment provides for payment to municipalities by the Province of moneys withheld out of payments in lieu of taxes for the purpose of conferring on Crown tenants like benefits under the Act.

SECTION 4. The repealed provisions are no longer necessary in light of the addition of subsection 3 to section 5 of the Act.

SECTION 5. The provision authorizes the Treasurer of Ontario to make reimbursement for moneys paid or allowed to tenants of the Crown or The Hydro-Electric Power Commission of Ontario in respect of the taxation year 1968 in order that such tenants receive the same benefits under the Act as other tenants generally.



thereof, any agency of the Crown in right of Ontario, The Hydro-Electric Power Commission of Ontario or a local municipality for any amounts that are or have been paid or allowed as a reduction in rent to tenants of the Crown in right of Canada or any agency thereof, or of any agency of the Crown in right of Ontario, or of The Hydro-Electric Power Commission of Ontario equal to the amounts that such tenants would otherwise have been entitled to under this Act in respect of the year 1968 had the residential properties occupied by them been liable to taxation at the mill rate that was used in the calculation of the payment in lieu of taxes made in respect of such properties.

6.—(1) This Act, except subsection 2 of section 2, shall be deemed to have come into force on the 1st day of January, 1969. <sup>Commence-
ment</sup>

(2) Subsection 2 of section 2 shall be deemed to have come into force on the 13th day of June, 1968. ^{Idem}

7. This Act may be cited as *The Residential Property Tax Reduction Amendment Act, 1968-69*. ^{Short title}

Property Tax Reduction Act, 1968

1st Reading

March 6th, 1969

2nd Reading

3rd Reading

MR. McKEOUGH

BILL 81

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Residential Property Tax Reduction Act, 1968**

MR. McKEOUGH



**An Act to amend
The Residential Property Tax Reduction Act,
1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Residential Property Tax Reduction Act, 1968* is amended by striking out "1967" in the third line and in the eighth line and inserting in lieu thereof in each instance "1968" and by striking out "1968" in the fourth line and inserting in lieu thereof "1969", so that the subsection shall read as follows:

- (2) Where any person who has an interest as owner or tenant in any land believes that any part or parts of such land should have been separately assessed in the year 1968, he may apply in the year 1969 to the treasurer of the local municipality, and, if the treasurer is satisfied that this is the case, he may so certify, and thereupon such part or parts of such land shall be deemed to have been separately assessed in the year 1968 for the purposes of this Act.

2.—(1) Section 2 of *The Residential Property Tax Reduction Act, 1968* is amended by striking out "the amount" in the fifth line and inserting in lieu thereof "50 per cent", so that the section shall read as follows:

2. Notwithstanding any general or special Act, every local municipality shall reduce the municipal taxes required to be paid in each year by the amount that is produced by the application of the equalized mill rate to \$2,000 of the assessment of any residential property or 50 per cent of the total of the municipal taxes on such residential property, whichever is the lesser, provided that where taxes are levied under section 53 of *The Assessment Act*, the reduction to

1968, c. 118,
s. 1, subs. 2,
amended

Where part
of land
assessed in
1968 should
have been
separately
assessed

1968, c. 118,
s. 2,
amended

Reduction
of
municipal
taxes

R.S.O. 1960,
c. 23

be made under this section shall be the proportion of the reduction that would otherwise be made under this section that the number of months remaining in the year, after such levy bears to the number 12, and such reduction shall, for the purposes of section 3, be deemed to be made on the date that the payment of the first instalment of taxes is required to be made by by-law passed under section 120 of *The Assessment Act*.

R.S.O., 1960,
c. 22

1968, c. 118,
s. 2,
amended

(2) The said section 2 is further amended by adding thereto the following subsection:

Re tenants
of Crown
property,
etc.

(2) Where a payment in lieu of taxes is made to a local municipality by the Crown in right of Ontario or any agency thereof or The Hydro-Electric Power Commission of Ontario in any year in respect of residential property, the Crown, agency or Commission shall reduce the payment in lieu of taxes by the amount that a tenant thereof would otherwise be entitled to under this Act if the residential property were liable to taxation at the mill rate that was used in the calculation of such payment in lieu of taxes and shall pay or allow as a reduction in rent such amount to the tenant.

1968, c. 118,
s. 5,
amended

3. Section 5 of *The Residential Property Tax Reduction Act, 1968* is amended by adding thereto the following subsection:

Payment of
amount of
reduction
allowed
tenants of
Crown

(3) Every local municipality may apply to the Department requesting that it be reimbursed for the amount by which payments to it in lieu of taxes have been reduced by the Crown in right of Canada or Ontario and any agency thereof and The Hydro-Electric Power Commission of Ontario for the purpose of paying or allowing as a reduction in rent to tenants of the Crown, agency or Commission amounts that such tenants would otherwise be entitled to under this Act if the residential properties occupied by them were liable to taxation at the mill rate that was used in the calculation of such payment in lieu of taxes, and the Treasurer of Ontario shall pay to the municipality the total amount of such reductions.

1968, c. 118,
s. 8, subs. 1,
repealed

4. Subsection 1 of section 8 of *The Residential Property Tax Reduction Act, 1968* is repealed.

Reduction
of taxes re
tenants of
Crown etc.,
in 1968

5. The Treasurer of Ontario is authorized to reimburse in the year 1969 the Crown in right of Canada or any agency

thereof, any agency of the Crown in right of Ontario, The Hydro-Electric Power Commission of Ontario or a local municipality for any amounts that are or have been paid or allowed as a reduction in rent to tenants of the Crown in right of Canada or any agency thereof, or of any agency of the Crown in right of Ontario, or of The Hydro-Electric Power Commission of Ontario equal to the amounts that such tenants would otherwise have been entitled to under this Act in respect of the year 1968 had the residential properties occupied by them been liable to taxation at the mill rate that was used in the calculation of the payment in lieu of taxes made in respect of such properties.

6.—(1) This Act, except subsection 2 of section 2, shall be deemed to have come into force on the 1st day of January, 1969. <sup>Commence-
ment</sup>

(2) Subsection 2 of section 2 shall be deemed to have come into force on the 13th day of June, 1968. ^{Idem}

7. This Act may be cited as *The Residential Property Tax Reduction Amendment Act, 1968-69*. ^{Short title}





Property Tax Reduction Act, 1968

1st Reading

March 6th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. McKEOUGH

BILL 82

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. SHULMAN

EXPLANATORY NOTE

The Bill removes the prohibition against twisting life insurance policies.

BILL 82

1968-69

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 330 of *The Insurance Act* is amended by striking out "induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer or" in the second, third, fourth, fifth and sixth lines, so that the section shall read as follows:

R.S.O. 1960,
c. 190,
s. 330,
amended

330. A person licensed as an agent for life insurance under this Act who makes a false or misleading statement or representation in the solicitation or negotiation of insurance, or coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect to the placing of life insurance that would not be otherwise given in the effecting of a life insurance contract, is guilty of an offence.

False
statements,
coercion,
etc.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Insurance Amendment Act, 1968-69*.

Short title

1st Reading

March 11th, 1969

2nd Reading

3rd Reading

MR. SUTLMAN

BILL 83

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Corporations Tax Act

MR. WHITE

EXPLANATORY NOTES

SECTION 1—Subsection 1. This amendment increases the rate of capital tax from one-twentieth of 1 per cent to one-tenth of 1 per cent calculated on taxable paid-up capital.

Subsection 2. In the new subsection 1a, except as otherwise provided, every corporation having a permanent establishment in Ontario shall pay a minimum paid-up capital tax of \$50.

Subsection 3. This amendment is consequent upon the repeal of section 12 and provides for the payment of the special taxes in addition to income tax.

Subsection 4. This amendment increases the rate upon which deductions from tax on paid-up capital may be made from one-twentieth of 1 per cent to one-tenth of 1 per cent of taxable paid-up capital used outside Ontario and complements the general rate increase in capital tax.

An Act to amend The Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1—(1) Subsection 1 of section 5 of *The Corporations Tax Act* is amended by striking out “one-twentieth” in the third and fourth lines and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 1,
amended

(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-tenth of 1 per cent calculated on its taxable paid-up capital.

Rate of
general
capital tax

(2) The said section 5 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 73, s. 5,
amended

(1a) Notwithstanding subsection 3, the tax payable under this section shall in no case be less than \$50 except as provided in subsection 17.

Minimum
tax

(3) Subsection 2 of the said section 5 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 73, s. 5,
subs. 2,
re-enacted

(2) The tax imposed by this section is not payable by any corporation that is liable to a tax under section 7, 8, 9, 10, 11 or 13.

Exceptions

(4) Subsection 3 of the said section 5 is amended by striking out “one-twentieth” in the third line and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 3,
amended

(3) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-tenth of 1 per

Deductions
from tax on
paid-up
capital,
allocation
of taxable
paid-up
capital

cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario.

R.S.O. 1960, c. 73, s. 5, subs. 17, re-enacted (5) Subsection 17 of the said section 5 is repealed and the following substituted therefor:

Idem (17) Except as provided in section 58, every corporation referred to in clauses *b, c, d, e, ea, f, g, h, j, k, o* and *p* of subsection 37 of section 4 shall, in lieu of the taxes payable under subsections 1 and 1a, pay a tax of \$5.

Idem (18) Every corporation referred to in clauses *a, i, l* and *m* of subsection 37 of section 4, subsection 1 of section 45, and including a co-operative corporation shall, in lieu of the tax payable under subsection 1, pay a tax of \$50.

R.S.O. 1960, c. 73, s. 6, repealed 2. Section 6 of *The Corporations Tax Act*, as amended by section 4 of *The Corporations Tax Amendment Act, 1961-62* and section 5 of *The Corporations Tax Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 73, s. 12, repealed 3. Section 12 of *The Corporations Tax Act* is repealed.

R.S.O. 1960, c. 73, s. 42, amended 4. Subsection 1 of section 42 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Personal corporations exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a personal corporation.

R.S.O. 1960, c. 73, s. 45, amended 5. Subsection 1 of section 45 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Non-resident owned investment corporations tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation.

R.S.O. 1960, c. 73, s. 46, subs. 1, re-enacted 6. Subsection 1 of section 46 of *The Corporations Tax Act* is repealed and the following substituted therefor:

Foreign business corporations tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a foreign business corporation.

R.S.O. 1960, c. 73, s. 48, repealed 7. Subsection 4 of section 48 of *The Corporations Tax Act* is repealed.

Subsection 5. The new subsection 17 incorporates a provision previously contained in section 6, which is now being repealed. In the new subsection 18, the corporations referred to previously paid a place of business tax of between \$20 to \$50. They will now be required to pay a flat rate of \$50.

SECTION 2. Section 6 of the Act is repealed so that the tax on places of business formerly levied under that section no longer applies.

SECTION 3. Section 12 is repealed thereby removing the deductibility of income tax from capital tax and the special taxes payable by certain corporations.

SECTION 4. This amendment is consequent upon the repeal of section 6 and the amendment to section 5 whereby a personal corporation becomes liable to a tax of \$50 under that section and is removed from liability under section 6 by virtue of its repeal.

SECTIONS 5, 6 AND 7. Complementary to section 4.

SECTION 8. This amendment is consequent upon the repeal of section 6 and the amendment to section 5 whereby certain corporations became liable to a tax of \$5 or \$50, as the case may be, under that section and are removed from liability under section 6 by virtue of its repeal.

SECTION 9. These amendments add subsection 2a to section 74 to provide that a corporation whose fiscal year commenced after the 15th day of March, 1969, must, with respect to that fiscal year, commence payment of its tax in six equal instalments, the first of which is due in the third month of the fiscal year in respect of which the tax is payable and the remaining instalments are payable at regular two-month intervals thereafter. The amendment also adds subsections 4 and 5 to section 74 the purpose of which is to require a corporation to pay the capital tax or other special taxes that became payable by virtue of the repeal of section 12 in full on or before the day on which its fourth quarterly instalment becomes payable for the fiscal year preceding the fiscal year for which it is required to commence bi-monthly instalment payments. Subsection 3 of section 74 is re-enacted to include a reference to the provision of the section whereby corporations are required to pay taxes in bi-monthly instalments.

8. Subsection 1 of section 58 of *The Corporations Tax Act* R.S.O. 1960, c. 73, s. 58, subs. 1, amended is amended by striking out "subsection 17 of section 5" in the second and third lines and by striking out "8 of section 6" in the third and fourth lines and inserting in lieu thereof "17 of section 5", so that the subsection shall read as follows:

- (1) Where a corporation to which the exemptions provided by subsection 37 of section 4 and the specially reduced tax provided by subsection 17 of section 5 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. Application of Act to certain corporations

9.—(1) Section 74 of *The Corporations Tax Act*, as amended R.S.O. 1960, c. 73, s. 74, amended by section 9 of *The Corporations Tax Amendment Act, 1967* and section 36 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (2a) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, Dates of payment

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 71, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year.

(2) Subsection 3 of the said section 74 is repealed and the following substituted therefor: R.S.O. 1960, c. 73, s. 74, subs. 3, re-enacted

Special
GROUP

- (3) Notwithstanding subsections 2 and 2a and subject to subsection 7 of section 75, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$81, the corporation may, instead of paying the instalments required by subsection 2 or 2a, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable.

R.S.O. 1960,
c. 73, s. 74,
amended

- (3) The said section 74 is further amended by adding thereto the following subsections:

Idem

- (4) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year.

Idem

- (5) Notwithstanding subsection 2, every corporation to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year.

R.S.O. 1960,
c. 73, s. 75,
subs. 1
amended

- 10.**— (1) Subsection 1 of section 75 of *The Corporations Tax Act*, as amended by subsection 1 of section 37 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out "the rate of 9 per cent per annum" in the eighth line and in the amendment of 1968 and inserting in lieu thereof "such rate as is prescribed by the regulations", so that the subsection shall read as follows:

SECTION 10—Subsection 1. Subsection 1 of section 75 is amended by substituting “such rate as is prescribed by the regulations” for “the rate of 9 per cent per annum”, to permit the rate of interest to be applied under the subsection to be prescribed by the regulations.

Subsection 2. Subsection 2 of section 75 is re-enacted by including a reference to subsections 2a, 4 and 5 of section 74 by virtue of the addition of those subsections to section 74 and by substituting "such rate as is prescribed by the regulations" for "9 per cent per annum", to permit the rate of interest to be applied under subsections 2, 2a, 4 and 5 to be prescribed by the regulations.

SECTION 11—Subsection 1. Subsection 3 of section 78 is amended by substituting "such rate as is prescribed by the regulations" for "the rate of 4 per cent per annum", to permit the rate of interest allowed under the subsection to be prescribed by the regulations.

Subsection 2. Subsection 4 of section 78 is amended by substituting "such rate as is prescribed by the regulations" for "7 per cent instead of at 4 per cent", to permit the rate of interest allowed under the subsection to be prescribed by the regulations.

- (1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 71 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. ^{Interest on unpaid tax}

(2) Subsection 2 of the said section 75, as amended by subsection 2 of section 37 of *The Corporations Tax Amendment Act, 1968*, is repealed and the following substituted therefor: ^{R.S.O. 1960, c. 73, s. 75, subs. 2, re-enacted}

- (2) Where a corporation is required by subsection 2, 2a, 4 or 5 of section 74 to pay a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. ^{Idem}

11.—(1) Subsection 3 of section 78 of *The Corporations Tax Act*, as amended by subsection 3 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out “the rate of 4 per cent per annum” in the third line and in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the first five lines of the subsection shall read as follows: ^{R.S.O. 1960, c. 73, s. 78, subs. 3, amended}

- (3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of, ^{Interest on over-payments}

(2) Subsection 4 of the said section 78, as amended by subsection 4 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out “7 per cent instead of at 4 per cent” in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the subsection shall read as follows: ^{R.S.O. 1960, c. 73, s. 78, subs. 4, amended}

- Idem (4) Where by a decision of the Minister under section 79 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 76 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations.
- R.S.O. 1960, c. 73, s. 99, amended **12.** Section 99 of *The Corporations Tax Act*, as amended by section 54 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following clause:
- (f) prescribing rates of interest for the purposes of Part V.
- R.S.O. 1960, c. 73, s. 100, repealed **13.** Section 100 of *The Corporations Tax Act* is repealed.
- Application of Act **14.** (1) Sections 1, 2, 3, 4, 5, 6, 7 and 8 apply with respect to fiscal years ending on or after the 15th day of March, 1969.
- Idem (2) Subsection 2 of section 9 applies with respect to fiscal years commencing after the 15th day of March, 1969.
- Idem (3) Subsection 2 of section 10 with respect to the reference to subsection 2a applies to fiscal years commencing after the 15th day of March, 1969, and with respect to the reference to subsections 4 and 5 applies to fiscal years commencing before the 15th day of March, 1969, and ending on or after the 15th day of March, 1969.
- Commencement **15.** (1) This Act, except sections 10 and 11, comes into force on the day it receives Royal Assent.
- Idem (2) Sections 10 and 11 come into force on the 15th day of April, 1969.
- Short title **16.** This Act may be cited as *The Corporations Tax Amendment Act, 1968-69*.

SECTION 12. Section 99 of the Act is amended by adding clause *f* thereto, to permit the rates of interest imposed or credit interest allowed under the Act to be prescribed by the regulations.

SECTION 13. Section 100 was a transitional provision enacted in 1967 to cover all corporations whose fiscal years did not coincide with the 1957 calendar year and is no longer required.

1st Reading

March 12th, 1969

2nd Reading

3rd Reading

MR. WHITE

BILL 83

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Corporations Tax Act

MR. WHITE

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1—Subsection 1. This amendment increases the rate of capital tax from one-twentieth of 1 per cent to one-tenth of 1 per cent calculated on taxable paid-up capital.

Subsection 2. In the new subsection 1a, except as otherwise provided, every corporation having a permanent establishment in Ontario shall pay a minimum paid-up capital tax of \$50.

Subsection 3. This amendment is consequent upon the repeal of section 12 and provides for the payment of the special taxes in addition to income tax.

Subsection 4. This amendment increases the rate upon which deductions from tax on paid-up capital may be made from one-twentieth of 1 per cent to one-tenth of 1 per cent of taxable paid-up capital used outside Ontario and complements the general rate increase in capital tax.

An Act to amend The Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1—(1) Subsection 1 of section 5 of *The Corporations Tax Act* is amended by striking out “one-twentieth” in the third and fourth lines and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 1,
amended

(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-tenth of 1 per cent calculated on its taxable paid-up capital.

Rate of
general
capital tax

(2) The said section 5 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 73, s. 5,
amended

(1a) Notwithstanding subsection 3, the tax payable under this section shall in no case be less than \$50 except as provided in subsection 17.

Minimum
tax

(3) Subsection 2 of the said section 5 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 73, s. 5,
subs. 2,
re-enacted

(2) The tax imposed by this section is not payable by any corporation that is liable to a tax under section 7, 8, 9, 10, 11 or 13.

Exceptions

(4) Subsection 3 of the said section 5 is amended by striking out “one-twentieth” in the third line and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 3,
amended

(3) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-tenth of 1 per

Deductions
from tax on
paid-up
capital,
allocation
of taxable
paid-up
capital

cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario.

R.S.O. 1960, c. 73, s. 5, subss. 17, re-enacted (5) Subsection 17 of the said section 5 is repealed and the following substituted therefor:

Idem (17) Except as provided in section 58, every corporation referred to in clauses *b, c, d, e, ea, f, g, h, j, k, o* and *p* of subsection 37 of section 4 shall, in lieu of the taxes payable under subsections 1 and 1a, pay a tax of \$5.

Idem (18) Every corporation referred to in clauses *i, l* and *m* of subsection 37 of section 4 and subsection 1 of section 45 shall, in lieu of the tax payable under subsection 1, pay a tax of \$50.

R.S.O. 1960, c. 73, s. 6, repealed 2. Section 6 of *The Corporations Tax Act*, as amended by section 4 of *The Corporations Tax Amendment Act, 1961-62* and section 5 of *The Corporations Tax Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 73, s. 12, repealed 3. Section 12 of *The Corporations Tax Act* is repealed.

R.S.O. 1960, c. 73, s. 42, subss. 1, amended 4. Subsection 1 of section 42 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Personal corporations exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a personal corporation.

R.S.O. 1960, c. 73, s. 45, subss. 1, amended 5. Subsection 1 of section 45 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Non-resident-owned investment corporations, tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation.

R.S.O. 1960, c. 73, s. 46, subss. 1, re-enacted 6. Subsection 1 of section 46 of *The Corporations Tax Act* is repealed and the following substituted therefor:

Foreign business corporations, tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a foreign business corporation.

R.S.O. 1960, c. 73, s. 48, subss. 4, repealed 7. Subsection 4 of section 48 of *The Corporations Tax Act* is repealed.

Subsection 5. The new subsection 17 incorporates a provision previously contained in section 6, which is now being repealed. In the new subsection 18, the corporations referred to previously paid a place of business tax of between \$20 to \$50. They will now be required to pay a flat rate of \$50.

SECTION 2. Section 6 of the Act is repealed so that the tax on places of business formerly levied under that section no longer applies.

SECTION 3. Section 12 is repealed thereby removing the deductibility of income tax from capital tax and the special taxes payable by certain corporations.

SECTION 4. This amendment is consequent upon the repeal of section 6 and the amendment to section 5 whereby a personal corporation becomes liable to a tax of \$50 under that section and is removed from liability under section 6 by virtue of its repeal.

SECTIONS 5, 6 AND 7. Complementary to section 4.

SECTION 8. This amendment is consequent upon the repeal of section 6 and the amendment to section 5 whereby certain corporations became liable to a tax of \$5 or \$50, as the case may be, under that section and are removed from liability under section 6 by virtue of its repeal.

SECTION 9. These amendments add subsection 2a to section 74 to provide that a corporation whose fiscal year commenced after the 15th day of March, 1969, must, with respect to that fiscal year, commence payment of its tax in six equal instalments, the first of which is due in the third month of the fiscal year in respect of which the tax is payable and the remaining instalments are payable at regular two-month intervals thereafter. The amendment also adds subsections 4 and 5 to section 74 the purpose of which is to require a corporation to pay the capital tax or other special taxes that became payable by virtue of the repeal of section 12 in full on or before the day on which its fourth quarterly instalment becomes payable for the fiscal year preceding the fiscal year for which it is required to commence bi-monthly instalment payments. Subsection 3 of section 74 is re-enacted to include a reference to the provision of the section whereby corporations are required to pay taxes in bi-monthly instalments.

8. Subsection 1 of section 58 of *The Corporations Tax Act* R.S.O. 1960, c. 73, s. 58, subs. 1, amended is amended by striking out "subsection 17 of section 5" in the second and third lines and by striking out "8 of section 6" in the third and fourth lines and inserting in lieu thereof "17 of section 5", so that the subsection shall read as follows:

- (1) Where a corporation to which the exemptions provided by subsection 37 of section 4 and the specially reduced tax provided by subsection 17 of section 5 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. Application of Act to certain corporations

9.—(1) Section 74 of *The Corporations Tax Act*, as amended R.S.O. 1960, c. 73, s. 74, amended by section 9 of *The Corporations Tax Amendment Act, 1967* and section 36 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (2a) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, Dates of payment

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 71, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year.

(2) Subsection 3 of the said section 74 is repealed and the following substituted therefor: R.S.O. 1960, c. 73, s. 74, subs. 3, re-enacted

Special
cases

- (3) Notwithstanding subsections 2 and 2a and subject to subsection 7 of section 75, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 2a, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable.

R.S.O. 1960,
c. 73, s. 74,
amended

- (3) The said section 74 is further amended by adding thereto the following subsections:

Idem

- (4) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year.

Idem

- (5) Notwithstanding subsection 2, every corporation to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year.

R.S.O. 1960,
c. 73, s. 75,
subs. 1,
amended

- 10.**—(1) Subsection 1 of section 75 of *The Corporations Tax Act*, as amended by subsection 1 of section 37 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out "the rate of 9 per cent per annum" in the eighth line and in the amendment of 1968 and inserting in lieu thereof "such rate as is prescribed by the regulations", so that the subsection shall read as follows:

SECTION 10—Subsection 1. Subsection 1 of section 75 is amended by substituting “such rate as is prescribed by the regulations” for “the rate of 9 per cent per annum”, to permit the rate of interest to be applied under the subsection to be prescribed by the regulations.

Subsection 2. Subsection 2 of section 75 is re-enacted by including a reference to subsections 2a, 4 and 5 of section 74 by virtue of the addition of those subsections to section 74 and by substituting "such rate as is prescribed by the regulations" for "9 per cent per annum", to permit the rate of interest to be applied under subsections 2, 2a, 4 and 5 to be prescribed by the regulations.

SECTION 11—Subsection 1. Subsection 3 of section 78 is amended by substituting "such rate as is prescribed by the regulations" for "the rate of 4 per cent per annum", to permit the rate of interest allowed under the subsection to be prescribed by the regulations.

Subsection 2. Subsection 4 of section 78 is amended by substituting "such rate as is prescribed by the regulations" for "7 per cent instead of at 4 per cent", to permit the rate of interest allowed under the subsection to be prescribed by the regulations.

- (1) Where the amount paid on account of tax payable ^{Interest on unpaid tax} by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 71 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations.

(2) Subsection 2 of the said section 75, as amended by ^{R.S.O. 1960, c. 73, s. 75, subs. 2, re-enacted} subsection 2 of section 37 of *The Corporations Tax Amendment Act, 1968*, is repealed and the following substituted therefor:

- (2) Where a corporation is required by subsection 2, ^{Idem} 2a, 4 or 5 of section 74 to pay a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier.

11.—(1) Subsection 3 of section 78 of *The Corporations Tax Act*, as amended by subsection 3 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended ^{R.S.O. 1960, c. 73, s. 78, subs. 3, amended} by striking out “the rate of 4 per cent per annum” in the third line and in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the first five lines of the subsection shall read as follows:

- (3) Where an amount in respect of an overpayment is ^{Interest on over-payments} refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

(2) Subsection 4 of the said section 78, as amended by ^{R.S.O. 1960, c. 73, s. 78, subs. 4, amended} subsection 4 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out “7 per cent instead of at 4 per cent” in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the subsection shall read as follows:

- Idem (4) Where by a decision of the Minister under section 79 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 76 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations.
- R.S.O. 1960, c. 73, s. 99, amended **12.** Section 99 of *The Corporations Tax Act*, as amended by section 54 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following clause:
- (f) prescribing rates of interest for the purposes of Part V.
- R.S.O. 1960, c. 73, s. 100, repealed **13.** Section 100 of *The Corporations Tax Act* is repealed.
- Application of Act **14.**—(1) Sections 1, 2, 3, 4, 5, 6, 7 and 8 apply with respect to fiscal years ending on or after the 15th day of March, 1969.
- Idem (2) Subsection 2 of section 9 applies with respect to fiscal years commencing after the 15th day of March, 1969.
- Idem (3) Subsection 2 of section 10 with respect to the reference to subsection 2a applies to fiscal years commencing after the 15th day of March, 1969, and with respect to the reference to subsections 4 and 5 applies to fiscal years commencing before the 15th day of March, 1969, and ending on or after the 15th day of March, 1969.
- Commencement **15.** (1) This Act, except sections 10 and 11, comes into force on the day it receives Royal Assent.
- Idem (2) Sections 10 and 11 come into force on the 15th day of April, 1969.
- Short title **16.** This Act may be cited as *The Corporations Tax Amendment Act, 1968-69*.

SECTION 12. Section 99 of the Act is amended by adding clause *f* thereto, to permit the rates of interest imposed or credit interest allowed under the Act to be prescribed by the regulations.

SECTION 13. Section 100 was a transitional provision enacted in 1967 to cover all corporations whose fiscal years did not coincide with the 1957 calendar year and is no longer required.



1st Reading

March 12th, 1969

2nd Reading

March 19th, 1969

3rd Reading

MR. WHITE

(Reprinted as amended by
the Committee of the Whole House)

BILL 83

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Corporations Tax Act

MR. WHITE

An Act to amend The Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1—(1) Subsection 1 of section 5 of *The Corporations Tax Act* is amended by striking out “one-twentieth” in the third and fourth lines and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 1,
amended

(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-tenth of 1 per cent calculated on its taxable paid-up capital.

Rate of
general
capital tax

(2) The said section 5 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 73, s. 5,
amended

(1a) Notwithstanding subsection 3, the tax payable under this section shall in no case be less than \$50 except as provided in subsection 17.

Minimum
tax

(3) Subsection 2 of the said section 5 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 73, s. 5,
subs. 2,
re-enacted

(2) The tax imposed by this section is not payable by any corporation that is liable to a tax under section 7, 8, 9, 10, 11 or 13.

Exceptions

(4) Subsection 3 of the said section 5 is amended by striking out “one-twentieth” in the third line and inserting in lieu thereof “one-tenth”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 73, s. 5,
subs. 3,
amended

(3) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-tenth of 1 per

Deductions
from tax on
paid-up
capital,
allocation
of taxable
paid-up
capital

cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario.

R.S.O. 1960, c. 73, s. 5, subs. 17, re-enacted (5) Subsection 17 of the said section 5 is repealed and the following substituted therefor:

Idem (17) Except as provided in section 58, every corporation referred to in clauses *b, c, d, e, ea, f, g, h, j, k, o* and *p* of subsection 37 of section 4 shall, in lieu of the taxes payable under subsections 1 and 1*a*, pay a tax of \$5.

Idem (18) Every corporation referred to in clauses *i, l* and *m* of subsection 37 of section 4 and subsection 1 of section 45 shall, in lieu of the tax payable under subsection 1, pay a tax of \$50.

R.S.O. 1960, c. 73, s. 6, repealed 2. Section 6 of *The Corporations Tax Act*, as amended by section 4 of *The Corporations Tax Amendment Act, 1961-62* and section 5 of *The Corporations Tax Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 73, s. 12, repealed 3. Section 12 of *The Corporations Tax Act* is repealed.

R.S.O. 1960, c. 73, s. 42, subs. 1, amended 4. Subsection 1 of section 42 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Personal corporations exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a personal corporation.

R.S.O. 1960, c. 73, s. 45, subs. 1, amended 5. Subsection 1 of section 45 of *The Corporations Tax Act* is amended by striking out "or 5" in the first line, so that the subsection shall read as follows:

Non-resident-owned investment corporations, tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation.

R.S.O. 1960, c. 73, s. 46, subs. 1, re-enacted 6. Subsection 1 of section 46 of *The Corporations Tax Act* is repealed and the following substituted therefor:

Foreign business corporations, tax exempt (1) No tax is payable under section 4 by a corporation for a fiscal year during which it was a foreign business corporation.

R.S.O. 1960, c. 73, s. 48, subs. 4, repealed 7. Subsection 4 of section 48 of *The Corporations Tax Act* is repealed.

8. Subsection 1 of section 58 of *The Corporations Tax Act* R.S.O. 1960, c. 73, s. 58, subs. 1, amended is amended by striking out "subsection 17 of section 5" in the second and third lines and by striking out "8 of section 6" in the third and fourth lines and inserting in lieu thereof "17 of section 5", so that the subsection shall read as follows:

- (1) Where a corporation to which the exemptions provided by subsection 37 of section 4 and the specially reduced tax provided by subsection 17 of section 5 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. Application of Act to certain corporations

9.—(1) Section 74 of *The Corporations Tax Act*, as amended by section 9 of *The Corporations Tax Amendment Act, 1967* R.S.O. 1960, c. 73, s. 74, amended and section 36 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (2a) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, Dates of payment

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 71, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year.

(2) Subsection 3 of the said section 74 is repealed and the following substituted therefor: R.S.O. 1960, c. 73, s. 74, subs. 3, re-enacted

Special
cases

- (3) Notwithstanding subsections 2 and 2a and subject to subsection 7 of section 75, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 2a, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable.

R.S.O. 1960,
c. 73, s. 74,
amended

- (3) The said section 74 is further amended by adding thereto the following subsections:

Idem

- (4) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year.

Idem

- (5) Notwithstanding subsection 2, every corporation to which the provisions of section 7, 8, 9, 10 or 11 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year.

R.S.O. 1960,
c. 73, s. 75,
subs. 1,
amended

- 10.**—(1) Subsection 1 of section 75 of *The Corporations Tax Act*, as amended by subsection 1 of section 37 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out "the rate of 9 per cent per annum" in the eighth line and in the amendment of 1968 and inserting in lieu thereof "such rate as is prescribed by the regulations", so that the subsection shall read as follows:

(1) Where the amount paid on account of tax payable ^{Interest on unpaid tax} by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 71 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations.

(2) Subsection 2 of the said section 75, as amended by ^{R.S.O. 1960, c. 73, s. 75, subs. 2, re-enacted} subsection 2 of section 37 of *The Corporations Tax Amendment Act, 1968*, is repealed and the following substituted therefor:

(2) Where a corporation is required by subsection 2, ^{idem} 2a, 4 or 5 of section 74 to pay a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier.

11.—(1) Subsection 3 of section 78 of *The Corporations Tax Act*, as amended by subsection 3 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended ^{R.S.O. 1960, c. 73, s. 78, subs. 3, amended} by striking out “the rate of 4 per cent per annum” in the third line and in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the first five lines of the subsection shall read as follows:

(3) Where an amount in respect of an overpayment is ^{Interest on over-payments} refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

.

(2) Subsection 4 of the said section 78, as amended by ^{R.S.O. 1960, c. 73, s. 78, subs. 4, amended} subsection 4 of section 40 of *The Corporations Tax Amendment Act, 1968*, is further amended by striking out “7 per cent instead of at 4 per cent” in the amendment of 1968 and inserting in lieu thereof “such rate as is prescribed by the regulations”, so that the subsection shall read as follows:

Idem (4) Where by a decision of the Minister under section 79 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 76 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations.

R.S.O. 1960, c. 73, s. 99, amended **12.** Section 99 of *The Corporations Tax Act*, as amended by section 54 of *The Corporations Tax Amendment Act, 1968*, is further amended by adding thereto the following clause:

(f) prescribing rates of interest for the purposes of Part V.

R.S.O. 1960, c. 73, s. 100, repealed **13.** Section 100 of *The Corporations Tax Act* is repealed.

Application of Act **14.**—(1) Sections 1, 2, 3, 4, 5, 6, 7 and 8 apply with respect to fiscal years ending on or after the 15th day of March, 1969.

Idem (2) Subsection 2 of section 9 applies with respect to fiscal years commencing after the 15th day of March, 1969.

Idem (3) Subsection 2 of section 10 with respect to the reference to subsection 2a applies to fiscal years commencing after the 15th day of March, 1969, and with respect to the reference to subsections 4 and 5 applies to fiscal years commencing before the 15th day of March, 1969, and ending on or after the 15th day of March, 1969.

Commencement **15.**—(1) This Act, except sections 10 and 11, comes into force on the day it receives Royal Assent.

Idem (2) Sections 10 and 11 come into force on the 15th day of April, 1969.

Short title **16.** This Act may be cited as *The Corporations Tax Amendment Act, 1968-69*.





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1st Reading

March 12th, 1969

2nd Reading

March 19th, 1969

3rd Reading

April 1st, 1969

MR. WHITE

BILL 84

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to repeal The Public Finance Companies'
Investments Act, 1966**

MR. ROWNTREE

EXPLANATORY NOTE

The Act to be repealed requires companies raising money from the public for investment to furnish certain information to the Registrar under *The Loan and Trust Corporations Act*. The necessary information is now furnished under *The Securities Act, 1966*.

BILL 84

1968-69

**An Act to repeal The Public Finance
Companies' Investments Act, 1966**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** *The Public Finance Companies' Investments Act, 1966* ^{1966, c. 124,} _{repealed} is repealed.
- 2.** This Act comes into force on the day it receives Royal ^{Commence-} Assent. _{ment}
- 3.** This Act may be cited as *The Public Finance Companies' ^{Short title} Investments Repeal Act, 1968-69.*

1st Reading

March 13th, 1969

2nd Reading

3rd Reading

MR. ROWSTREE

BILL 84

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to repeal The Public Finance Companies'
Investments Act, 1966**

MR. ROWNTREE



BILL 84

1968-69

**An Act to repeal The Public Finance
Companies' Investments Act, 1966**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Finance Companies' Investments Act, 1966* 1966, c. 124,
repealed is repealed.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Public Finance Companies' Investments Repeal Act, 1968-69*. Short title

1st Reading

March 13th, 1969

2nd Reading

March 26th, 1969

3rd Reading

May 7th, 1969

MR. ROWNTREE

BILL 85

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Credit Unions Act

MR. ROWNTREE

EXPLANATORY NOTES

SECTION 1. The amendment prohibits a corporation from becoming a member of a credit union unless a majority of the members or holders of voting shares are also members of the credit union.

SECTION 2. The provision for designating beneficiaries is deleted. The provision for paying money on deposit directly to the beneficiaries of a deceased member is amended to increase the maximum to \$1,250 and to include payment for shares.

An Act to amend The Credit Unions Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 23 of *The Credit Unions Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 79, s. 23,
re-enacted

23.—(1) A corporation may become a member of a credit union where, Corporate
members

(a) in the case of a corporation having share capital, the persons holding equity shares carrying at least 51 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding are members of that credit union;

(b) in the case of a corporation without share capital, at least 51 per cent of the members of the corporation are members of that credit union.

(2) A credit union shall not make a loan to a member that is a corporation unless the loan is approved by a joint meeting of the board of directors, the credit committee and the supervisory committee of the credit union. Loans to
corporate
members

2.—(1) Sections 40 and 41 of *The Credit Unions Act* are repealed and the following substituted therefor: R.S.O. 1960,
c. 79, s. 40,
re-enacted;
s. 41,
repealed

40.—(1) Where a member of a credit union dies, the directors may pay, Payment
of moneys
re deceased
member

(a) an amount not exceeding \$1,250 out of the amount on deposit in the name of the deceased or for the shares of the deceased; and

- (b) an amount not exceeding \$1,250 out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the directors are satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

Effect of payment

- (2) A payment made under subsection 1 discharges any obligation of the credit union or its directors in respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or shares in trust

- (3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is an infant, to his parent or guardian.

Application R.S.O. 1960, c. 79

- (2) The repeal of section 40 of *The Credit Unions Act* by subsection 1 shall not be construed to invalidate any nomination made under that section before this section comes into force.

R.S.O. 1960, c. 79, s. 53, subs. 6, re enacted

- 3.** Subsection 6 of section 53 of *The Credit Unions Act* is repealed and the following substituted therefor:

Assessment of members for league

- (6) A credit union that is a member of a league may by by-law provide for a yearly assessment of each of its members of an amount fixed by the by-law, which amount shall be paid to the league to assist in its financing.

R.S.O. 1960, c. 79, s. 59, amended

- 4.** Section 59 of *The Credit Unions Act* is amended by adding thereto the following subsection:

Failure to file annual statement

- (4) Notwithstanding subsections 2 and 3, any credit union that is in default of filing the annual statement required by section 49 is liable on summary conviction to a fine of not more than \$5 for each day such default continues.

SECTION 3. The amendment removes the maximum on the amount that can be levied by a credit union for payment to a credit union league.

SECTION 4. The amendment provides a maximum fine for failure to file annual statements of \$5 for each day the statement is overdue.



5. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

6. This Act may be cited as *The Credit Unions Amendment* ^{Short title} Act, 1968-69.

1st Reading

March 13th, 1969

2nd Reading

3rd Reading

MR. ROWSTREE

BILL 85

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Credit Unions Act

MR. ROWNTREE



An Act to amend The Credit Unions Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 23 of *The Credit Unions Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 79, s. 23, re-enacted

23.—(1) A corporation may become a member of a credit union where, Corporate members

(a) in the case of a corporation having share capital, the persons holding equity shares carrying at least 51 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding are members of that credit union;

(b) in the case of a corporation without share capital, at least 51 per cent of the members of the corporation are members of that credit union.

(2) A credit union shall not make a loan to a member that is a corporation unless the loan is approved by a joint meeting of the board of directors, the credit committee and the supervisory committee of the credit union. Loans to corporate members

2.—(1) Sections 40 and 41 of *The Credit Unions Act* are repealed and the following substituted therefor: R.S.O. 1960, c. 79, s. 40, re-enacted; s. 41, repealed

40.—(1) Where a member of a credit union dies, the directors may pay, Payment of moneys re deceased member

(a) an amount not exceeding \$1,250 out of the amount on deposit in the name of the deceased or for the shares of the deceased; and

- (b) an amount not exceeding \$1,250 out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the directors are satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

Effect of
payment

- (2) A payment made under subsection 1 discharges any obligation of the credit union or its directors in respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or
shares in
trust

- (3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is an infant, to his parent or guardian.

Application
R.S.O. 1960,
c. 79

- (2) The repeal of section 40 of *The Credit Unions Act* by subsection 1 shall not be construed to invalidate any nomination made under that section before this section comes into force.

R.S.O. 1960,
c. 79, s. 53,
subs. 6,
re-enacted

- 3.** Subsection 6 of section 53 of *The Credit Unions Act* is repealed and the following substituted therefor:

Assessment
of members
for league

- (6) A credit union that is a member of a league may by by-law provide for a yearly assessment of each of its members of an amount fixed by the by-law, which amount shall be paid to the league to assist in its financing.

R.S.O. 1960,
c. 79, s. 59,
amended

- 4.** Section 59 of *The Credit Unions Act* is amended by adding thereto the following subsection:

Failure to
file annual
statement

- (4) Notwithstanding subsections 2 and 3, any credit union that is in default of filing the annual statement required by section 49 is liable on summary conviction to a fine of not more than \$5 for each day such default continues.

5. This Act comes into force on the day it receives Royal ^{Commence-} Assent. _{ment}

6. This Act may be cited as *The Credit Unions Amendment Act, 1968-69*. ^{Short title}





1st Reading

March 13th, 1969

2nd Reading

March 26th, 1969

3rd Reading

May 7th, 1969

MR. ROWSTREE

BILL 86

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Loan and Trust Corporations Act

MR. ROWNTREE

EXPLANATORY NOTE

The amendment deletes the requirement that 90 per cent of the permanent capital stock must be subscribed and paid in before a by-law to increase the permanent capital stock can be passed. The requirements for approval of such a by-law by the shareholders and the Lieutenant Governor in Council are retained.

BILL 86

1968-69

**An Act to amend
The Loan and Trust Corporations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 58 of *The Loan and Trust Corporations Act* is amended by striking out "at any time after 90 per cent of its permanent capital stock has been subscribed and 90 per cent thereof paid in, but not sooner" in the second, third and fourth lines, so that the subsection shall read as follows:

R.S.O. 1960
c. 222, s. 58,
subs. 1,
amended

(1) The directors of any provincial corporation may by by-law provide for the increase of its permanent capital stock to an amount that the directors consider requisite.

Increase of
permanent
capital
stock

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Loan and Trust Corporations Amendment Act, 1968-69*.

Short title

The Loan and Trust Corporations Act

1st Reading

March 13th, 1969

2nd Reading

3rd Reading

MR. ROWSTREE

BILL 86

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Loan and Trust Corporations Act

MR. ROWNTREE



BILL 86

1968-69

**An Act to amend
The Loan and Trust Corporations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 58 of *The Loan and Trust Corporations Act* is amended by striking out "at any time after 90 per cent of its permanent capital stock has been subscribed and 90 per cent thereof paid in, but not sooner" in the second, third and fourth lines, so that the subsection shall read as follows:

R.S.O. 1960,
c. 222, s. 58,
subs. 1,
amended

(1) The directors of any provincial corporation may by by-law provide for the increase of its permanent capital stock to an amount that the directors consider requisite.

Increase of
permanent
capital
stock

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Loan and Trust Corporations Amendment Act, 1968-69*.

Short title

The Loan and Trust Corporations Act

1st Reading

March 13th, 1969

2nd Reading

March 26th, 1969

3rd Reading

May 7th, 1969

M^R. ROWNTREE

BILL 87

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Ontario Producers, Processors,
Distributors and Consumers Food Council Act, 1962-63**

MR. STEWART

EXPLANATORY NOTE

Self-explanatory.

BILL 87

1968-69

**An Act to amend The Ontario Producers,
Processors, Distributors and Consumers
Food Council Act, 1962-63**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 2 of *The Ontario Producers, Processors, Distributors and Consumers Food Council Act, 1962-63*, is amended by inserting after "such" in the first line "remuneration and", so that the subsection shall read as follows:

(6) The members of the Food Council shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Ontario Producers, Processors, Distributors and Consumers Food Council Amendment Act, 1968-69*.

1st Reading

March 13th, 1969

2nd Reading

3rd Reading

MR. STEWART

BILL 87

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Ontario Producers, Processors,
Distributors and Consumers Food Council Act, 1962-63**

MR. STEWART



BILL 87

1968-69

**An Act to amend The Ontario Producers,
Processors, Distributors and Consumers
Food Council Act, 1962-63**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 2 of *The Ontario Producers, Processors, Distributors and Consumers Food Council Act, 1962-63*, is amended by inserting after "such" in the first line "remuneration and", so that the subsection shall read as follows:

(6) The members of the Food Council shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Ontario Producers, Processors, Distributors and Consumers Food Council Amendment Act, 1968-69*.

An Act to amend The Ontario Producers,
Processors, Distributors and Consumers
Food Council Act, 1962-63

1st Reading

March 13th, 1969

2nd Reading

April 28th, 1969

3rd Reading

May 7th, 1969

MR. STEWART

BILL 88

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Municipal Act

MR. YOUNG

EXPLANATORY NOTE

The deletion of the clause would permit officers and employees of a municipal corporation to be elected as members of the council of the corporation.

BILL 88

1968-69

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *e* of subsection 1 of section 35 of *The Municipal Act* is repealed. R.S.O. 1960,
c. 249, s. 35,
subs. 1,
cl. *e*,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Municipal Amendment Act, 1968-69*. Short title

1st Reading

March 13th, 1969

2nd Reading

3rd Reading

MR. YOUNG

BILL 89

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Conservation Authorities Act, 1968

MR. SIMONETT

EXPLANATORY NOTES

SECTION 1. The amendment is to make it clear that the Act applies to an improvement district.

SECTION 2. Self-explanatory.

BILL 89

1968-69

**An Act to amend
The Conservation Authorities Act, 1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *h* of section 1 of *The Conservation Authorities Act, 1968* is amended by striking out "or township" in the first and second lines and inserting in lieu thereof "township or improvement district", so that the clause shall read as follows:

(*h*) "municipality" means a city, town, village, township or improvement district, and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 68 of that Act.

2. *The Conservation Authorities Act, 1968* is amended by adding thereto the following section:

3a.—(1) Where a regional municipality has been established, the regional municipality, on and after the 1st day of January after it is established,

(*a*) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the amalgamation of conservation authorities and for such purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled; and

(*b*) shall be a participating municipality in the place of such of the local municipalities within the regional municipality as are wholly or partly within the area under the jurisdiction

of a conservation authority and shall appoint to each such authority the number of members to which the local municipalities would otherwise have been entitled as participating municipalities.

Present members when regional municipality established

- (2) When a regional municipality is established, the members of an authority then holding office who were appointed by a local municipality wholly or partly within the regional municipality shall continue to hold office until their respective terms of office expire and shall be deemed to have been appointed by the regional municipality.

Ottawa-Carleton

- (3) For the purposes of subsections 1 and 2, The Regional Municipality of Ottawa-Carleton shall be deemed to have been established on the 31st day of December, 1969.

1968, c. 15, s. 26, subs. 1, cl. b, amended

- 3.** Clause *b* of subsection 1 of section 26 of *The Conservation Authorities Act, 1968* is amended by striking out "restricting and" in the first line and inserting in lieu thereof "prohibiting or", so that the clause shall read as follows:

- (*b*) prohibiting or regulating the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse.

Comment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** This Act may be cited as *The Conservation Authorities Amendment Act, 1968-69*.

SECTION 3. The amendment substitutes the word "prohibiting" for "restricting" in relation to the power to make regulations as set out in clause *b*.



1st Reading

March 18th, 1969

2nd Reading

3rd Reading

MR. SIMONETT

BILL 89

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Conservation Authorities Act, 1968

MR. SIMONETT

BILL 89

1968-69

**An Act to amend
The Conservation Authorities Act, 1968**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *h* of section 1 of *The Conservation Authorities Act, 1968* is amended by striking out "or township" in the first and second lines and inserting in lieu thereof "township or improvement district", so that the clause shall read as follows:

(*h*) "municipality" means a city, town, village, township or improvement district, and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 68 of that Act.

2. *The Conservation Authorities Act, 1968* is amended by adding thereto the following section:

3a.—(1) Where a regional municipality has been established, the regional municipality, on and after the 1st day of January after it is established,

- (a) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the amalgamation of conservation authorities and for such purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled; and
- (b) shall be a participating municipality in the place of such of the local municipalities within the regional municipality as are wholly or partly within the area under the jurisdiction

of a conservation authority and shall appoint to each such authority the number of members to which the local municipalities would otherwise have been entitled as participating municipalities.

Present members when regional municipality established

- (2) When a regional municipality is established, the members of an authority then holding office who were appointed by a local municipality wholly or partly within the regional municipality shall continue to hold office until their respective terms of office expire and shall be deemed to have been appointed by the regional municipality.

Ottawa-Carleton

- (3) For the purposes of subsections 1 and 2, The Regional Municipality of Ottawa-Carleton shall be deemed to have been established on the 31st day of December, 1969.

1968, c. 15, s. 26, subs. 1, cl. b, amended

3. Clause *b* of subsection 1 of section 26 of *The Conservation Authorities Act, 1968* is amended by striking out "restricting and" in the first line and inserting in lieu thereof "prohibiting or", so that the clause shall read as follows:

- (b) prohibiting or regulating the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse.

Commencement

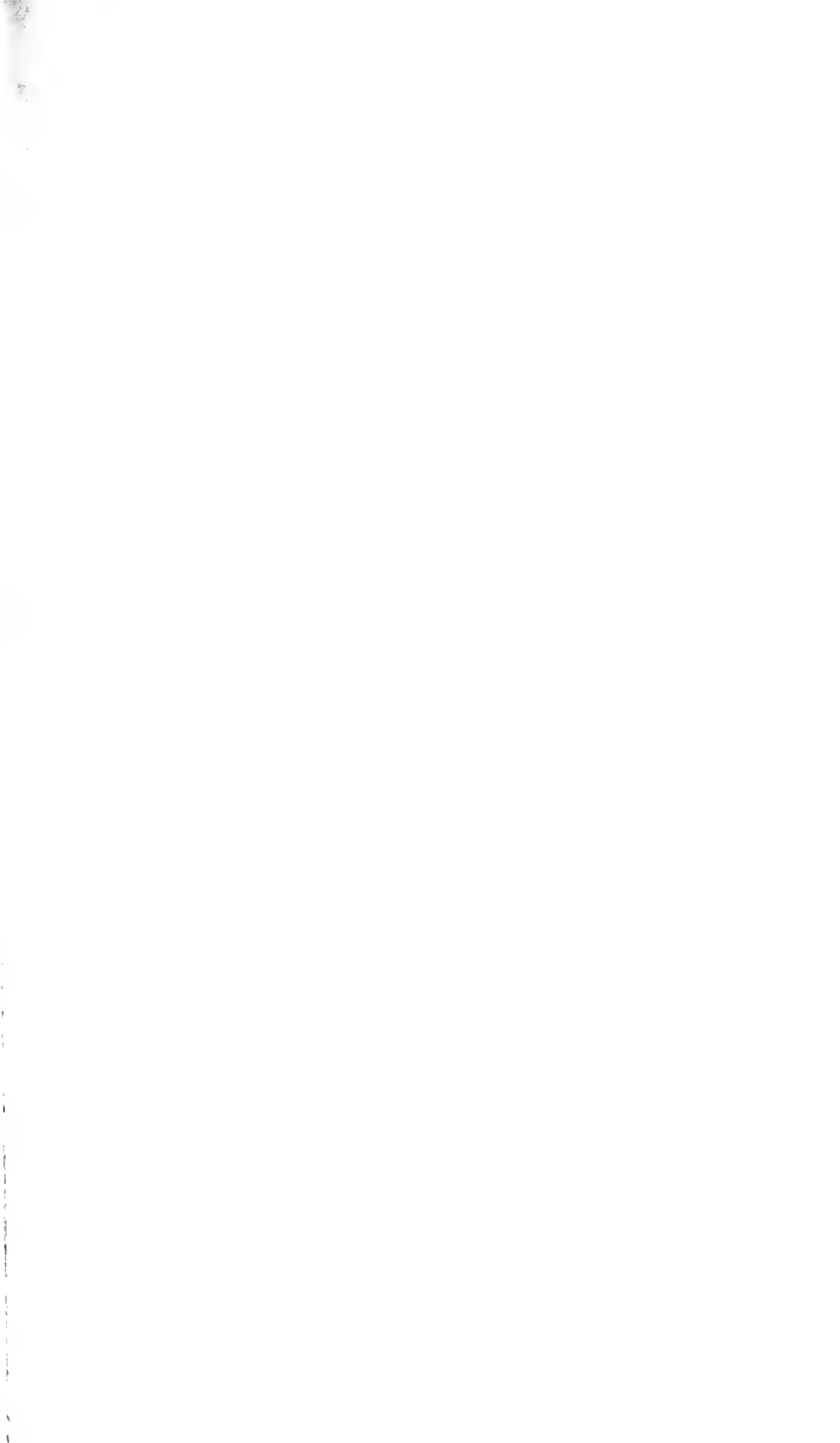
4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Conservation Authorities Amendment Act, 1968-69*.







1st Reading

March 18th, 1969

2nd Reading

March 26th, 1969

3rd Reading

April 1st, 1969

MR. SIMONETT

BILL 90

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Hospital Labour Disputes
Arbitration Act, 1965**

MR. BALES

EXPLANATORY NOTES

SECTION 1—Subsection 1. These amendments expressly extend the scope of the Act to cover nursing homes and homes for the aged.

Subsection 2. This new provision is designed to ensure that a laundry, power plant, etc., that services more than one hospital and nothing else, is covered by the Act.

SECTION 2. The provision is obsolete. It is therefore repealed.

SECTIONS 3 AND 4. These amendments are designed to expedite the arbitration procedures under the Act.

BILL 90

1968-69

An Act to amend The Hospital Labour Disputes Arbitration Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of subsection 1 of section 1 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by inserting after “sanatorium” in the first and second lines “nursing home” and by adding at the end thereof “and includes a home for the aged”, so that the clause shall read as follows:

- (a) “hospital” means any hospital, sanitarium, sanatorium, nursing home or other institution operated for the observation, care or treatment of persons afflicted with or suffering from any physical or mental illness, disease or injury or for the observation, care or treatment of convalescent or chronically ill persons, whether or not it is granted aid out of moneys appropriated by the Legislature and whether or not it is operated for private gain, and includes a home for the aged.

(2) The said section 1 is amended by adding thereto the following subsection:

- (3) A central laundry or a central heating plant or a central power plant that is operated exclusively for more than one hospital shall be deemed to be a hospital for the purposes of this Act.

2. Subsection 3 of section 2 of *The Hospital Labour Disputes Arbitration Act, 1965* is repealed.

3.—(1) Subsection 1 of section 4 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by striking out “thirty-five” in the second line and inserting in lieu thereof “seven”, so that the subsection shall read as follows:

Arbitration

- (1) Subject to subsection 2, if the parties have not made a collective agreement within seven days after the day on which the Minister informed the parties or released the report as mentioned in section 3, the matters in dispute between them shall be decided by arbitration in accordance with this Act.

1965, c. 48,
s. 4, subs. 2,
amended

- (2) Subsection 2 of the said section 4 is amended by striking out "thirty-five" in the second line and inserting in lieu thereof "seven" and by striking out "ninety" in the fourth line and inserting in lieu thereof "thirty", so that the subsection shall read as follows:

Extension
of 7-day
period

- (2) The parties by agreement in writing may extend the period of seven days mentioned in subsection 1 for one or more further periods of time, not exceeding a total of thirty days, and thereafter any further extension may be made only with the consent of the Minister.

1965, c. 48,
s. 5, subs. 1,
amended

- 4.** Subsection 1 of section 5 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by striking out "thirty-five" in the first line and inserting in lieu thereof "seven", so that the subsection shall read as follows:

Board of
arbitration,
appoint-
ment of
members
representing
parties

- (1) Within seven days after the period of seven days mentioned in section 4 and any extension thereof has elapsed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act.

Commence-
ment

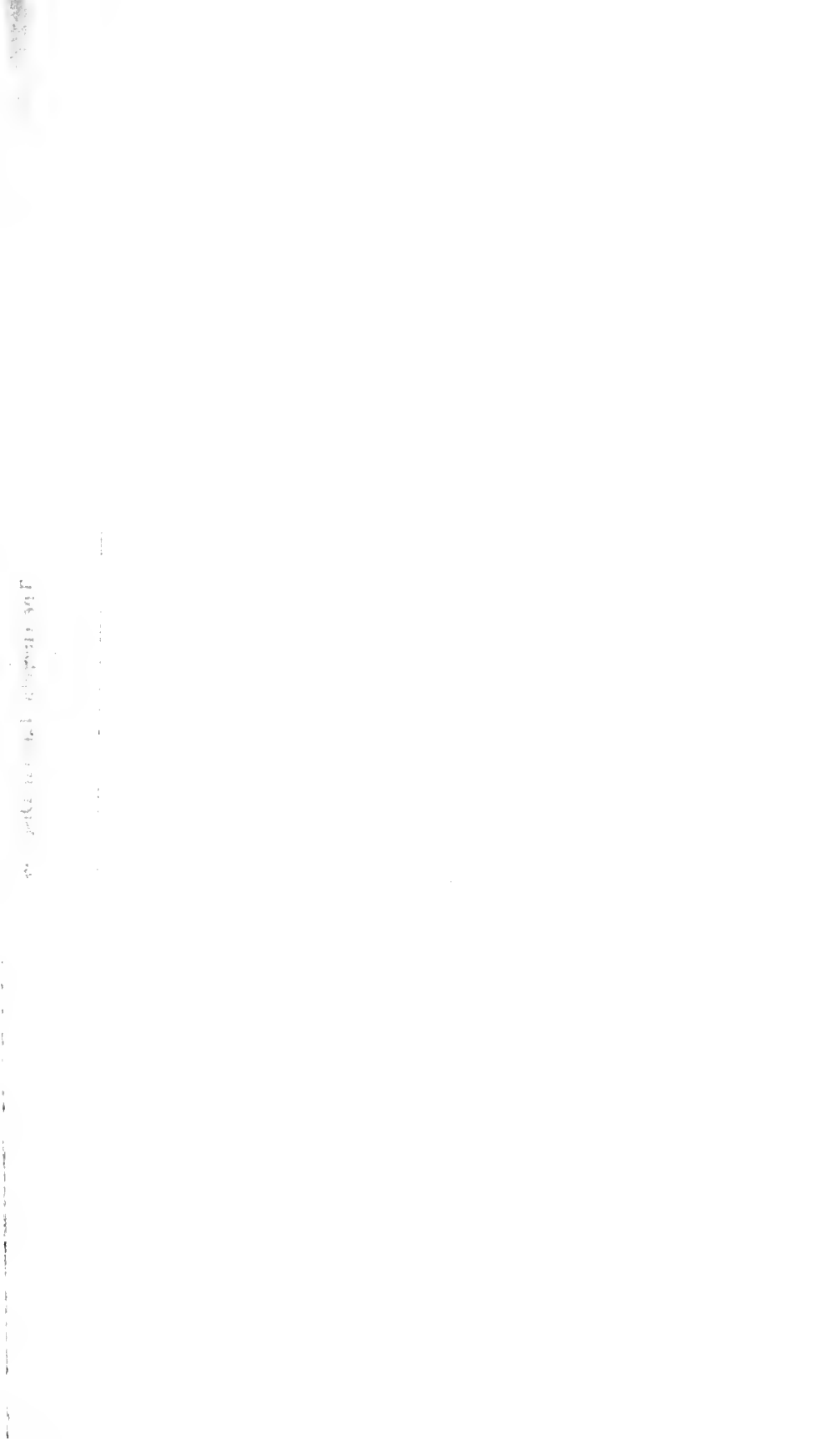
- 5.** This Act comes into force on the day it receives Royal Assent.

Short title

- 6.** This Act may be cited as *The Hospital Labour Disputes Arbitration Amendment Act, 1968-69*.







An Act to amend
The Hospital Labour Disputes
Arbitration Act, 1965

1st Reading

March 18th, 1969

2nd Reading

3rd Reading

MR. BATES

BILL 90

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend The Hospital Labour Disputes
Arbitration Act, 1965**

MR. BALES



An Act to amend The Hospital Labour Disputes Arbitration Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of subsection 1 of section 1 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by inserting after “sanatorium” in the first and second lines “nursing home” and by adding at the end thereof “and includes a home for the aged”, so that the clause shall read as follows:

- (a) “hospital” means any hospital, sanitarium, sanatorium, nursing home or other institution operated for the observation, care or treatment of persons afflicted with or suffering from any physical or mental illness, disease or injury or for the observation, care or treatment of convalescent or chronically ill persons, whether or not it is granted aid out of moneys appropriated by the Legislature and whether or not it is operated for private gain, and includes a home for the aged.

(2) The said section 1 is amended by adding thereto the following subsection:

- (3) A central laundry or a central heating plant or a central power plant that is operated exclusively for more than one hospital shall be deemed to be a hospital for the purposes of this Act.

2. Subsection 3 of section 2 of *The Hospital Labour Disputes Arbitration Act, 1965* is repealed.

3.—(1) Subsection 1 of section 4 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by striking out “thirty-five” in the second line and inserting in lieu thereof “seven”, so that the subsection shall read as follows:

- Arbitration (1) Subject to subsection 2, if the parties have not made a collective agreement within seven days after the day on which the Minister informed the parties or released the report as mentioned in section 3, the matters in dispute between them shall be decided by arbitration in accordance with this Act.
- 1965, c. 48,
s. 4, subs. 2,
amended (2) Subsection 2 of the said section 4 is amended by striking out "thirty-five" in the second line and inserting in lieu thereof "seven" and by striking out "ninety" in the fourth line and inserting in lieu thereof "thirty", so that the subsection shall read as follows:
- Extension of 7-day period (2) The parties by agreement in writing may extend the period of seven days mentioned in subsection 1 for one or more further periods of time, not exceeding a total of thirty days, and thereafter any further extension may be made only with the consent of the Minister.
- 1965, c. 48,
s. 5, subs. 1,
amended 4. Subsection 1 of section 5 of *The Hospital Labour Disputes Arbitration Act, 1965* is amended by striking out "thirty-five" in the first line and inserting in lieu thereof "seven", so that the subsection shall read as follows:
- Board of arbitration, appointment of members representing parties (1) Within seven days after the period of seven days mentioned in section 4 and any extension thereof has elapsed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act.
- Commencement 5. This Act comes into force on the day it receives Royal Assent.
- Short title 6. This Act may be cited as *The Hospital Labour Disputes Arbitration Amendment Act, 1968-69*.





1st Reading

March 18th, 1969

2nd Reading

April 28th, 1969

3rd Reading

May 7th, 1969

MR. BATES

BILL 91

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Ontario Heritage Foundation Act, 1967

MR. AULD

EXPLANATORY NOTES

SECTION 1—Subsection 1. The objects of the Foundation are extended to include property of recreational, aesthetic or scenic interest as well as of historical or architectural interest.

Subsection 2. The change is complementary to subsection 1 and permits support by the Foundation of projects of organizations having other principal functions.

BILL 91

1968-69

**An Act to amend
The Ontario Heritage Foundation Act, 1967**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 7 of *The Ontario Heritage Foundation Act, 1967* is amended by striking out “and architectural” in the third line and inserting in lieu thereof “architectural, recreational, aesthetic or scenic”, so that the clause shall read as follows:

- (a) to receive, acquire by purchase, donation or lease, hold, preserve, maintain, reconstruct, restore and manage property of historical, architectural, recreational, aesthetic or scenic interest for the use, enjoyment and benefit of the people of Ontario.

(2) Clause *b* of the said section 7 is repealed and the following substituted therefor:

- (b) to support and contribute to the acquisition, holding, preservation, maintenance, reconstruction, restoration and management of property of historical, architectural, recreational, aesthetic or scenic interest by municipalities or organizations for the use, enjoyment and benefit of the people of Ontario; and
-

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Ontario Heritage Foundation Amendment Act, 1968-69*.

1st Reading

March 18th, 1969

2nd Reading

3rd Reading

MR. AULD

BILL 91

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Ontario Heritage Foundation Act, 1967

MR. AULD



BILL 91

1968-69

**An Act to amend
The Ontario Heritage Foundation Act, 1967**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 7 of *The Ontario Heritage Foundation Act, 1967* is amended by striking out “and architectural” in the third line and inserting in lieu thereof “architectural, recreational, aesthetic or scenic”, so that the clause shall read as follows:

- (a) to receive, acquire by purchase, donation or lease, hold, preserve, maintain, reconstruct, restore and manage property of historical, architectural, recreational, aesthetic or scenic interest for the use, enjoyment and benefit of the people of Ontario.

(2) Clause *b* of the said section 7 is repealed and the following substituted therefor:

- (b) to support and contribute to the acquisition, holding, preservation, maintenance, reconstruction, restoration and management of property of historical, architectural, recreational, aesthetic or scenic interest by municipalities or organizations for the use, enjoyment and benefit of the people of Ontario; and

.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Ontario Heritage Foundation Amendment Act, 1968-69*. Short title

1st Reading

March 18th, 1969

2nd Reading

March 31st, 1969

3rd Reading

June 6th, 1969

MR. AULD

BILL 92

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. ROWNTREE

EXPLANATORY NOTES

SECTION 1. Complementary to section 16 of the Bill.

SECTION 2. The amendment corrects a typographical error.

SECTION 3. The amendment permits the Superintendent to make exceptions to the prescribed rate of interest that is used in computing the reserve in respect of life insurance policies.

SECTION 4. The amendment limits the insurer's right to terminate the contract for non-payment of premium to only those cases where the promise to pay is a bill of exchange or promissory note.

BILL 92

1968-69

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 8 of section 1 of *The Insurance Act* is repealed. R.S.O. 1960,
c. 190, s. 1,
par. 8,
repealed

2. Clause *c* of subsection 4 of section 62 of *The Insurance Act* is amended by striking out "matured" in the second line and inserting in lieu thereof "unmatured", so that the clause shall read as follows: R.S.O. 1960,
c. 190, s. 62,
subs. 4, cl. *c*,
amended

- (*c*) the full amount of the legal reserve in respect of each unmaturred life insurance contract as set out in the schedule of contract legal reserves,

3. Paragraph 1 of subsection 2 of section 80 of *The Insurance Act*, as re-enacted by section 4 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 190, s. 80,
(1962-63,
c. 64, s. 4),
subs. 2,
par. 1,
re-enacted

1. The rate of interest assumed shall not exceed the rate prescribed in Schedule D, except that where upon the application of a company the Superintendent is satisfied that a higher rate is appropriate for a particular class of policy issued by the company, the Superintendent may authorize the assumption of such higher rate of interest as the Superintendent specifies, and the Superintendent may withdraw his authorization at any time.

4. Subsection 3 of section 97 of *The Insurance Act* is amended by striking out "or any promise to pay" in the first and second lines and by striking out "or other promise to pay" in the fourth line, so that the subsection shall read as follows: R.S.O. 1960,
c. 190, s. 97,
subs. 3,
amended

Where
note or
cheque for
premium
not
honoured

- (3) Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail.

R.S.O. 1960,
c. 190, s. 98,
amended

5. Section 98 of *The Insurance Act* is amended by adding thereto the following subsection:

Furnishing
of forms
not an
admission

- (3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

R.S.O. 1960,
c. 190, s. 111,
stat.
cond. 15,
re-enacted

6. Statutory condition 15 in section 111 of *The Insurance Act* is repealed and the following substituted therefor:

Notice

15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

R.S.O. 1960,
c. 190, s. 119,
subs. 2,
re-enacted

7. Subsection 2 of section 119 of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor:

Insurance
on premium
note plan

- (2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance but a mutual insurance company, without guarantee capital stock incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan, may also insure for the classes of insurance as specified in subsection 13 of section 151 of *The Corporations Act*.

R.S.O. 1960,
c. 71

8. Section 131 of *The Insurance Act* is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 190, s. 131,
amended

Mutual
insurance
corporations

- (4) A mutual insurance corporation without guarantee capital stock incorporated under subsection 3 of section 150 of *The Corporations Act* shall be deemed to be an insurer of the same class under subsection 1 and under subsection 4 of section 132.

R.S.O. 1960,
c. 190, s. 132,
amended

9. Section 132 of *The Insurance Act* is amended by adding thereto the following subsections:

SECTION 5. The amendment ensures that the mere supplying of proof of loss forms does not constitute an admission.

SECTION 6. The statutory condition is reworded to make the language uniform with that adopted by other provinces.

SECTIONS 7, 8 AND 9. The powers of fire mutual insurance corporations are extended to undertake liability insurance in respect of the persons and property insured against fire and provision is made for reinsurance.

SECTION 10. The amendment is for the purpose of uniform language in all insurance contracts in Canada.

SECTION 11. The amendments increase the minimum automobile public liability coverage from \$35,000 to \$50,000 and all the increase is added to the priority given claims for bodily injury or death.

- (4a) No mutual insurance corporation without guarantee capital stock incorporated to transact fire insurance on the premium note plan shall undertake contracts of weather insurance unless all liability for loss in excess of \$100 on any risk covered by weather insurance is reinsured with a licensed weather company or a mutual insurance corporation without guarantee capital stock incorporated pursuant to subsection 3 of section 150 of *The Corporations Act*. Reinsurance re weather insurance
R.S.O. 1960, c. 71

- (4b) The reinsurance requirement under subsection 4a with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27. Idem

10. Subcondition 8 of statutory condition 4 in section 204 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "independent" in the seventh line and inserting in lieu thereof "independently", so that the subcondition shall read as follows: R.S.O. 1960, c. 190, s. 204, (1966, c. 71, s. 11), stat. cond. 4, subcond. 8, amended

In Case of Disagreement (8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

11.—(1) Subsection 1 of section 216 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "\$35,000" in the third line and inserting in lieu thereof "\$50,000", so that the subsection shall read as follows: R.S.O. 1960, c. 190, s. 216, (1966, c. 71, s. 11) subs. 1, amended

- (1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property. Minimum liability under policy

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 2, cl. a, amended (2) Clause *a* of subsection 2 of the said section 216 is amended by striking out "\$30,000" in the second line and inserting in lieu thereof "\$45,000", so that the clause shall read as follows:

- (a) claims against the insured arising out of bodily injury or death have priority to the extent of \$45,000 over claims arising out of loss of or damage to property; and

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 3, amended (3) Subsection 3 of the said section 216 is amended by striking out "\$35,000" in the third line and in the fifth line and inserting in lieu thereof in each instance "\$50,000", so that the subsection shall read as follows:

Minimum limits where separate limits designated

- (3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$50,000, exclusive of interest and costs, against liability for loss of or damage to property.

R.S.O. 1960, c. 190, s. 226b (1966, c. 71, s. 11), subs. 2, amended **12.** Subsection 2 of section 226b of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line and by striking out "referred to" in the tenth line and inserting in lieu thereof "of the same type as is specified", so that the subsection shall read as follows:

Release by claimant

- (2) Where an insurer makes a payment under a contract of insurance referred to in subsection 1, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

R.S.O. 1960, c. 138

SECTIONS 12 AND 13. The amendments are for the purpose of making the language uniform with other jurisdictions and make no change in principle.

SECTION 14. The amendment supplies a cross-reference originally omitted in error.

SECTION 15. The amendment adopts a uniform provision recommended by The Association of Superintendents of Insurance of the Provinces of Canada.

13. Subsection 2 of section 226c of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line, so that the subsection shall read as follows:

R.S.O. 1960,
c. 190,
s. 226c
(1966, c. 71,
s. 11),
subs. 2,
amended

- (2) Where an insurer makes a payment under a contract of insurance to which subsection 1 refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

Release by
claimant

R.S.O. 1960,
c. 138

14. Section 226e of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by inserting after "section" in the second line "226a", so that the section shall read as follows:

R.S.O. 1960,
c. 190,
s. 226e
(1966, c. 71,
s. 11),
amended

- 226e. Any person insured by but not named in a contract to which section 226a, 226b or 226c applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

Rights of
unnamed
insured

15. Section 226j of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 190,
s. 226j
(1966, c. 71,
s. 11),
amended

- (3) "Rateable proportion" as used in subsection 2 means:
- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;
- (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;

Rateable
proportion
defined

(c) if there are more than two insurers liable, clauses *a* and *b* apply *mutatis mutandis*.

R.S.O. 1960,
c. 190,
Part VII,
(ss. 227-251),
re-enacted

16.—(1) Subject to subsection 3, Part VII of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1961-62* and section 13 of *The Insurance Amendment Act, 1966*, is repealed and the following substituted therefor:

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpre-
tation

227. In this Part,

- (a) "application" means a written application for insurance or for the reinstatement of insurance;
- (b) "beneficiary" means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;
- (c) "blanket insurance" means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;
- (d) "contract" means a contract of insurance;
- (e) "court" means the Supreme Court, or a judge thereof;
- (f) "creditor's group insurance" means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;
- (g) "declaration" means an instrument signed by the insured,
 - (i) with respect to which an endorsement is made on the policy, or
 - (ii) that identifies the contract, or
 - (iii) that describes the insurance or insurance fund or a part thereof,

SECTION 16. The Accident and Sickness Part is re-enacted to adopt the uniform provisions recommended by The Association of Superintendents of Insurance of the Provinces of Canada. The principle changes include:

1. provision for group insurance;
2. revision of provisions respecting the capacity of minors as beneficiaries and the inclusion of trustee provisions similar to those in Part V respecting life insurance;
3. provisions respecting beneficiaries of insurance moneys payable by reason of death or accident;
4. provisions respecting designation of beneficiaries are expanded and made similar to those in Part V respecting life insurance.

in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money which is payable in the event of death by accident;

- (h) "family insurance" means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (i) "group insurance" means insurance other than creditor's group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
- (j) "group person insured" means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him;
- (k) "instrument" includes a will;
- (l) "insurance" means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- (m) "insured",
 - (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
 - (ii) in all other cases means the person who makes a contract with an insurer;
- (n) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- (o) "will" includes a codicil.

- Application of Part** 228. (1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in Ontario.
- Exceptions** (2) This Part does not apply to,
- (a) accidental death insurance; or
 - (b) creditor's group insurance; or
 - (c) disability insurance; or
 - (d) insurance provided under section 226a, 226b or 226c.
- Group insurance** 229. In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,
- (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in Ontario at the time he became insured; and
 - (b) the rights and obligations of the group person insured if he was resident in Ontario at the time he became insured.
- Issue of policy** 230. An insurer entering into a contract shall issue a policy.
- Exceptions** 231. (1) This section does not apply to,
- (a) a contract of group insurance; or
 - (b) a contract made by a fraternal society.
- Contents of policy** (2) An insurer shall set forth the following particulars in the policy:
1. The name or a sufficient description of the insured and of the person insured.
 2. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
 3. The amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid.
 4. The conditions upon which the contract may be reinstated if it lapses.

5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

232. In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy: ^{Contents of group policy}

1. The name or a sufficient description of the insured.
2. The method of determining the group persons insured and persons insured.
3. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.
5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

233.—(1) Except as provided in subsection 2, in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group person insured a certificate or other document in which are set forth the following particulars: ^{Contents of group certificate}

1. The name of the insurer and a sufficient identification of the contract.
2. The amount or the method of determining the amount of insurance on the group person insured and on any person insured.
3. The circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. ^{Exception}

234.—(1) Subject to section 235 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as "Exceptions" or "Reductions". ^{Exceptions or reductions}

- Idem (2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.
- Idem (3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.
- Idem (4) The exception or reduction mentioned in section 247 need not be set forth in the policy.
- Idem (5) This section does not apply to a contract made by a fraternal society.
- Statutory conditions 235. Subject to section 236, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading "Statutory Conditions".

STATUTORY CONDITIONS

The Contract

1.—(1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

Waiver

(2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

Copy of Application

(3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

Material Facts

2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.

Changes in Occupation

3.—(1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

(a) reduce the premium rate; or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

Relation of Earnings to Insurance

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

Termination by Insured

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Termination by Insurer

6.—(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

Notice and Proof of Claim

7.—(1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall

(a) give written notice of claim to the insurer,

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or

(ii) by delivery thereof to an authorized agent of the insurer in the Province,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

(b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and

- (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.

Failure to Give Notice or Proof

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

Insurer to Furnish Forms for Proof of Claim

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Rights of Examination

9. As a condition precedent to recovery of insurance moneys under this contract,
- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending, and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

When Moneys Payable Other Than for Loss of Time

10. All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

When Loss of Time Benefits Payable

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

Limitation of Actions

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

Omission or variation of conditions

236.—(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted. ^{Idem}

(4) Statutory conditions 3, 4, 5, 6 and 9, and subject to the restriction in subsection 5, statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 235. ^{Idem}

(5) Clauses *a* and *b* of paragraph 1 of statutory condition 7 may not be varied in policies providing benefits for loss of time. ^{Idem}

(6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein. ^{Idem}

(7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted. ^{Idem}

(8) In the case of a contract made by a fraternal society, ^{Contract by fraternal society}

(a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1:

The Contract

1.—(1) This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 shall not be printed on the policy.

237. In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type: ^{Notice of statutory conditions}

“Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in *The Insurance Act* respecting contracts of accident insurance. ^{R.S.O. 1960, c. 190}”

Termination
for non-
payment of
initial or
renewal
premium

238.—(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid,

- (a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such premium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and
- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

Exception

(2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Right
where
premium
unpaid

239.—(1) An insurer may,

- (a) deduct unpaid premiums from an amount that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

Where
cheque or
note for
premium
not paid

(2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor the premium or part thereof shall be deemed never to have been paid.

Exception

(3) Clause *a* of subsection 1 does not apply to a contract of group insurance.

Idem

(4) This section does not apply to a contract made by a fraternal society.

Insurable
interest

240. Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and well-being and in the life and well-being of,

- (a) his child or grandchild;
- (b) his spouse;

- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
- (d) his officer or employee; and
- (e) any person in whom he has a pecuniary interest.

241.—(1) Subject to subsection 2, where at the time a contract would otherwise take effect, the insured has no insurable interest, the contract is void. Lack of insurable interest

(2) A contract is not void for lack of insurable interest, Exceptions

- (a) if it is a contract of group insurance; or
- (b) if the person insured has consented in writing to the insurance.

(3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing *in loco parentis* to him. Consent of minors

POLICIES ON LIVES OF MINORS

242.—(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years, Capacity of minors

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

(2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a valid discharge therefor. Capacity of minor beneficiary

MISREPRESENTATION AND NON-DISCLOSURE

243.—(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other. Duty to disclose

(2) Subject to sections 244 and 247, a failure to disclose, or a misrepresentation of, such a fact renders a contract voidable by the insurer. Failure to disclose

Group
insurance
failure to
disclose

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or a person insured under the contract does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 244, voidable by the insurer.

Incontest-
ability

244.—(1) Subject to section 247 and except as provided in subsection 2,

- (a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable;
- (b) where a contract of group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

Exception

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim.

Application
of incontest-
ability to
reinstatement

245. Sections 243 and 244 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose or a misrepresentation at that time, and the period of two years to which reference is made in section 244 commences to run in respect of a reinstatement from the date of reinstatement.

Pre-existing
conditions

246. Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss incurred or commencement of disability with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part if the disease or physical condition was disclosed in the application for the contract.

247.—(1) Subject to subsections 2 and 3, if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either, Misstatement of age

- (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
- (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

(2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply. Misstatement of age in group insurance

(3) Where the age of a person affects the commencement or termination of the insurance, the true age governs. True age governs

BENEFICIARIES

248.—(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident, and may from time to time alter or revoke the designation by declaration. Designation of beneficiary

(2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will. Designation in invalid will

(3) A designation in a will is of no effect against a designation made later than the making of the will. Priorities

- Revocation** (4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.
- Idem** (5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked.
- Meaning of "heirs", etc.** 249.—(1) A designation in favour of the "heirs", "next-of-kin" or "estate", or the use of words of like import in a designation shall be deemed to be a designation of the personal representative.
- Death of beneficiary** (2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by declaration, the share is payable,
- (a) to the surviving beneficiary; or
 - (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or
 - (c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.
- Right to sue** (3) A beneficiary designated under section 248 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 250 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative.
- Trustee for beneficiary** 250. An insured may in a contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration.
- Documents affecting title** 251.—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

(2) Subsection 1 does not affect the rights or interests of any person other than the insurer. Saving

(3) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against, Interest of assignee

(a) any assignee other than one who gave notice earlier in like manner; and

(b) a beneficiary.

(4) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given by the contract and by this Part to the insured, and shall be deemed to be the insured. Assignee deemed to be insured

(5) A provision in a contract to the effect that the rights or interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable, is valid. Prohibition against assignment

251a.—(1) Where a beneficiary is designated, any insurance money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured, and is not subject to the claims of the creditors of the insured. Insurance money free from creditors

(2) While there is in effect a designation of beneficiary in favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to accidental death benefits are exempt from execution or seizure. Contract exempt from seizure

251b. A group person insured may, in his own name, enforce a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured. Group person insured enforcing rights

251c. Unless a contract or a declaration otherwise provides, where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 2 of section 249 as if the beneficiary had predeceased the person insured or group person insured. Simultaneous deaths

251d.—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that, Payment into court

(a) there are adverse claimants; or

(b) the whereabouts of the person entitled is unknown; or

(c) there is no person capable of giving or authorized to give a valid discharge therefor who is willing to do so,

the insurer may apply *ex parte* to the court for an order for payment of money into court, and the court may upon such notice, if any, as it deems necessary, make an order accordingly.

Costs of proceedings

(2) The court may fix without taxation the costs incurred upon or in connection with any application or order made under subsection 1, and may order the costs to be paid out of the insurance money or by the insurer or otherwise as it deems just.

Discharge of insurer

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment.

Where beneficiary a minor

251e.—(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money less the applicable costs mentioned in subsection 2 into court to the credit of the minor.

Costs

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection 1, the sum of \$10 where the amount does not exceed \$1,000, and the sum of \$15 in other cases, and payment of the remainder of the money into court discharges the insurer.

Procedure

(3) No order is necessary for payment into court under subsection 1, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit.

Beneficiary under disability

251f. Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid.

251g. Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding \$2,000 to,

Payments
not
exceeding
\$2,000

- (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid.

251h.—(1) Subject to subsection 2, insurance money is payable in Ontario.

Place of
payment

(2) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group person insured was resident at the time he became insured.

Exception
for group
insurance

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere.

Dollars

(4) Where a person entitled to receive insurance money is not domiciled in Ontario the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid.

Payment
outside
Ontario

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in Ontario, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid.

Payment to
personal
representative

251i. Regardless of the place where a contract was made, a claimant who is a resident of Ontario may bring an action in Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought.

Action in
Ontario

Insurer giving information 251j. An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money.

Undue prominence 251k. The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy.

Relief from forfeiture 251l. Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just.

Presumption against agency 251m. No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer shall, to the prejudice of the insured, person insured or group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract.

Application (2) Part VII of *The Insurance Act*, as re-enacted by subsection 1, applies to contracts made or renewed after this section comes into force.

Idem (3) In the case of contracts made before this section comes into force and in effect on the day this section comes into force,

(a) sections 227, 228, 229, 230, 237, 240, 241, 242, 246 and sections 248 to 251m of *The Insurance Act*, as re-enacted by this section, apply; and

(b) sections 230, 231, 232, 233, 235, 242 and 245 of *The Insurance Act*, as they existed immediately before this section comes into force, continue to apply.

R.S.O. 1960, c. 190, s. 315, subs. 2, re-enacted **17.**—(1) Subsection 2 of section 315 of *The Insurance Act* is repealed and the following substituted therefor:

Classes of licences (2) Licences so issued shall be of three classes, that is,

(a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

SECTION 17—Subsection 1. The classes of licences are renamed to conform better to present practices.

Subsection 2. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is prescribed as \$2.

SECTION 18. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is fixed at \$2.

SECTION 19. The amendments provide separate fees for agents, brokers or adjusters who are corporations.

(b) licences for accident and sickness insurance; or

(c) licences for all classes of insurance other than life insurance.

(2) Subsection 6 of the said section 315 is amended by striking out "a fee of \$1" in the seventh line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 315, subs. 6, amended

18. Subsection 6 of section 316 of *The Insurance Act* is amended by striking out "a fee of \$1" in the eighth line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 316, subs. 6, amended

19.—(1) Item 12 of Schedule A to *The Insurance Act* is amended by adding thereto the following clause: R.S.O. 1960, c. 190, Sched. A, item 12, amended

(d) where the applicant is a corporation 25

(2) Clause *c* of item 13 of the said Schedule A, as re-enacted by subsection 2 of section 6 of *The Insurance Amendment Act, 1968*, is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 13 (1968, c. 58, s. 6, subs. 2), cl. c, re-enacted

(c) where the applicant is a corporation 25

(d) for transfer or revival of a licence 2

(e) all other applicants 25

(3) Item 14 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 14, re-enacted

14. Licences for insurance brokers and renewals thereof whether corporate or otherwise 25

(4) Item 17 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 17, re-enacted

17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket salesmen to act as agent for travel accident insurance, livestock insurance or baggage insurance, and renewals thereof 25

20.—(1) This Act, except sections 1, 11 and 16, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 1 and 16 come into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

(3) Section 11 comes into force on the 1st day of September, 1969. Idem

21. This Act may be cited as *The Insurance Amendment Act, 1968-69*. Short title



The Insurance Act

1st Reading

March 19th, 1969

2nd Reading

3rd Reading

MR. ROWNTREE

BILL 92

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. ROWNTREE

(Reprinted as amended by the Legal and Municipal Committee)

EXPLANATORY NOTES

SECTION 1. Complementary to section 16 of the Bill.

SECTION 2. The amendment corrects a typographical error.

SECTION 3. The amendment permits the Superintendent to **make exceptions to the prescribed rate of interest that is used in computing the reserve in respect of life insurance policies.**

SECTION 4. The amendment limits the insurer's right to terminate the contract for non-payment of premium to only those cases **where the promise to pay is a bill of exchange or promissory note.**

BILL 92

1968-69

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 8 of section 1 of *The Insurance Act* is repealed. R.S.O. 1960, c. 190, s. 1, par. 8, repealed

2. Clause *c* of subsection 4 of section 62 of *The Insurance Act* is amended by striking out "matured" in the second line and inserting in lieu thereof "unmatured", so that the clause shall read as follows: R.S.O. 1960, c. 190, s. 62, subs. 4, cl. c, amended

- (c) the full amount of the legal reserve in respect of each unmaturred life insurance contract as set out in the schedule of contract legal reserves,

.

3. Paragraph 1 of subsection 2 of section 80 of *The Insurance Act*, as re-enacted by section 4 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960, c. 190, s. 80 (1962-63, c. 64, s. 4), subs. 2, par. 1, re-enacted

1. The rate of interest assumed shall not exceed the rate prescribed in Schedule D, except that where upon the application of a company the Superintendent is satisfied that a higher rate is appropriate for a particular class of policy issued by the company, the Superintendent may authorize the assumption of such higher rate of interest as the Superintendent specifies, and the Superintendent may withdraw his authorization at any time.

4. Subsection 3 of section 97 of *The Insurance Act* is amended by striking out "or any promise to pay" in the first and second lines and by striking out "or other promise to pay" in the fourth line, so that the subsection shall read as follows: R.S.O. 1960, c. 190, s. 97, subs. 3, amended

Where
note or
cheque for
premium
not
honoured

- (3) Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail.

R.S.O. 1960,
c. 190, s. 98,
amended

5. Section 98 of *The Insurance Act* is amended by adding thereto the following subsection:

Furnishing
of forms
not an
admission

- (3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

R.S.O. 1960,
c. 190, s. 111,
stat.
cond. 15,
re-enacted

6. Statutory condition 15 in section 111 of *The Insurance Act* is repealed and the following substituted therefor:

Notice

15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

R.S.O. 1960,
c. 190, s. 119,
subs. 2,
re-enacted

7. Subsection 2 of section 119 of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor:

Insurance
on premium
note plan

- (2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance but a mutual insurance company, without guarantee capital stock incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan, may also insure for the classes of insurance as specified in subsection 13 of section 151 of *The Corporations Act*.

R.S.O. 1960,
c. 71

8. Section 131 of *The Insurance Act* is amended by adding thereto the following subsection:

Mutual
insurance
corporations

- (4) A mutual insurance corporation without guarantee capital stock incorporated under subsection 3 of section 150 of *The Corporations Act* shall be deemed to be an insurer of the same class under subsection 1 and under subsection 4 of section 132.

R.S.O. 1960,
c. 190, s. 132,
amended

9. Section 132 of *The Insurance Act* is amended by adding thereto the following subsections:

SECTION 5. The amendment ensures that the mere supplying of proof of loss forms does not constitute an admission.

SECTION 6. The statutory condition is reworded to make the language uniform with that adopted by other provinces.

SECTIONS 7, 8 AND 9. The powers of fire mutual insurance corporations are extended to undertake liability insurance in respect of the persons and property insured against fire and provision is made for reinsurance.

SECTION 10. The amendment is for the purpose of uniform language in all insurance contracts in Canada.

SECTION 11. The amendments increase the minimum automobile public liability coverage from \$35,000 to \$50,000 and all the increase is added to the priority given claims for bodily injury or death.

- (4a) No mutual insurance corporation without guarantee capital stock incorporated to transact fire insurance on the premium note plan shall undertake contracts of weather insurance unless all liability for loss in excess of \$100 on any risk covered by weather insurance is reinsured with a licensed weather company or a mutual insurance corporation without guarantee capital stock incorporated pursuant to subsection 3 of section 150 of *The Corporations Act*. Reinsurance
re weather
insurance

R.S.O. 1960,
c. 71

- (4b) The reinsurance requirement under subsection 4a with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27. idem

10. Subcondition 8 of statutory condition 4 in section 204 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "independent" in the seventh line and inserting in lieu thereof "independently", so that the subcondition shall read as follows: R.S.O. 1960,
c. 190, s. 204
(1966, c. 71,
s. 11),
stat.
cond. 4,
subcond. 8,
amended

**In Case of
Disagreement**

(8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

11.—(1) Subsection 1 of section 216 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "\$35,000" in the third line and inserting in lieu thereof "\$50,000", so that the subsection shall read as follows: R.S.O. 1960,
c. 190, s. 216
(1966, c. 71,
s. 11)
subs. 1,
amended

- (1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property. Minimum
liability
under
policy

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 2, cl. a, amended (2) Clause a of subsection 2 of the said section 216 is amended by striking out "\$30,000" in the second line and inserting in lieu thereof "\$45,000", so that the clause shall read as follows:

(a) claims against the insured arising out of bodily injury or death have priority to the extent of \$45,000 over claims arising out of loss of or damage to property; and

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 3, amended (3) Subsection 3 of the said section 216 is amended by striking out "\$35,000" in the third line and in the fifth line and inserting in lieu thereof in each instance "\$50,000", so that the subsection shall read as follows:

Minimum limits where separate limits designated

(3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$50,000, exclusive of interest and costs, against liability for loss of or damage to property.

R.S.O. 1960, c. 190, s. 226b (1966, c. 71, s. 11), subs. 2, amended 12. Subsection 2 of section 226b of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line and by striking out "referred to" in the tenth line and inserting in lieu thereof "of the same type as is specified", so that the subsection shall read as follows:

Release by claimant

(2) Where an insurer makes a payment under a contract of insurance referred to in subsection 1, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

R.S.O. 1960, c. 138

SECTIONS 12 AND 13. The amendments are for the purpose of making the language uniform with other jurisdictions and make no change in principle.

SECTION 14. The amendment supplies a cross-reference originally omitted in error.

SECTION 15. The amendment adopts a uniform provision recommended by The Association of Superintendents of Insurance of the Provinces of Canada.

13. Subsection 2 of section 226c of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line, so that the subsection shall read as follows:

R.S.O. 1960,
c. 190,
s. 226c
(1966, c. 71,
s. 11),
subs. 2,
amended

- (2) Where an insurer makes a payment under a contract of insurance to which subsection 1 refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

Release by
claimant

R.S.O. 1960,
c. 138

14. Section 226e of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by inserting after "section" in the second line "226a", so that the section shall read as follows:

R.S.O. 1960,
c. 190,
s. 226e
(1966, c. 71,
s. 11),
amended

226e. Any person insured by but not named in a contract to which section 226a, 226b or 226c applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

Rights of
unnamed
insured

15. Section 226j of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 190,
s. 226j
(1966, c. 71,
s. 11),
amended

- (3) "Rateable proportion" as used in subsection 2 means,
- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;
- (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;

Rateable
proportion
defined

- (c) if there are more than two insurers liable, clauses *a* and *b* apply *mutatis mutandis*.

R.S.O. 1960.
c. 190,
Part VII
(ss. 227-251),
re-enacted

16.—(1) Subject to subsection 3, Part VII of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1961-62* and section 13 of *The Insurance Amendment Act, 1966*, is repealed and the following substituted therefor:

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpre-
tation

227. In this Part,

- (a) “application” means a written application for insurance or for the reinstatement of insurance;
- (b) “beneficiary” means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;
- (c) “blanket insurance” means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;
- (d) “contract” means a contract of insurance;
- (e) “court” means the Supreme Court, or a judge thereof;
- (f) “creditor’s group insurance” means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;
- (g) “declaration” means an instrument signed by the insured,
- (i) with respect to which an endorsement is made on the policy, or
- (ii) that identifies the contract, or
- (iii) that describes the insurance or insurance fund or a part thereof,

SECTION 16. The Accident and Sickness Part is re-enacted to adopt the uniform provisions recommended by The Association of Superintendents of Insurance of the Provinces of Canada. The principal changes include:

1. provision for group insurance;
2. revision of provisions respecting the capacity of minors as beneficiaries and the inclusion of trustee provisions similar to those in Part V respecting life insurance;
3. provisions respecting beneficiaries of insurance moneys payable by reason of death or accident;
4. provisions respecting designation of beneficiaries are expanded and made similar to those in Part V respecting life insurance.

in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money which is payable in the event of death by accident;

- (h) "family insurance" means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (i) "group insurance" means insurance other than creditor's group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
- (j) "group person insured" means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him;
- (k) "instrument" includes a will;
- (l) "insurance" means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- (m) "insured",
 - (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
 - (ii) in all other cases means the person who makes a contract with an insurer;
- (n) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- (o) "will" includes a codicil.

- Application of Part** 228.--(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in Ontario.
- Exceptions** (2) This Part does not apply to,
- (a) accidental death insurance; or
 - (b) creditor's group insurance; or
 - (c) disability insurance; or
 - (d) insurance provided under section 226a, 226b or 226c.
- Group insurance** 229. In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,
- (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in Ontario at the time he became insured; and
 - (b) the rights and obligations of the group person insured if he was resident in Ontario at the time he became insured.
- Issue of policy** 230. An insurer entering into a contract shall issue a policy.
- Exceptions** 231.--(1) This section does not apply to,
- (a) a contract of group insurance; or
 - (b) a contract made by a fraternal society.
- Contents of policy** (2) An insurer shall set forth the following particulars in the policy:
1. The name or a sufficient description of the insured and of the person insured.
 2. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
 3. The amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid.
 4. The conditions upon which the contract may be reinstated if it lapses.

5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

232. In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy: ^{Contents of group policy}

1. The name or a sufficient description of the insured.
2. The method of determining the group persons insured and persons insured.
3. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.
5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

233.—(1) Except as provided in subsection 2, in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group person insured a certificate or other document in which are set forth the following particulars: ^{Contents of group certificate}

1. The name of the insurer and a sufficient identification of the contract.
2. The amount or the method of determining the amount of insurance on the group person insured and on any person insured.
3. The circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. ^{Exception}

234.—(1) Subject to section 235 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as "Exceptions" or "Reductions". ^{Exceptions or reductions}

Idem (2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.

Idem (3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

Idem (4) The exception or reduction mentioned in section 247 need not be set forth in the policy.

Idem (5) This section does not apply to a contract made by a fraternal society.

Statutory conditions 235. Subject to section 236, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading "Statutory Conditions".

STATUTORY CONDITIONS

The Contract 1.—(1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

Waiver (2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

Copy of Application (3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

Material Facts 2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.

Changes in Occupation 3.—(1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

(a) reduce the premium rate; or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

Relation of Earnings to Insurance

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

Termination by Insured

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Termination by Insurer

6.—(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

Notice and Proof of Claim

7.—(1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall

(a) give written notice of claim to the insurer,

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or

(ii) by delivery thereof to an authorized agent of the insurer in the Province,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

(b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and

- (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.

Failure to Give Notice or Proof

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

Insurer to Furnish Forms for Proof of Claim

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Rights of Examination

9. As a condition precedent to recovery of insurance moneys under this contract,
- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending, and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

When Moneys Payable Other Than for Loss of Time

10. All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

When Loss of Time Benefits Payable

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

Limitation of Actions

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

Omission or variation of conditions

236.—(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted. ^{Idem}

(4) Statutory conditions 3, 4, 5, 6 and 9, and subject to the restriction in subsection 5, statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 235. ^{Idem}

(5) Clauses *a* and *b* of paragraph 1 of statutory condition 7 may not be varied in policies providing benefits for loss of time. ^{Idem}

(6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein. ^{Idem}

(7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted. ^{Idem}

(8) In the case of a contract made by a fraternal society, ^{Contract by fraternal society}

(a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1:

The Contract

1.—(1) This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 shall not be printed on the policy.

237. In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type: ^{Notice of statutory conditions}

“Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in *The Insurance Act* respecting contracts of accident insurance. ^{R.S.O. 1960. c. 190}

Termination
for non-
payment of
initial or
renewal
premium

238.—(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid,

- (a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such premium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and
- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

Exception

(2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Right
where
premium
unpaid

239.—(1) An insurer may,

- (a) deduct unpaid premiums from an amount that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

Where
cheque or
note for
premium
not paid

(2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor the premium or part thereof shall be deemed never to have been paid.

Exception

(3) Clause *a* of subsection 1 does not apply to a contract of group insurance.

Idem

(4) This section does not apply to a contract made by a fraternal society.

Insurable
interest

240. Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and well-being and in the life and well-being of,

- (a) his child or grandchild;
- (b) his spouse;

- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
- (d) his officer or employee; and
- (e) any person in whom he has a pecuniary interest.

241.—(1) Subject to subsection 2, where at the time a contract would otherwise take effect, the insured has no insurable interest, the contract is void. Lack of insurable interest

(2) A contract is not void for lack of insurable interest, Exceptions

- (a) if it is a contract of group insurance; or
- (b) if the person insured has consented in writing to the insurance.

(3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing *in loco parentis* to him. Consent of minors

POLICIES ON LIVES OF MINORS

242.—(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years, Capacity of minors

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

(2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a valid discharge therefor. Capacity of minor beneficiary

MISREPRESENTATION AND NON-DISCLOSURE

243.—(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other. Duty to disclose

(2) Subject to sections 244 and 247, a failure to disclose, or a misrepresentation of, such a fact renders a contract voidable by the insurer. Failure to disclose

Group insurance failure to disclose

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or a person insured under the contract does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 244, voidable by the insurer.

Incontestability

244.—(1) Subject to section 247 and except as provided in subsection 2,

(a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable;

(b) where a contract of group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

Exception

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim.

Application of incontestability to reinstatement

245. Sections 243 and 244 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose or a misrepresentation at that time, and the period of two years to which reference is made in section 244 commences to run in respect of a reinstatement from the date of reinstatement.

Pre-existing conditions

246. Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss incurred or commencement of disability with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part if the disease or physical condition was disclosed in the application for the contract.

247.—(1) Subject to subsections 2 and 3, if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either,

- (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
- (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

(2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply.

(3) Where the age of a person affects the commencement or termination of the insurance, the true age governs.

BENEFICIARIES

248.—(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident, and may from time to time alter or revoke the designation by declaration.

(2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will.

(3) A designation in a will is of no effect against a designation made later than the making of the will.

- Revocation** (4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.
- Idem** (5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked.
- Meaning of "heirs", etc.** 249.—(1) A designation in favour of the "heirs", "next-of-kin" or "estate", or the use of words of like import in a designation shall be deemed to be a designation of the personal representative.
- Death of beneficiary** (2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by declaration, the share is payable,
- (a) to the surviving beneficiary; or
 - (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or
 - (c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.
- Right to sue** (3) A beneficiary designated under section 248 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 250 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative.
- Trustee for beneficiary** 250. An insured may in a contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration.
- Documents affecting title** 251.—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

(2) Subsection 1 does not affect the rights or interests of any person other than the insurer. Saving

(3) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against, Interest of assignee

(a) any assignee other than one who gave notice earlier in like manner; and

(b) a beneficiary.

(4) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given by the contract and by this Part to the insured, and shall be deemed to be the insured. Assignee deemed to be insured

(5) A provision in a contract to the effect that the rights or interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable, is valid. Prohibition against assignment

251a.—(1) Where a beneficiary is designated, any insurance money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured, and is not subject to the claims of the creditors of the insured. Insurance money free from creditors

(2) While there is in effect a designation of beneficiary in favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to accidental death benefits are exempt from execution or seizure. Contract exempt from seizure

251b. A group person insured may, in his own name, enforce a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured. Group person insured enforcing rights

251c. Unless a contract or a declaration otherwise provides, where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 2 of section 249 as if the beneficiary had predeceased the person insured or group person insured. Simultaneous deaths

251d.—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that, Payment into court

(a) there are adverse claimants; or

- (b) the whereabouts of the person entitled is unknown;
or
- (c) there is no person capable of giving or authorized to give a valid discharge therefor who is willing to do so,

the insurer may apply *ex parte* to the court for an order for payment of money into court, and the court may upon such notice, if any, as it deems necessary, make an order accordingly.

Costs of proceedings

(2) The court may fix without taxation the costs incurred upon or in connection with any application or order made under subsection 1, and may order the costs to be paid out of the insurance money or by the insurer or otherwise as it deems just.

Discharge of insurer

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment.

Where beneficiary a minor

251e.—(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money less the applicable costs mentioned in subsection 2 into court to the credit of the minor.

Costs

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection 1, the sum of \$10 where the amount does not exceed \$1,000, and the sum of \$15 in other cases, and payment of the remainder of the money into court discharges the insurer.

Procedure

(3) No order is necessary for payment into court under subsection 1, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit.

Beneficiary under disability

251f. Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid.

251g. Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding \$2,000 to, Payments not exceeding \$2,000

- (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid.

251h.—(1) Subject to subsection 2, insurance money is payable in Ontario. Place of payment

(2) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group person insured was resident at the time he became insured. Exception for group insurance

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere. Dollars

(4) Where a person entitled to receive insurance money is not domiciled in Ontario the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid. Payment outside Ontario

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in Ontario, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid. Payment to personal representative

251i. Regardless of the place where a contract was made, a claimant who is a resident of Ontario may bring an action in Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought. Action in Ontario

Insurer giving information

251j. An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money.

Undue prominence

251k. The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy.

Relief from forfeiture

251l. Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just.

Presumption against agency

251m. No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer shall, to the prejudice of the insured, person insured or group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract.

Application

(2) Part VII of *The Insurance Act*, as re-enacted by subsection 1, applies to contracts made after this section comes into force.

Idem

(3) In the case of contracts made before this section comes into force and in effect on the day this section comes into force,

- (a) sections 227, 228, 229, 230, 237, 240, 241, 242, 246 and sections 248 to 251m of *The Insurance Act*, as re-enacted by this section, apply; and
- (b) sections 230, 231, 232, 233, 235, 242 and 245 of *The Insurance Act*, as they existed immediately before this section comes into force, continue to apply.

R.S.O. 1960, c. 190, s. 315, subs. 2, re-enacted

17.—(1) Subsection 2 of section 315 of *The Insurance Act* is repealed and the following substituted therefor:

Classes of licences

- (2) Licences so issued shall be of three classes, that is,
 - (a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

SECTION 17—Subsection 1. The classes of licences are renamed to conform better to present practices.

Subsection 2. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is prescribed as \$2.

SECTION 18. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is fixed at \$2.

SECTION 19. The amendments provide separate fees for agents, brokers or adjusters who are corporations.

- (b) licences for accident and sickness insurance; or
- (c) licences for all classes of insurance other than life insurance.

(2) Subsection 6 of the said section 315 is amended by striking out "a fee of \$1" in the seventh line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 315, subs. 6, amended

18. Subsection 6 of section 316 of *The Insurance Act* is amended by striking out "a fee of \$1" in the eighth line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 316, subs. 6, amended

19.—(1) Item 12 of Schedule A to *The Insurance Act* is amended by adding thereto the following clause: R.S.O. 1960, c. 190, Sched. A, item 12, amended

(d) where the applicant is a corporation. 25

(2) Clause c of item 13 of the said Schedule A, as re-enacted by subsection 2 of section 6 of *The Insurance Amendment Act, 1968*, is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 13 (1968, c. 58, s. 6, subs. 2), cl. c, re-enacted

- (c) where the applicant is a corporation. 25
- (d) for transfer or revival of a licence. 2
- (e) all other applicants. 25

(3) Item 14 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 14, re-enacted

14. Licences for insurance brokers and renewals thereof whether corporate or otherwise. 25

(4) Item 17 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 17, re-enacted

17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket salesmen to act as agent for travel accident insurance, livestock insurance or baggage insurance, and renewals thereof. 25

20.—(1) This Act, except sections 1, 11 and 16, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 1 and 16 come into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

(3) Section 11 comes into force on the 1st day of September, 1969. Idem

21. This Act may be cited as *The Insurance Amendment Act, 1968-69*. Short title

1st Reading

March 19th, 1969

2nd Reading

March 26th, 1969

3rd Reading

MR. ROWNTREE

*(Reprinted as amended by
the Legal and Municipal Committee)*

BILL 92

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. ROWNTREE

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Complementary to section 16 of the Bill.

SECTION 2. The amendment corrects a typographical error.

SECTION 3. The amendment permits the Superintendent to make exceptions to the prescribed rate of interest that is used in computing the reserve in respect of life insurance policies.

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 8 of section 1 of *The Insurance Act* is repealed. R.S.O. 1960,
c. 190, s. 1,
par. 8,
repealed

2. Clause *c* of subsection 4 of section 62 of *The Insurance Act* is amended by striking out "matured" in the second line and inserting in lieu thereof "unmatured", so that the clause shall read as follows: R.S.O. 1960,
c. 190, s. 62,
subs. 4, cl. c,
amended

- (c) the full amount of the legal reserve in respect of each unmaturred life insurance contract as set out in the schedule of contract legal reserves,
-

3. Paragraph 1 of subsection 2 of section 80 of *The Insurance Act*, as re-enacted by section 4 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 190, s. 80
(1962-63,
c. 64, s. 4),
subs. 2,
par. 1,
re-enacted

1. The rate of interest assumed shall not exceed the rate prescribed in Schedule D, except that where, upon the application of a company and upon the recommendation of the Superintendent, the Lieutenant Governor in Council is satisfied that a higher rate is appropriate for a particular class of policy issued by the company, the Lieutenant Governor in Council may by order authorize the assumption of such higher rate of interest as the Lieutenant Governor in Council specifies in the order, and the Lieutenant Governor in Council may by order withdraw his authorization at any time and an order of the Lieutenant Governor in Council under this paragraph shall be deemed to be a regulation within the meaning of *The Regulations Act*.

R.S.O. 1960,
c. 349

R.S.O. 1960,
c. 190, s. 97,
subs. 3,
amended

4. Subsection 3 of section 97 of *The Insurance Act* is amended by striking out "or any promise to pay" in the first and second lines and by striking out "or other promise to pay" in the fourth line, so that the subsection shall read as follows:

Where
note or
cheque for
premium
not
honoured

(3) Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail.

R.S.O. 1960,
c. 190, s. 98,
amended

5. Section 98 of *The Insurance Act* is amended by adding thereto the following subsection:

Furnishing
of forms
not an
admission

(3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

R.S.O. 1960,
c. 190, s. 111,
stat.
cond. 15,
re-enacted

6. Statutory condition 15 in section 111 of *The Insurance Act* is repealed and the following substituted therefor:

Notice

15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

R.S.O. 1960,
c. 190, s. 119,
subs. 2,
re-enacted

7. Subsection 2 of section 119 of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor:

Insurance
on premium
note plan

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance but a mutual insurance company, without guarantee capital stock incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan, may also insure for the classes of insurance as specified in subsection 13 of section 151 of *The Corporations Act*.

R.S.O. 1960,
c. 71

R.S.O. 1960,
c. 190, s. 131,
amended

8. Section 131 of *The Insurance Act* is amended by adding thereto the following subsection:

Mutual
insurance
corporations

(4) A mutual insurance corporation without guarantee capital stock incorporated under subsection 3 of section 150 of *The Corporations Act* shall be deemed to be an insurer of the same class under subsection 1 and under subsection 4 of section 132.

SECTION 4. The amendment limits the insurer's right to terminate the contract for non-payment of premium to only those cases where the promise to pay is a bill of exchange or promissory note.

SECTION 5. The amendment ensures that the mere supplying of proof of loss forms does not constitute an admission.

SECTION 6. The statutory condition is reworded to make the language uniform with that adopted by other provinces.

SECTIONS 7, 8 AND 9. The powers of fire mutual insurance corporations are extended to undertake liability insurance in respect of the persons and property insured against fire and provision is made for reinsurance.

SECTION 10. The amendment is for the purpose of uniform language in all insurance contracts in Canada.

SECTION 11. The amendments increase the minimum automobile public liability coverage from \$35,000 to \$50,000 and all the increase is added to the priority given claims for bodily injury or death.

9. Section 132 of *The Insurance Act* is amended by adding thereto the following subsections: R.S.O. 1960,
c. 190, s. 132,
amended

(4a) No mutual insurance corporation without guarantee capital stock incorporated to transact fire insurance on the premium note plan shall undertake contracts of weather insurance unless all liability for loss in excess of \$100 on any risk covered by weather insurance is reinsured with a licensed weather company or a mutual insurance corporation without guarantee capital stock incorporated pursuant to subsection 3 of section 150 of *The Corporations Act*. Reinsurance
re weather
insurance

R.S.O. 1960,
c. 71

(4b) The reinsurance requirement under subsection 4a with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27. Idem

10. Subcondition 8 of statutory condition 4 in section 204 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "independent" in the seventh line and inserting in lieu thereof "independently", so that the subcondition shall read as follows: R.S.O. 1960,
c. 190, s. 204
(1966, c. 71,
s. 11),
stat.
cond. 4,
subcond. 8,
amended

In Case of Disagreement (8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

11.—(1) Subsection 1 of section 216 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "\$35,000" in the third line and inserting in lieu thereof "\$50,000", so that the subsection shall read as follows: R.S.O. 1960,
c. 190, s. 216
(1966, c. 71,
s. 11)
subs. 1,
amended

(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property. Minimum
liability
under
policy

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 2, cl. a, amended (2) Clause *a* of subsection 2 of the said section 216 is amended by striking out "\$30,000" in the second line and inserting in lieu thereof "\$45,000", so that the clause shall read as follows:

- (a) claims against the insured arising out of bodily injury or death have priority to the extent of \$45,000 over claims arising out of loss of or damage to property; and

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 3, amended (3) Subsection 3 of the said section 216 is amended by striking out "\$35,000" in the third line and in the fifth line and inserting in lieu thereof in each instance "\$50,000", so that the subsection shall read as follows:

Minimum limits where separate limits designated

- (3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$50,000, exclusive of interest and costs, against liability for loss of or damage to property.

R.S.O. 1960, c. 190, s. 226b (1966, c. 71, s. 11), subs. 2, amended **12.** Subsection 2 of section 226b of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line and by striking out "referred to" in the tenth line and inserting in lieu thereof "of the same type as is specified", so that the subsection shall read as follows:

Release by claimant

- (2) Where an insurer makes a payment under a contract of insurance referred to in subsection 1, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

R.S.O. 1960, c. 138

SECTIONS 12 AND 13. The amendments are for the purpose of making the language uniform with other jurisdictions and make no change in principle.

SECTION 14. The amendment supplies a cross-reference originally omitted in error.

SECTION 15. The amendment adopts a uniform provision recommended by The Association of Superintendents of Insurance of the Provinces of Canada.

13. Subsection 2 of section 226c of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line, so that the subsection shall read as follows:

R.S.O. 1960.
c. 190,
s. 226c
(1966, c. 71
s. 11),
subs. 2,
amended

- (2) Where an insurer makes a payment under a contract of insurance to which subsection 1 refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

Release by
claimant

R.S.O. 1960.
c. 138

14. Section 226e of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by inserting after "section" in the second line "226a", so that the section shall read as follows:

R.S.O. 1960.
c. 190,
s. 226e
(1966, c. 71,
s. 11),
amended

- 226e. Any person insured by but not named in a contract to which section 226a, 226b or 226c applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

Rights of
unnamed
insured

15. Section 226j of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by adding thereto the following subsection:

R.S.O. 1960.
c. 190,
s. 226j
(1966, c. 71,
s. 11),
amended

- (3) "Rateable proportion" as used in subsection 2 means,
- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;
- (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;

Rateable
proportion
defined

- (c) if there are more than two insurers liable, clauses *a* and *b* apply *mutatis mutandis*.

R.S.O. 1960,
c. 190,
Part VII
(ss. 227-251),
re-enacted

16.—(1) Subject to subsection 3, Part VII of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1961-62* and section 13 of *The Insurance Amendment Act, 1966*, is repealed and the following substituted therefor:

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpre-
tation

227. In this Part,

- (a) “application” means a written application for insurance or for the reinstatement of insurance;
- (b) “beneficiary” means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;
- (c) “blanket insurance” means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;
- (d) “contract” means a contract of insurance;
- (e) “court” means the Supreme Court, or a judge thereof;
- (f) “creditor’s group insurance” means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;
- (g) “declaration” means an instrument signed by the insured,
- (i) with respect to which an endorsement is made on the policy, or
 - (ii) that identifies the contract, or
 - (iii) that describes the insurance or insurance fund or a part thereof,

SECTION 16. The Accident and Sickness Part is re-enacted to adopt the uniform provisions recommended by The Association of Superintendents of Insurance of the Provinces of Canada. The principal changes include:

1. provision for group insurance;
2. revision of provisions respecting the capacity of minors as beneficiaries and the inclusion of trustee provisions similar to those in Part V respecting life insurance;
3. provisions respecting beneficiaries of insurance moneys payable by reason of death or accident;
4. provisions respecting designation of beneficiaries are expanded and made similar to those in Part V respecting life insurance.

in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money which is payable in the event of death by accident;

- (h) "family insurance" means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (i) "group insurance" means insurance other than creditor's group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
- (j) "group person insured" means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him;
- (k) "instrument" includes a will;
- (l) "insurance" means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- (m) "insured",
 - (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
 - (ii) in all other cases means the person who makes a contract with an insurer;
- (n) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- (o) "will" includes a codicil.

Application of Part 228.—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in Ontario.

Exceptions (2) This Part does not apply to,

- (a) accidental death insurance; or
- (b) creditor's group insurance; or
- (c) disability insurance; or
- (d) insurance provided under section 226a, 226b or 226c.

Group insurance 229. In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,

- (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in Ontario at the time he became insured; and
- (b) the rights and obligations of the group person insured if he was resident in Ontario at the time he became insured.

Issue of policy 230. An insurer entering into a contract shall issue a policy.

Exceptions 231.—(1) This section does not apply to,

- (a) a contract of group insurance; or
- (b) a contract made by a fraternal society.

Contents of policy (2) An insurer shall set forth the following particulars in the policy:

1. The name or a sufficient description of the insured and of the person insured.
2. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
3. The amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid.
4. The conditions upon which the contract may be reinstated if it lapses.

5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

232. In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy: ^{Contents of group policy}

1. The name or a sufficient description of the insured.
2. The method of determining the group persons insured and persons insured.
3. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.
5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

233.—(1) Except as provided in subsection 2, in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group person insured a certificate or other document in which are set forth the following particulars: ^{Contents of group certificate}

1. The name of the insurer and a sufficient identification of the contract.
2. The amount or the method of determining the amount of insurance on the group person insured and on any person insured.
3. The circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. ^{Exception}

234.—(1) Subject to section 235 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as "Exceptions" or "Reductions". ^{Exceptions or reductions}

Idem (2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.

Idem (3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

Idem (4) The exception or reduction mentioned in section 247 need not be set forth in the policy.

Idem (5) This section does not apply to a contract made by a fraternal society.

Statutory conditions 235. Subject to section 236, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading "Statutory Conditions".

STATUTORY CONDITIONS

The Contract 1.—(1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

Waiver (2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

Copy of Application (3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

Material Facts 2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.

Changes in Occupation 3.—(1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

(a) reduce the premium rate; or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

Relation of Earnings to Insurance

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

Termination by Insured

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Termination by Insurer

6.—(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

Notice and Proof of Claim

7.—(1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall

(a) give written notice of claim to the insurer,

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or

(ii) by delivery thereof to an authorized agent of the insurer in the Province,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

(b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and

- (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.

Failure to Give Notice or Proof

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

Insurer to Furnish Forms for Proof of Claim

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Rights of Examination

9. As a condition precedent to recovery of insurance moneys under this contract,
- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending, and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

When Moneys Payable Other Than for Loss of Time

10. All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

When Loss of Time Benefits Payable

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

Limitation of Actions

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

Omission or variation of conditions

236.-(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted. ^{Idem}

(4) Statutory conditions 3, 4, 5, 6 and 9, and subject to the restriction in subsection 5, statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 235. ^{Idem}

(5) Clauses *a* and *b* of paragraph 1 of statutory condition 7 may not be varied in policies providing benefits for loss of time. ^{Idem}

(6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein. ^{Idem}

(7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted. ^{Idem}

(8) In the case of a contract made by a fraternal society, ^{Contract by fraternal society}

(a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1:

The Contract

1.—(1) This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 shall not be printed on the policy.

237. In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type: ^{Notice of statutory conditions}

“Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in *The Insurance Act* respecting contracts of accident insurance. ^{R.S.O. 1960 c. 190}

Termination
for non-
payment of
initial or
renewal
premium

238.—(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid,

- (a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such premium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and
- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

Exception

(2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Right
where
premium
unpaid

239.—(1) An insurer may,

- (a) deduct unpaid premiums from an amount that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

Where
cheque or
note for
premium
not paid

(2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor the premium or part thereof shall be deemed never to have been paid.

Exception

(3) Clause *a* of subsection 1 does not apply to a contract of group insurance.

Idem

(4) This section does not apply to a contract made by a fraternal society.

Insurable
interest

240. Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and well-being and in the life and well-being of,

- (a) his child or grandchild;
- (b) his spouse;

- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
- (d) his officer or employee; and
- (e) any person in whom he has a pecuniary interest.

241.—(1) Subject to subsection 2, where at the time a contract would otherwise take effect, the insured has no insurable interest, the contract is void. Lack of insurable interest

- (2) A contract is not void for lack of insurable interest, Exceptions
- (a) if it is a contract of group insurance; or
- (b) if the person insured has consented in writing to the insurance.

(3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing *in loco parentis* to him. Consent of minors

POLICIES ON LIVES OF MINORS

242.—(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years, Capacity of minors

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

(2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a valid discharge therefor. Capacity of minor beneficiary

MISREPRESENTATION AND NON-DISCLOSURE

243.—(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other. Duty to disclose

(2) Subject to sections 244 and 247, a failure to disclose, or a misrepresentation of, such a fact renders a contract voidable by the insurer. Failure to disclose

Group
insurance
failure to
disclose

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or a person insured under the contract does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 244, voidable by the insurer.

Incontest-
ability

244.—(1) Subject to section 247 and except as provided in subsection 2,

(a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable;

(b) where a contract of group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

Exception

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim.

Application
of incontest-
ability to
reinstatement

245. Sections 243 and 244 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose or a misrepresentation at that time, and the period of two years to which reference is made in section 244 commences to run in respect of a reinstatement from the date of reinstatement.

Pre-existing
conditions

246. Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss incurred or commencement of disability with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part if the disease or physical condition was disclosed in the application for the contract.

247.—(1) Subject to subsections 2 and 3, if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either, ^{Misstatement of age}

- (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
- (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

(2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply. ^{Misstatement of age in group insurance}

(3) Where the age of a person affects the commencement or termination of the insurance, the true age governs. ^{True age governs}

BENEFICIARIES

248.—(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident, and may from time to time alter or revoke the designation by declaration. ^{Designation of beneficiary}

(2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will. ^{Designation in invalid will}

(3) A designation in a will is of no effect against a designation made later than the making of the will. ^{Priorities}

Revocation (4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.

Idem (5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked.

Meaning of "heirs", etc. 249.—(1) A designation in favour of the "heirs", "next-of-kin" or "estate", or the use of words of like import in a designation shall be deemed to be a designation of the personal representative.

Death of beneficiary (2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by declaration, the share is payable,

(a) to the surviving beneficiary; or

(b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or

(c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.

Right to sue (3) A beneficiary designated under section 248 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 250 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative.

Trustee for beneficiary 250. An insured may in a contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration.

Documents affecting title 251.—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

(2) Subsection 1 does not affect the rights or interests of any person other than the insurer. Saving

(3) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against, Interest of assignee

(a) any assignee other than one who gave notice earlier in like manner; and

(b) a beneficiary.

(4) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given by the contract and by this Part to the insured, and shall be deemed to be the insured. Assignee deemed to be insured

(5) A provision in a contract to the effect that the rights or interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable, is valid. Prohibition against assignment

251a.—(1) Where a beneficiary is designated, any insurance money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured, and is not subject to the claims of the creditors of the insured. Insurance money free from creditors

(2) While there is in effect a designation of beneficiary in favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to accidental death benefits are exempt from execution or seizure. Contract exempt from seizure

251b. A group person insured may, in his own name, enforce a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured. Group person insured enforcing rights

251c. Unless a contract or a declaration otherwise provides, where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 2 of section 249 as if the beneficiary had predeceased the person insured or group person insured. Simultaneous deaths

251d.—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that, Payment into court

(a) there are adverse claimants; or

(b) the whereabouts of the person entitled is unknown;
or

(c) there is no person capable of giving or authorized to
give a valid discharge therefor who is willing to do so,

the insurer may apply *ex parte* to the court for an order for
payment of money into court, and the court may upon such
notice, if any, as it deems necessary, make an order accord-
ingly.

Costs of
proceedings

(2) The court may fix without taxation the costs incurred
upon or in connection with any application or order made
under subsection 1, and may order the costs to be paid out of
the insurance money or by the insurer or otherwise as it deems
just.

Discharge
of insurer

(3) A payment made pursuant to an order under subsection
1 discharges the insurer to the extent of the payment.

Where
beneficiary
a minor

251e.—(1) Where an insurer admits liability for insurance
money payable to a minor and there is no person capable of
giving and authorized to give a valid discharge therefor who is
willing to do so, the insurer may at any time after thirty days
from the date of the happening of the event upon which the
insurance money becomes payable, pay the money less the
applicable costs mentioned in subsection 2 into court to the
credit of the minor.

Costs

(2) The insurer may retain out of the insurance money for
costs incurred upon payment into court under subsection 1,
the sum of \$10 where the amount does not exceed \$1,000, and
the sum of \$15 in other cases, and payment of the remainder
of the money into court discharges the insurer.

Procedure

(3) No order is necessary for payment into court under
subsection 1, but the accountant or other proper officer shall
receive the money upon the insurer filing with him an affidavit
showing the amount payable and the name, date of birth and
residence of the minor, and upon such payment being made the
insurer shall forthwith notify the Official Guardian and
deliver to him a copy of the affidavit.

Beneficiary
under
disability

251f. Where it appears that a representative of a bene-
ficiary who is under disability may under the law of the
domicile of the beneficiary accept payments on behalf of the
beneficiary, the insurer may make payment to the represen-
tative and any such payment discharges the insurer to the
extent of the amount paid.

251g. Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding \$2,000 to, ^{Payments not exceeding \$2,000}

- (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid.

251h.—(1) Subject to subsection 2, insurance money is payable in Ontario. ^{Place of payment}

(2) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group person insured was resident at the time he became insured. ^{Exception for group insurance}

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere. ^{Dollars}

(4) Where a person entitled to receive insurance money is not domiciled in Ontario the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid. ^{Payment outside Ontario}

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in Ontario, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid. ^{Payment to personal representative}

251i. Regardless of the place where a contract was made, a claimant who is a resident of Ontario may bring an action in Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought. ^{Action in Ontario}

Insurer giving information

251j. An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money.

Undue prominence

251k. The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy.

Relief from forfeiture

251l. Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just.

Presumption against agency

251m. No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer shall, to the prejudice of the insured, person insured or group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract.

Application

(2) Part VII of *The Insurance Act*, as re-enacted by subsection 1, applies to contracts made after this section comes into force.

Idem

(3) In the case of contracts made before this section comes into force and in effect on the day this section comes into force,

(a) sections 227, 228, 229, 230, 237, 240, 241, 242, 246 and sections 248 to 251m of *The Insurance Act*, as re-enacted by this section, apply; and

(b) sections 230, 231, 232, 233, 235, 242 and 245 of *The Insurance Act*, as they existed immediately before this section comes into force, continue to apply.

R.S.O. 1960, c. 190, s. 315, s. 416, 2 re-enacted

17. —(1) Subsection 2 of section 315 of *The Insurance Act* is repealed and the following substituted therefor:

Classes of licences

(2) Licences so issued shall be of three classes, that is,

(a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

SECTION 17—Subsection 1. The classes of licences are renamed to conform better to present practices.

Subsection 2. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is prescribed as \$2.

SECTION 18. The fixing of the fee for revival of a salesman's licence is left to the Schedule where it is fixed at \$2.

SECTION 19. The amendments provide separate fees for agents, brokers or adjusters who are corporations.

(b) licences for accident and sickness insurance; or

(c) licences for all classes of insurance other than life insurance.

(2) Subsection 6 of the said section 315 is amended by striking out "a fee of \$1" in the seventh line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960,
c. 190, s. 315,
subs. 6,
amended

18. Subsection 6 of section 316 of *The Insurance Act* is amended by striking out "a fee of \$1" in the eighth line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960,
c. 190, s. 316,
subs. 6,
amended

19.—(1) Item 12 of Schedule A to *The Insurance Act* is amended by adding thereto the following clause: R.S.O. 1960,
c. 190,
Sched. A,
item 12,
amended

(d) where the applicant is a corporation 25

(2) Clause c of item 13 of the said Schedule A, as re-enacted by subsection 2 of section 6 of *The Insurance Amendment Act, 1968*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 190,
Sched. A,
item 13
(1968, c. 58,
s. 6, subs. 2),
cl. c,
re-enacted

(c) where the applicant is a corporation 25

(d) for transfer or revival of a licence 2

(e) all other applicants 25

(3) Item 14 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960,
c. 190,
Sched. A,
item 14,
re-enacted

14. Licences for insurance brokers and renewals thereof whether corporate or otherwise 25

(4) Item 17 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960,
c. 190,
Sched. A,
item 17,
re-enacted

17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket salesmen to act as agent for travel accident insurance, livestock insurance or baggage insurance, and renewals thereof 25

20.—(1) This Act, except sections 1, 11 and 16, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 1 and 16 come into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

(3) Section 11 comes into force on the 1st day of September, 1969. Idem

21. This Act may be cited as *The Insurance Amendment Act, 1968-69*. Short title

1st Reading

March 19th, 1969

2nd Reading

March 26th, 1969

3rd Reading

MR. ROWNTREE

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 92

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Insurance Act

MR. ROWNTREE



BILL 92

1968-69

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 8 of section 1 of *The Insurance Act* is repealed. R.S.O. 1960,
c. 190, s. 1,
par. 8,
repealed

2. Clause *c* of subsection 4 of section 62 of *The Insurance Act* is amended by striking out "matured" in the second line and inserting in lieu thereof "unmatured", so that the clause shall read as follows: R.S.O. 1960,
c. 190, s. 62,
subs. 4, cl. *c*,
amended

- (*c*) the full amount of the legal reserve in respect of each unmaturred life insurance contract as set out in the schedule of contract legal reserves,
-

3. Paragraph 1 of subsection 2 of section 80 of *The Insurance Act*, as re-enacted by section 4 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 190, s. 80
(1962-63,
c. 64, s. 4),
subs. 2,
par. 1,
re-enacted

1. The rate of interest assumed shall not exceed the rate prescribed in Schedule D, except that where, upon the application of a company and upon the recommendation of the Superintendent, the Lieutenant Governor in Council is satisfied that a higher rate is appropriate for a particular class of policy issued by the company, the Lieutenant Governor in Council may by order authorize the assumption of such higher rate of interest as the Lieutenant Governor in Council specifies in the order, and the Lieutenant Governor in Council may by order withdraw his authorization at any time and an order of the Lieutenant Governor in Council under this paragraph shall be deemed to be a regulation within the meaning of *The Regulations Act*.

R.S.O. 1960,
c. 349

H.S.O. 1960,
c. 190, s. 97,
subs. 3,
amended

4. Subsection 3 of section 97 of *The Insurance Act* is amended by striking out "or any promise to pay" in the first and second lines and by striking out "or other promise to pay" in the fourth line, so that the subsection shall read as follows:

Where
note or
cheque for
premium
not
honoured

(3) Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract forthwith by giving written notice by registered mail.

R.S.O. 1960,
c. 190, s. 98,
amended

5. Section 98 of *The Insurance Act* is amended by adding thereto the following subsection:

Furnishing
of forms
not an
admission

(3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

R.S.O. 1960,
c. 190, s. 111,
stat.
cond. 15,
re-enacted

6. Statutory condition 15 in section 111 of *The Insurance Act* is repealed and the following substituted therefor:

Notice 15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

R.S.O. 1960,
c. 190, s. 119,
subs. 2,
re-enacted

7. Subsection 2 of section 119 of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1962-63*, is repealed and the following substituted therefor:

Insurance
on premium
note plan

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance but a mutual insurance company, without guarantee capital stock incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan, may also insure for the classes of insurance as specified in subsection 13 of section 151 of *The Corporations Act*.

R.S.O. 1960,
c. 71

8. Section 131 of *The Insurance Act* is amended by adding thereto the following subsection:

Mutual
insurance
corporations

(4) A mutual insurance corporation without guarantee capital stock incorporated under subsection 3 of section 150 of *The Corporations Act* shall be deemed to be an insurer of the same class under subsection 1 and under subsection 4 of section 132.

9. Section 132 of *The Insurance Act* is amended by adding thereto the following subsections: R.S.O. 1960, c. 190, s. 132, amended

(4a) No mutual insurance corporation without guarantee capital stock incorporated to transact fire insurance on the premium note plan shall undertake contracts of weather insurance unless all liability for loss in excess of \$100 on any risk covered by weather insurance is reinsured with a licensed weather company or a mutual insurance corporation without guarantee capital stock incorporated pursuant to subsection 3 of section 150 of *The Corporations Act*. Reinsurance re weather insurance
R.S.O. 1960, c. 71

(4b) The reinsurance requirement under subsection 4a with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27. Idem

10. Subcondition 8 of statutory condition 4 in section 204 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "independent" in the seventh line and inserting in lieu thereof "independently", so that the subcondition shall read as follows: R.S.O. 1960, c. 190, s. 204 (1966, c. 71, s. 11), stat. cond. 4, subcond. 8, amended

In Case of Disagreement (8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

11.—(1) Subsection 1 of section 216 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "\$35,000" in the third line and inserting in lieu thereof "\$50,000", so that the subsection shall read as follows: R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11) subs. 1, amended

(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property. Minimum liability under policy

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 2, cl. a, amended

(2) Clause *a* of subsection 2 of the said section 216 is amended by striking out "\$30,000" in the second line and inserting in lieu thereof "\$45,000", so that the clause shall read as follows:

- (a) claims against the insured arising out of bodily injury or death have priority to the extent of \$45,000 over claims arising out of loss of or damage to property; and

.

R.S.O. 1960, c. 190, s. 216 (1966, c. 71, s. 11), subs. 3, amended

(3) Subsection 3 of the said section 216 is amended by striking out "\$35,000" in the third line and in the fifth line and inserting in lieu thereof in each instance "\$50,000", so that the subsection shall read as follows:

Minimum limits where separate limits designated

- (3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$50,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$50,000, exclusive of interest and costs, against liability for loss of or damage to property.

R.S.O. 1960, c. 190, s. 226b (1966, c. 71, s. 11), subs. 2, amended

12. Subsection 2 of section 226b of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line and by striking out "referred to" in the tenth line and inserting in lieu thereof "of the same type as is specified", so that the subsection shall read as follows:

Release by claimant

- (2) Where an insurer makes a payment under a contract of insurance referred to in subsection 1, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

R.S.O. 1960, c. 138

13. Subsection 2 of section 226c of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by striking out "by" in the seventh line, so that the subsection shall read as follows:

R.S.O. 1960,
c. 190,
s. 226c
(1966, c. 71,
s. 11),
subs. 2,
amended

- (2) Where an insurer makes a payment under a contract of insurance to which subsection 1 refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection 1, but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

Release by
claimant

R.S.O. 1960,
c. 138

14. Section 226e of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by inserting after "section" in the second line "226a", so that the section shall read as follows:

R.S.O. 1960,
c. 190,
s. 226e
(1966, c. 71,
s. 11),
amended

226e. Any person insured by but not named in a contract to which section 226a, 226b or 226c applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

Rights of
unnamed
insured

15. Section 226j of *The Insurance Act*, as enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 190,
s. 226j
(1966, c. 71,
s. 11),
amended

- (3) "Rateable proportion" as used in subsection 2 means,
- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;
- (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;

Rateable
proportion
defined

(c) if there are more than two insurers liable, clauses *a* and *b* apply *mutatis mutandis*.

R.S.O. 1960,
c. 190,
Part VII
(ss. 227-251),
re-enacted

16. (1) Subject to subsection 3, Part VII of *The Insurance Act*, as amended by section 7 of *The Insurance Amendment Act, 1961-62* and section 13 of *The Insurance Amendment Act, 1966*, is repealed and the following substituted therefor:

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpre-
tation

227. In this Part,

- (a) "application" means a written application for insurance or for the reinstatement of insurance;
- (b) "beneficiary" means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;
- (c) "blanket insurance" means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;
- (d) "contract" means a contract of insurance;
- (e) "court" means the Supreme Court, or a judge thereof;
- (f) "creditor's group insurance" means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;
- (g) "declaration" means an instrument signed by the insured,
 - (i) with respect to which an endorsement is made on the policy, or
 - (ii) that identifies the contract, or
 - (iii) that describes the insurance or insurance fund or a part thereof,

in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money which is payable in the event of death by accident;

- (h) "family insurance" means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (i) "group insurance" means insurance other than creditor's group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
- (j) "group person insured" means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him;
- (k) "instrument" includes a will;
- (l) "insurance" means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- (m) "insured",
 - (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
 - (ii) in all other cases means the person who makes a contract with an insurer;
- (n) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- (o) "will" includes a codicil.

**Application
of Part**

228.—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in Ontario.

Exceptions

(2) This Part does not apply to,

- (a) accidental death insurance; or
- (b) creditor's group insurance; or
- (c) disability insurance; or
- (d) insurance provided under section 226a, 226b or 226c.

**Group
insurance**

229. In the case of a contract of group insurance made with an insurer authorized to transact insurance in Ontario at the time the contract was made, this Part applies in determining,

- (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in Ontario at the time he became insured; and
- (b) the rights and obligations of the group person insured if he was resident in Ontario at the time he became insured.

**Issue of
policy**

230. An insurer entering into a contract shall issue a policy.

Exceptions

231.—(1) This section does not apply to,

- (a) a contract of group insurance; or
- (b) a contract made by a fraternal society.

**Contents
of policy**

(2) An insurer shall set forth the following particulars in the policy:

1. The name or a sufficient description of the insured and of the person insured.
2. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
3. The amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid.
4. The conditions upon which the contract may be reinstated if it lapses.

5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

232. In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy: ^{Contents of group policy}

1. The name or a sufficient description of the insured.
2. The method of determining the group persons insured and persons insured.
3. The amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable.
4. The period of grace, if any, within which the premium may be paid.
5. The term of the insurance or the method of determining the day upon which the insurance commences and terminates.

233.—(1) Except as provided in subsection 2, in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group person insured a certificate or other document in which are set forth the following particulars: ^{Contents of group certificate}

1. The name of the insurer and a sufficient identification of the contract.
2. The amount or the method of determining the amount of insurance on the group person insured and on any person insured.
3. The circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. ^{Exception}

234.—(1) Subject to section 235 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as "Exceptions" or "Reductions". ^{Exceptions or reduction}

- Idem** (2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.
- Idem** (3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.
- Idem** (4) The exception or reduction mentioned in section 247 need not be set forth in the policy.
- Idem** (5) This section does not apply to a contract made by a fraternal society.
- Statutory conditions** 235. Subject to section 236, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading "Statutory Conditions".

STATUTORY CONDITIONS

The Contract 1.—(1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

Waiver (2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

Copy of Application (3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

Material Facts 2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.

Changes in Occupation 3.—(1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

(a) reduce the premium rate; or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

Relation of Earnings to Insurance

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

Termination by Insured

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Termination by Insurer

6.—(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the *pro rata* premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

Notice and Proof of Claim

7.—(1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall

(a) give written notice of claim to the insurer,

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or

(ii) by delivery thereof to an authorized agent of the insurer in the Province,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

(b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and

- (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.

Failure to Give Notice or Proof

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

Insurer to Furnish Forms for Proof of Claim

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Rights of Examination

9. As a condition precedent to recovery of insurance moneys under this contract,
- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending, and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

When Moneys Payable Other Than for Loss of Time

10. All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

When Loss of Time Benefits Payable

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

Limitation of Actions

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

Omission or variation of conditions

236.—(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Idem

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted. ^{Idem}

(4) Statutory conditions 3, 4, 5, 6 and 9, and subject to the restriction in subsection 5, statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 235. ^{Idem}

(5) Clauses *a* and *b* of paragraph 1 of statutory condition 7 may not be varied in policies providing benefits for loss of time. ^{Idem}

(6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein. ^{Idem}

(7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted. ^{Idem}

(8) In the case of a contract made by a fraternal society, ^{Contract by fraternal society}

(a) the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1:

The Contract

1.—(1) This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 shall not be printed on the policy.

237. In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type: ^{Notice of statutory conditions}

“Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in *The Insurance Act* respecting contracts of accident insurance. ^{R.S.O. 1960, c. 190}

Termination
for non-
payment of
initial or
renewal
premium

238.—(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid,

- (a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such premium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and
- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

Exception

(2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Right
where
premium
unpaid

239.—(1) An insurer may,

- (a) deduct unpaid premiums from an amount that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

Where
cheque or
note for
premium
not paid

(2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor the premium or part thereof shall be deemed never to have been paid.

Exception

(3) Clause *a* of subsection 1 does not apply to a contract of group insurance.

Idem

(4) This section does not apply to a contract made by a fraternal society.

Insurable
interest

240. Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and well-being and in the life and well-being of,

- (a) his child or grandchild;
- (b) his spouse;

- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
- (d) his officer or employee; and
- (e) any person in whom he has a pecuniary interest.

241.—(1) Subject to subsection 2, where at the time a contract would otherwise take effect, the insured has no insurable interest, the contract is void. Lack of insurable interest

- (2) A contract is not void for lack of insurable interest, Exceptions
- (a) if it is a contract of group insurance; or
 - (b) if the person insured has consented in writing to the insurance.

(3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing *in loco parentis* to him. Consent of minors

POLICIES ON LIVES OF MINORS

242.—(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years, Capacity of minors

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

(2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give a valid discharge therefor. Capacity of minor beneficiary

MISREPRESENTATION AND NON-DISCLOSURE

243.—(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other. Duty to disclose

(2) Subject to sections 244 and 247, a failure to disclose, or a misrepresentation of, such a fact renders a contract voidable by the insurer. Failure to disclose

Group
insurance
failure to
disclose

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or a person insured under the contract does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 244, voidable by the insurer.

Incontest-
ability

244.—(1) Subject to section 247 and except as provided in subsection 2,

- (a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable;
- (b) where a contract of group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 243 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

Exception

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim.

Application
of Incontest-
ability to
reinstatement

245. Sections 243 and 244 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose or a misrepresentation at that time, and the period of two years to which reference is made in section 244 commences to run in respect of a reinstatement from the date of reinstatement.

Pre-existing
conditions

246. Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss incurred or commencement of disability with respect to that person; and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part if the disease or physical condition was disclosed in the application for the contract.

247.—(1) Subject to subsections 2 and 3, if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either, ^{Misstatement of age}

- (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
- (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

(2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply. ^{Misstatement of age in group insurance}

(3) Where the age of a person affects the commencement or termination of the insurance, the true age governs. ^{True age governs}

BENEFICIARIES

248.—(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident, and may from time to time alter or revoke the designation by declaration. ^{Designation of beneficiary}

(2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will. ^{Designation in invalid will}

(3) A designation in a will is of no effect against a designation made later than the making of the will. ^{Priorities}

Revocation (4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.

Idem (5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked.

Meaning of "heirs", etc. 249.—(1) A designation in favour of the "heirs", "next-of-kin" or "estate", or the use of words of like import in a designation shall be deemed to be a designation of the personal representative.

Death of beneficiary (2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by declaration, the share is payable,

(a) to the surviving beneficiary; or

(b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or

(c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.

Right to sue

(3) A beneficiary designated under section 248 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 250 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative.

Trustee for beneficiary

250. An insured may in a contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration.

Documents affecting title

251.—(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

(2) Subsection 1 does not affect the rights or interests of ^{Saving} any person other than the insurer.

(3) Where an assignee of a contract gives notice in writing ^{Interest of assignee} of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against,

- (a) any assignee other than one who gave notice earlier in like manner; and
- (b) a beneficiary.

(4) Where a contract is assigned unconditionally and other- ^{Assignee deemed to be insured} wise than as security, the assignee has all the rights and interests given by the contract and by this Part to the insured, and shall be deemed to be the insured.

(5) A provision in a contract to the effect that the rights or ^{Prohibition against assignment} interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable, is valid.

251a.—(1) Where a beneficiary is designated, any insurance ^{Insurance money free from creditors} money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured, and is not subject to the claims of the creditors of the insured.

(2) While there is in effect a designation of beneficiary in ^{Contract exempt from seizure} favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to accidental death benefits are exempt from execution or seizure.

251b. A group person insured may, in his own name, enforce ^{Group person insured enforcing rights} a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured.

251c. Unless a contract or a declaration otherwise provides, ^{Simultaneous deaths} where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 2 of section 249 as if the beneficiary had predeceased the person insured or group person insured.

251d.—(1) Where the insurer admits liability for the insur- ^{Payment into court} ance money or any part thereof, and it appears to the insurer that,

- (a) there are adverse claimants; or

(b) the whereabouts of the person entitled is unknown; or

(c) there is no person capable of giving or authorized to give a valid discharge therefor who is willing to do so,

the insurer may apply *ex parte* to the court for an order for payment of money into court, and the court may upon such notice, if any, as it deems necessary, make an order accordingly.

Costs of proceedings

(2) The court may fix without taxation the costs incurred upon or in connection with any application or order made under subsection 1, and may order the costs to be paid out of the insurance money or by the insurer or otherwise as it deems just.

Discharge of insurer

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment.

Where beneficiary a minor

251e.—(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money less the applicable costs mentioned in subsection 2 into court to the credit of the minor.

Costs

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection 1, the sum of \$10 where the amount does not exceed \$1,000, and the sum of \$15 in other cases, and payment of the remainder of the money into court discharges the insurer.

Procedure

(3) No order is necessary for payment into court under subsection 1, but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit.

Beneficiary under disability

251f. Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid.

251g. Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding \$2,000 to,

Payments
not
exceeding
\$2,000

- (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid.

251h.—(1) Subject to subsection 2, insurance money is payable in Ontario.

Place of
payment

(2) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group person insured was resident at the time he became insured.

Exception
for group
insurance

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere.

Dollars

(4) Where a person entitled to receive insurance money is not domiciled in Ontario the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid.

Payment
outside
Ontario

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in Ontario, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid.

Payment to
personal
representa-
tive

251i. Regardless of the place where a contract was made, a claimant who is a resident of Ontario may bring an action in Ontario if the insurer was authorized to transact insurance in Ontario at the time the contract was made or at the time the action is brought.

Action in
Ontario

Insurer giving information

251j. An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money.

Undue prominence

251k. The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy

Relief from forfeiture

251l. Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just.

Presumption against agency

251m. No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer shall, to the prejudice of the insured, person insured or group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract.

Application

(2) Part VII of *The Insurance Act*, as re-enacted by subsection 1, applies to contracts made after this section comes into force.

Idem

(3) In the case of contracts made before this section comes into force and in effect on the day this section comes into force,

(a) sections 227, 228, 229, 230, 237, 240, 241, 242, 246 and sections 248 to 251m of *The Insurance Act*, as re-enacted by this section, apply; and

(b) sections 230, 231, 232, 233, 235, 242 and 245 of *The Insurance Act*, as they existed immediately before this section comes into force, continue to apply.

R.S.O. 1960, c. 190 s. 315, subs. 2, re-enacted

17. --(1) Subsection 2 of section 315 of *The Insurance Act* is repealed and the following substituted therefor:

Classes of licences

(2) Licences so issued shall be of three classes, that is,

(a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

(b) licences for accident and sickness insurance; or

(c) licences for all classes of insurance other than life insurance.

(2) Subsection 6 of the said section 315 is amended by striking out "a fee of \$1" in the seventh line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 315 subs. 6, amended

18. Subsection 6 of section 316 of *The Insurance Act* is amended by striking out "a fee of \$1" in the eighth line and inserting in lieu thereof "the prescribed fee". R.S.O. 1960, c. 190, s. 316, subs. 6, amended

19.—(1) Item 12 of Schedule A to *The Insurance Act* is amended by adding thereto the following clause: R.S.O. 1960, c. 190, Sched. A, item 12, amended

(d) where the applicant is a corporation 25

(2) Clause c of item 13 of the said Schedule A, as re-enacted by subsection 2 of section 6 of *The Insurance Amendment Act, 1968*, is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 13 (1968, c. 58, s. 6, subs. 2), cl. c, re-enacted

(c) where the applicant is a corporation 25

(d) for transfer or revival of a licence 2

(e) all other applicants 25

(3) Item 14 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 14, re-enacted

14. Licences for insurance brokers and renewals thereof whether corporate or otherwise 25

(4) Item 17 of the said Schedule A is repealed and the following substituted therefor: R.S.O. 1960, c. 190, Sched. A, item 17, re-enacted

17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket salesmen to act as agent for travel accident insurance, livestock insurance or baggage insurance, and renewals thereof 25

20.—(1) This Act, except sections 1, 11 and 16, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 1 and 16 come into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

(3) Section 11 comes into force on the 1st day of September, 1969. Idem

21. This Act may be cited as *The Insurance Amendment Act, 1968-69*. Short title



1st Reading

March 19th, 1969

2nd Reading

March 26th, 1969

3rd Reading

May 7th, 1969

MR. ROWSTREE

BILL 93

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Homes for Special Care Act, 1964

MR. DYMOND

EXPLANATORY NOTE

The proposed amendment authorizes regulations to be made respecting the location of homes for special care.

BILL 93

1968-69

**An Act to amend
The Homes for Special Care Act, 1964**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 7 of *The Homes for Special Care Act, 1964*, c. 39, 1964 is amended by inserting after "construction" in the first ^{s. 7, cl. a.} amended line "location", so that the clause shall read as follows:

(a) their construction, location, alteration, equipment, safety, maintenance and repair.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Homes for Special Care* ^{Short title} *Amendment Act, 1968-69.*

The Homes for Special Care Act, 1964

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 93

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Homes for Special Care Act, 1964

MR. DYMOND



BILL 93

1968-69

**An Act to amend
The Homes for Special Care Act, 1964**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 7 of *The Homes for Special Care Act*, 1964, c. 39, s. 7, cl. *a*,^{amended} is amended by inserting after "construction" in the first line "location", so that the clause shall read as follows:

(a) their construction, location, alteration, equipment, safety, maintenance and repair.

2. This Act comes into force on the day it receives Royal Assent.<sup>Commence-
ment</sup>

3. This Act may be cited as *The Homes for Special Care Amendment Act, 1968-69*.^{Short title}

The Homes for Special Care Act, 1964

1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. DYMOND

BILL 94

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pharmacy Act

MR. DYMOND

EXPLANATORY NOTE

The clause deleted makes the Act subject to any Act of the Parliament of Canada. The clause is redundant in so far as the Parliament of Canada has jurisdiction.

BILL 94

1968-69

An Act to amend The Pharmacy Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 2 of *The Pharmacy Act* is repealed. R.S.O. 1960,
c. 295, s. 2,
cl. *a*,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Pharmacy Amendment Act, 1968-69*. Short title

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 94

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pharmacy Act

MR. DYMOND



BILL 94

1968-69

An Act to amend The Pharmacy Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 2 of *The Pharmacy Act* is repealed. R.S.O. 1960,
c. 295, s. 2,
cl. *a*,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Pharmacy Amendment Act, 1968-69*. Short title

1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. DYMOND

BILL 95

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Nursing Homes Act, 1966

MR. DYMOND

EXPLANATORY NOTES

SECTION 1. The new provision provides for relocation of residents in an unlicensed nursing home.

SECTION 2. A general penalty is provided for contraventions of the Act.

SECTION 3. The proposed amendment authorizes regulations to be made respecting the location of nursing homes.

BILL 95

1968-69

An Act to amend The Nursing Homes Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Nursing Homes Act, 1966* is amended by adding ^{1966, c. 99, amended} thereto the following sections:

10a. Where a nursing home is operating without a licence, ^{Vacating unlicensed home} each resident therein shall arrange to vacate the nursing home as soon as it is practicable and the Minister shall assist in finding appropriate alternative accommodation.

.

11a. Any person who contravenes any provision of this ^{Penalty} Act or the regulations for which no penalty is otherwise provided, except section 10a, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

2. Clause *c* of subsection 1 of section 12 of *The Nursing Homes Act, 1966*, is amended by inserting after "establishment" in the first line "location", so that the clause shall read ^{1966, c. 99, s. 12, subs. 1, amended} as follows:

(c) respecting the construction, establishment, location, alteration, safety, equipment, maintenance and repair of nursing homes.

3. This Act comes into force on the day it receives Royal ^{Commence-ment} Assent.

4. This Act may be cited as *The Nursing Homes Amend-^{Short title}ment Act, 1968-69*.

An Act to amend
The Nursing Homes Act, 1966

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 95

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Nursing Homes Act, 1966

MR. DYMOND

An Act to amend
The Nursing Homes Act, 1966

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 95

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Nursing Homes Act, 1966

MR. DYMOND



BILL 95

1968-69

An Act to amend The Nursing Homes Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Nursing Homes Act, 1966* is amended by adding ^{1966, c. 99, amended} thereto the following sections:

10a. Where a nursing home is operating without a licence, ^{Vacating unlicensed home} each resident therein shall arrange to vacate the nursing home as soon as it is practicable and the Minister shall assist in finding appropriate alternative accommodation.

11a. Any person who contravenes any provision of this ^{Penalty} Act or the regulations for which no penalty is otherwise provided, except section 10a, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

2. Clause *c* of subsection 1 of section 12 of *The Nursing Homes Act, 1966*, is amended by inserting after "establishment" in the first line "location", so that the clause shall read ^{1966, c. 99, s. 12, subs. 1, amended} as follows:

(c) respecting the construction, establishment, location, alteration, safety, equipment, maintenance and repair of nursing homes.

3. This Act comes into force on the day it receives Royal ^{Commence-} Assent. _{ment}

4. This Act may be cited as *The Nursing Homes Amend-* ^{Short title} *ment Act, 1968-69.*

The Nursing Homes Act, 1966

1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. DYMOND

BILL 96

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pesticides Act, 1967

MR. DYMOND

EXPLANATORY NOTES

SECTION 1. The definitions of "land extermination" and "structural extermination" are amended to include prevention and to clarify the intention that termite extermination is the function of a structural exterminator.

SECTION 2. Members and officers of the Pesticides Advisory Board are exempted from personal liability for anything done in good faith under the Act or regulations.

An Act to amend The Pesticides Act, 1967

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *g* of section 1 of *The Pesticides Act, 1967* is ^{1967, c. 74,} amended by inserting after “destruction” in the first line ^{s. 1, cl. *g*,} “prevention”, and by adding at the end thereof “but does not ^{amended} include the destruction, prevention or control of termites”, so that the clause shall read as follows:

- (*g*) “land extermination” means the destruction, prevention or control on or over land of insects, vermin, birds, rodents or other pests, fungi or vegetation by the use of any toxic or noxious substance but does not include the destruction, prevention or control of termites.

(2) Clause *l* of the said section 1 is amended by inserting ^{1967, c. 74,} after “destruction” in the first line “prevention”, and by ^{s. 1, cl. *l*,} adding at the end thereof “and includes the destruction, prevention or control of termites”, so that the clause shall read as follows:

- (*l*) “structural extermination” means the destruction, prevention or control in, on or adjacent to a building or vehicle, of insects, vermin, birds, rodents or other pests or fungi, by the use of any toxic or noxious substance and includes the destruction, prevention or control of termites.

2. Section 5 of *The Pesticides Act, 1967* is amended by ^{1967, c. 74,} adding thereto the following subsection: ^{s. 5,} ^{amended}

- (5) No member of the Board or officer of the Board is ^{Personal liability} personally liable for anything done by him in good faith under, or purporting to be under, the authority of this Act or the regulations.

Commence-
ment **3.** This Act comes into force on the day it receives Royal Assent.

Short title **4.** This Act may be cited as *The Pesticides Amendment Act, 1968-69*.

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 96

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Pesticides Act, 1967

MR. DYMOND



An Act to amend The Pesticides Act, 1967

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *g* of section 1 of *The Pesticides Act, 1967* is amended by inserting after “destruction” in the first line “prevention”, and by adding at the end thereof “but does not include the destruction, prevention or control of termites”, so that the clause shall read as follows:

- (g) “land extermination” means the destruction, prevention or control on or over land of insects, vermin, birds, rodents or other pests, fungi or vegetation by the use of any toxic or noxious substance but does not include the destruction, prevention or control of termites.

(2) Clause *l* of the said section 1 is amended by inserting after “destruction” in the first line “prevention”, and by adding at the end thereof “and includes the destruction, prevention or control of termites”, so that the clause shall read as follows:

- (l) “structural extermination” means the destruction, prevention or control in, on or adjacent to a building or vehicle, of insects, vermin, birds, rodents or other pests or fungi, by the use of any toxic or noxious substance and includes the destruction, prevention or control of termites.

2. Section 5 of *The Pesticides Act, 1967* is amended by adding thereto the following subsection:

- (5) No member of the Board or officer of the Board is personally liable for anything done by him in good faith under, or purporting to be under, the authority of this Act or the regulations.





1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

May 7th, 1969

MR. DYMOND

BILL 97

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act respecting The Department of Health

MR. DYMOND

EXPLANATORY NOTE

The Bill codifies the functions of the Department of Health, heretofore unwritten.

An Act respecting The Department of Health

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Health;

(b) "Deputy Minister" means the Deputy Minister of Health;

(c) "Minister" means the Minister of Health.

2.—(1) The department of the public service known as the Department of Health is continued.

Department
continued

(2) The Minister shall preside over and have charge of the Department.

Minister
to have
charge

(3) The Deputy Minister shall be the chief medical officer for Ontario and he shall perform such duties as are assigned to him by the Lieutenant Governor in Council or the Minister.

Deputy
Minister

(4) Such officers, clerks and servants may be appointed under *The Public Service Act, 1961-62* as are required from time to time for the proper conduct of the business of the Department.

Staff
1961-62,
c. 121

3. The Minister is responsible for the administration of this Act and any other Acts that are assigned to him by the provisions thereof or by the Lieutenant Governor in Council.

Administra-
tion of Acts

4.—(1) The Minister shall,

Duties of
Minister

(a) advise the Government in respect of the health of the people of Ontario;

(b) oversee and promote the health and the physical and mental well-being of the people of Ontario.

Idem

(2) The Minister in exercising his powers and carrying out his duties and functions under this Act,

(a) shall inquire into and determine the health facilities, services and personnel required to meet the health needs of the people of Ontario;

(b) may recommend to the Government the methods and programs by which the health needs of the people of Ontario can be met;

(c) shall promote and assist in the development of adequate health resources, both human and material, in Ontario;

(d) may initiate or promote research and planning studies into matters relating to the health needs of the Province of Ontario.

Agreements
for provision
of health
facilities,
etc.

5. The Minister, with the approval of the Lieutenant Governor in Council, may on behalf of the Government of Ontario make agreements with municipalities or other persons or corporations respecting the provision of health facilities, services or personnel referred to in clause *a* of subsection 2 of section 4.

Grants

6. The Minister may, out of the moneys appropriated by the Legislature therefor,

(a) make grants to universities and any non-profit organizations for research and training of persons for the health sciences field in such amounts and upon such terms and conditions as the regulations prescribe;

(b) provide bursaries and loans for educational and training purposes in respect of health to such persons, in such amounts and upon such terms and conditions as the regulations prescribe;

(c) make grants for developing health resources to such persons and organizations and upon such terms and conditions as the regulations prescribe;

(d) convene conferences and conduct seminars and educational programs respecting health matters.

7.—(1) There shall be a senior advisory body to the ^{Ontario Council of Health} Government and to the Minister on health matters, known as the Ontario Council of Health, consisting of the Deputy Minister who shall be chairman and such other persons numbering not fewer than sixteen, as are appointed members by the Lieutenant Governor in Council.

(2) It is the duty of the Council to advise the Government ^{Duties} and the Minister on health matters and needs of the people of Ontario and to perform such other duties as are referred to it by the Minister or the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council or the Minister ^{Appointment of advisory committees} may appoint committees to perform such advisory functions as are considered necessary or desirable in order to assist the Minister in the discharge of his duties.

8. The Minister may,

(a) collect such information and statistics respecting ^{Statistics and information} health resources, facilities and services and any other matters relating to the health needs or conditions affecting the public as are deemed necessary or advisable;

(b) publish any information collected under clause a.

9. The Minister after the close of each year shall submit ^{Annual report} to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

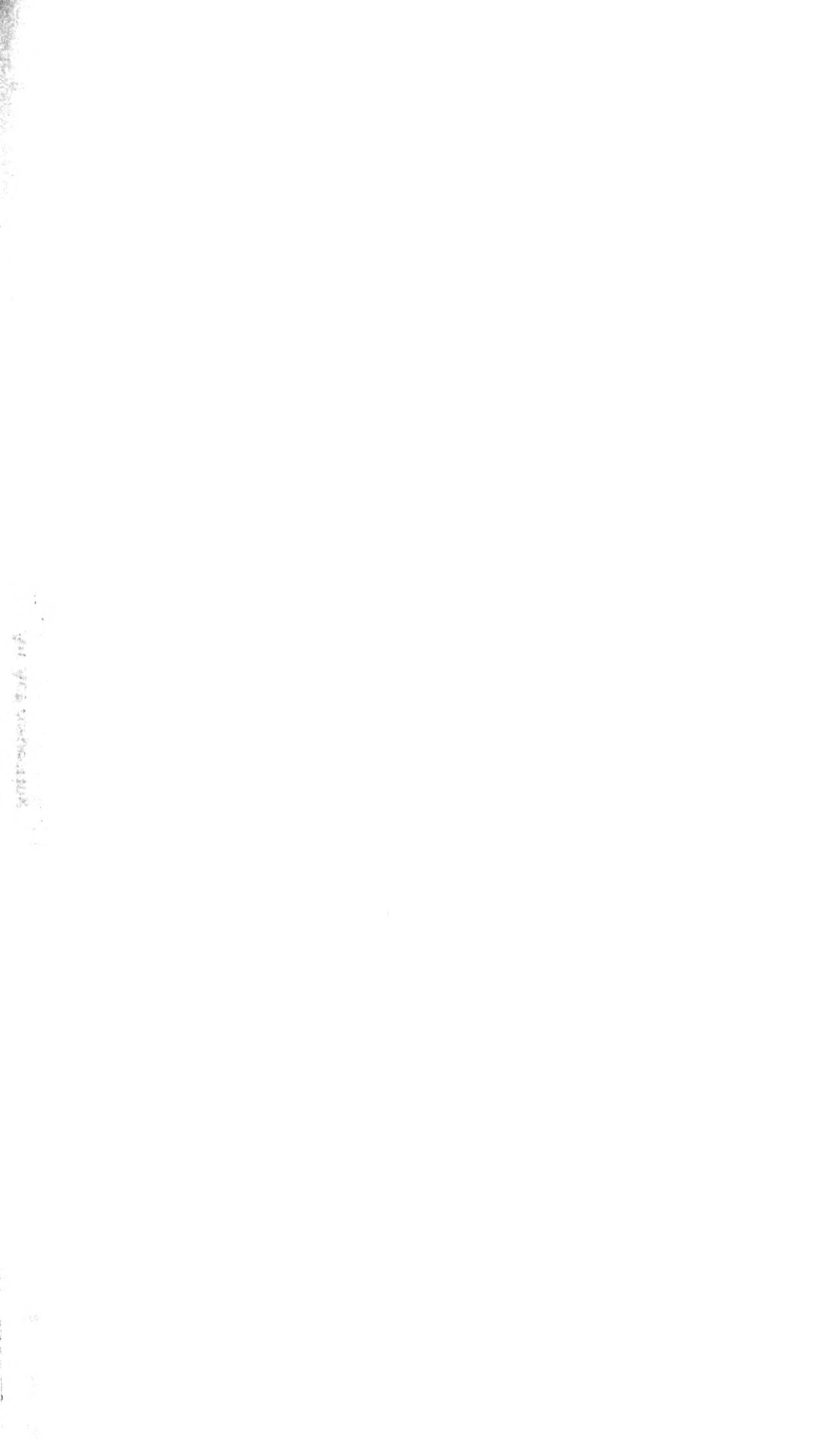
10. After this section comes into force, all annual reports ^{Deemed to include other reports} required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 9 and need not be submitted in accordance with such other Act.

11. The Lieutenant Governor in Council may make ^{Regulations} regulations providing for the payment of grants, bursaries and loans for the purposes of section 6.

12.—(1) This Act, except sections 9 and 10, comes into ^{Commencement} force on the day it receives Royal Assent.

(2) Sections 9 and 10 come into force on a day to be named ^{Idem} by the Lieutenant Governor by his proclamation.

13. This Act may be cited as *The Department of Health* ^{Short title} Act, 1968-69.



1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. DYMOND

BILL 97

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act respecting The Department of Health

MR. DYMOND



BILL 97

1968-69

An Act respecting The Department of Health

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Department" means the Department of Health;

(b) "Deputy Minister" means the Deputy Minister of Health;

(c) "Minister" means the Minister of Health.

2.—(1) The department of the public service known as the Department of Health is continued.

Department
continued

(2) The Minister shall preside over and have charge of the Department.

Minister
to have
charge

(3) The Deputy Minister shall be the chief medical officer for Ontario and he shall perform such duties as are assigned to him by the Lieutenant Governor in Council or the Minister.

Deputy
Minister

(4) Such officers, clerks and servants may be appointed under *The Public Service Act, 1961-62* as are required from time to time for the proper conduct of the business of the Department.

Staff
1961-62,
c. 121

3. The Minister is responsible for the administration of this Act and any other Acts that are assigned to him by the provisions thereof or by the Lieutenant Governor in Council.

Administra-
tion of Acts

4.—(1) The Minister shall,

Duties of
Minister

(a) advise the Government in respect of the health of the people of Ontario;

- (b) oversee and promote the health and the physical and mental well-being of the people of Ontario.

Idem

(2) The Minister in exercising his powers and carrying out his duties and functions under this Act,

- (a) shall inquire into and determine the health facilities, services and personnel required to meet the health needs of the people of Ontario;
- (b) may recommend to the Government the methods and programs by which the health needs of the people of Ontario can be met;
- (c) shall promote and assist in the development of adequate health resources, both human and material, in Ontario;
- (d) may initiate or promote research and planning studies into matters relating to the health needs of the Province of Ontario.

**Agreements
for provision
of health
facilities,
etc.**

5. The Minister, with the approval of the Lieutenant Governor in Council, may on behalf of the Government of Ontario make agreements with municipalities or other persons or corporations respecting the provision of health facilities, services or personnel referred to in clause *a* of subsection 2 of section 4.

Grants

6. The Minister may, out of the moneys appropriated by the Legislature therefor,

- (a) make grants to universities and any non-profit organizations for research and training of persons for the health sciences field in such amounts and upon such terms and conditions as the regulations prescribe;
- (b) provide bursaries and loans for educational and training purposes in respect of health to such persons, in such amounts and upon such terms and conditions as the regulations prescribe;
- (c) make grants for developing health resources to such persons and organizations and upon such terms and conditions as the regulations prescribe;
- (d) convene conferences and conduct seminars and educational programs respecting health matters.

7.—(1) There shall be a senior advisory body to the Government and to the Minister on health matters, known as the Ontario Council of Health, consisting of the Deputy Minister who shall be chairman and such other persons numbering not fewer than sixteen, as are appointed members by the Lieutenant Governor in Council. Ontario Council of Health

(2) It is the duty of the Council to advise the Government and the Minister on health matters and needs of the people of Ontario and to perform such other duties as are referred to it by the Minister or the Lieutenant Governor in Council. Duties

(3) The Lieutenant Governor in Council or the Minister may appoint committees to perform such advisory functions as are considered necessary or desirable in order to assist the Minister in the discharge of his duties. Appointment of advisory committees

8. The Minister may,

(a) collect such information and statistics respecting health resources, facilities and services and any other matters relating to the health needs or conditions affecting the public as are deemed necessary or advisable;

(b) publish any information collected under clause a. Statistics and information

9. The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual report

10. After this section comes into force, all annual reports required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 9 and need not be submitted in accordance with such other Act. Deemed to include other reports

11. The Lieutenant Governor in Council may make regulations providing for the payment of grants, bursaries and loans for the purposes of section 6. Regulations

12.—(1) This Act, except sections 9 and 10, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 9 and 10 come into force on a day to be named by the Lieutenant Governor by his proclamation. Idem

13. This Act may be cited as *The Department of Health Act, 1968-69*. Short title

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An Act respecting
The Department of Health

1st Reading

March 20th, 1969

2nd Reading

April 28th, 1969

3rd Reading

May 7th, 1969

MR. DYMOND

BILL 98

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Dog Tax and Live Stock and Poultry Protection Act**

MR. STEWART

EXPLANATORY NOTE

The purpose of the Bill is:

1. To increase from \$10 to \$25 the annual tax payable by the owner of a kennel of pure-bred dogs.
2. To clarify the intent that such owner is not required to pay any further tax or licence fees in respect of such dogs.
3. To enlarge the authority to make regulations.

An Act to amend The Dog Tax and Live Stock and Poultry Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *b* of section 1 of *The Dog Tax and Live Stock and Poultry Protection Act* is amended by inserting after “Agriculture” in the first line “and Food”. R.S.O. 1960, c. 111, s. 1, cl. *b* amended

(2) The said section 1 is amended by adding thereto the following clauses: R.S.O. 1960, c. 111, s. 1, amended

(*d*) “pure-bred” means,

- (i) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated, or
- (ii) of a class designated as pure-bred in the regulations;

(*e*) “regulations” means the regulations made under this Act.

2. Subsection 5 of section 2 of *The Dog Tax and Live Stock and Poultry Protection Act* is repealed. R.S.O. 1960, c. 111, s. 2, subs. 5, repealed

3. *The Dog Tax and Live Stock and Poultry Protection Act* is amended by adding thereto the following sections: R.S.O. 1960, c. 111, amended

5a. The owner of a kennel of dogs that are pure-bred shall pay an annual tax of \$25 to the treasurer of the municipality as a tax upon the kennel, and he is not liable to pay in respect of such pure-bred dogs any tax under section 2 or any licence fee under a by-law passed pursuant to section 5. Tax on kennel of pure-bred dogs

- Regulations **8a.** The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs.
- Commence-
ment **4.** This Act shall be deemed to have come into force on the 1st day of January, 1969.
- Short title **5.** This Act may be cited as *The Dog Tax and Live Stock and Poultry Protection Amendment Act, 1968-69*.

The Dog Tax and Live Stock
and Poultry Protection Act

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. STEWART

BILL 98

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Dog Tax and Live Stock and Poultry Protection Act**

MR. STEWART

BILL 98

1968-69

An Act to amend The Dog Tax and Live Stock and Poultry Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *b* of section 1 of *The Dog Tax and Live Stock and Poultry Protection Act* is amended by inserting after “Agriculture” in the first line “and Food”. R.S.O. 1960,
c. 111, s. 1,
cl. *b*
amended

(2) The said section 1 is amended by adding thereto the following clauses: R.S.O. 1960,
c. 111, s. 1,
amended

(*d*) “pure-bred” means,

(i) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated, or

(ii) of a class designated as pure-bred in the regulations;

(*e*) “regulations” means the regulations made under this Act.

2. Subsection 5 of section 2 of *The Dog Tax and Live Stock and Poultry Protection Act* is repealed. R.S.O. 1960,
c. 111, s. 2,
subs. 5,
repealed

3. *The Dog Tax and Live Stock and Poultry Protection Act* is amended by adding thereto the following sections: R.S.O. 1960,
c. 111,
amended

5a. The owner of a kennel of dogs that are pure-bred shall pay an annual tax of \$25 to the treasurer of the municipality as a tax upon the kennel, and he is not liable to pay in respect of such pure-bred dogs any tax under section 2 or any licence fee under a by-law passed pursuant to section 5. Tax on
kennel of
pure-bred
dogs

- Regulations *8a.* The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs.
- Commence-
ment **4.** This Act shall be deemed to have come into force on the 1st day of January, 1969.
- Short title **5.** This Act may be cited as *The Dog Tax and Live Stock and Poultry Protection Amendment Act, 1968-69.*





The Dog Tax and Live Stock
and Poultry Protection Act

1st Reading

March 20th, 1969

2nd Reading

April 28th, 1969

3rd Reading

June 6th, 1969

MR. STEWART

BILL 99

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The St. Lawrence Parks Commission Act

MR. AULD

EXPLANATORY NOTES

SECTION 1. The amendment permits the transfer of jurisdiction to the Commission of roads now under the jurisdiction of the Department of Highways and provides for the division of responsibility where a road is assumed by agreement with a municipality or the Department of Highways.

BILL 99

1968-69

**An Act to amend
The St. Lawrence Parks Commission Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The St. Lawrence Parks Commission Act* R.S.O. 1960,
c. 279, s. 9,
re-enacted is repealed and the following substituted therefor:

9.—(1) Notwithstanding any general or special Act, Highways the Lieutenant Governor in Council may from time to time vest any highway,

(a) under the jurisdiction and control of the Department of Highways; or

(b) under the jurisdiction of a municipality,

in the Commission and thereafter the Commission has exclusive jurisdiction over the highway.

(2) The Commission and the Minister of Highways or Agreements the Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

(3) Where by an agreement made under subsection 2, Liability

(a) the Minister of Highways undertakes to maintain and repair a highway, section 33 of *The Highway Improvement Act* R.S.O. 1960,
c. 171 applies in respect of the highway; and

R.S.O. 1960,
c. 249

(b) a municipality undertakes to maintain and repair a highway, section 443 of *The Municipal Act* applies in respect of the highway,

and no action arising out of the duty to maintain and repair the highway lies against the Commission.

Indemnity

(4) Where the Crown or a municipal corporation is liable for damages sustained by any person by reason of failure to maintain or repair a highway under the jurisdiction of the Commission, the Commission shall indemnify the Crown or the municipal corporation, as the case may be, for all damages and costs incurred in respect of such liability.

Application
of
R.S.O. 1960,
c. 172;
1968, c. 75

(5) *The Highway Traffic Act* and *The Motorized Snow Vehicles Act, 1968* and the regulations made thereunder, apply to any highway or portion thereof under the jurisdiction of the Commission and designated under subsection 1 of section 10 as if such highway or portion thereof is the King's Highway.

R.S.O. 1960,
c. 279, s. 10,
subs. 2,
re-enacted

2. Subsection 2 of section 10 of *The St. Lawrence Parks Commission Act* is repealed and the following substituted therefor:

Application
of
R.S.O. 1960,
c. 171, s. 38

(2) Section 38 of *The Highway Improvement Act* applies *mutatis mutandis* to any portion of any of the highways, roads, boulevards or parkways designated under subsection 1 and for such purpose any reference in the said section 38 to Minister or Department shall be deemed to be a reference to the Commission.

R.S.O. 1960,
c. 279,
amended

3. *The St. Lawrence Parks Commission Act* is amended by adding thereto the following section:

Scenic
areas

10a.—(1) The Lieutenant Governor in Council may by regulation designate as a scenic area such land in the vicinity of any highway designated under subsection 1 of section 10 as is specified in the regulation.

Restricted
areas

(2) Subject to the approval of the Lieutenant Governor in Council, the Commission may, in respect of land within a scenic area, by regulation, exercise any of the powers conferred upon councils of municipalities by section 30 of *The Planning Act* without the approval of the Ontario Municipal Board.

R.S.O. 1960
c. 296

Conflict of
regulations
and by-laws

(3) In the event of conflict between a regulation made under subsection 2 by the Commission and a by-law passed under section 30 of *The Planning Act*, or a

SECTION 2. The amendment adopts the same controls over a controlled access highway of the Commission as apply to those of the Department of Highways.

SECTION 3. The new provision empowers the Commission to exercise similar controls over land adjoining its controlled access roads as a county may exercise in respect of county roads under section 64 of *The Highway Improvement Act*.

SECTION 4. The new provision permits the Commission to close roads and removes its liability for non-repair of roads in its jurisdiction, other than controlled access roads.

SECTION 5- Sub section 1. Complementary to section 3 of the Bill.

Subsection 2. The amendment would permit different regulations for different parts of the Parks.

predecessor thereof, by the municipality in which the land is situate, the regulation made by the Commission prevails to the extent of such conflict, but in all other respects the by-law passed by the municipality remains in full force and effect.

4. *The St. Lawrence Parks Commission Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 279,
amended

11a. No civil action shall be brought against the Crown, the Commission or any of the servants or agents of the Crown including a minister of the Crown or any member, officer or employee of the Commission in respect of misfeasance, nonfeasance or negligence in connection with the construction, maintenance, repair or closing of a road under the jurisdiction of the Commission other than a highway designated under subsection 1 of section 10, but this section does not apply to an action based on contract between the parties to the action for the construction, maintenance or use of such road. Roads
other than
controlled
access roads

5.—(1) Clause *f* of subsection 1 of section 17 of *The St. Lawrence Parks Commission Act* is amended by striking out "or within one-quarter mile of any part thereof", in the fourth line, so that the clause shall read as follows: R.S.O. 1960,
c. 279, s. 17,
subs. 1, cl. *f*,
amended

(*f*) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks.

(2) The said section 17 is amended by adding thereto the following subsection: R.S.O. 1960,
c. 279, s. 17,
amended

(1a) Any regulation made under subsection 1 may be general or particular in its application. Idem

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment

7. This Act may be cited as *The St. Lawrence Parks Commission Amendment Act, 1968-69*. Short title

The St. Lawrence Parks Commission Act

1st Reading

March 20th, 1969

2nd Reading

3rd Reading

Mr. Auld

BILL 99

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The St. Lawrence Parks Commission Act

MR. AULD

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The amendment permits the transfer of jurisdiction to the Commission of roads now under the jurisdiction of the Department of Highways and provides for the division of responsibility where a road is assumed by agreement with a municipality or the Department of Highways.

BILL 99

1968-69

**An Act to amend
The St. Lawrence Parks Commission Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The St. Lawrence Parks Commission Act* R.S.O. 1960,
c. 279, s. 9,
re-enacted is repealed and the following substituted therefor:

9.—(1) Notwithstanding any general or special Act, ^{Highways} the Lieutenant Governor in Council may from time to time vest any highway,

(a) under the jurisdiction and control of the Department of Highways; or

(b) under the jurisdiction of a municipality,

in the Commission and thereafter the Commission has exclusive jurisdiction over the highway.

(2) The Commission and the Minister of Highways or ^{Agreements} the Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

(3) Where by an agreement made under subsection 2, ^{Liability}

(a) the Minister of Highways undertakes to maintain and repair a highway, section 33 of *The Highway Improvement Act* R.S.O. 1960,
c. 171 applies in respect of the highway; and

R.S.O. 1960,
c. 249

(b) a municipality undertakes to maintain and repair a highway, section 443 of *The Municipal Act* applies in respect of the highway,

and no action arising out of the duty to maintain and repair the highway lies against the Commission.

Indemnity

(4) Where the Crown or a municipal corporation is liable for damages sustained by any person by reason of failure to maintain or repair a highway under the jurisdiction of the Commission, the Commission shall indemnify the Crown or the municipal corporation, as the case may be, for all damages and costs incurred in respect of such liability.

Application
of
R.S.O. 1960,
c. 172;
1968, c. 75

(5) *The Highway Traffic Act* and *The Motorized Snow Vehicles Act, 1968* and the regulations made thereunder, apply to any highway or portion thereof under the jurisdiction of the Commission and designated under subsection 1 of section 10 as if such highway or portion thereof is the King's Highway.

R.S.O. 1960,
c. 279, s. 10,
subs. 2,
re-enacted

2. Subsection 2 of section 10 of *The St. Lawrence Parks Commission Act* is repealed and the following substituted therefor:

Application
of
R.S.O. 1960,
c. 171, s. 38

(2) Section 38 of *The Highway Improvement Act* applies *mutatis mutandis* to any portion of any of the highways, roads, boulevards or parkways designated under subsection 1 and for such purpose any reference in the said section 38 to Minister or Department shall be deemed to be a reference to the Commission.

R.S.O. 1960,
c. 279,
amended

3. *The St. Lawrence Parks Commission Act* is amended by adding thereto the following section:

Scenic
areas

10a.—(1) The Lieutenant Governor in Council may by regulation designate as a scenic area such land in the vicinity of any highway designated under subsection 1 of section 10 as is specified in the regulation.

Restricted
areas

(2) Subject to the approval of the Lieutenant Governor in Council, the Commission may, in respect of land within a scenic area, by regulation, exercise any of the powers conferred upon councils of municipalities by section 30 of *The Planning Act* without the approval of the Ontario Municipal Board.

R.S.O. 1960,
c. 296

Conflict of
regulations
and by-laws

(3) In the event of conflict between a regulation made under subsection 2 by the Commission and a by-law passed under section 30 of *The Planning Act*, or a

SECTION 2. The amendment adopts the same controls over a controlled access highway of the Commission as apply to those of the Department of Highways.

SECTION 3. The new provision empowers the Commission to exercise similar controls over land adjoining its controlled access roads as a county may exercise in respect of county roads under section 64 of *The Highway Improvement Act*.

SECTION 4—Subsection 1. Complementary to section 3 of the Bill.

Subsection 2. The amendment would permit different regulations for different parts of the Parks.

predecessor thereof, by the municipality in which the land is situate, the regulation made by the Commission prevails to the extent of such conflict, but in all other respects the by-law passed by the municipality remains in full force and effect.

4.—(1) Clause *f* of subsection 1 of section 17 of *The St. Lawrence Parks Commission Act* is amended by striking out “or within one-quarter mile of any part thereof”, in the fourth line, so that the clause shall read as follows:

R.S.O. 1960.
c. 279, s. 17,
subs. 1, cl. *f*.
amended

(*f*) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks.

(2) The said section 17 is amended by adding thereto the following subsection:

R.S.O. 1960.
c. 279, s. 17.
amended

(1*a*) Any regulation made under subsection 1 may be general or particular in its application.

Idem

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

6. This Act may be cited as *The St. Lawrence Parks Commission Amendment Act, 1968-69*.

Short title

An Act to amend
The St. Lawrence Parks Commission Act

1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

MR. AULD

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 99

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The St. Lawrence Parks Commission Act

MR. AULD

BILL 99

1968-69

**An Act to amend
The St. Lawrence Parks Commission Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The St. Lawrence Parks Commission Act* R.S.O. 1960,
c. 279, s. 9,
re-enacted is repealed and the following substituted therefor:

9.—(1) Notwithstanding any general or special Act, ^{Highways} the Lieutenant Governor in Council may from time to time vest any highway,

(a) under the jurisdiction and control of the Department of Highways; or

(b) under the jurisdiction of a municipality,

in the Commission and thereafter the Commission has exclusive jurisdiction over the highway.

(2) The Commission and the Minister of Highways or ^{Agreements} the Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

(3) Where by an agreement made under subsection 2, ^{Liability}

(a) the Minister of Highways undertakes to maintain and repair a highway, section 33 of *The Highway Improvement Act* R.S.O. 1960,
c. 171 applies in respect of the highway; and

R.S.O. 1960,
c. 249

(b) a municipality undertakes to maintain and repair a highway, section 443 of *The Municipal Act* applies in respect of the highway,

and no action arising out of the duty to maintain and repair the highway lies against the Commission.

Indemnity

(4) Where the Crown or a municipal corporation is liable for damages sustained by any person by reason of failure to maintain or repair a highway under the jurisdiction of the Commission, the Commission shall indemnify the Crown or the municipal corporation, as the case may be, for all damages and costs incurred in respect of such liability.

Application
of
R.S.O. 1960,
c. 172;
1968, c. 75

(5) *The Highway Traffic Act* and *The Motorized Snow Vehicles Act, 1968* and the regulations made thereunder, apply to any highway or portion thereof under the jurisdiction of the Commission and designated under subsection 1 of section 10 as if such highway or portion thereof is the King's Highway.

R.S.O. 1960,
c. 279, s. 10,
subs. 2,
re-enacted

2. Subsection 2 of section 10 of *The St. Lawrence Parks Commission Act* is repealed and the following substituted therefor:

Application
of
R.S.O. 1960,
c. 171, s. 38

(2) Section 38 of *The Highway Improvement Act* applies *mutatis mutandis* to any portion of any of the highways, roads, boulevards or parkways designated under subsection 1 and for such purpose any reference in the said section 38 to Minister or Department shall be deemed to be a reference to the Commission.

R.S.O. 1960,
c. 279,
amended

3. *The St. Lawrence Parks Commission Act* is amended by adding thereto the following section:

Scenic
areas

10a.—(1) The Lieutenant Governor in Council may by regulation designate as a scenic area such land in the vicinity of any highway designated under subsection 1 of section 10 as is specified in the regulation.

Restricted
areas

(2) Subject to the approval of the Lieutenant Governor in Council, the Commission may, in respect of land within a scenic area, by regulation, exercise any of the powers conferred upon councils of municipalities by section 30 of *The Planning Act* without the approval of the Ontario Municipal Board.

R.S.O. 1960,
c. 296

Conflict of
regulations
and by-laws

(3) In the event of conflict between a regulation made under subsection 2 by the Commission and a by-law passed under section 30 of *The Planning Act*, or a

predecessor thereof, by the municipality in which the land is situate, the regulation made by the Commission prevails to the extent of such conflict, but in all other respects the by-law passed by the municipality remains in full force and effect.

4.—(1) Clause *f* of subsection 1 of section 17 of *The St. Lawrence Parks Commission Act* is amended by striking out “or within one-quarter mile of any part thereof”, in the fourth line, so that the clause shall read as follows:

R.S.O. 1960.
c. 279, s. 17,
subs. 1, cl. *f.*
amended

(*f*) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks.

(2) The said section 17 is amended by adding thereto the following subsection:

R.S.O. 1960.
c. 279, s. 17,
amended

(1*a*) Any regulation made under subsection 1 may be general or particular in its application.

Idem

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

6. This Act may be cited as *The St. Lawrence Parks Commission Amendment Act, 1968-69*.

Short title



The St. Lawrence Parks Commission Act

1st Reading

March 20th, 1969

2nd Reading

March 31st, 1969

3rd Reading

June 6th, 1969

MR. ARLD

BILL 100

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Coroners Act

MR. SHULMAN

EXPLANATORY NOTE

The amendment provides that the jurisdiction of a coroner extends throughout Ontario and that where a coroner's appointment is revoked by the Lieutenant Governor in Council he is entitled to a hearing before the Public Service Grievance Board.

BILL 100

1968-69

An Act to amend The Coroners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Coroners Act*, as re-enacted by subsection 1 of section 1 of *The Coroners Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960 c. 69, s. 1 (1966, c. 27, s. 1, subs. 1), re-enacted

(1) The Lieutenant Governor in Council may appoint such coroners as he deems necessary who, subject to subsections 2, 3 and 4, shall hold office during pleasure. Appointment of coroners

(2) The said section 1 is amended by adding thereto the following subsections: R.S.O. 1960 c. 69, s. 1 (1966, c. 27, s. 1, subs. 1), amended

(4) Where the appointment of a coroner is revoked by the Lieutenant Governor in Council, the grievance procedure established by regulations made under *The Public Service Act, 1961-62* applies to the coroner as though he were a person employed in the public service, and the revocation of his appointment does not become final, Grievance procedure 1961-62, c. 121

(a) until the time limited for delivering an application for a hearing to the Public Service Grievance Board has expired; or

(b) where an application to the Public Service Grievance Board is delivered, until the report of the Board has been considered by the Lieutenant Governor in Council.

(5) Every coroner has jurisdiction throughout Ontario. Jurisdiction

(3) Subsection 5 of section 1 of *The Coroners Act*, as enacted by subsection 2, applies to every coroner holding office on the day this Act comes into force. Application

R.S.O. 1960
c. 69, s. 3,
subs. 1,
amended

2. Subsection 1 of section 3 of *The Coroners Act* is amended by striking out "for" in the fourth line and inserting in lieu thereof "residing in", so that the subsection shall read as follows:

Chief
coroners,
appoint-
ment

(1) The Lieutenant Governor in Council may appoint a coroner, to be known as chief coroner, for any city having a population of more than 100,000, who shall have control over the coroners residing in the city and who shall have such other powers and perform such other duties as the regulations prescribe.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Coroners Amendment Act, 1968-69*.



1st Reading

March 20th, 1969

2nd Reading

3rd Reading

MR. SHUTMAN

BILL 101

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Motor Vehicle Accident Claims Act, 1961-62**

MR. HASKETT

EXPLANATORY NOTES

SECTION 1. Subsection 5 authorizes the Minister to defend an action in the name of a deceased person and to assert a counterclaim on behalf of the estate of a deceased person.

SECTION 2. The amendments will permit payments out of the Fund up to a total amount of \$50,000 for damages occasioned in Ontario by any one uninsured motor vehicle arising out of any one accident.

BILL 101

1968-69

An Act to amend The Motor Vehicle Accident Claims Act, 1961-62

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of *The Motor Vehicle Accident Claims Act, 1961-62*, as amended by section 5 of *The Motor Vehicle Accident Claims Amendment Act, 1964* and section 1 of *The Motor Vehicle Accident Claims Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise the rights and take the action referred to in subsection 2 in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased.

2.—(1) Subsection 1 of section 22 of *The Motor Vehicle Accident Claims Act, 1961-62* is repealed and the following substituted therefor:

- (1) In respect of any application under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and subject to subsection 4, the Minister shall not pay out of the Fund more than the total amount of \$50,000 exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any

claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

- (1a) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection 4, the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident.

1961-62,
c. 84, s. 22,
subs. 4,
amended

(2) Subsection 4 of the said section 22 is amended by striking out clause *a*, by relettering clause *b* as clause *c*, by relettering clause *c* as clause *d* and by adding thereto the following clauses:

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or
-

3.—(1) This Act, except section 2, comes into force on the ^{Commence-} day it receives Royal Assent.
ment

(2) Section 2 comes into force on the 1st day of September, ^{Idem} 1969.

4. This Act may be cited as *The Motor Vehicle Accident* ^{Short title} *Claims Amendment Act, 1968-69.*

THE UNIVERSITY OF CHICAGO
LIBRARY

1st Reading

March 24th, 1969

2nd Reading

3rd Reading

MR. HASKETT

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Motor Vehicle Accident Claims Act, 1961-62**

MR. HASKETT

BILL 101

1968-69

An Act to amend The Motor Vehicle Accident Claims Act, 1961-62

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of *The Motor Vehicle Accident Claims Act*, 1961-62, as amended by section 5 of *The Motor Vehicle Accident Claims Amendment Act, 1964* and section 1 of *The Motor Vehicle Accident Claims Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise the rights and take the action referred to in subsection 2 in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased.

2.—(1) Subsection 1 of section 22 of *The Motor Vehicle Accident Claims Act, 1961-62* is repealed and the following substituted therefor:

- (1) In respect of any application under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and subject to subsection 4, the Minister shall not pay out of the Fund more than the total amount of \$50,000 exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any

claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem.

- (1a) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection 4, the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident.

1961-62,
c. 84, s. 22,
subst. 1,
amended

- (2) Subsection 4 of the said section 22 is amended by striking out clause *a*, by relettering clause *b* as clause *c*, by relettering clause *c* as clause *d* and by adding thereto the following clauses:

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or

3.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. ^{Commence-}_{ment}

(2) Section 2 comes into force on the 1st day of September, 1969. ^{Idem}

4. This Act may be cited as *The Motor Vehicle Accident Claims Amendment Act, 1968-69*. ^{Short title}

and
...

Accident Claims Act, 1961-62

1st Reading

March 24th, 1969

2nd Reading

April 24th, 1969

3rd Reading

May 9th, 1969

MR. HASKETT

BILL 102

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Registry Act

MR. WISHART

EXPLANATORY NOTES

SECTION 1. Complementary to section 3 of the Bill.

SECTION 2. The amendment confirms existing practice.

SECTION 3. The amendment authorizes names for registry divisions to be fixed by regulation.

SECTION 4. The duties of the Inspector of Legal Offices relating to the registry system are vested in a new office called the Director of Land Registration.

BILL 102

1968-69

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Registry Act*, as re-enacted by section 1 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause: R.S.O. 1960, c. 348, s. 1 (1966, c. 136, s. 1), amended

(aa) "Director" means the Director of Land Registration appointed under section 3.

2. *The Registry Act* is amended by adding thereto the following section: R.S.O. 1960, c. 348, amended

1a. The Minister of Justice and Attorney General is responsible for the administration of this Act. Minister of Justice and Attorney General

3. Subsection 2 of section 4 of *The Registry Act*, as re-enacted by section 3 of *The Registry Amendment Act, 1964* and amended by section 1 of *The Registry Amendment Act, 1965*, is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* in the amendment of 1965, and by adding thereto the following clause: R.S.O. 1960, c. 348, s. 4, subs. 2 (1964, c. 102, s. 3), amended

(e) designate the names by which registry divisions shall be known.

4. *The Registry Act* is amended by adding thereto the following sections: R.S.O. 1960, c. 348, amended

6a.—(1) The Lieutenant Governor in Council may appoint a barrister or solicitor to be the Director of Land Registration. Director of Land Registration

(2) The Director of Land Registration has general supervision and control over registry offices and the system for registration therein. Duties

- Idem** (3) Any reference in this Act to the Inspector or to the Inspector of Legal Offices shall be deemed to be a reference to the Director of Land Registration.
- Seal** (4) The Director of Land Registration shall have a seal of office in such form as the Lieutenant Governor in Council approves.
- Assistant Director of Land Registration** 6b. The Lieutenant Governor in Council may appoint an Assistant Director of Land Registration, and the person so appointed shall act under the supervision of the Director of Land Registration or shall act as Director in the absence of the Director, and when so acting the Assistant Director of Land Registration has the powers and shall perform the duties of the Director of Land Registration under this or any other Act.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), subs. 4, amended
 5.- (1) Subsection 4 of section 31 of *The Registry Act*, as re-enacted by section 8 of *The Registry Amendment Act, 1966*, is amended by striking out "or" at the end of clause *d*, by adding "or" at the end of clause *e* and by adding thereto the following clause:
- 1964, c. 74 (f) to a licence of occupation for the purpose of a pipe line as defined in *The Ontario Energy Board Act, 1964*, if the licence is accompanied by an affidavit of the licensee or his solicitor or, where the licensee is a corporation, an officer of or solicitor for the corporation stating that the land affected by the licence is to be used for that purpose, or to any instrument affecting a registered licence of occupation.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), amended
 (2) The said section 31 is amended by adding thereto the following subsections:
- Notice of unregistered interest (6) A notice of an unregistered instrument or of an interest or claim dependent upon or arising out of an unregistered instrument shall not be registered under this Act.
- Leases (7) Notwithstanding subsections 2 and 6, a notice of,
- (a) a lease;
 - (b) a sublease;
 - (c) an assignment of a lease;
 - (d) a mortgage of a lease;
 - (e) an assignment of the lessor's interest in a lease; or

SECTION 5—Subsection 1. The amendment permits the registration of licences of occupation of Crown lands in registry divisions for pipe line purposes.

Subsection 2. The amendments permit registration of notice of leases and certain dealings with leases in place of registration of the original, but ensure that other notices resembling memorials of instruments can not be registered.

SECTION 6. The section repealed prescribes the maximum dimensions of instruments for registration. Provision is made in section 14 of the Bill to prescribe the maximums by regulation in the same manner as the minimum dimensions.

SECTION 7. The amendments add instruments executed on behalf of the Government of Canada and certificates of municipal tax credits to those exempted from the requirement to have affidavits of execution.

SECTION 8—Subsection 1. The amendment permits the age of a guarantor on a mortgage to be proved in the same manner as the age of a mortgagor.

Subsection 2. The amendment requires the affidavit of marital status where the female party does not join for the purpose of barring dower.

(f) a determination or surrender of a lease,

may be registered if it complies with the regulations.

6. Section 32 of *The Registry Act*, as re-enacted by section 9 of *The Registry Amendment Act, 1964*, is repealed.

R.S.O. 1960,
c. 348, s. 32
(1964, c. 102,
s. 9),
repealed

7.—(1) Clause *d* of subsection 1*a* of section 34 of *The Registry Act*, as enacted by section 11 of *The Registry Amendment Act, 1964*, is amended by adding at the end thereof “or of Canada”, so that the clause shall read as follows:

R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11), cl. *d*,
amended

(*d*) an instrument that purports to be executed by an officer of the Government of Ontario or of Canada.

(2) Subsection 1*a* of the said section 34 is amended by adding thereto the following clause:

R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11),
amended

(*p*) a notice or certificate under subsection 5 of section 2 of *The Municipal and School Tax Credit Assistance Act, 1967*.

1967, c. 56

8.—(1) Subsection 2 of section 52 of *The Registry Act*, as re-enacted by subsection 1 of section 18 of *The Registry Amendment Act, 1966*, is amended by striking out “stating whether he” in the fifth line and inserting in lieu thereof “or by any other person executing the mortgage stating whether such guarantor or surety”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18,
subs. 1),
subs. 2,
amended

(2) On and after the 1st day of January, 1967, where a person executes a mortgage as a guarantor or surety, the mortgage shall not be registered unless there is made on or securely attached to it an affidavit by such person or by any other person executing the mortgage stating whether such guarantor or surety was of the full age of twenty-one years at the time he executed the mortgage.

Guarantor,
etc.

(2) Subsection 5 of the said section 52 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18,
subs. 1),
subs. 5,
re-enacted

(5) A deed, conveyance, mortgage, lease, release or quit claim that is made by a man and in which a woman joins as his wife shall not be registered unless there is made on or securely attached to it an affidavit by such man or woman, or, if the document is executed by an attorney, by that attorney, deposing that they were married to one another at the time of execution of the instrument.

Affidavit
as to
marriage

R.S.O. 1960,
c. 348, s. 53,
amended

9. Section 53 of *The Registry Act*, as amended by section 4 of *The Registry Amendment Act, 1965* and section 19 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Additional
exemptions

- (6) The Lieutenant Governor in Council may, by regulation, designate corporations to which this section does not apply, in addition to those set out in subsection 4.

R.S.O. 1960,
c. 348, s. 58
(1966, c. 136,
s. 24),
re-enacted

10. Section 58a of *The Registry Act*, as enacted by section 24 of *The Registry Amendment Act, 1966*, is repealed and the following substituted therefor:

Consent
under 1958,
c. 29 (Can.)

- 58a.—(1) An instrument referred to in subsection 6 of section 58 shall not be registered unless the consent under the *Estate Tax Act* (Canada) is registered in the same manner as the consent or general certificate of the Treasurer of Ontario.

Idem

- (2) Subsection 1 applies only,
- (a) where the death of the deceased person occurred after the 31st day of December, 1958; and
- (b) where the instrument referred to in subsection 6 of section 58 is tendered for registration on or after the day on which this section comes into force.

R.S.O. 1960,
c. 348, s. 73,
amended

11. Section 73 of *The Registry Act*, as amended by section 30 of *The Registry Amendment Act, 1962-63*, section 32 of *The Registry Amendment Act, 1966* and section 8 of *The Registry Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Gas and
oil leases

- (9) Where an instrument purporting to surrender a registered gas or oil lease has been registered for ten or more years, the registrar shall, wherever the gas or oil lease and any instrument dealing exclusively with the gas or oil lease appear on any abstract index in his office, draw a line in red ink through all such entries and shall initial the same and the lands described in the lease are validly discharged therefrom.

R.S.O. 1960,
c. 348, s. 80,
amended

12. Section 80 of *The Registry Act*, as amended by section 35 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Registration
deemed
notice

- (4) The registration of a notice under subsection 7 of section 31 or under section 136 or a declaration

SECTION 9. The amendment authorizes regulations to add further corporations to those exempted from the requirement to have affidavits as to powers in mortmain upon registration.

SECTION 10. The provision added would qualify land in Ontario to be exempted from the provision of the *Estate Tax Act* (Canada) imposing a lien for taxes.

SECTION 11. The amendment requires ruling off of surrendered gas and oil leases in the same manner as discharged mortgages.

SECTION 12. The amendment assures that registration of,

1. notices respecting leases;
2. notices reviving claims of interests for the purposes of Part III;
and
3. declarations describing lands affected by an instrument,

constitutes constructive notice in the same manner as the registration of instruments.

SECTION 13. The provision amended provides for the conditions that may be attached to the withdrawal of a restraining order. Planning boards have been superseded by committees of adjustment with respect to by-laws under section 26 of *The Planning Act* and the reference is amended to agree with the change.

SECTION 14. Complementary to section 6 of the Bill.

SECTION 15. Self-explanatory.

SECTION 16. The amendment exempts deposited plans from the requirement to microfilm in the same manner as registered plans are exempted under section 55 of the Act.

under subsection 2 of section 33 constitutes registration of the instrument referred to in the notice or declaration for the purposes of subsection 1 of this section.

13. Clause *a* of subsection 4 of section 96 of *The Registry Act*, as re-enacted by section 37 of *The Registry Amendment Act, 1962-63*, is amended by striking out "planning board" in the first and second lines and inserting in lieu thereof "committee of adjustment" and by inserting after "be" in the third line "attached to or", so that the clause shall read as follows:

R.S.O. 1960,
c. 348, s. 96
(1962-63,
c. 124, s. 37),
subs. 4,
cl. a,
amended

- (a) may require the consent of the committee of adjustment or the Minister of Municipal Affairs to be attached to or endorsed on the instrument if the land is affected by a by-law under section 26 of *The Planning Act*; or

R.S.O. 1960,
c. 296

.

14. Clause *h* of subsection 1 of section 126 of *The Registry Act*, as re-enacted by section 48 of *The Registry Amendment Act, 1962-63*, is repealed and the following substituted therefor:

R.S.O. 1960,
c. 348, s. 126
(1962-63,
c. 124,
s. 48),
subs. 1,
cl. h,
re-enacted

- (h) prescribing the minimum and maximum dimensions of instruments tendered for registration.

15. *The Registry Act* is amended by adding thereto the following section:

R.S.O. 1960,
c. 348,
amended

126a. Notwithstanding any provision of this Act or of *The Land Titles Act*, the Lieutenant Governor in Council may make regulations for standardizing the procedures in land titles and registry offices and for integrating the records in combined land titles and registry offices, and may limit the application of any provision of the regulations to one or more registry or land titles divisions.

Integration
of land
titles and
registry
records and
procedures
R.S.O. 1960,
c. 204

16. Subsection 4 of section 130 of *The Registry Act*, as re-enacted by subsection 3 of section 51 of *The Registry Amendment Act, 1966*, is amended by inserting after "document" in the first line "other than a plan of survey", so that the subsection shall read as follows:

R.S.O. 1960,
c. 348, s. 130,
subs. 4
(1966, c. 136,
s. 51,
subs. 3),
amended

- (4) The registrar shall record every document other than a plan of survey deposited under this Part at full length by means of photographic film reproduction.

Recording

R.S.O. 1960,
c. 348, s. 135
(1966, c. 136,
s. 52),
subs. 2,
amended

17. Subsection 2 of section 135 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause:

(ba) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of January, 1930, and,

(i) owned or used for the purposes of a right-of-way for railway lines, or

(ii) abutting such right-of-way.

R.S.O. 1960,
c. 348, s. 136
(1966, c. 136,
s. 52),
subs. 1,
amended

18. Subsection 1 of section 136 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting at the commencement thereof "Subject to subsection 6 of section 31", so that the subsection shall read as follows:

Registration
of notice
of claim

(1) Subject to subsection 6 of section 31, a person having a claim against land that is not barred under section 135 or a person on his behalf may register in the proper registry office a notice, which shall set forth the claimant's full name and address, a local description of the land and a detailed statement of the claim verified by the affidavit of the person registering the notice.

R.S.O. 1960,
c. 348, s. 137
(1966, c. 136,
s. 52),
amended

19. Section 137 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting after "those" in the second line "of Part I or Part II or", so that the section shall read as follows:

Part to
prevail
over other
provisions.

137. Where there is any conflict between the provisions of this Part and those of Part I or Part II or of any other Act or any regulation made thereunder or any rule of law, the provisions of this Part prevail.

Commence-
ment

20.—(1) This Act, except sections 1, 4, 10 and 17, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 4, 10 and 17 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as *The Registry Amendment Act, 1968-69*.

SECTION 17. The interest of a railway company in its lands for rights-of-way is exempted from the 40-year limit in a similar manner to highways.

SECTION 18. Complementary to section 5 of the Bill.

SECTION 19. The amendment ensures that the remainder of *The Registry Act* does not affect the validity of the 40-year root of title.



1st Reading

March 24th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 102

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Registry Act

MR. WISHART

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Complementary to section 3 of the Bill.

SECTION 2. The amendment confirms existing practice.

SECTION 3. The amendment authorizes names for registry divisions to be fixed by regulation.

SECTION 4. The duties of the Inspector of Legal Offices relating to the registry system are vested in a new office called the Director of Land Registration.

BILL 102

1968-69

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Registry Act*, as re-enacted by section 1 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause: R.S.O. 1960, c. 348, s. 1 (1966, c. 136, s. 1), amended

(aa) "Director" means the Director of Land Registration appointed under section 6a.

2. *The Registry Act* is amended by adding thereto the following section: R.S.O. 1960, c. 348, amended

1a. The Minister of Justice and Attorney General is responsible for the administration of this Act. Minister of Justice and Attorney General

3. Subsection 2 of section 4 of *The Registry Act*, as re-enacted by section 3 of *The Registry Amendment Act, 1964* and amended by section 1 of *The Registry Amendment Act, 1965*, is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* in the amendment of 1965, and by adding thereto the following clause: R.S.O. 1960, c. 348, s. 4, subs. 2 (1964, c. 102, s. 3), amended

(e) designate the names by which registry divisions shall be known.

4. *The Registry Act* is amended by adding thereto the following sections: R.S.O. 1960, c. 348, amended

6a.—(1) The Lieutenant Governor in Council may appoint a barrister or solicitor to be the Director of Land Registration. Director of Land Registration

(2) The Director of Land Registration has general supervision and control over registry offices and the system for registration therein. Duties

- Idem (3) Any reference in this Act to the Inspector or to the Inspector of Legal Offices shall be deemed to be a reference to the Director of Land Registration.
- Seal (4) The Director of Land Registration shall have a seal of office in such form as the Lieutenant Governor in Council approves.
- Assistant Director of Land Registration 6b. The Lieutenant Governor in Council may appoint an Assistant Director of Land Registration, and the person so appointed shall act under the supervision of the Director of Land Registration or shall act as Director in the absence of the Director, and when so acting the Assistant Director of Land Registration has the powers and shall perform the duties of the Director of Land Registration under this or any other Act.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), subs. 4, amended 5. (1) Subsection 4 of section 31 of *The Registry Act*, as re-enacted by section 8 of *The Registry Amendment Act, 1966*, is amended by striking out "or" at the end of clause *d*, by adding "or" at the end of clause *e* and by adding thereto the following clause:
- 1964, c. 74 (f) to a licence of occupation for the purpose of a pipe line as defined in *The Ontario Energy Board Act, 1964*, if the licence is accompanied by an affidavit of the licensee or his solicitor or, where the licensee is a corporation, an officer of or solicitor for the corporation stating that the land affected by the licence is to be used for that purpose, or to any instrument affecting a registered licence of occupation.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), amended (2) The said section 31 is amended by adding thereto the following subsections:
- Notice of unregistered interest (6) A notice of an unregistered instrument or of an interest or claim dependent upon or arising out of an unregistered instrument shall not be registered under this Act.
- Leases (7) Notwithstanding subsections 2 and 6, a notice of,
- (a) a lease;
 - (b) a sublease;
 - (c) an assignment of a lease;
 - (d) a mortgage of a lease;
 - (e) an assignment of the lessor's interest in a lease; or

SECTION 5—Subsection 1. The amendment permits the registration of licences of occupation of Crown lands in registry divisions for pipe line purposes.

Subsection 2. The amendments permit registration of notice of leases and certain dealings with leases in place of registration of the original, but ensure that other notices resembling memorials of instruments can not be registered.

SECTION 6. The section repealed prescribes the maximum dimensions of instruments for registration. Provision is made in section 14 of the Bill to prescribe the maximums by regulation in the same manner as the minimum dimensions.

SECTION 7. The amendments add instruments executed on behalf of the Government of Canada and certificates of municipal tax credits to those exempted from the requirement to have affidavits of execution.

SECTION 8—Subsection 1. The amendment permits the age of a guarantor on a mortgage to be proved in the same manner as the age of a mortgagor.

Subsection 2. The amendment requires the affidavit of marital status where the female party does not join for the purpose of barring dower.

(f) a determination or surrender of a lease,

may be registered if it complies with the regulations.

6. Section 32 of *The Registry Act*, as re-enacted by section 9 of *The Registry Amendment Act, 1964*, is repealed. R.S.O. 1960,
c. 348, s. 32
(1964, c. 102,
s. 9),
repealed

7.—(1) Clause *d* of subsection 1*a* of section 34 of *The Registry Act*, as enacted by section 11 of *The Registry Amendment Act, 1964*, is amended by adding at the end thereof “or of Canada”, so that the clause shall read as follows: R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11), cl. *d*,
amended

(*d*) an instrument that purports to be executed by an officer of the Government of Ontario or of Canada.

(2) Subsection 1*a* of the said section 34 is amended by adding thereto the following clause: R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11),
amended

(*p*) a notice or certificate under subsection 5 of section 2 of *The Municipal and School Tax Credit Assistance Act, 1967*. 1967, c. 56

8.—(1) Subsection 2 of section 52 of *The Registry Act*, as re-enacted by subsection 1 of section 18 of *The Registry Amendment Act, 1966*, is amended by striking out “stating whether he” in the fifth line and inserting in lieu thereof “or by any other person executing the mortgage stating whether such guarantor or surety”, so that the subsection shall read as follows: R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18,
subs. 1),
subs. 2,
amended

(2) On and after the 1st day of January, 1967, where a person executes a mortgage as a guarantor or surety, the mortgage shall not be registered unless there is made on or securely attached to it an affidavit by such person or by any other person executing the mortgage stating whether such guarantor or surety was of the full age of twenty-one years at the time he executed the mortgage. Guarantor,
etc.

(2) Subsection 5 of the said section 52 is repealed and the following substituted therefor: R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18,
subs. 1),
subs. 5,
re-enacted

(5) A deed, conveyance, mortgage, lease, release or quit claim that is made by a man and in which a woman joins as his wife shall not be registered unless there is made on or securely attached to it an affidavit by such man or woman, or, if the document is executed by an attorney, by that attorney, deposing that they were married to one another at the time of execution of the instrument. Affidavit
as to
marriage

R.S.O. 1960, c. 348, s. 53, amended **9.** Section 53 of *The Registry Act*, as amended by section 4 of *The Registry Amendment Act, 1965* and section 19 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Additional exemptions

(6) The Lieutenant Governor in Council may, by regulation, designate corporations to which this section does not apply, in addition to those set out in subsection 4.

R.S.O. 1960, c. 348, s. 58^a (1966, c. 136, s. 24), re-enacted **10.** Section 58a of *The Registry Act*, as enacted by section 24 of *The Registry Amendment Act, 1966*, is repealed and the following substituted therefor:

Consent under 1958, c. 29 (Can.)

58a. -- (1) An instrument referred to in subsection 6 of section 58 shall not be registered unless the consent under the *Estate Tax Act* (Canada) is registered in the same manner as the consent or general certificate of the Treasurer of Ontario.

Idem

(2) Subsection 1 applies only,

- (a) where the death of the deceased person occurred after the 31st day of December, 1958; and
- (b) where the instrument referred to in subsection 6 of section 58 is tendered for registration on or after the day on which this section comes into force.

R.S.O. 1960, c. 348, s. 73, amended **11.** Section 73 of *The Registry Act*, as amended by section 30 of *The Registry Amendment Act, 1962-63*, section 32 of *The Registry Amendment Act, 1966* and section 8 of *The Registry Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Gas and oil leases

(9) Where an instrument purporting to surrender a registered gas or oil lease has been registered for ten or more years, the registrar shall, wherever the gas or oil lease and any instrument dealing exclusively with the gas or oil lease appear on any abstract index in his office, draw a line in red ink through all such entries and shall initial the same and the lands described in the lease are validly discharged therefrom.

R.S.O. 1960, c. 348, s. 80, amended **12.** Section 80 of *The Registry Act*, as amended by section 35 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Registration deemed notice

(4) The registration of a notice under subsection 7 of section 31 or under section 136 or a declaration

SECTION 9. The amendment authorizes regulations to add further corporations to those exempted from the requirement to have affidavits as to powers in mortmain upon registration.

SECTION 10. The provision added would qualify land in Ontario to be exempted from the provision of the *Estate Tax Act* (Canada) imposing a lien for taxes.

SECTION 11. The amendment requires ruling off of surrendered gas and oil leases in the same manner as discharged mortgages.

SECTION 12. The amendment assures that registration of,

1. notices respecting leases;
2. notices reviving claims of interests for the purposes of Part III; and
3. declarations describing lands affected by an instrument,

constitutes constructive notice in the same manner as the registration of instruments.

SECTION 13. The provision amended provides for the conditions that may be attached to the withdrawal of a restraining order. Planning boards have been superseded by committees of adjustment with respect to by-laws under section 26 of *The Planning Act* and the reference is amended to agree with the change.

SECTION 14. Complementary to section 6 of the Bill.

SECTION 15. Self-explanatory.

SECTION 16. The amendment exempts deposited plans from the requirement to microfilm in the same manner as registered plans are exempted under section 55 of the Act.

under subsection 2 of section 33 constitutes registration of the instrument referred to in the notice or declaration for the purposes of subsection 1 of this section.

13. Clause *a* of subsection 4 of section 96 of *The Registry Act*, as re-enacted by section 37 of *The Registry Amendment Act, 1962-63*, is amended by striking out "planning board" in the first and second lines and inserting in lieu thereof "committee of adjustment" and by inserting after "be" in the third line "attached to or", so that the clause shall read as follows:

R.S.O. 1960, c. 348, s. 96 (1962-63, c. 124, s. 37), subs. 4, cl. a, amended

(a) may require the consent of the committee of adjustment or the Minister of Municipal Affairs to be attached to or endorsed on the instrument if the land is affected by a by-law under section 26 of *The Planning Act*; or

R.S.O. 1960, c. 296

.

14. Clause *h* of subsection 1 of section 126 of *The Registry Act*, as re-enacted by section 48 of *The Registry Amendment Act, 1962-63*, is repealed and the following substituted therefor:

R.S.O. 1960, c. 348, s. 126 (1962-63, c. 124, s. 48), subs. 1, cl. h, re-enacted

(h) prescribing the minimum and maximum dimensions of instruments tendered for registration.

15. *The Registry Act* is amended by adding thereto the following section:

R.S.O. 1960, c. 348, amended

126a. Notwithstanding any provision of this Act or of *The Land Titles Act*, the Lieutenant Governor in Council may make regulations for standardizing the procedures in land titles and registry offices and for integrating the records in combined land titles and registry offices, and may limit the application of any provision of the regulations to one or more registry or land titles divisions.

Integration of land titles and registry records and procedures R.S.O. 1960, c. 204

16. Subsection 4 of section 130 of *The Registry Act*, as re-enacted by subsection 3 of section 51 of *The Registry Amendment Act, 1966*, is amended by inserting after "document" in the first line "other than a plan of survey", so that the subsection shall read as follows:

R.S.O. 1960, c. 348, s. 130, subs. 4 (1966, c. 136, s. 51, subs. 3), amended

(4) The registrar shall record every document other than a plan of survey deposited under this Part at full length by means of photographic film reproduction.

Recording

R.S.O. 1960,
c. 348, s. 135
(1966, c. 136,
s. 52),
subs. 2,
amended

17. Subsection 2 of section 135 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause:

(ba) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of January, 1930, and,

(i) owned or used for the purposes of a right-of-way for railway lines, or

(ii) abutting such right-of-way.

R.S.O. 1960,
c. 348, s. 136
(1966, c. 136,
s. 52),
subs. 1,
amended

18. Subsection 1 of section 136 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting at the commencement thereof "Subject to subsection 6 of section 31", so that the subsection shall read as follows:

Registration
of notice
of claim

(1) Subject to subsection 6 of section 31, a person having a claim against land that is not barred under section 135 or a person on his behalf may register in the proper registry office a notice, which shall set forth the claimant's full name and address, a local description of the land and a detailed statement of the claim verified by the affidavit of the person registering the notice.

R.S.O. 1960,
c. 348, s. 137
(1966, c. 136,
s. 52),
amended

19. Section 137 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting after "those" in the second line "of Part I or Part II or", so that the section shall read as follows:

Part to
prevail
over other
provisions.

137. Where there is any conflict between the provisions of this Part and those of Part I or Part II or of any other Act or any regulation made thereunder or any rule of law, the provisions of this Part prevail.

Commence-
ment

20.—(1) This Act, except sections 1, 4, 10 and 17, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 4, 10 and 17 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as *The Registry Amendment Act, 1968-69*.

SECTION 17. The interest of a railway company in its lands for rights-of-way is exempted from the 40-year limit in a similar manner to highways.

SECTION 18. Complementary to section 5 of the Bill.

SECTION 19. The amendment ensures that the remainder of *The Registry Act* does not affect the validity of the 40-year root of title.



1st Reading

March 24th, 1969

2nd Reading

April 30th, 1969

3rd Reading

MR. WISHART

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 102

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Registry Act

MR. WISHART

BILL 102

1968-69

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Registry Act*, as re-enacted by section 1 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause:

R.S.O. 1960,
c. 348, s. 1
(1966, c. 136,
s. 1),
amended

(aa) "Director" means the Director of Land Registration appointed under section 6a.

2. *The Registry Act* is amended by adding thereto the following section:

R.S.O. 1960,
c. 348,
amended

1a. The Minister of Justice and Attorney General is responsible for the administration of this Act.

Minister of
Justice and
Attorney
General

3. Subsection 2 of section 4 of *The Registry Act*, as re-enacted by section 3 of *The Registry Amendment Act, 1964* and amended by section 1 of *The Registry Amendment Act, 1965*, is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* in the amendment of 1965, and by adding thereto the following clause:

R.S.O. 1960,
c. 348, s. 4,
subs. 2
(1964, c. 102,
s. 3),
amended

(e) designate the names by which registry divisions shall be known.

4. *The Registry Act* is amended by adding thereto the following sections:

R.S.O. 1960,
c. 348,
amended

6a.—(1) The Lieutenant Governor in Council may appoint a barrister or solicitor to be the Director of Land Registration.

Director
of Land
Registration

(2) The Director of Land Registration has general supervision and control over registry offices and the system for registration therein.

Duties

- Idem. (3) Any reference in this Act to the Inspector or to the Inspector of Legal Offices shall be deemed to be a reference to the Director of Land Registration.
- Seal (4) The Director of Land Registration shall have a seal of office in such form as the Lieutenant Governor in Council approves.
- Assistant Director of Land Registration 6b. The Lieutenant Governor in Council may appoint an Assistant Director of Land Registration, and the person so appointed shall act under the supervision of the Director of Land Registration or shall act as Director in the absence of the Director, and when so acting the Assistant Director of Land Registration has the powers and shall perform the duties of the Director of Land Registration under this or any other Act.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), subs. 4, amended 5.—(1) Subsection 4 of section 31 of *The Registry Act*, as re-enacted by section 8 of *The Registry Amendment Act, 1966*, is amended by striking out "or" at the end of clause *d*, by adding "or" at the end of clause *e* and by adding thereto the following clause:
- 1964, c. 74 (f) to a licence of occupation for the purpose of a pipe line as defined in *The Ontario Energy Board Act, 1964*, if the licence is accompanied by an affidavit of the licensee or his solicitor or, where the licensee is a corporation, an officer of or solicitor for the corporation stating that the land affected by the licence is to be used for that purpose, or to any instrument affecting a registered licence of occupation.
- R.S.O. 1960, c. 348, s. 31 (1966, c. 136, s. 8), amended (2) The said section 31 is amended by adding thereto the following subsections:
- Notice of unregistered interest (6) A notice of an unregistered instrument or of an interest or claim dependent upon or arising out of an unregistered instrument shall not be registered under this Act.
- Leases (7) Notwithstanding subsections 2 and 6, a notice of,
- (a) a lease;
 - (b) a sublease;
 - (c) an assignment of a lease;
 - (d) a mortgage of a lease;
 - (e) an assignment of the lessor's interest in a lease; or

(f) a determination or surrender of a lease,
may be registered if it complies with the regulations.

6. Section 32 of *The Registry Act*, as re-enacted by section 9 of *The Registry Amendment Act, 1964*, is repealed.

R.S.O. 1960,
c. 348, s. 32
(1964, c. 102,
s. 9),
repealed

7.—(1) Clause *d* of subsection 1*a* of section 34 of *The Registry Act*, as enacted by section 11 of *The Registry Amendment Act, 1964*, is amended by adding at the end thereof “or of Canada”, so that the clause shall read as follows:

R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11), cl. *d*,
amended

(*d*) an instrument that purports to be executed by an officer of the Government of Ontario or of Canada.

(2) Subsection 1*a* of the said section 34 is amended by adding thereto the following clause:

R.S.O. 1960,
c. 348, s. 34,
subs. 1*a*
(1964, c. 102,
s. 11),
amended

(*p*) a notice or certificate under subsection 5 of section 2 of *The Municipal and School Tax Credit Assistance Act, 1967*.

1967, c. 56

8.—(1) Subsection 2 of section 52 of *The Registry Act*, as re-enacted by subsection 1 of section 18 of *The Registry Amendment Act, 1966*, is amended by striking out “stating whether he” in the fifth line and inserting in lieu thereof “or by any other person executing the mortgage stating whether such guarantor or surety”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18),
subs. 1),
subs. 2,
amended

(2) On and after the 1st day of January, 1967, where a person executes a mortgage as a guarantor or surety, the mortgage shall not be registered unless there is made on or securely attached to it an affidavit by such person or by any other person executing the mortgage stating whether such guarantor or surety was of the full age of twenty-one years at the time he executed the mortgage.

Guarantor,
etc.

(2) Subsection 5 of the said section 52 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 348, s. 52
(1966, c. 136,
s. 18,
subs. 1),
subs. 5,
re-enacted

(5) A deed, conveyance, mortgage, lease, release or quit claim that is made by a man and in which a woman joins as his wife shall not be registered unless there is made on or securely attached to it an affidavit by such man or woman, or, if the document is executed by an attorney, by that attorney, deposing that they were married to one another at the time of execution of the instrument.

Affidavit
as to
marriage

R.S.O. 1960,
c. 348, s. 53,
amended

9. Section 53 of *The Registry Act*, as amended by section 4 of *The Registry Amendment Act, 1965* and section 19 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Additional
exemptions

(6) The Lieutenant Governor in Council may, by regulation, designate corporations to which this section does not apply, in addition to those set out in subsection 4.

R.S.O. 1960,
c. 348, s. 58,
(1966, c. 136,
s. 24),
re enacted

10. Section 58a of *The Registry Act*, as enacted by section 24 of *The Registry Amendment Act, 1966*, is repealed and the following substituted therefor:

Consent
under 1958
c. 29 (Can.)

58a. — (1) An instrument referred to in subsection 6 of section 58 shall not be registered unless the consent under the *Estate Tax Act* (Canada) is registered in the same manner as the consent or general certificate of the Treasurer of Ontario.

Idem

(2) Subsection 1 applies only,

- (a) where the death of the deceased person occurred after the 31st day of December, 1958; and
- (b) where the instrument referred to in subsection 6 of section 58 is tendered for registration on or after the day on which this section comes into force.

R.S.O. 1960,
c. 348, s. 73,
amended

11. Section 73 of *The Registry Act*, as amended by section 30 of *The Registry Amendment Act, 1962-63*, section 32 of *The Registry Amendment Act, 1966* and section 8 of *The Registry Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Gas and
oil leases

(9) Where an instrument purporting to surrender a registered gas or oil lease has been registered for ten or more years, the registrar shall, wherever the gas or oil lease and any instrument dealing exclusively with the gas or oil lease appear on any abstract index in his office, draw a line in red ink through all such entries and shall initial the same and the lands described in the lease are validly discharged therefrom.

R.S.O. 1960,
c. 348, s. 80,
amended

12. Section 80 of *The Registry Act*, as amended by section 35 of *The Registry Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Registration
deemed
notice

(4) The registration of a notice under subsection 7 of section 31 or under section 136 or a declaration

under subsection 2 of section 33 constitutes registration of the instrument referred to in the notice or declaration for the purposes of subsection 1 of this section.

13. Clause *a* of subsection 4 of section 96 of *The Registry Act*, as re-enacted by section 37 of *The Registry Amendment Act, 1962-63*, is amended by striking out "planning board" in the first and second lines and inserting in lieu thereof "committee of adjustment" and by inserting after "be" in the third line "attached to or", so that the clause shall read as follows:

R.S.O. 1960,
c. 348, s. 96
(1962-63,
c. 124, s. 37),
subs. 4,
cl. *a*,
amended

- (a) may require the consent of the committee of adjustment or the Minister of Municipal Affairs to be attached to or endorsed on the instrument if the land is affected by a by-law under section 26 of *The Planning Act*; or

R.S.O. 1960,
c. 296

.

14. Clause *h* of subsection 1 of section 126 of *The Registry Act*, as re-enacted by section 48 of *The Registry Amendment Act, 1962-63*, is repealed and the following substituted therefor:

R.S.O. 1960,
c. 348, s. 126
(1962-63,
c. 124,
s. 48),
subs. 1,
cl. *h*,
re-enacted

- (*h*) prescribing the minimum and maximum dimensions of instruments tendered for registration.

15. *The Registry Act* is amended by adding thereto the following section:

R.S.O. 1960,
c. 348,
amended

126a. Notwithstanding any provision of this Act or of *The Land Titles Act*, the Lieutenant Governor in Council may make regulations for standardizing the procedures in land titles and registry offices and for integrating the records in combined land titles and registry offices, and may limit the application of any provision of the regulations to one or more registry or land titles divisions.

Integration
of land
titles and
registry
records and
procedures
R.S.O. 1960,
c. 204

16. Subsection 4 of section 130 of *The Registry Act*, as re-enacted by subsection 3 of section 51 of *The Registry Amendment Act, 1966*, is amended by inserting after "document" in the first line "other than a plan of survey", so that the subsection shall read as follows:

R.S.O. 1960,
c. 348, s. 130,
subs. 4
(1966, c. 136,
s. 51,
subs. 3),
amended

- (4) The registrar shall record every document other than a plan of survey deposited under this Part at full length by means of photographic film reproduction.

Recording

R.S.O. 1960, c. 348, s. 135 (1966, c. 136, s. 52), amended

17. Subsection 2 of section 135 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by adding thereto the following clause:

(ba) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of January, 1930, and,

(i) owned or used for the purposes of a right-of-way for railway lines, or

(ii) abutting such right-of-way.

R.S.O. 1960, c. 348, s. 136 (1966, c. 136, s. 52), amended

18. Subsection 1 of section 136 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting at the commencement thereof "Subject to subsection 6 of section 31", so that the subsection shall read as follows:

Registration of notice of claim

(1) Subject to subsection 6 of section 31, a person having a claim against land that is not barred under section 135 or a person on his behalf may register in the proper registry office a notice, which shall set forth the claimant's full name and address, a local description of the land and a detailed statement of the claim verified by the affidavit of the person registering the notice.

R.S.O. 1960, c. 348, s. 137 (1966, c. 136, s. 52), amended

19. Section 137 of *The Registry Act*, as enacted by section 52 of *The Registry Amendment Act, 1966*, is amended by inserting after "those" in the second line "of Part I or Part II or", so that the section shall read as follows:

Part to prevail over other provisions.

137. Where there is any conflict between the provisions of this Part and those of Part I or Part II or of any other Act or any regulation made thereunder or any rule of law, the provisions of this Part prevail.

Commencement

20.—(1) This Act, except sections 1, 4, 10 and 17, comes into force on the day it receives Royal Assent.

Interim

(2) Sections 1, 4, 10 and 17 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as *The Registry Amendment Act, 1968-69*.





1st Reading

March 24th, 1969

2nd Reading

April 30th, 1969

3rd Reading

May 9th, 1969

MR. WISHART

BILL 103

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Land Titles Act

MR. WISHART

EXPLANATORY NOTES

SECTION 1. The new provision confirms existing practice.

SECTION 2. The land titles system has been extended by proclamation to the areas named in the new clauses.

SECTION 3. The provision repealed has no further application as the land titles office for the County of Carleton is now operated in conjunction with the registry office for the City of Ottawa.

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Land Titles Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 204,
amended

1a. The Minister of Justice and Attorney General is responsible for the administration of this Act. Minister of
Justice and
Attorney
General

2. Subsection 1 of section 2 of *The Land Titles Act*, as re-enacted by section 2 of *The Land Titles Amendment Act, 1961-62* and amended by section 2 of *The Land Titles Amendment Act, 1966*, is further amended by adding thereto the following clauses: R.S.O. 1960,
c. 204, s. 2
(1961-62,
c. 70, s. 2),
subs. 1,
amended

- (m) that part of the County of Middlesex comprising the registry division of the west riding of the County of Middlesex, including every local municipality in that registry division;
- (n) the County of Hastings, including every local municipality in the county except the City of Belleville and the separated Town of Trenton;
- (o) the County of Bruce, including every local municipality in the county;
- (p) that part of the County of Durham comprising the registry division of the west riding of the County of Durham including every local municipality in that registry division.

3.—(1) Subsection 1 of section 5a of *The Land Titles Act*, as enacted by section 3 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 204, s. 5a
(1966, c. 77,
s. 3),
subs. 1,
re-enacted

- (1) Subject to subsection 2 of section 4 and except as provided by subsection 2, every land titles office shall be combined with the registry office for the registry division to which this Act has been extended. Operation
of land
titles
offices

R.S.O. 1960,
c. 204, s. 5a
(1966, c. 77,
s. 3), subs. 3,
repealed

(2) Subsection 3 of the said section 5a is repealed.

R.S.O. 1960,
c. 204, s. 6,
amended

4. Section 6 of *The Land Titles Act* is amended by adding thereto the following subsections:

Duties of
Director
of Land
Registration

(2) Any reference in this Act to the Inspector or to the Inspector of Legal Offices shall be deemed to be a reference to the Director of Land Registration appointed under *The Registry Act*.

R.S.O. 1960,
c. 348

Idem

(3) The Director of Land Registration has general supervision and control over land titles offices and the system for registration therein.

R.S.O. 1960,
c. 204, s. 8,
subs. 1,
re-enacted

5. Subsection 1 of section 8 of *The Land Titles Act* is repealed and the following substituted therefor:

Duties of
director
of titles

(1) The director of titles shall supervise and determine all matters relating to titles of land to which this Act applies.

R.S.O. 1960,
c. 204, s. 9
(1966, c. 77,
s. 5), subs. 1,
repealed

6. Subsection 1 of section 9 of *The Land Titles Act*, as re-enacted by section 5 of *The Land Titles Amendment Act, 1966*, is repealed.

R.S.O. 1960,
c. 204, s. 11,
subs. 2,
re-enacted,
subs. 3,
repealed

7. Subsections 2 and 3 of section 11 of *The Land Titles Act* are repealed and the following substituted therefor:

Assistant
examiners
of surveys

(2) The Lieutenant Governor in Council may appoint one or more persons to be assistant examiners of surveys who shall assist the examiner of surveys in the performance of his duties.

R.S.O. 1960,
c. 204, s. 15,
re-enacted

8. Section 15 of *The Land Titles Act* is repealed and the following substituted therefor:

Oath of
office

15. Every officer appointed under this Act, before he enters upon the duties of his office, shall take and subscribe an oath in the prescribed form, which shall be transmitted by him to the Director of Land Registration.

R.S.O. 1960,
c. 204, s. 29
(1966, c. 77,
s. 12),
re-enacted

9. Section 29 of *The Land Titles Act*, as re-enacted by section 12 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor:

Right to
appeal

29.—(1) Except as provided by subsection 3 of section 162, an appeal lies from any act, order or decision of the Director of Land Registration, the director of titles or a master of titles under this Act to a judge of

SECTIONS 4 AND 5. The office of Director of Land Registration is established by an amendment to *The Registry Act* at this session to replace the Inspector of Legal Offices in respect of his function in land registration matters.

SECTION 6. The provision repealed requires the master of titles at Toronto to be a barrister or solicitor.

SECTION 7. The requirement that assistant examiners of surveys be Ontario land surveyors of at least three years standing is deleted together with special function for the senior assistant examiner of surveys.

SECTION 8. The amendment leaves the form of the oath of office to be prescribed by regulation and provides for its filing.

SECTION 9. At present, appeals are provided to the local judge of the Supreme Court and then to the Court of Appeal. The amendment provides for appeals to a judge of the county or district court and then to the Court of Appeal.

SECTION 10. The provisions repealed provide for payment of fees as between the master of titles and registrar of deeds. This is unnecessary with the assumption of the costs of the administration of justice by Ontario.

SECTION 11. The new provision makes it possible to have lands in Ontario exempted from liens for taxes under section 43 (1) of the *Estate Tax Act* (Canada).

SECTION 12. The transmission of fees from the sheriff to the master of titles is unnecessary as both now come under the same administration.

the county or district court of the county or district in which the land to which the decision relates is situate or of such other county or district as the parties agree to.

- (2) An appeal lies from a decision of a judge of a county or district court under subsection 1 to the Court of Appeal. ^{Idem}

10.—(1) Subsection 2 of section 50 of *The Land Titles Act* is amended by striking out “upon payment of his proper fees” in the first line, so that the subsection shall read as follows: ^{R.S.O. 1960, c. 204, s. 50, subs. 2, amended}

- (2) The registrar shall comply with the request and shall transmit the instruments by registered mail or by express and shall send therewith a list of the instruments transmitted and shall retain a copy of the list. ^{Duty of registrar}

- (2) Subsection 4 of the said section 50 is repealed. ^{R.S.O. 1960, c. 204, s. 50, subs. 4, repealed}

11. *The Land Titles Act* is amended by adding thereto the following section: ^{R.S.O. 1960, c. 204, amended}

133a.—(1) A person referred to in subsection 1 of section 133 shall not be entered as owner unless the consent under the *Estate Tax Act* (Canada) is attached to the application in the same manner as the consent of the Treasurer of Ontario. ^{Registration of consent under 1958, c. 29, s. 43, subs. 1, (Can.)}

- (2) Subsection 1 applies only. ^{Idem}

(a) where the death of the registered owner occurred after the 31st day of December, 1958; and

(b) where the application referred to in subsection 1 of section 133 is made on or after the day on which this section comes into force.

12. Subsection 8 of section 145 of *The Land Titles Act*, as re-enacted by section 37 of *The Land Titles Amendment Act, 1961-62*, is amended by striking out “and of that amount the sheriff shall pay over \$1 to the proper master of titles” in the seventh and eighth lines, so that the subsection shall read as follows: ^{R.S.O. 1960, c. 204, s. 145, subs. 8, (1961-62, c. 70, s. 37), amended}

- (8) Where a copy of a writ of execution or a renewal thereof is delivered or transmitted to the proper master of titles under subsection 1, the sheriff shall be paid by the person upon whose request the copy ^{Fee}

is delivered or transmitted a fee of \$3 in addition to any other fee payable to the sheriff on the filing of the writ.

R.S.O. 1960, c. 204, s. 153, subs. 8, repealed. **13.** Subsection 8 of section 153 of *The Land Titles Act* is repealed.

R.S.O. 1960, c. 204, s. 154b (1961-62, c. 70, s. 39), repealed. **14.** Section 154b of *The Land Titles Act*, as enacted by section 39 of *The Land Titles Amendment Act, 1961-62*, is repealed.

R.S.O. 1960, c. 204, s. 162, subs. 3 (1966, c. 77, s. 22, subs. 2), re enacted. **15.** Subsection 3 of section 162 of *The Land Titles Act*, as re-enacted by subsection 2 of section 22 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor:

Appeal (3) An appeal lies from any decision made under this section to the Court of Appeal.

R.S.O. 1960, c. 204, amended. **16.** *The Land Titles Act* is amended by adding thereto the following section:

Integration of land titles and registry records and procedures. R.S.O. 1960, c. 348. **172b.** The provisions of this Act respecting the procedures and records in land titles offices are subject to any regulation made under section 126a of *The Registry Act*.

R.S.O. 1960, c. 204, s. 176, subs. 4, re-enacted. **17.** Subsection 4 of section 176 of *The Land Titles Act* is repealed and the following substituted therefor:

Return address (4) The envelope containing a notice under this Act shall have printed thereon the return address of the office of land titles.

R.S.O. 1960, c. 204, s. 177, subs. 2 (1961-62, c. 70, s. 43), re-enacted. **18.** Subsection 2 of section 177 of *The Land Titles Act*, as re-enacted by section 46 of *The Land Titles Amendment Act, 1961-62*, is repealed and the following substituted therefor:

Item (2) The proper master of titles may, upon the request of the council of a municipality, furnish photographic or electrostatic copies of instruments or parts thereof instead of a list, in which case the master is entitled to such fee as is agreed upon by the master and the council and approved by the Director of Land Registration.

R.S.O. 1960, c. 27, repealed. **19.** Section 27 of *The Land Titles Amendment Act, 1960* is repealed.

SECTION 13. The provision deleted requires all plans to be approved by the examiner of surveys or other person designated by the regulation before their registration.

SECTION 14. The provision repealed is obsolete as it makes applicable a provision already repealed.

SECTION 15. An appeal from a decision altering a registered plan lies from the director of titles or county court judge directly to the Court of Appeal and the intermediate appeal to a judge of the High Court is eliminated.

SECTION 16. The new provision is complementary to section 15 of the Bill entitled An Act to amend The Registry Act and allows for special provision to integrate procedures and records in combined offices.

SECTION 17. The amendment is less explicit about the form in which the return address is to be worded.

SECTION 18. The amendment permits the furnishing of photographic or electrostatic copies of registered transfers to the municipality. The fee of 20 cents is deleted and to be prescribed by regulation.

SECTION 19. The provision repealed provides for the payment to the Assurance Fund of amounts in connection with transfers of land to land titles before 1956. Such charges were dispensed with in 1966.

20.—(1) This Act, except sections 4, 8, 9 and 11, comes ^{Commence-}into force on the day it receives Royal Assent.
_{ment}

(2) Sections 4, 8, 9 and 11 come into force on a day to be ^{Idem}named by the Lieutenant Governor by his proclamation.

21. This Act may be cited as *The Land Titles Amendment* ^{Short title}
Act, 1968-69.

An Act to amend
The Land Titles Act

1st Reading

March 24th, 1969

2nd Reading

3rd Reading

MR. WISHART

BILL 103

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Land Titles Act

MR. WISHART

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Land Titles Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 204,
amended

1a. The Minister of Justice and Attorney General is responsible for the administration of this Act. Minister of
Justice and
Attorney
General

2. Subsection 1 of section 2 of *The Land Titles Act*, as re-enacted by section 2 of *The Land Titles Amendment Act, 1961-62* and amended by section 2 of *The Land Titles Amendment Act, 1966*, is further amended by adding thereto the following clauses: R.S.O. 1960,
c. 204, s. 2
(1961-62,
c. 70, s. 2),
subs. 1,
amended

- (m) that part of the County of Middlesex comprising the registry division of the west riding of the County of Middlesex, including every local municipality in that registry division;
- (n) the County of Hastings, including every local municipality in the county except the City of Belleville and the separated Town of Trenton;
- (o) the County of Bruce, including every local municipality in the county;
- (p) that part of the County of Durham comprising the registry division of the west riding of the County of Durham including every local municipality in that registry division.

3.—(1) Subsection 1 of section 5a of *The Land Titles Act*, as enacted by section 3 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960,
c. 204, s. 5a
(1966, c. 77,
s. 3),
subs. 1,
re-enacted

- (1) Subject to subsection 2 of section 4 and except as provided by subsection 2, every land titles office shall be combined with the registry office for the registry division to which this Act has been extended. Operation
of land
titles
offices

R.S.O. 1960,
c. 204, s. 5a
(1966, c. 77,
s. 3), subs. 3,
repealed

(2) Subsection 3 of the said section 5a is repealed.

R.S.O. 1960,
c. 204, s. 6,
amended

4. Section 6 of *The Land Titles Act* is amended by adding thereto the following subsections:

Duties of
Director of
Land
Registration

(2) Any reference in this Act to the Inspector or to the Inspector of Legal Offices shall be deemed to be a reference to the Director of Land Registration appointed under *The Registry Act*.

R.S.O. 1960,
c. 348

Idem

(3) The Director of Land Registration has general supervision and control over land titles offices and the system for registration therein.

R.S.O. 1960,
c. 204, s. 8,
subs. 1,
re-enacted

5. Subsection 1 of section 8 of *The Land Titles Act* is repealed and the following substituted therefor:

Duties of
director
of titles

(1) The director of titles shall supervise and determine all matters relating to titles of land to which this Act applies.

R.S.O. 1960,
c. 204, s. 9
(1966, c. 77,
s. 5), subs. 1,
repealed

6. Subsection 1 of section 9 of *The Land Titles Act*, as re-enacted by section 5 of *The Land Titles Amendment Act, 1966*, is repealed.

R.S.O. 1960,
c. 204, s. 11,
subs. 2,
re-enacted;
subs. 3,
repealed

7. Subsections 2 and 3 of section 11 of *The Land Titles Act* are repealed and the following substituted therefor:

Assistant
examiners
of surveys

(2) The Lieutenant Governor in Council may appoint one or more persons to be assistant examiners of surveys who shall assist the examiner of surveys in the performance of his duties.

R.S.O. 1960,
c. 204, s. 15,
re-enacted

8. Section 15 of *The Land Titles Act* is repealed and the following substituted therefor:

Oath of
office

15. Every officer appointed under this Act, before he enters upon the duties of his office, shall take and subscribe an oath in the prescribed form, which shall be transmitted by him to the Director of Land Registration.

R.S.O. 1960,
c. 204, s. 29
(1966, c. 77,
s. 12),
re-enacted

9. Section 29 of *The Land Titles Act*, as re-enacted by section 12 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor:

Right to
appeal

29.—(1) Except as provided by subsection 3 of section 162, an appeal lies from any act, order or decision of the Director of Land Registration, the director of titles or a master of titles under this Act to a judge of

the county or district court of the county or district in which the land to which the decision relates is situate or of such other county or district as the parties agree to.

- (2) An appeal lies from a decision of a judge of a county or district court under subsection 1 to the Court of Appeal. ^{Idem}

10.—(1) Subsection 2 of section 50 of *The Land Titles Act* is amended by striking out “upon payment of his proper fees” in the first line, so that the subsection shall read as follows: ^{R.S.O. 1960, c. 204, s. 50, subs. 2, amended}

- (2) The registrar shall comply with the request and shall transmit the instruments by registered mail or by express and shall send therewith a list of the instruments transmitted and shall retain a copy of the list. ^{Duty of registrar}

- (2) Subsection 4 of the said section 50 is repealed. ^{R.S.O. 1960, c. 204, s. 50, subs. 4, repealed}

11. *The Land Titles Act* is amended by adding thereto the following section: ^{R.S.O. 1960, c. 204, amended}

133a.—(1) A person referred to in subsection 1 of section 133 shall not be entered as owner unless the consent under the *Estate Tax Act* (Canada) is attached to the application in the same manner as the consent of the Treasurer of Ontario. ^{Registration of consent under 1958, c. 29, s. 43, subs. 1, (Can.)}

- (2) Subsection 1 applies only, ^{Idem}

(a) where the death of the registered owner occurred after the 31st day of December, 1958; and

(b) where the application referred to in subsection 1 of section 133 is made on or after the day on which this section comes into force.

12. Subsection 8 of section 145 of *The Land Titles Act*, as re-enacted by section 37 of *The Land Titles Amendment Act, 1961-62*, is amended by striking out “and of that amount the sheriff shall pay over \$1 to the proper master of titles” in the seventh and eighth lines, so that the subsection shall read as follows: ^{R.S.O. 1960, c. 204, s. 145, subs. 8, (1961-62, c. 70, s. 37), amended}

- (8) Where a copy of a writ of execution or a renewal thereof is delivered or transmitted to the proper master of titles under subsection 1, the sheriff shall be paid by the person upon whose request the copy ^{Fee}

is delivered or transmitted a fee of \$3 in addition to any other fee payable to the sheriff on the filing of the writ.

R.S.O. 1960, c. 204, s. 153, subs. 8, repealed **13.** Subsection 8 of section 153 of *The Land Titles Act* is repealed.

R.S.O. 1960, c. 204, s. 154b (1961-62, c. 70, s. 39), repealed **14.** Section 154b of *The Land Titles Act*, as enacted by section 39 of *The Land Titles Amendment Act, 1961-62*, is repealed.

R.S.O. 1960, c. 204, s. 162, subs. 3 (1966, c. 77, s. 22, subs. 2), re-enacted **15.** Subsection 3 of section 162 of *The Land Titles Act*, as re-enacted by subsection 2 of section 22 of *The Land Titles Amendment Act, 1966*, is repealed and the following substituted therefor:

Appeal (3) An appeal lies from any decision made under this section to the Court of Appeal.

R.S.O. 1960, c. 204, amended **16.** *The Land Titles Act* is amended by adding thereto the following section:

Integration of land titles and registry records and procedures R.S.O. 1960, c. 348 **17b.** The provisions of this Act respecting the procedures and records in land titles offices are subject to any regulation made under section 126a of *The Registry Act*.

R.S.O. 1960, c. 204, s. 176, subs. 4, re-enacted **17.** Subsection 4 of section 176 of *The Land Titles Act* is repealed and the following substituted therefor:

Return address (4) The envelope containing a notice under this Act shall have printed thereon the return address of the office of land titles.

R.S.O. 1960, c. 204, s. 177, subs. 2 (1961-62, c. 70, s. 46), re-enacted **18.** Subsection 2 of section 177 of *The Land Titles Act*, as re-enacted by section 46 of *The Land Titles Amendment Act, 1961-62*, is repealed and the following substituted therefor:

Idem (2) The proper master of titles may, upon the request of the council of a municipality, furnish photographic or electrostatic copies of instruments or parts thereof instead of a list, in which case the master is entitled to such fee as is agreed upon by the master and the council and approved by the Director of Land Registration.

1960, c. 56, s. 27, repealed **19.** Section 27 of *The Land Titles Amendment Act, 1960* is repealed.

20.—(1) This Act, except sections 4, 8, 9 and 11, comes ^{Commence-}into force on the day it receives Royal Assent.
_{ment}

(2) Sections 4, 8, 9 and 11 come into force on a day to be ^{Idem}named by the Lieutenant Governor by his proclamation.

21. This Act may be cited as *The Land Titles Amendment* ^{Short title}
Act, 1968-69.

1st Reading

March 24th, 1969

2nd Reading

April 30th, 1969

3rd Reading

May 9th, 1969

MR. WISHART

BILL 104

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

**An Act to amend
The Deserted Wives' and Children's Maintenance Act**

MR. WORTON

EXPLANATORY NOTE

At present the age for support is under 16 years. The amendment increases this age to under 18 years or over 18 if the child is attending school.

BILL 104

1968-69

An Act to amend The Deserted Wives' and Children's Maintenance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 2 of *The Deserted Wives' and Children's Maintenance Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 105, s. 2,
subs. 3,
re-enacted

(3) A child shall be deemed to have been deserted by his father within the meaning of this section when the child is, When
child
deemed
deserted

(a) under the age of eighteen years; or

(b) of the age of eighteen years or over and attending school,

and the father has without adequate cause, refused or neglected to supply the child with food or other necessaries when able to do so.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. This Act may be cited as *The Deserted Wives' and Children's Maintenance Amendment Act, 1968-69*. Short title

1st Reading

March 28th, 1969

2nd Reading

3rd Reading

MR. WORTON

BILL 105

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. HASKETT

EXPLANATORY NOTES

SECTION 1—Subsection 1. "Median strip" is defined for the purposes of the Act.

Subsection 2. "Self-propelled implement of husbandry" is redefined for the purposes of clarification.

Subsection 3. Subsection 3 is revised to confine its application to Part VII, respecting speed.

SECTION 2. The penalty provisions are removed from subsection 1 and the general penalty in section 154, as amended in this Bill, will apply. The new subsection 1a is complementary to "self-propelled implement of husbandry", as redefined in section 1, and provides for the registration of such vehicles except as provided in subsection 1a.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Highway Traffic Act* is amended by adding thereto the following paragraph: R.S.O. 1960, c. 172, s. 1, subs. 1, amended

12a. "median strip" means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a strip of pavement of more than ten feet in width, a physical barrier or an unpaved strip of ground.

(2) Paragraph 24a of subsection 1 of the said section 1, as enacted by section 1 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 1, par. 24a (1966, c. 64, s. 1), re-enacted

24a. "self-propelled implement of husbandry" means a self-propelled vehicle manufactured, designed, re-designed, converted or reconstructed for a specific use in farming.

(3) Subsection 3 of the said section 1, as enacted by subsection 4 of section 1 of *The Highway Traffic Amendment Act, 1965*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 3 (1965, c. 46, s. 1, subs. 4), re-enacted

(3) For the purposes of Part VII and any regulations or municipal by-laws made thereunder, every overpass and underpass shall be deemed to form part of the highway that it connects. Overpass and underpass

2.—(1) Subsection 1 of section 6 of *The Highway Traffic Act*, as re-enacted by section 2 of *The Highway Traffic Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 6, subs. 1 (1962-63, c. 56, s. 2), re-enacted

(1) The owner of every motor vehicle, trailer or conversion unit shall register it with the Department before driving or operating it or causing it to be Registration of motor vehicles

driven or operated upon a highway and shall pay to the Department a fee for the registration of such motor vehicle, trailer or conversion unit and for the number plates therefor.

R.S.O. 1960, c. 172, s. 6, amended (2) The said section 6 is amended by adding thereto the following subsection:

Self-propelled implement of husbandry

(1a) Subsection 1 applies to a self-propelled implement of husbandry that is operated on a highway other than when travelling from farm to farm in relation to the specific use for which it was manufactured, designed, redesigned, converted or reconstructed or in travelling to or from such places as may be necessary for the maintenance or repair of the vehicle.

R.S.O. 1960, c. 172, s. 7, subs. 1, re-enacted

3.—(1) Subsection 1 of section 7 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty for false statement

(1) Every person who knowingly makes any false statement in any application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Department, is guilty of an offence and on summary conviction, in addition to any other penalty or punishment to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both, and in addition his licence or permit may be suspended for a period of not more than six months.

R.S.O. 1960, c. 172, s. 7, subs. 2, re-enacted

(2) Subsection 2 of the said section 7 is repealed and the following substituted therefor:

Notice of change of address

(2) Where an owner changes his address as given under subsection 2 of section 6 or under this subsection, he shall within six days send by registered mail or cause to be filed in the Department his change of address.

R.S.O. 1960, c. 172, s. 8, subs. 2, 4, 7, repealed

4. Subsections 2, 4 and 7 of section 8 of *The Highway Traffic Act* are repealed.

R.S.O. 1960, c. 172, s. 9, re-enacted

5. Section 9 of *The Highway Traffic Act*, as amended by section 2 of *The Highway Traffic Amendment Act, 1965* and section 3 of *The Highway Traffic Amendment Act, 1968*, is repealed and the following substituted therefor:

Violations as to number plates

9.—(1) Every person who,

(a) defaces or alters any number plate furnished by the Department;

SECTION 3—Subsection 1. A fine of \$50 to \$200 for any contravention of subsection 1 is substituted for the fines for a first and subsequent offence.

Subsection 2. The penalty provisions are removed and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 4. The penalty provisions are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 5. Section 9 is revised to provide a minimum fine of \$50 in relation to offences under subsection 1 and to delete the other penalty provisions and apply the general penalty in section 154, as amended in this Bill.

SECTION 6—Subsection 1. The penalty provision is deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 2. Fines for subsequent offences are removed and a fine of not less than \$5 and not more than \$10 is substituted for contravention of subsection 3 respecting obstruction of plates by dirt, spare tires, etc.

SECTION 7. The penalty provisions re driving without an operator's licence are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 8. The penalty respecting production of licences is deleted and the general penalty in section 154, as amended in this Bill, will apply.

The provision requiring production of an operator's licence for endorsement upon a conviction is repealed and a new subsection 2 is added to require a person who fails to produce his licence on demand to identify himself by some other means satisfactory to the constable.

- (b) uses or permits the use of a defaced or altered number plate or a number plate issued by the Department for another motor vehicle, trailer or conversion unit;
- (c) without the authority of the owner, removes a number plate from a motor vehicle, trailer or conversion unit;
- (d) uses or permits the use of any number plate upon a motor vehicle, trailer or conversion unit, except the one issued by the Department for the motor vehicle, trailer or conversion unit,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both, and in addition his licence or permit may be suspended for not more than six months.

- (2) Every person shall, within six days, forward to the Department a notice on the prescribed form of the sale or purchase by or to him of a motor vehicle, trailer or conversion unit for which a permit has been issued. Notice of purchase of motor vehicle, etc.
- (3) Every number plate furnished by the Department under this Act is the property of the Crown and shall be returned to the Department when required by the Department. Number plates property of Crown

6.—(1) Subsection 2 of section 10 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 10, subs. 2, repealed

(2) Subsection 4 of the said section 10 is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 10, subs. 4, re-enacted

- (4) Every person who contravenes any of the provisions of subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10. Penalty

7. Subsection 2 of section 13 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 13, subs. 2, repealed

8. Subsections 2, 3 and 4 of section 14 of *The Highway Traffic Act* are repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 14, subs. 2, re-enacted; subs. 3, 4, repealed

Identifica-
tion on
failure to
produce
licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, identify himself by some other means satisfactory to the constable.

R.S.O. 1960,
c. 172, s. 15,
(1966, c. 64,
s. 1),
amended

- 9.** Section 15 of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1966* and amended by section 5 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Exemption
of new
residents

- (2) Sections 13 and 16 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario.

R.S.O. 1960,
c. 172, s. 16,
subs. 2,
repealed

- 10.** Subsection 2 of section 16 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 17,
subs. 2,
re-enacted;
subs. 3, 4
repealed

- 11.** Subsections 2, 3 and 4 of section 17 of *The Highway Traffic Act* are repealed and the following substituted therefor:

Identifica-
tion on
failure to
produce
licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, identify himself by some other means satisfactory to the constable.

R.S.O. 1960,
c. 172, s. 18,
subs. 1,
repealed

- 12.** Subsection 4 of section 18 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 19,
subs. 4,
repealed

- 13.** Subsection 4 of section 19 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 21a
(1960-61,
c. 31, s. 1),
amended

- 14.** Section 21a of *The Highway Traffic Act*, as enacted by section 4 of *The Highway Traffic Amendment Act, 1960-61* and amended by section 5 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "Notwithstanding section 155" in the first line, so that the section shall read as follows:

Interpreta-
tion of
"subse-
quent" for
ss. 20, 21,
21b

- 21a. Where a penalty is provided in sections 20, 21 and 21b for a subsequent offence, the word "subsequent" relates only to offences committed in any five-year period.

R.S.O. 1960,
c. 172, s. 23,
repealed

- 15.** Section 23 of *The Highway Traffic Act* is repealed.

SECTION 9. The amendment provides that a new resident of Ontario who holds a valid driver's licence from another province, country or state has thirty days within which to obtain an Ontario licence.

SECTION 10. The penalty respecting the operation of a motor vehicle without a chauffeur's licence is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 11. The penalty respecting production of licences is deleted and the general penalty in section 154, as amended in this Bill, will apply.

The provision requiring production of a chauffeur's licence for endorsement upon a conviction is repealed and a new subsection 2 is added to require a person who fails to produce his licence on demand to identify himself by some other means satisfactory to the constable.

SECTION 12. The penalty respecting driving under sixteen years of age is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 13. The penalty respecting the renting of motor vehicles to unlicensed drivers is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 14. The reference to section 155 is deleted as section 155 is repealed by this Bill.

SECTION 15. Section 23, which requires a convicting provincial judge to endorse the conviction on a driver's licence, is repealed.

SECTION 16. The present penalty of a fine for a first offence of \$25 to \$100 and imprisonment for up to thirty days is deleted and the penalty for a subsequent offence of \$100 to \$500 and imprisonment for up to six months will apply to all offences under this section.

SECTION 17—Subsection 1. The present fines for first, second and subsequent offences are deleted and a fine of \$10 to \$50 is substituted.

Subsection 2. The present penalties for first, second and subsequent offences are deleted and a penalty of \$50 to \$200 and imprisonment of up to six months is substituted.

SECTION 18. The present penalties for contravention of section 32 are deleted and a fine of \$10 to \$50 is provided for failing to keep proper records and failure to report presence of vehicles in storage for more than two weeks, and a penalty of \$50 to \$200 and imprisonment up to thirty days is provided for defacing serial numbers, dealing in motor vehicles with serial numbers obliterated and failure to report damaged or bullet-marked vehicles.

SECTION 19. Subsection 1. The minimum and maximum fines respecting the sale of new motor vehicles without certain lamps and reflectors are increased from \$50 to \$100 and \$300 to \$500.

16. Section 26 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 26,
re-enacted

26. Every person who operates a motor vehicle the permit for which is under suspension or has been cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both. Penalty for
operating
motor
vehicle
when
permit
suspended or
cancelled

17.—(1) Subsection 3 of section 31 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 31,
subs. 3,
re-enacted

- (3) Every person who stores or deals in motor vehicles or conducts a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. Fine for
conducting
business
without
licence

(2) Subsection 5 of the said section 31 is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 31,
subs. 5,
re-enacted

- (5) Every person who obstructs, molests or interferes with any constable or officer in the performance of his duties under subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than six months, or to both. Penalty for
inter-
ference with
constable

18. Subsection 6 of section 32 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 32,
subs. 6,
re-enacted

- (6) Every person who contravenes any of the provisions of, Penalty

(a) subsection 1 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50;

(b) subsection 2, 3 or 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.

19.—(1) Subsection 8 of section 33 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 33,
subs. 8,
re-enacted

- Penalty (8) Every person who contravenes subsection 2 or 7 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 33, subs. 11, repealed (2) Subsection 11 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, subs. 15, re-enacted (3) Subsection 15 of the said section 33 is repealed and the following substituted therefor:
- Penalty (15) Every person who contravenes subsection 14 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5.
- R.S.O. 1960, c. 172, s. 33, subs. 23, repealed (4) Subsection 23 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, subs. 27, repealed (5) Subsection 27 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, amended (6) The said section 33 is amended by adding thereto the following subsection:
- Penalty (28a) Every person who contravenes any of the provisions of subsection 28 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 35, subs. 6, repealed **20.** Subsection 6 of section 35 of *The Highway Traffic Act*, as amended by subsection 2 of section 8 of *The Highway Traffic Amendment Act, 1961-62*, is repealed.
- R.S.O. 1960, c. 172, s. 36, amended **21.** Section 36 of *The Highway Traffic Act*, as amended by section 5 of *The Highway Traffic Amendment Act, 1960-61*, is further amended by adding thereto the following subsection:
- Penalty (4) Every person who contravenes any of the provisions of this section or any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 37, subs. 4, repealed **22.** Subsection 4 of section 37 of *The Highway Traffic Act* is repealed.
- R.S.O. 1960, c. 172, s. 38, subs. 4, repealed **23.** Subsection 4 of section 38 of *The Highway Traffic Act* is repealed.
- R.S.O. 1960, c. 172, s. 38a (1967, c. 35, s. 4), amended **24.** Section 38a of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1967*, is amended by adding thereto the following subsection:

Subsection 2. The penalty provisions respecting improper lights are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 3. The reference to first, second and subsequent offences re lights on bicycles is deleted and a general fine of up to \$5 is provided.

Subsection 4. The penalty provisions respecting lights on number plates, parking lights and spotlamps, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 5. The penalty provisions respecting lights on certain vehicles other than motor vehicles are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 6. At present, the general penalty provisions apply to contraventions of subsection 28 respecting the sale of certain new motor vehicles without proper signalling devices. The amendment substitutes a fine from \$100 to \$500.

SECTION 20. The penalty provisions respecting braking systems are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 21. In place of the general penalty of \$5 to \$50 for a first offence now applicable, a fine of from \$100 to \$500 is provided for a contravention respecting the sale of brake fluid that does not comply with the standards set by regulation.

SECTION 22. The present penalty respecting motor vehicles not equipped with windshield wipers, etc., is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 23. The penalty provisions respecting tire requirements are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 24. The general penalty in section 154 now applies for non-compliance with the regulations respecting tire specifications. The amendment increases the fine.

SECTION 25. The present penalty provisions for first, second and subsequent offences respecting rebuilt tires are deleted and the fine increased to a minimum of \$100 and a maximum of \$500.

SECTION 26. The provisions respecting the use of safety glass are made applicable to such things as campers that are attached to the frame of motor vehicles, and the penalty for a contravention of these provisions is increased from the general penalty of \$20 to \$100, which would otherwise apply, to a penalty of from \$100 to \$500.

SECTION 27. The penalty provisions respecting mufflers and unnecessary noise, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 28. The amendment provides that a slow moving sign is not required on the rear of a farm tractor or implement of husbandry when it is directly crossing a highway.

SECTION 29. The reference to first, second and subsequent offences is deleted and a fine of up to \$5 is provided for offences respecting horse-drawn sleighs.

SECTION 30. The penalty provisions respecting attachments for drawing vehicles on a highway are deleted and the general penalty in section 154, as amended in this Bill, will apply.

- (3) Every person who contravenes any regulation made under clause *a*, *b* or *c* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

25. Subsection 4 of section 39 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 39,
subs. 4,
re-enacted

- (4) Every person who contravenes any of the provisions of subsection 2 or 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

26. Section 40 of *The Highway Traffic Act* is amended by adding thereto the following subsections: R.S.O. 1960,
c. 172, s. 40,
amended

- (3) In this section, "motor vehicle" includes any apparatus or device that is permanently or temporarily attached to a motor vehicle, other than for the purpose of towing it, and in which a person can ride. Interpretation

- (4) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

27. Subsection 6 of section 42 of *The Highway Traffic Act*, as re-enacted by section 5 of *The Highway Traffic Amendment Act, 1964*, is repealed. R.S.O. 1960,
c. 172, s. 42,
subs. 6
(1964, c. 38,
s. 5),
repealed

28. Subsection 1 of section 42a of *The Highway Traffic Act*, as enacted by section 9 of *The Highway Traffic Amendment Act, 1968*, is amended by adding at the end thereof "except when directly crossing a highway", so that the subsection shall read as follows: R.S.O. 1960,
c. 172, s. 42a
(1968, c. 50,
s. 9),
subs. 1,
amended

- (1) Every farm tractor and self-propelled implement of husbandry when operated on a highway or any vehicle towed by either of them, shall have a slow moving vehicle sign attached to the rear thereof in accordance with the regulations, except when directly crossing a highway. Slow
moving
vehicle
signs

29. Subsection 2 of section 43 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 43,
subs. 2,
re-enacted

- (2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. Penalty

30. Subsection 2 of section 45 of *The Highway Traffic Act* is repealed. R.S.O. 1960,
c. 172, s. 45,
subs. 2,
repealed

R.S.O. 1960, c. 172, s. 47, subs. 3, (1961, c. 38, s. 6), re-enacted

31. Subsection 3 of section 47 of *The Highway Traffic Act*, as enacted by section 6 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor:

Penalty

(3) Every driver of a motor vehicle who refuses or fails to submit the motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as may be required by a constable or officer under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Notice requiring examination and tests

(3a) Subsection 3 does not apply unless the constable or officer under subsection 1 has given to the driver of the motor vehicle a written notice in the form prescribed by the Lieutenant Governor in Council requiring the driver to submit the motor vehicle, together with its equipment and any trailer attached thereto, to examination and tests.

R.S.O. 1960, c. 172, amended

32. *The Highway Traffic Act* is amended by adding thereto the following section:

Regulations re inspection of certain motor vehicles

47a. The Lieutenant Governor in Council may make regulations,

- (a) requiring the owners of commercial motor vehicles, or any type or class thereof, uninsured motor vehicles, and motor vehicles that have been involved in accidents that are reportable under section 143 to submit them to inspection;
- (b) prescribing the inspection procedures, inspection requirements and performance standards required for such motor vehicles;
- (c) prohibiting the operation on a highway of motor vehicles that do not comply with such requirements and standards, and providing for the seizure of the registration plates of such motor vehicles and for holding them until the motor vehicle is made to comply with such requirements and standards.

R.S.O. 1960, c. 172, s. 50d (1966, c. 64, s. 10), amended

33. Section 50a of *The Highway Traffic Act*, as enacted by section 10 of *The Highway Traffic Amendment Act, 1966* and amended by section 11 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

SECTION 31. The minimum fine of \$10 and maximum fine of \$50 for failure to submit a motor vehicle for examination as required by a constable is increased to \$50 and \$100 respectively and provision is made requiring the constable to give the driver a written notice.

SECTION 32. Self-explanatory.

SECTION 33. The fine for failure to use the safety devices in accordance with the regulations is increased from the general penalty of section 154, as amended in this Bill, (\$20-\$100) to a fine of from \$100 to \$500.

SECTION 34. The reference to first, second and subsequent offences is deleted and the general penalty in section 154, as amended in this Bill, will apply with respect to the names of owners on commercial vehicles and to reflectors while a different fine is provided respecting the sale of new commercial motor vehicles not equipped with certain lamps and reflectors as required by subsection 2*a* of section 51.

SECTION 35. A sliding scale of fines is provided respecting gross weight of vehicles instead of the present penalties provided for first, second and subsequent offences.

- (3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. ^{Penalty}

34. Subsection 4 of section 51 of *The Highway Traffic Act* is repealed and the following substituted therefor: ^{R.S.O. 1960, c. 172, s. 51, subs. 4, re-enacted}

- (4) Every person who contravenes any of the provisions of subsection 2a is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. ^{Penalty}

35. Subsection 7 of section 52 of *The Highway Traffic Act* is repealed and the following substituted therefor: ^{R.S.O. 1960, c. 172, s. 52, subs. 7, re-enacted}

- (7) Every person who contravenes any of the provisions of subsection 2, 2a, 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of, ^{Penalty}

- (a) 50 cents per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is less than 5,000 pounds;
- (b) \$1 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 5,000 pounds or more but is less than 10,000 pounds;
- (c) \$2 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 10,000 pounds or more but is less than 15,000 pounds;
- (d) \$3 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 15,000 pounds or more but is less than 20,000 pounds;
- (e) \$4 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 20,000 pounds or more but is less than 30,000 pounds;
- (f) \$5 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 30,000 pounds or more.

R.S.O. 1960,
c. 172, s. 53,
subs. 6,
re-enacted

36. Subsection 6 of section 53 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person to whom a permit has been issued under this section who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of such permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and in addition a fine shall be imposed as if he had also been convicted of an offence under subsection 7 of section 52 in respect of any gross weight in excess of the gross weight permitted under that section as if no special permit had been issued.

R.S.O. 1960,
c. 172, s. 54,
subs. 6,
re-enacted

37. Subsection 6 of section 54 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person who contravenes any of the provisions of subsection 1, 4 or 5 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under subsection 7 of section 52 and in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the registration permit of the vehicle or vehicles involved and such suspension shall continue until the vehicle has been reregistered at the maximum gross weight allowable and the additional registration fee has been paid.

R.S.O. 1960,
c. 172, s. 55,
subs. 2,
re-enacted

38.—(1) Subsection 2 of section 55 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty
on driver

- (2) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 55,
subs. 5,
re-enacted

(2) Subsection 5 of the said section 55 is repealed and the following substituted therefor:

Penalty

- (5) Every person who contravenes any of the provisions of subsection 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 56,
subs. 3,
re-enacted

39. Subsection 3 of section 56 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and

SECTION 36. The minimum fine respecting permits for the moving of heavy loads is increased from \$50 to \$100 and in addition a fine is to be imposed for any overload under section 52.

SECTION 37. The penalty provisions respecting the carrying of loads in excess of that for which a permit is issued are revised to apply the sliding scale of fines under section 52, as amended in this Bill, and the Registrar may suspend registration until the vehicle is reregistered at the maximum gross weight.

SECTION 38. The reference to first, second and subsequent offences is deleted and the fine will be from \$50 to \$100.

SECTION 39. The reference to first, second and subsequent offences is deleted and the fine respecting overhanging loads, etc., is set at from \$50 to \$100 and the suspension provision is retained.

SECTION 40. The minimum and maximum fines respecting the carrying of dangerous materials are increased.

SECTION 41—Subsection 1. The amendment increases the permissible length for combinations from 60 to 65 feet.

Subsection 2. The reference to first, second and subsequent offences is deleted and the fine respecting maximum dimensions of commercial motor vehicles is set at from \$50 to \$100 and the power to suspend a permit is retained.

SECTION 42—Subsection 1. The authority of the Lieutenant Governor in Council to make regulations designating construction zones is transferred to the Minister.

Subsection 2. The general penalty for speeding is revised to provide a sliding scale of fines.

not more than \$100 and in addition his licence or permit may be suspended for a period of not more than sixty days.

40. Subsection 2 of section 57 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 57,
subs. 2,
re-enacted

- (2) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both.

Penalty

41.—(1) Subsection 2a of section 58 of *The Highway Traffic Act*, as re-enacted by section 12 of *The Highway Traffic Amendment Act, 1962-63*, is amended by striking out "60" in the sixth line and inserting in lieu thereof "65", so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 58,
subs. 2a
(1962-63,
c. 56, s. 12),
amended

- (2a) No vehicle, other than a public vehicle or a semi-trailer as defined in clause *b* of subsection 6 of section 55, including load or contents, shall exceed the length of 35 feet, and no combination of vehicles, including load or contents, coupled together shall exceed the total length of 65 feet.

Length of
vehicle or
combination

(2) Subsection 5 of the said section 58 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 58,
subs. 5,
re-enacted

- (5) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and in addition his permit may be suspended for not more than six months.

Penalty

42.—(1) Subsection 11a of section 59 of *The Highway Traffic Act*, as enacted by subsection 2 of section 9 of *The Highway Traffic Amendment Act, 1967*, is amended by striking out "Lieutenant Governor in Council" in the first line and inserting in lieu thereof "Minister", so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 59,
subs. 11a
(1967, c. 35,
s. 9,
subs. 2),
amended

- (11a) The Minister may designate any part of the King's Highway as a construction zone, and every construction zone shall be marked by signs in accordance with the regulations.

Construction
zones

(2) Subsection 12 of the said section 59 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 59,
subs. 12,
re-enacted

Penalty

- (12) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,
- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for each mile per hour that the motor vehicle was driven over the maximum speed limit; and
 - (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit.

R.S.O. 1960,
c. 172, s. 60,
re-enacted

43. Section 60 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Careless
driving

60. Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 61,
subs. 2,
repealed

44. Subsection 2 of section 61 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 62,
subs. 2,
repealed

45. Subsection 2 of section 62 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 67a
(1964, c. 38,
s. 8),
subs. 6,
repealed

46. Subsection 6 of section 67a of *The Highway Traffic Act*, as enacted by section 8 of *The Highway Traffic Amendment Act, 1964*, is repealed.

SECTION 43. The minimum fine is increased from \$10 to \$100 and the term of imprisonment of up to three months is increased to six months and can be imposed in addition to the fine.

SECTION 44. The penalty for interfering with a speed notice on a bridge is deleted as this offence is covered in section 100.

SECTION 45. The penalty provisions respecting unnecessary slow driving are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 46. The fine of \$5 to \$50 respecting pedestrian crossovers is deleted and the general penalty in section 154, as amended in this Bill, (~~\$20-\$100~~) will apply.

SECTION 47. Clause *b* at present prohibits driving to the left of the centre of the roadway when approaching within 100 feet of or traversing a level crossing or an intersection except when a left turn is to be made at an intersection. The clause, as re-enacted, will apply only to approaching within 100 feet of a level crossing.

SECTION 48. The penalty provisions respecting moving from roadway to roadway on divided highways is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 49. Self-explanatory.

SECTION 50. The penalty provisions, which apply to many of the rules of the road, such as, yield right-of-way, stop, signalling turns, signal lights, improper passing, etc., and provide for different fines for first, second and subsequent offences are deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 51. The penalty provisions respecting approaching and passing street cars are deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 52. The penalty provisions respecting approaching ridden or driven horses are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 53. The penalty provision respecting parking rules of the road is revised to delete the reference to first and subsequent offences and to provide a fine of from \$5 to \$50.

SECTION 54. The section repealed creates the offence of drunken driving of a vehicle or of a horse or other animal. This section is sufficiently covered in the Criminal Code and is not used.

SECTION 55. Subsection 2 is revised to provide a general penalty for racing on a highway in place of the present penalties for first and subsequent offences of fines, imprisonment and suspension of licence.

47. Clause *b* of section 72 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 72,
cl. *b*,
re-enacted

(*b*) when approaching within 100 feet of a level crossing,

48. Subsection 2 of section 77 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 77,
subs. 2,
repealed

49. Subsection 1 of section 79 of *The Highway Traffic Act* is amended by adding after "sounding" in the third line "or a lamp located on the roof of the vehicle is producing intermittent flashes of red light", so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 79,
subs. 1,
amended

(1) The driver of a vehicle, upon the approach of an ambulance, fire or police department vehicle or public utility emergency vehicle, upon which a bell or siren is sounding or a lamp located on the roof of the vehicle is producing intermittent flashes of red light, shall immediately bring such vehicle to a standstill as near as is practicable to the right-hand curb or edge of the roadway and parallel therewith and clear of any intersection.

Fire
department
vehicle,
etc.,
approaching

50. Section 85 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 85,
repealed

51. Subsection 3 of section 86 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 86,
subs. 3,
repealed

52. Subsection 2 of section 87 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 87,
subs. 2,
repealed

53. Subsection 10 of section 89 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 89,
subs. 10,
re-enacted

(10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50.

Penalty

54. Section 90 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 90,
repealed

55. Subsection 2 of section 91 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 91,
subs. 2,
re-enacted

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100

Penalty

and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 92,
subs. 2,
repealed

56. Subsection 2 of section 92 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 93,
subs. 2,
repealed

57. Subsection 2 of section 93 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 94,
subs. 2
(1966, c. 61,
s. 17,
subs. 2),
amended

58.—(1) Clause *b* of subsection 2 of section 94 of *The Highway Traffic Act*, as re-enacted by subsection 2 of section 17 of *The Highway Traffic Amendment Act, 1966*, is amended by striking out “separate roadways” in the second line and inserting in lieu thereof “a median strip”, so that the clause shall read as follows:

(*b*) when meeting on such a highway, other than a highway with a median strip, a school bus on the front of which two red signal-lights are illuminated with intermittent flashes,

R.S.O. 1960,
c. 172, s. 95,
subs. 2,
repealed

59. Subsection 2 of section 95 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 98,
re-enacted

60. Section 98 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Littering
highway
prohibited

98. Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway.

R.S.O. 1960,
c. 172, s. 100,
re-enacted

61. Section 100 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Defacing or
removing
notices or
obstructions

100. Every person who wilfully removes, defaces or in any manner interferes with any notice or obstruction lawfully placed on a highway is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

R.S.O. 1960,
c. 172,
s. 100a,
subs. 1
(1966, c. 64,
s. 19),
re-enacted

62. Subsection 1 of section 100a of *The Highway Traffic Act*, as re-enacted by section 19 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor:

SECTION 56. The reference to first, second and subsequent offences for horse racing on a highway is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 57. The penalty provisions respecting the stopping of buses, etc., at railway crossings is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 58. The amendment is for the purpose of clarification by referring to a median strip which is defined in section 1 rather than a highway with separate roadways.

SECTION 59. The penalty provisions respecting soliciting rides, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 60. The present penalties for first, second and subsequent offences are deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 61. The present penalty for a first offence is deleted and the penalty for a subsequent offence of a fine of \$100 to \$500 and imprisonment of up to six months is retained as a general penalty for any such offence. It is provided that the act of defacing, etc., must be wilful.

SECTION 62. The present section authorizes the making of regulations to regulate or prohibit the use of a controlled-access highway by pedestrians, etc. This authority is extended to the King's Highway.

SECTION 63. The penalty provision respecting riding in house or boat trailers is deleted and the general penalty in section 154, as amended in this Bill, will apply. No change in penalty.

SECTION 64. Part IX, dealing with traction engines on highways, is now redundant and is repealed.

SECTIONS 65 AND 66. The amendments are complementary to the amendment to *The Insurance Act* increasing the minimum automobile public liability coverage from \$35,000 to \$50,000.

(1) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any part of the King's Highway by pedestrians or animals or any class or classes of vehicles.

Regulating or prohibiting use of parts of King's Highway by pedestrians, etc.

63. Subsection 2 of section 100c of *The Highway Traffic Act*, as enacted by section 24 of *The Highway Traffic Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 172, s. 100c (1968, c. 50, s. 24), subs. 2, repealed

64. Part IX of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, Pt. IX (ss. 101-104), repealed

65. Section 117 of *The Highway Traffic Act*, as re-enacted by section 14 of *The Highway Traffic Amendment Act, 1961-62*, is amended by striking out "\$35,000" in the fourth line and inserting in lieu thereof "\$50,000" and by striking out "\$30,000" in the fourth line of clause a and inserting in lieu thereof "\$45,000", so that the section shall read as follows:

R.S.O. 1960, c. 172, s. 117 (1961-62, c. 52, s. 14), amended

117. Subject to subsection 3 of section 118, every driver and owner to whom this Part applies shall give proof of financial responsibility in an amount of at least \$50,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property in any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property,

Amounts of financial responsibility

(a) claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to the amount of \$45,000; and

(b) claims arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to the amount of \$5,000,

and, in the case of an owner, such proof shall be given in respect of each motor vehicle registered in his name.

66. Clause c of subsection 1 of section 118 of *The Highway Traffic Act*, as amended by section 15 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "\$35,000" in the amendment of 1961-62 and inserting in lieu thereof "\$50,000", so that the clause shall read as follows:

R.S.O. 1960, c. 172, s. 118, subs. 1, cl. c, amended

(c) the certificate of the Treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in

money or securities

the amount or value of \$50,000 for each motor vehicle registered in the name of such person, and the Treasurer shall accept any such deposits and issue a certificate therefor if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the county or district in which the depositor resides.

R.S.O. 1960,
c. 172, s. 143,
subs. 1,
re-enacted

67.—(1) Subsection 1 of section 143 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Duty to
report
accident

(1) Every person in charge of a motor vehicle who is directly or indirectly involved in an accident shall, if the accident results in personal injuries, or in damage to property apparently exceeding \$200 report the accident forthwith to the nearest provincial or municipal police officer, and furnish him with such information concerning the accident as may be required by the officer under subsection 3.

R.S.O. 1960,
c. 172, s. 143,
subs. 4,
re-enacted;
subs. 5, 6,
repealed

(2) Subsections 4, 5 and 6 of the said section 143 are repealed and the following substituted therefor:

Report of
police
officer

(4) The report of a police officer under subsection 3 shall be in such form as is approved by the Minister.

R.S.O. 1960
c. 172,
s. 143a
(1960-61,
c. 34, s. 15),
subs. 2,
re-enacted

68. Subsection 2 of section 143a of *The Highway Traffic Act*, as enacted by section 15 of *The Highway Traffic Amendment Act, 1960-61*, is repealed and the following substituted therefor:

Penalty

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 144,
subs. 2,
repealed

69. Subsection 2 of section 144 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172,
amended

70. *The Highway Traffic Act* is amended by adding thereto the following section:

Report of
optometrist
1961-62,
c. 101

145b.—(1) Every optometrist registered under *The Optometry Act, 1961-62* shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon

SECTION 67—Subsection 1. The amendment increases from \$100 to \$200 the amount of damage in respect of which a report of the accident is required to be made and deletes the provision authorizing the police officer or the Registrar to require a written statement.

Subsection 2. Subsection 4, authorizing the Registrar to require additional information from any person involved in the accident and subsection 5, making written reports privileged, are repealed. Subsection 6, providing a penalty for failure to report an accident or give information is deleted and the general penalty in section 154, as amended in this Bill, will apply. The new subsection 4 requires the report of the police officer to be in such form as is approved by the Minister under clause *a* of section 146.

SECTION 68. The present fine for failure to remain at the scene of an accident is a fine of up to \$500. The amendment provides for a minimum fine of \$100.

SECTION 69. The reference to first, second and subsequent offences for failure to report property damage to trees, fences, etc., is deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 70. This section is similar to section 145*a* requiring medical doctors to report to the Registrar.

SECTION 71. Section 151, providing for the distribution of fines, is repealed as obsolete as all fines for contravention of the Act are now payable to the Treasurer of Ontario.

SECTION 72. The reference to first, second and subsequent offences is deleted and a general penalty of from \$20 to \$100 is provided for contraventions of the Act and regulations where no other penalty is provided.

SECTION 73. The second, third and subsequent approach to penalties has been deleted by the amendments to the various penalty provisions in this Bill. Section 155 which defines second, third and subsequent offences is therefor repealed.

SECTION 74. Subsection 2 is revised to delete references to,

1. Subsections 1, 3 and 5 of section 8 (failing to have plates properly attached and exposed);
2. Clause *e* of subsection 1 of section 9 (failing to notify the Department of a purchase or sale of a vehicle for which a permit has been issued);

and to add the following references:

1. Subsection 2 of sections 14 and 17 (driver failing to identify himself);
2. Clause *d* of subsection 12 of section 59 (speeding 30 miles per hour or more over the maximum speed limit);
3. Clause *a* of section 143a (failing to remain at the scene of an accident).

SECTION 75. As the second, third and subsequent offence procedure has been discontinued, clause *c* authorizing a judge to impound a motor vehicle following a third conviction is repealed.

the optometrist for optometric services who, in the opinion of such optometrist, is suffering from an eye condition that may make it dangerous for such person to operate a motor vehicle.

- (2) No action shall be brought against a qualified optometrist for complying with this section. No action for compliance with subs. 1
- (3) The report referred to in subsection 1 is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection 1. Reports privileged

71. Section 151 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 151, repealed

72. Section 154 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 154 re-enacted

154. Every person who contravenes any of the provisions of this Act or of any regulation is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$20 and not more than \$100. General penalty

73. Section 155 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 155, repealed

74. Subsection 2 of section 156 of *The Highway Traffic Act*, as amended by section 16 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 156, subs. 2, re-enacted

- (2) Every constable, who, on reasonable and probable grounds, believes that a contravention of any of the provisions of subsection 1 of section 7; clause *a*, *b*, *c* or *d* of subsection 1 of section 9; subsection 1 of section 10; subsection 2 of section 14; subsection 2 of section 17; subsection 2 or 3 of section 25; section 26; clause *d* of subsection 12 of section 59; section 60, 91 or 100 or clause *a* of section 143*a* has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such contravention, may arrest such person without warrant whether such person is guilty or not. Arrests by constable without warrant

75. Subsection 1 of section 157 of *The Highway Traffic Act*, as amended by subsection 1 of section 17 of *The Highway Traffic Amendment Act, 1964*, is further amended by striking out "or" at the end of clause *b* and by striking out clause *c*, so that the subsection shall read as follows: R.S.O. 1960, c. 172, s. 157, subs. 1, amended

Impounding
motor
vehicle

(1) In the event of,

(a) a conviction under section 25 or 26 of this Act or section 222 or subsection 3 of section 225 of the *Criminal Code* (Canada); or

(b) a second conviction under subsection 2 of section 221 of the *Criminal Code* (Canada),

the magistrate or judge may order that the motor vehicle driven by or under the care or control of the person convicted at the time of the commission of the offence or last offence, as the case may be, shall be seized, impounded and taken into custody of the law for a period of three months, provided the motor vehicle was at such time owned by or registered in the name of such person, or owned by or registered in the name of the husband, wife, parent or dependent child of such person.

Commence-
ment

76.—(1) This Act, except subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 to 70 and sections 72 to 75, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 31, sections 33 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 and 66, sections 68 to 70 and sections 72 to 75 come into force on the 1st day of September, 1969.

Idem

(3) Sections 32 and 67 come into force on the 1st day of January, 1970.

Short title

77. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.

An Act to amend
The Highway Traffic Act

1st Reading

March 31st, 1969

2nd Reading

3rd Reading

Mr. HASKETT

BILL 105

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. HASKETT

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1—Subsection 1. “Median strip” is defined for the purposes of the Act.

Subsection 2. “Self-propelled implement of husbandry” is redefined for the purposes of clarification.

Subsection 3. Subsection 3 is revised to confine its application to Part VII, respecting speed.

SECTION 2. The penalty provisions are removed from subsection 1 and the general penalty in section 154, as amended in this Bill, will apply. The new subsection 1*a* is complementary to “self-propelled implement of husbandry”, as redefined in section 1, and provides for the registration of such vehicles except as provided in subsection 1*a*.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Highway Traffic Act* is amended by adding thereto the following paragraph: R.S.O. 1960, c. 172, s. 1, subs. 1, amended

12a. “median strip” means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a strip of pavement of more than ten feet in width, a physical barrier or an unpaved strip of ground.

(2) Paragraph 24a of subsection 1 of the said section 1, as enacted by section 1 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 1, par. 24a (1966, c. 64, s. 1), re-enacted

24a. “self-propelled implement of husbandry” means a self-propelled vehicle manufactured, designed, re-designed, converted or reconstructed for a specific use in farming.

(3) Subsection 3 of the said section 1, as enacted by subsection 4 of section 1 of *The Highway Traffic Amendment Act, 1965*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 3 (1965, c. 46, s. 1, subs. 4), re-enacted

(3) For the purposes of Part VII and any regulations or municipal by-laws made thereunder, every overpass and underpass shall be deemed to form part of the highway that it connects. Overpass and underpass

2.—(1) Subsection 1 of section 6 of *The Highway Traffic Act*, as re-enacted by section 2 of *The Highway Traffic Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 6, subs. 1 (1962-63, c. 56, s. 2), re-enacted

(1) The owner of every motor vehicle, trailer or conversion unit shall register it with the Department before driving or operating it or causing it to be Registration of motor vehicles

driven or operated upon a highway and shall pay to the Department a fee for the registration of such motor vehicle, trailer or conversion unit and for the number plates therefor.

R.S.O. 1960, c. 172, s. 6, amended (2) The said section 6 is amended by adding thereto the following subsection:

Self-propelled implement of husbandry

(1a) Subsection 1 applies to a self-propelled implement of husbandry that is operated on a highway other than when travelling from farm to farm in relation to the specific use for which it was manufactured, designed, redesigned, converted or reconstructed or in travelling to or from such places as may be necessary for the maintenance or repair of the vehicle.

R.S.O. 1960, c. 172, s. 7, subs. 1, re-enacted

3.—(1) Subsection 1 of section 7 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty for false statement

(1) Every person who knowingly makes any false statement in any application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Department, is guilty of an offence and on summary conviction, in addition to any other penalty or punishment to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both, and in addition his licence or permit may be suspended for a period of not more than six months.

R.S.O. 1960, c. 172, s. 7, subs. 2, re-enacted

(2) Subsection 2 of the said section 7 is repealed and the following substituted therefor:

Notice of change of address

(2) Where an owner changes his address as given under subsection 2 of section 6 or under this subsection, he shall within six days send by registered mail or cause to be filed in the Department his change of address.

R.S.O. 1960, c. 172, s. 8, subs. 2, 4, 7, repealed

4. Subsections 2, 4 and 7 of section 8 of *The Highway Traffic Act* are repealed.

R.S.O. 1960, c. 172, s. 9, re-enacted

5. Section 9 of *The Highway Traffic Act*, as amended by section 2 of *The Highway Traffic Amendment Act, 1965* and section 3 of *The Highway Traffic Amendment Act, 1968*, is repealed and the following substituted therefor:

Violations as to number plates

9.—(1) Every person who,
(a) defaces or alters any number plate furnished by the Department;

SECTION 3—Subsection 1. A fine of \$50 to \$200 for any contravention of subsection 1 is substituted for the fines for a first and subsequent offence.

Subsection 2. The penalty provisions are removed and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 4. The penalty provisions are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 5. Section 9 is revised to provide a minimum fine of \$50 in relation to offences under subsection 1 and to delete the other penalty provisions and apply the general penalty in section 154, as amended in this Bill.

SECTION 6—Subsection 1. The penalty provision is deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 2. Fines for subsequent offences are removed and a fine of not less than \$5 and not more than \$10 is substituted for contravention of subsection 3 respecting obstruction of plates by dirt, spare tires, etc.

SECTION 7. The penalty provisions re driving without an operator's licence are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 8. The penalty respecting production of licences is deleted and the general penalty in section 154, as amended in this Bill, will apply.

The provision requiring production of an operator's licence for endorsement upon a conviction is repealed and a new subsection 2 is added to require a person who fails to produce his licence on demand to identify himself by some other means satisfactory to the constable.

- (b) uses or permits the use of a defaced or altered number plate or a number plate issued by the Department for another motor vehicle, trailer or conversion unit;
- (c) without the authority of the owner, removes a number plate from a motor vehicle, trailer or conversion unit;
- (d) uses or permits the use of any number plate upon a motor vehicle, trailer or conversion unit, except the one issued by the Department for the motor vehicle, trailer or conversion unit,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both, and in addition his licence or permit may be suspended for not more than six months.

- (2) Every person shall, within six days, forward to the Department a notice on the prescribed form of the sale or purchase by or to him of a motor vehicle, trailer or conversion unit for which a permit has been issued. Notice of purchase of motor vehicle, etc.
- (3) Every number plate furnished by the Department under this Act is the property of the Crown and shall be returned to the Department when required by the Department. Number plates property of Crown

6.—(1) Subsection 2 of section 10 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 10, subs. 2, repealed

(2) Subsection 4 of the said section 10 is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 10, subs. 4, re-enacted

- (4) Every person who contravenes any of the provisions of subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10. Penalty

7. Subsection 2 of section 13 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 13, subs. 2, repealed

8. Subsections 2, 3 and 4 of section 14 of *The Highway Traffic Act* are repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 14, subs. 2, re-enacted; subs. 3, 4, repealed

Identification on failure to produce licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

R.S.O. 1960, c. 172, s. 15, (1966, c. 61, s. 4), amended

9. Section 15 of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1966* and amended by section 5 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Exemption of new residents

- (2) Sections 13 and 16 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario.

R.S.O. 1960, c. 172, s. 16, subs. 2, repealed

10. Subsection 2 of section 16 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 17, subs. 2, re-enacted; subs. 3, 4, repealed

11. Subsections 2, 3 and 4 of section 17 of *The Highway Traffic Act* are repealed and the following substituted therefor:

Identification on failure to produce licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

R.S.O. 1960, c. 172, s. 18, subs. 4, repealed

12. Subsection 4 of section 18 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 19, subs. 4, repealed

13. Subsection 4 of section 19 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 21d (1960-61, c. 31, s. 1), amended

14. Section 21a of *The Highway Traffic Act*, as enacted by section 4 of *The Highway Traffic Amendment Act, 1960-61* and amended by section 5 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "Notwithstanding section 155" in the first line, so that the section shall read as follows:

Interpretation of "subsequent" for ss. 20, 21, 21b

- 21a. Where a penalty is provided in sections 20, 21 and 21b for a subsequent offence, the word "subsequent" relates only to offences committed in any five-year period.

SECTION 9. The amendment provides that a new resident of Ontario who holds a valid driver's licence from another province, country or state has thirty days within which to obtain an Ontario licence.

SECTION 10. The penalty respecting the operation of a motor vehicle without a chauffeur's licence is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 11. The penalty respecting production of licences is deleted and the general penalty in section 154, as amended in this Bill, will apply.

The provision requiring production of a chauffeur's licence for endorsement upon a conviction is repealed and a new subsection 2 is added to require a person who fails to produce his licence on demand to identify himself by some other means satisfactory to the constable.

SECTION 12. The penalty respecting driving under sixteen years of age is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 13. The penalty respecting the renting of motor vehicles to unlicensed drivers is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 14. The reference to section 155 is deleted as section 155 is repealed by this Bill.

SECTION 15. Section 23, which requires a convicting provincial judge to endorse the conviction on a driver's licence, is repealed.

SECTION 16. The present penalty of a fine for a first offence of \$25 to \$100 and imprisonment for up to thirty days is deleted and the penalty for a subsequent offence of \$100 to \$500 and imprisonment for up to six months will apply to all offences under this section.

SECTION 17—Subsection 1. The present fines for first, second and subsequent offences are deleted and a fine of \$10 to \$50 is substituted.

Subsection 2. The present penalties for first, second and subsequent offences are deleted and a penalty of \$50 to \$200 and imprisonment of up to six months is substituted.

SECTION 18. The present penalties for contravention of section 32 are deleted and a fine of \$10 to \$50 is provided for failing to keep proper records and failure to report presence of vehicles in storage for more than two weeks, and a penalty of \$50 to \$200 and imprisonment up to thirty days is provided for defacing serial numbers, dealing in motor vehicles with serial numbers obliterated and failure to report damaged or bullet-marked vehicles.

SECTION 19—Subsection 1. The minimum and maximum fines respecting the sale of new motor vehicles without certain lamps and reflectors are increased from \$50 to \$100 and \$300 to \$500.

15. Section 23 of *The Highway Traffic Act* is repealed. R.S.O. 1960,
c. 172, s. 23,
repealed
16. Section 26 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 26,
re-enacted
26. Every person who operates a motor vehicle the permit for which is under suspension or has been cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both. Penalty for operating motor vehicle when permit suspended or cancelled
- 17.—(1) Subsection 3 of section 31 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 31,
subs. 3,
re-enacted
- (3) Every person who stores or deals in motor vehicles or conducts a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. Fine for conducting business without licence
- (2) Subsection 5 of the said section 31 is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 31,
subs. 5,
re-enacted
- (5) Every person who obstructs, molests or interferes with any constable or officer in the performance of his duties under subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than six months, or to both. Penalty for interference with constable
18. Subsection 6 of section 32 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 32,
subs. 6,
re-enacted
- (6) Every person who contravenes any of the provisions of,
- (a) subsection 1 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50;
- (b) subsection 2, 3 or 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both. Penalty
- 19.—(1) Subsection 8 of section 33 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 33,
subs. 8,
re-enacted

Penalty (8) Every person who contravenes subsection 2 or 7 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.

R.S.O. 1960,
c. 172, s. 33,
subs. 11,
repealed

(2) Subsection 11 of the said section 33 is repealed.

R.S.O. 1960,
c. 172, s. 33,
subs. 15,
re-enacted

(3) Subsection 15 of the said section 33 is repealed and the following substituted therefor:

Penalty

(15) Every person who contravenes subsection 14 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5.

R.S.O. 1960,
c. 172, s. 33,
subs. 23,
repealed

(4) Subsection 23 of the said section 33 is repealed.

R.S.O. 1960,
c. 172, s. 33,
subs. 27,
repealed

(5) Subsection 27 of the said section 33 is repealed.

R.S.O. 1960,
c. 172, s. 33,
amended

(6) The said section 33 is amended by adding thereto the following subsection:

Penalty

(28a) Every person who contravenes any of the provisions of subsection 28 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.

R.S.O. 1960,
c. 172, s. 35,
subs. 6,
repealed

20. Subsection 6 of section 35 of *The Highway Traffic Act*, as amended by subsection 2 of section 8 of *The Highway Traffic Amendment Act, 1961-62*, is repealed.

R.S.O. 1960,
c. 172, s. 36,
amended

21. Section 36 of *The Highway Traffic Act*, as amended by section 5 of *The Highway Traffic Amendment Act, 1960-61*, is further amended by adding thereto the following subsection:

Penalty

(4) Every person who contravenes any of the provisions of this section or any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.

R.S.O. 1960,
c. 172, s. 37,
subs. 4,
repealed

22. Subsection 4 of section 37 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 38,
subs. 4,
repealed

23. Subsection 4 of section 38 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 38a
(1967, c. 35,
s. 4),
amended

24. Section 38a of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1967*, is amended by adding thereto the following subsection:

Subsection 2. The penalty provisions respecting improper lights are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 3. The reference to first, second and subsequent offences re lights on bicycles is deleted and a general fine of up to \$5 is provided.

Subsection 4. The penalty provisions respecting lights on number plates, parking lights and spotlamps, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 5. The penalty provisions respecting lights on certain vehicles other than motor vehicles are deleted and the general penalty in section 154, as amended in this Bill, will apply.

Subsection 6. At present, the general penalty provisions apply to contraventions of subsection 28 respecting the sale of certain new motor vehicles without proper signalling devices. The amendment substitutes a fine from \$100 to \$500.

SECTION 20. The penalty provisions respecting braking systems are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 21. In place of the general penalty of \$5 to \$50 for a first offence now applicable, a fine of from \$100 to \$500 is provided for a contravention respecting the sale of brake fluid that does not comply with the standards set by regulation.

SECTION 22. The present penalty respecting motor vehicles not equipped with windshield wipers, etc., is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 23. The penalty provisions respecting tire requirements are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 24. The general penalty in section 154 now applies for non-compliance with the regulations respecting tire specifications. The amendment increases the fine.

SECTION 25. The present penalty provisions for first, second and subsequent offences respecting rebuilt tires are deleted and the fine increased to a minimum of \$100 and a maximum of \$500.

SECTION 26. The provisions respecting the use of safety glass are made applicable to such things as campers that are attached to the frame of motor vehicles, and the penalty for a contravention of these provisions is increased from the general penalty of \$20 to \$100, which would otherwise apply, to a penalty of from \$100 to \$500.

SECTION 27. The penalty provisions respecting mufflers and unnecessary noise, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 28. The amendment provides that a slow moving sign is not required on the rear of a farm tractor or implement of husbandry when it is directly crossing a highway.

SECTION 29. The reference to first, second and subsequent offences is deleted and a fine of up to \$50 is provided for offences respecting horse-drawn sleighs.

SECTION 30. The penalty provisions respecting attachments for drawing vehicles on a highway are deleted and the general penalty in section 154, as amended in this Bill, will apply.

- (3) Every person who contravenes any regulation made under clause *a*, *b* or *c* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

25. Subsection 4 of section 39 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 39,
subs. 4,
re-enacted

- (4) Every person who contravenes any of the provisions of subsection 2 or 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

26. Section 40 of *The Highway Traffic Act* is amended by adding thereto the following subsections: R.S.O. 1960,
c. 172, s. 40,
amended

- (3) In this section, "motor vehicle" includes any apparatus or device that is permanently or temporarily attached to a motor vehicle, other than for the purpose of towing it, and in which a person can ride. Interpretation

- (4) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

27. Subsection 6 of section 42 of *The Highway Traffic Act*, as re-enacted by section 5 of *The Highway Traffic Amendment Act, 1964*, is repealed. R.S.O. 1960,
c. 172, s. 42,
subs. 6
(1964, c. 38,
s. 5),
repealed

28. Subsection 1 of section 42*a* of *The Highway Traffic Act*, as enacted by section 9 of *The Highway Traffic Amendment Act, 1968*, is amended by adding at the end thereof "except when directly crossing a highway", so that the subsection shall read as follows: R.S.O. 1960,
c. 172, s. 42*a*
(1968, c. 50,
s. 9),
subs. 1,
amended

- (1) Every farm tractor and self-propelled implement of husbandry when operated on a highway or any vehicle towed by either of them, shall have a slow moving vehicle sign attached to the rear thereof in accordance with the regulations, except when directly crossing a highway. Slow
moving
vehicle
signs

29. Subsection 2 of section 43 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 43,
subs. 2,
re-enacted

- (2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. Penalty

30. Subsection 2 of section 45 of *The Highway Traffic Act* is repealed. R.S.O. 1960
c. 172, s. 45,
subs. 2,
repealed

R.S.O. 1960,
c. 172, s. 47,
subs. 3,
(1964, c. 38,
s. 6),
re-enacted

31. Subsection 3 of section 47 of *The Highway Traffic Act*, as enacted by section 6 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor:

Penalty

- (3) Every driver of a motor vehicle who refuses or fails to submit the motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as may be required by a constable or officer under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Notice
requiring
examination
and tests

- (3a) Subsection 3 does not apply unless the constable or officer under subsection 1 has given to the driver of the motor vehicle a written notice in the form prescribed by the Lieutenant Governor in Council requiring the driver to submit the motor vehicle, together with its equipment and any trailer attached thereto, to examination and tests.

R.S.O. 1960,
c. 172,
amended

32. *The Highway Traffic Act* is amended by adding thereto the following section:

Regulations
re inspection
of certain
motor
vehicles

47a. The Lieutenant Governor in Council may make regulations,

- (a) requiring the owners of commercial motor vehicles, or any type or class thereof, un-insured motor vehicles, and motor vehicles that have been involved in accidents that are reportable under section 143 to submit them to inspection;
- (b) prescribing the inspection procedures, inspection requirements and performance standards required for such motor vehicles;
- (c) prohibiting the operation on a highway of motor vehicles that do not comply with such requirements and standards, and providing for the seizure of the registration plates of such motor vehicles and for holding them until the motor vehicle is made to comply with such requirements and standards.

R.S.O. 1960,
c. 172, s. 50a
(1966, c. 64,
s. 10),
amended

33. Section 50a of *The Highway Traffic Act*, as enacted by section 10 of *The Highway Traffic Amendment Act, 1966* and amended by section 11 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

SECTION 31. The minimum fine of \$10 and maximum fine of \$50 for failure to submit a motor vehicle for examination as required by a constable is increased to \$50 and \$100 respectively and provision is made requiring the constable to give the driver a written notice.

SECTION 32. Self-explanatory.

SECTION 33. The fine for failure to use the safety devices in accordance with the regulations is increased from the general penalty of section 154, as amended in this Bill, (\$20-\$100) to a fine of from \$100 to \$500.

SECTION 34. The reference to first, second and subsequent offences is deleted and the general penalty in section 154, as amended in this Bill, will apply with respect to the names of owners on commercial vehicles and to reflectors while a different fine is provided respecting the sale of new commercial motor vehicles not equipped with certain lamps and reflectors as required by subsection 2a of section 51.

SECTION 35. A sliding scale of fines is provided respecting gross weight of vehicles instead of the present penalties provided for first, second and subsequent offences.

- (3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. ^{Penalty}

34. Subsection 4 of section 51 of *The Highway Traffic Act* is repealed and the following substituted therefor: ^{R.S.O. 1960, c. 172, s. 51, subs. 4, re-enacted}

- (4) Every person who contravenes any of the provisions of subsection 2a is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. ^{Penalty}

35. Subsection 7 of section 52 of *The Highway Traffic Act* is repealed and the following substituted therefor: ^{R.S.O. 1960, c. 172, s. 52, subs. 7, re-enacted}

- (7) Every person who contravenes any of the provisions of subsection 2, 2a, 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of, ^{Penalty}

- (a) 50 cents per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is less than 5,000 pounds;
- (b) \$1 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 5,000 pounds or more but is less than 10,000 pounds;
- (c) \$2 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 10,000 pounds or more but is less than 15,000 pounds;
- (d) \$3 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 15,000 pounds or more but is less than 20,000 pounds;
- (e) \$4 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 20,000 pounds or more but is less than 30,000 pounds;
- (f) \$5 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 30,000 pounds or more.

R.S.O. 1960,
c. 172, s. 53,
subs. 6,
re-enacted

36. Subsection 6 of section 53 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person to whom a permit has been issued under this section who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of such permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and in addition a fine shall be imposed as if he had also been convicted of an offence under subsection 7 of section 52 in respect of any gross weight in excess of the gross weight permitted under that section as if no special permit had been issued.

R.S.O. 1960,
c. 172, s. 54,
subs. 6,
re-enacted

37. Subsection 6 of section 54 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person who contravenes any of the provisions of subsection 1, 4 or 5 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under subsection 7 of section 52 and in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the registration permit of the vehicle or vehicles involved and such suspension shall continue until the vehicle has been reregistered at the maximum gross weight allowable and the additional registration fee has been paid.

R.S.O. 1960,
c. 172, s. 55,
subs. 2,
re-enacted

38.—(1) Subsection 2 of section 55 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty
on driver

- (2) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 55,
subs. 5,
re-enacted

(2) Subsection 5 of the said section 55 is repealed and the following substituted therefor:

Penalty

- (5) Every person who contravenes any of the provisions of subsection 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 56,
subs. 3,
re-enacted

39. Subsection 3 of section 56 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and

SECTION 36. The minimum fine respecting permits for the moving of heavy loads is increased from \$50 to \$100 and in addition a fine is to be imposed for any overload under section 52.

SECTION 37. The penalty provisions respecting the carrying of loads in excess of that for which a permit is issued are revised to apply the sliding scale of fines under section 52, as amended in this Bill, and the Registrar may suspend registration until the vehicle is reregistered at the maximum gross weight.

SECTION 38. The reference to first, second and subsequent offences is deleted and the fine will be from \$50 to \$100.

SECTION 39. The reference to first, second and subsequent offences is deleted and the fine respecting overhanging loads, etc., is set at from \$50 to \$100 and the suspension provision is retained.

SECTION 40. The minimum and maximum fines respecting the carrying of dangerous materials are increased.

SECTION 41—Subsection 1. The amendment increases the permissible length for combinations from 60 to 65 feet.

Subsection 2. The reference to first, second and subsequent offences is deleted and the fine respecting maximum dimensions of commercial motor vehicles is set at from \$50 to \$100 and the power to suspend a permit is retained.

SECTION 42—Subsection 1. The authority of the Lieutenant Governor in Council to make regulations designating construction zones is transferred to the Minister.

Subsection 2. The general penalty for speeding is revised to provide a sliding scale of fines.

not more than \$100 and in addition his licence or permit may be suspended for a period of not more than sixty days.

40. Subsection 2 of section 57 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 57,
subs. 2,
re-enacted

- (2) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both.

Penalty

41.—(1) Subsection 2a of section 58 of *The Highway Traffic Act*, as re-enacted by section 12 of *The Highway Traffic Amendment Act, 1962-63*, is amended by striking out “60” in the sixth line and inserting in lieu thereof “65”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 58,
subs. 2a
(1962-63,
c. 56, s. 12),
amended

- (2a) No vehicle, other than a public vehicle or a semi-trailer as defined in clause b of subsection 6 of section 55, including load or contents, shall exceed the length of 35 feet, and no combination of vehicles, including load or contents, coupled together shall exceed the total length of 65 feet.

Length of
vehicle or
combination

(2) Subsection 5 of the said section 58 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 58,
subs. 5,
re-enacted

- (5) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and in addition his permit may be suspended for not more than six months.

Penalty

42. (1) Subsection 11a of section 59 of *The Highway Traffic Act*, as enacted by subsection 2 of section 9 of *The Highway Traffic Amendment Act, 1967*, is amended by striking out “Lieutenant Governor in Council” in the first line and inserting in lieu thereof “Minister”, so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 59,
subs. 11a
(1967, c. 35,
s. 9,
subs. 2),
amended

- (11a) The Minister may designate any part of the King's Highway as a construction zone, and every construction zone shall be marked by signs in accordance with the regulations.

Construction
zones

(2) Subsection 12 of the said section 59 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 59,
subs. 12,
re-enacted

Penalty

- (12) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,
- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for each mile per hour that the motor vehicle was driven over the maximum speed limit; and
 - (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit.

R.S.O. 1960,
c. 172, s. 60,
re-enacted

43. Section 60 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Careless
driving

60. Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 61,
subs. 2,
repealed

44. Subsection 2 of section 61 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 62,
subs. 2,
repealed

45. Subsection 2 of section 62 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 67a
(1964, c. 38,
s. 8),
subs. 6,
repealed

46. Subsection 6 of section 67a of *The Highway Traffic Act*, as enacted by section 8 of *The Highway Traffic Amendment Act, 1964*, is repealed.

SECTION 43. The minimum fine is increased from \$10 to \$100 and the term of imprisonment of up to three months is increased to six months and can be imposed in addition to the fine.

SECTION 44. The penalty for interfering with a speed notice on a bridge is deleted as this offence is covered in section 100.

SECTION 45. The penalty provisions respecting unnecessary slow driving are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 46. The fine of \$5 to \$50 respecting pedestrian crossovers is deleted and the general penalty in section 154, as amended in this Bill, (~~\$20-\$100~~) will apply.

SECTION 47. Clause *b* at present prohibits driving to the left of the centre of the roadway when approaching within 100 feet of or traversing a level railway crossing or an intersection except when a left turn is to be made at an intersection. The clause, as re-enacted, will apply only to approaching within 100 feet of a level railway crossing.

SECTION 48. The penalty provisions respecting moving from roadway to roadway on divided highways is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 49. Self-explanatory.

SECTION 50. The penalty provisions, which apply to many of the rules of the road, such as, yield right-of-way, stop, signalling turns, signal lights, improper passing, etc., and provide for different fines for first, second and subsequent offences are deleted and the general penalty in section 154, as amended in this Bill, (~~\$20-\$100~~) will apply.

SECTION 51. The penalty provisions respecting approaching and passing street cars are deleted and the general penalty in section 154, as amended in this Bill, (~~\$20-\$100~~) will apply.

SECTION 52. The penalty provisions respecting approaching ridden or driven horses are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 53. The penalty provision respecting parking rules of the road is revised to delete the reference to first and subsequent offences and to provide a fine of from \$5 to \$50.

SECTION 54. The section repealed creates the offence of drunken driving of a vehicle or of a horse or other animal. This section is sufficiently covered in the Criminal Code and is not used.

SECTION 55. Subsection 2 is revised to provide a general penalty for racing on a highway in place of the present penalties for first and subsequent offences of fines, imprisonment and suspension of licence.

47. Clause *b* of section 72 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 72, cl. b, re-enacted

- (b) when approaching within 100 feet of a level railway crossing,

48. Subsection 2 of section 77 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 77, subs. 2, repealed

49. Subsection 1 of section 79 of *The Highway Traffic Act* is amended by adding after "sounding" in the third line "or a lamp located on the roof of the vehicle is producing intermittent flashes of red light", so that the subsection shall read as follows: R.S.O. 1960, c. 172, s. 79, subs. 1, amended

- (1) The driver of a vehicle, upon the approach of an ambulance, fire or police department vehicle or public utility emergency vehicle, upon which a bell or siren is sounding or a lamp located on the roof of the vehicle is producing intermittent flashes of red light, shall immediately bring such vehicle to a standstill as near as is practicable to the right-hand curb or edge of the roadway and parallel therewith and clear of any intersection. Fire department vehicle, etc., approaching

50. Section 85 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 85, repealed

51. Subsection 3 of section 86 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 86, subs. 3, repealed

52. Subsection 2 of section 87 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 87, subs. 2, repealed

53. Subsection 10 of section 89 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 89, subs. 10, re-enacted

- (10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. Penalty

54. Section 90 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 90, repealed

55. Subsection 2 of section 91 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 91, subs. 2, re-enacted

- (2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 Penalty

and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence may be suspended for a period of not more than two years.

R.S.O. 1960, c. 172, s. 92, subs. 2, repealed **56.** Subsection 2 of section 92 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 93, subs. 2, repealed **57.** Subsection 2 of section 93 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 94, subs. 2 (1966, c. 64, s. 17, subs. 2), amended **58.**—(1) Clause *b* of subsection 2 of section 94 of *The Highway Traffic Act*, as re-enacted by subsection 2 of section 17 of *The Highway Traffic Amendment Act, 1966*, is amended by striking out “separate roadways” in the second line and inserting in lieu thereof “a median strip”, so that the clause shall read as follows:

(b) when meeting on such a highway, other than a highway with a median strip, a school bus on the front of which two red signal-lights are illuminated with intermittent flashes,

.

R.S.O. 1960, c. 172, s. 95, subs. 2, repealed **59.** Subsection 2 of section 95 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 98, re-enacted **60.** Section 98 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Littering highway prohibited 98. Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway.

R.S.O. 1960, c. 172, s. 100, re-enacted **61.** Section 100 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Defacing or removing notices or obstructions 100. Every person who wilfully removes, defaces or in any manner interferes with any notice or obstruction lawfully placed on a highway is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

R.S.O. 1960, c. 172, s. 100a, subs. 1 (1966, c. 64, s. 19), re-enacted **62.** Subsection 1 of section 100a of *The Highway Traffic Act*, as re-enacted by section 19 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor:

SECTION 56. The reference to first, second and subsequent offences for horse racing on a highway is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 57. The penalty provisions respecting the stopping of buses, etc., at railway crossings is deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 58. The amendment is for the purpose of clarification by referring to a median strip which is defined in section 1 rather than a highway with separate roadways.

SECTION 59. The penalty provisions respecting soliciting rides, etc., are deleted and the general penalty in section 154, as amended in this Bill, will apply.

SECTION 60. The present penalties for first, second and subsequent offences are deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 61. The present penalty for a first offence is deleted and the penalty for a subsequent offence of a fine of \$100 to \$500 and imprisonment of up to six months is retained as a general penalty for any such offence. It is provided that the act of defacing, etc., must be wilful.

SECTION 62. The present section authorizes the making of regulations to regulate or prohibit the use of a controlled-access highway by pedestrians, etc. This authority is extended to the King's Highway.

SECTION 63. The penalty provision respecting riding in house or boat trailers is deleted and the general penalty in section 154, as amended in this Bill, will apply. No change in penalty.

SECTION 64. Part IX, dealing with traction engines on highways, is now redundant and is repealed.

SECTIONS 65 AND 66. The amendments are complementary to the amendment to *The Insurance Act* increasing the minimum automobile public liability coverage from \$35,000 to \$50,000.

- (1) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any part of the King's Highway by pedestrians or animals or any class or classes of vehicles.

Regulating or prohibiting use of parts of King's Highway by pedestrians, etc.

63. Subsection 2 of section 100c of *The Highway Traffic Act*, as enacted by section 24 of *The Highway Traffic Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 172, s. 100c, (1968, c. 50, s. 24), subs. 2, repealed

64. Part IX of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, Pt. IX (ss. 101-104), repealed

65. Section 117 of *The Highway Traffic Act*, as re-enacted by section 14 of *The Highway Traffic Amendment Act, 1961-62*, is amended by striking out "\$35,000" in the fourth line and inserting in lieu thereof "\$50,000" and by striking out "\$30,000" in the fourth line of clause *a* and inserting in lieu thereof "\$45,000", so that the section shall read as follows:

R.S.O. 1960, c. 172, s. 117 (1961-62, c. 52, s. 14), amended

117. Subject to subsection 3 of section 118, every driver and owner to whom this Part applies shall give proof of financial responsibility in an amount of at least \$50,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property in any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property,

Amounts of financial responsibility

- (a) claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to the amount of \$45,000; and
- (b) claims arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to the amount of \$5,000,

and, in the case of an owner, such proof shall be given in respect of each motor vehicle registered in his name.

66. Clause *c* of subsection 1 of section 118 of *The Highway Traffic Act*, as amended by section 15 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "\$35,000" in the amendment of 1961-62 and inserting in lieu thereof "\$50,000", so that the clause shall read as follows:

R.S.O. 1960, c. 172, s. 118, subs. 1, cl. c, amended

- (c) the certificate of the Treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in

the amount or value of \$50,000 for each motor vehicle registered in the name of such person, and the Treasurer shall accept any such deposits and issue a certificate therefor if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the county or district in which the depositor resides.

R.S.O. 1960,
c. 172, s. 143,
subs. 1,
re-enacted

67.—(1) Subsection 1 of section 143 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Duty to
report
accident

(1) Every person in charge of a motor vehicle who is directly or indirectly involved in an accident shall, if the accident results in personal injuries, or in damage to property apparently exceeding \$200 report the accident forthwith to the nearest provincial or municipal police officer, and furnish him with such information concerning the accident as may be required by the officer under subsection 3.

R.S.O. 1960,
c. 172, s. 143,
subs. 4,
re-enacted;
subs. 5, 6,
repealed

(2) Subsections 4, 5 and 6 of the said section 143 are repealed and the following substituted therefor:

Report of
police
officer

(4) The report of a police officer under subsection 3 shall be in such form as is approved by the Minister.

R.S.O. 1960,
c. 172,
s. 143a
(1960-61,
c. 34, s. 15),
subs. 2,
re-enacted

68. Subsection 2 of section 143a of *The Highway Traffic Act*, as enacted by section 15 of *The Highway Traffic Amendment Act, 1960-61*, is repealed and the following substituted therefor:

Penalty

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 144,
subs. 2,
repealed

69. Subsection 2 of section 144 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172,
amended

70. *The Highway Traffic Act* is amended by adding thereto the following section:

Report of
optometrist
1961-62,
c. 101

145b. (1) Every optometrist registered under *The Optometry Act, 1961-62* shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon

SECTION 67—Subsection 1. The amendment increases from \$100 to \$200 the amount of damage in respect of which a report of the accident is required to be made and deletes the provision authorizing the police officer or the Registrar to require a written statement.

Subsection 2. Subsection 4, authorizing the Registrar to require additional information from any person involved in the accident and subsection 5, making written reports privileged, are repealed. Subsection 6, providing a penalty for failure to report an accident or give information is deleted and the general penalty in section 154, as amended in this Bill, will apply. The new subsection 4 requires the report of the police officer to be in such form as is approved by the Minister under clause *a* of section 146.

SECTION 68. The present fine for failure to remain at the scene of an accident is a fine of up to \$500. The amendment provides for a minimum fine of \$100.

SECTION 69. The reference to first, second and subsequent offences for failure to report property damage to trees, fences, etc., is deleted and the general penalty in section 154, as amended in this Bill, (\$20-\$100) will apply.

SECTION 70. This section is similar to section 145*a* requiring medical doctors to report to the Registrar.

SECTION 71. Section 151, providing for the distribution of fines, is repealed as obsolete as all fines for contravention of the Act are now payable to the Treasurer of Ontario.

SECTION 72. The reference to first, second and subsequent offences is deleted and a general penalty of from \$20 to \$100 is provided for contraventions of the Act and regulations where no other penalty is provided.

SECTION 73. The second, third and subsequent approach to penalties has been deleted by the amendments to the various penalty provisions in this Bill. Section 155 which defines second, third and subsequent offences is therefor repealed.

SECTION 74. Subsection 2 is revised to delete references to,

1. Subsection 2 of section 7 (failing to notify the Department of change of address);
2. Subsections 1, 3 and 5 of section 8 (failing to have plates properly attached and exposed);
3. Clause *c* of subsection 1 of section 9 (failing to notify the Department of a purchase or sale of a vehicle for which a permit has been issued);

and to add the following references:

1. Subsection 2 of sections 14 and 17 (driver failing to identify himself);
2. Clause *a* of section 143a (failing to remain at the scene of an accident).

SECTION 75. As the second, third and subsequent offence procedure has been discontinued, clause *c* authorizing a judge to impound a motor vehicle following a third conviction is repealed.

the optometrist for optometric services who, in the opinion of such optometrist, is suffering from an eye condition that may make it dangerous for such person to operate a motor vehicle.

- (2) No action shall be brought against a qualified optometrist for complying with this section. No action for compliance with subs. 1
- (3) The report referred to in subsection 1 is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection 1. Reports privileged

71. Section 151 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 151, repealed

72. Section 154 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 154 re-enacted

154. Every person who contravenes any of the provisions of this Act or of any regulation is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$20 and not more than \$100. General penalty

73. Section 155 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 155, repealed

74. Subsection 2 of section 156 of *The Highway Traffic Act*, as amended by section 16 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 156, subs. 2, re-enacted

- (2) Every constable, who, on reasonable and probable grounds, believes that a contravention of any of the provisions of subsection 1 of section 7; clause *a*, *b*, *c* or *d* of subsection 1 of section 9; subsection 1 of section 10; subsection 2 of section 14; subsection 2 of section 17; subsection 2 or 3 of section 25; section 26; section 60, 91 or 100 or clause *a* of section 143a has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such contravention, may arrest such person without warrant whether such person is guilty or not. Arrests by constable without warrant

75. Subsection 1 of section 157 of *The Highway Traffic Act*, as amended by subsection 1 of section 17 of *The Highway Traffic Amendment Act, 1964*, is further amended by striking out "or" at the end of clause *b* and by striking out clause *c*, so that the subsection shall read as follows: R.S.O. 1960, c. 172, s. 157, subs. 1, amended

Impounding
motor
vehicle

(1) In the event of,

(a) a conviction under section 25 or 26 of this Act or section 222 or subsection 3 of section 225 of the *Criminal Code* (Canada); or

(b) a second conviction under subsection 2 of section 221 of the *Criminal Code* (Canada),

the magistrate or judge may order that the motor vehicle driven by or under the care or control of the person convicted at the time of the commission of the offence or last offence, as the case may be, shall be seized, impounded and taken into custody of the law for a period of three months, provided the motor vehicle was at such time owned by or registered in the name of such person, or owned by or registered in the name of the husband, wife, parent or dependent child of such person.

Commence-
ment

76.—(1) This Act, except subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 to 70 and sections 72 to 75, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 31, sections 33 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 and 66, sections 68 to 70 and sections 72 to 75 come into force on the 1st day of September, 1969.

Idem

(3) Sections 32 and 67 come into force on the 1st day of January, 1970.

Short title

77. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.

AN ACT to amend
The Highway Traffic Act

1st Reading

March 31st, 1969

2nd Reading

April 24th, 1969

3rd Reading

MR. HASKETT

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 105

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Highway Traffic Act

MR. HASKETT

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Highway Traffic Act* is amended by adding thereto the following paragraph: R.S.O. 1960, c. 172, s. 1, subs. 1, amended

12a. "median strip" means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a strip of pavement of more than ten feet in width, a physical barrier or an unpaved strip of ground.

(2) Paragraph 24a of subsection 1 of the said section 1, as enacted by section 1 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 1, par. 24a, (1966, c. 64, s. 1), re-enacted

24a. "self-propelled implement of husbandry" means a self-propelled vehicle manufactured, designed, re-designed, converted or reconstructed for a specific use in farming.

(3) Subsection 3 of the said section 1, as enacted by subsection 4 of section 1 of *The Highway Traffic Amendment Act, 1965*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 1, subs. 3, (1965, c. 46, s. 1, subs. 4), re-enacted

(3) For the purposes of Part VII and any regulations or municipal by-laws made thereunder, every overpass and underpass shall be deemed to form part of the highway that it connects. Overpass and underpass

2.—(1) Subsection 1 of section 6 of *The Highway Traffic Act*, as re-enacted by section 2 of *The Highway Traffic Amendment Act, 1962-63*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 6, subs. 1, (1962-63, c. 56, s. 2), re-enacted

(1) The owner of every motor vehicle, trailer or conversion unit shall register it with the Department before driving or operating it or causing it to be Registration of motor vehicles

driven or operated upon a highway and shall pay to the Department a fee for the registration of such motor vehicle, trailer or conversion unit and for the number plates therefor.

R.S.O. 1960, c. 172, s. 6, amended (2) The said section 6 is amended by adding thereto the following subsection:

Self-propelled implement of husbandry

(1a) Subsection 1 applies to a self-propelled implement of husbandry that is operated on a highway other than when travelling from farm to farm in relation to the specific use for which it was manufactured, designed, redesigned, converted or reconstructed or in travelling to or from such places as may be necessary for the maintenance or repair of the vehicle.

R.S.O. 1960, c. 172, s. 7, subs. 1, re-enacted

3.—(1) Subsection 1 of section 7 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty for false statement

(1) Every person who knowingly makes any false statement in any application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Department, is guilty of an offence and on summary conviction, in addition to any other penalty or punishment to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both, and in addition his licence or permit may be suspended for a period of not more than six months.

R.S.O. 1960, c. 172, s. 7, subs. 2, re-enacted

(2) Subsection 2 of the said section 7 is repealed and the following substituted therefor:

Notice of change of address

(2) Where an owner changes his address as given under subsection 2 of section 6 or under this subsection, he shall within six days send by registered mail or cause to be filed in the Department his change of address.

R.S.O. 1960, c. 172, s. 8, subs. 2, 4, 7, repealed

4. Subsections 2, 4 and 7 of section 8 of *The Highway Traffic Act* are repealed.

R.S.O. 1960, c. 172, s. 9, re-enacted

5. Section 9 of *The Highway Traffic Act*, as amended by section 2 of *The Highway Traffic Amendment Act, 1965* and section 3 of *The Highway Traffic Amendment Act, 1968*, is repealed and the following substituted therefor:

Violations as to number plates

9.—(1) Every person who,

(a) defaces or alters any number plate furnished by the Department;

- (b) uses or permits the use of a defaced or altered number plate or a number plate issued by the Department for another motor vehicle, trailer or conversion unit;
- (c) without the authority of the owner, removes a number plate from a motor vehicle, trailer or conversion unit;
- (d) uses or permits the use of any number plate upon a motor vehicle, trailer or conversion unit, except the one issued by the Department for the motor vehicle, trailer or conversion unit,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both, and in addition his licence or permit may be suspended for not more than six months.

- (2) Every person shall, within six days, forward to the Department a notice on the prescribed form of the sale or purchase by or to him of a motor vehicle, trailer or conversion unit for which a permit has been issued. Notice of purchase of motor vehicle, etc.
- (3) Every number plate furnished by the Department under this Act is the property of the Crown and shall be returned to the Department when required by the Department. Number plates property of Crown

6.—(1) Subsection 2 of section 10 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 10, subs. 2, repealed

(2) Subsection 4 of the said section 10 is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 10, subs. 4, re-enacted

- (4) Every person who contravenes any of the provisions of subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10. Penalty

7. Subsection 2 of section 13 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 13, subs. 2, repealed

8. Subsections 2, 3 and 4 of section 14 of *The Highway Traffic Act* are repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 14, subs. 2, re-enacted; subs. 3, 4, repealed

Identifica-
tion on
failure to
produce
licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

R.S.O. 1960,
c. 172, s. 15,
(1966, c. 64,
s. 4),
amended

- 9.** Section 15 of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1966* and amended by section 5 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

Exemption
of new
residents

- (2) Sections 13 and 16 and any regulation made thereunder do not apply to a person for thirty days after he has become a resident of Ontario if during such period he holds a subsisting driver's licence in accordance with the laws of the province, country or state of which he was a resident immediately before becoming a resident of Ontario.

R.S.O. 1960,
c. 172, s. 16,
subs. 2,
repealed

- 10.** Subsection 2 of section 16 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 17,
subs. 2,
re-enacted;
subs. 3, 4,
repealed

- 11.** Subsections 2, 3 and 4 of section 17 of *The Highway Traffic Act* are repealed and the following substituted therefor:

Identifica-
tion on
failure to
produce
licence

- (2) Every person who is unable or refuses to produce his licence in accordance with subsection 1 shall, when requested by a constable, give reasonable identification of himself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

R.S.O. 1960,
c. 172, s. 18,
subs. 4,
repealed

- 12.** Subsection 4 of section 18 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 19,
subs. 4,
repealed

- 13.** Subsection 4 of section 19 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 21a
(1960-61,
c. 34, s. 4),
amended

- 14.** Section 21a of *The Highway Traffic Act*, as enacted by section 4 of *The Highway Traffic Amendment Act, 1960-61* and amended by section 5 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "Notwithstanding section 155" in the first line, so that the section shall read as follows:

Interpreta-
tion of
"subse-
quent" for
ss. 20, 21,
21b

- 21a. Where a penalty is provided in sections 20, 21 and 21b for a subsequent offence, the word "subsequent" relates only to offences committed in any five-year period.

- 15.** Section 23 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 23, repealed
- 16.** Section 26 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 26, re-enacted
26. Every person who operates a motor vehicle the permit for which is under suspension or has been cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both. Penalty for operating motor vehicle when permit suspended or cancelled
- 17.—(1)** Subsection 3 of section 31 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 31, subs. 3, re-enacted
- (3) Every person who stores or deals in motor vehicles or conducts a garage business, parking station, parking lot or used car lot or the wrecking or dismantling of vehicles without a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50. Fine for conducting business without licence
- (2) Subsection 5 of the said section 31 is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 31, subs. 5, re-enacted
- (5) Every person who obstructs, molests or interferes with any constable or officer in the performance of his duties under subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than six months, or to both. Penalty for interference with constable
- 18.** Subsection 6 of section 32 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 32, subs. 6, re-enacted
- (6) Every person who contravenes any of the provisions of,
- (a) subsection 1 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50;
- (b) subsection 2, 3 or 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.
- 19.—(1)** Subsection 8 of section 33 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 33, subs. 8, re-enacted

- Penalty (8) Every person who contravenes subsection 2 or 7 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 33, subs. 11, repealed (2) Subsection 11 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, subs. 15, re-enacted (3) Subsection 15 of the said section 33 is repealed and the following substituted therefor:
- Penalty (15) Every person who contravenes subsection 14 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5.
- R.S.O. 1960, c. 172, s. 33, subs. 23, repealed (4) Subsection 23 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, subs. 27, repealed (5) Subsection 27 of the said section 33 is repealed.
- R.S.O. 1960, c. 172, s. 33, amended (6) The said section 33 is amended by adding thereto the following subsection:
- Penalty (28a) Every person who contravenes any of the provisions of subsection 28 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 35, subs. 6, repealed **20.** Subsection 6 of section 35 of *The Highway Traffic Act*, as amended by subsection 2 of section 8 of *The Highway Traffic Amendment Act, 1961-62*, is repealed.
- R.S.O. 1960, c. 172, s. 36, amended **21.** Section 36 of *The Highway Traffic Act*, as amended by section 5 of *The Highway Traffic Amendment Act, 1960-61*, is further amended by adding thereto the following subsection:
- Penalty (4) Every person who contravenes any of the provisions of this section or any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.
- R.S.O. 1960, c. 172, s. 37, subs. 4, repealed **22.** Subsection 4 of section 37 of *The Highway Traffic Act* is repealed.
- R.S.O. 1960, c. 172, s. 38, subs. 4, repealed **23.** Subsection 4 of section 38 of *The Highway Traffic Act* is repealed.
- R.S.O. 1960, c. 172, s. 38a (1967, c. 35, s. 4), amended **24.** Section 38a of *The Highway Traffic Act*, as re-enacted by section 4 of *The Highway Traffic Amendment Act, 1967*, is amended by adding thereto the following subsection:

- (3) Every person who contravenes any regulation made under clause *a*, *b* or *c* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty
- 25.** Subsection 4 of section 39 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 39,
subs. 4,
re-enacted
- (4) Every person who contravenes any of the provisions of subsection 2 or 3 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty
- 26.** Section 40 of *The Highway Traffic Act* is amended by adding thereto the following subsections: R.S.O. 1960,
c. 172, s. 40,
amended
- (3) In this section, "motor vehicle" includes any apparatus or device that is permanently or temporarily attached to a motor vehicle, other than for the purpose of towing it, and in which a person can ride. Interpreta-
tion
- (4) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty
- 27.** Subsection 6 of section 42 of *The Highway Traffic Act*, as re-enacted by section 5 of *The Highway Traffic Amendment Act, 1964*, is repealed. R.S.O. 1960,
c. 172, s. 42,
subs. 6
(1964, c. 38,
s. 5),
repealed
- 28.** Subsection 1 of section 42*a* of *The Highway Traffic Act*, as enacted by section 9 of *The Highway Traffic Amendment Act, 1968*, is amended by adding at the end thereof "except when directly crossing a highway", so that the subsection shall read as follows: R.S.O. 1960,
c. 172, s. 42*a*
(1968, c. 50,
s. 9),
subs. 1,
amended
- (1) Every farm tractor and self-propelled implement of husbandry when operated on a highway or any vehicle towed by either of them, shall have a slow moving vehicle sign attached to the rear thereof in accordance with the regulations, except when directly crossing a highway. Slow
moving
vehicle
signs
- 29.** Subsection 2 of section 43 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 43,
subs. 2,
re-enacted
- (2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. Penalty
- 30.** Subsection 2 of section 45 of *The Highway Traffic Act* is repealed. R.S.O. 1960,
c. 172, s. 45,
subs. 2,
repealed

R.S.O. 1960, c. 172, s. 47, subs. 3, (1964, c. 38, s. 6), re-enacted

31. Subsection 3 of section 47 of *The Highway Traffic Act*, as enacted by section 6 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor:

Penalty

- (3) Every driver of a motor vehicle who refuses or fails to submit the motor vehicle, together with its equipment and any trailer attached thereto, to such examination and tests as may be required by a constable or officer under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

Notice requiring examination and tests

- (3a) Subsection 3 does not apply unless the constable or officer under subsection 1 has given to the driver of the motor vehicle a written notice in the form prescribed by the Lieutenant Governor in Council requiring the driver to submit the motor vehicle, together with its equipment and any trailer attached thereto, to examination and tests.

R.S.O. 1960, c. 172, amended

32. *The Highway Traffic Act* is amended by adding thereto the following section:

Regulations re inspection of certain motor vehicles

47a. The Lieutenant Governor in Council may make regulations,

- (a) requiring the owners of commercial motor vehicles, or any type or class thereof, uninsured motor vehicles, and motor vehicles that have been involved in accidents that are reportable under section 143 to submit them to inspection;
- (b) prescribing the inspection procedures, inspection requirements and performance standards required for such motor vehicles;
- (c) prohibiting the operation on a highway of motor vehicles that do not comply with such requirements and standards, and providing for the seizure of the registration plates of such motor vehicles and for holding them until the motor vehicle is made to comply with such requirements and standards.

R.S.O. 1960, c. 172, s. 50a (1966, c. 64, s. 10), amended

33. Section 50a of *The Highway Traffic Act*, as enacted by section 10 of *The Highway Traffic Amendment Act, 1966* and amended by section 11 of *The Highway Traffic Amendment Act, 1968*, is further amended by adding thereto the following subsection:

- (3) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

34. Subsection 4 of section 51 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 51,
subs. 4,
re-enacted

- (4) Every person who contravenes any of the provisions of subsection 2a is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Penalty

35. Subsection 7 of section 52 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 172, s. 52,
subs. 7,
re-enacted

- (7) Every person who contravenes any of the provisions of subsection 2, 2a, 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of, Penalty

(a) 50 cents per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is less than 5,000 pounds;

(b) \$1 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 5,000 pounds or more but is less than 10,000 pounds;

(c) \$2 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 10,000 pounds or more but is less than 15,000 pounds;

(d) \$3 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 15,000 pounds or more but is less than 20,000 pounds;

(e) \$4 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 20,000 pounds or more but is less than 30,000 pounds;

(f) \$5 per hundredweight or part thereof of the gross weight in excess of that permitted where the overweight is 30,000 pounds or more.

R.S.O. 1960,
c. 172, s. 53,
subs. 6,
re-enacted

36. Subsection 6 of section 53 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person to whom a permit has been issued under this section who operates or permits the operation of a vehicle or combination of vehicles contrary to any of the conditions of such permit is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and in addition a fine shall be imposed as if he had also been convicted of an offence under subsection 7 of section 52 in respect of any gross weight in excess of the gross weight permitted under that section as if no special permit had been issued.

R.S.O. 1960,
c. 172, s. 54,
subs. 6,
re-enacted

37. Subsection 6 of section 54 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (6) Every person who contravenes any of the provisions of subsection 1, 4 or 5 is guilty of an offence and on summary conviction is liable to a fine as if he had been convicted under subsection 7 of section 52 and in addition, if the conviction is for a contravention under subsection 1, the Registrar may suspend the registration permit of the vehicle or vehicles involved and such suspension shall continue until the vehicle has been reregistered at the maximum gross weight allowable and the additional registration fee has been paid.

R.S.O. 1960,
c. 172, s. 55,
subs. 2,
re-enacted

38.—(1) Subsection 2 of section 55 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty
on driver

- (2) Every driver who, when so required to proceed to a weighing machine, refuses or fails to do so is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 55,
subs. 5,
re-enacted

(2) Subsection 5 of the said section 55 is repealed and the following substituted therefor:

Penalty

- (5) Every person who contravenes any of the provisions of subsection 3 or 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100.

R.S.O. 1960,
c. 172, s. 56,
subs. 3,
re-enacted

39. Subsection 3 of section 56 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Penalty

- (3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and

not more than \$100 and in addition his licence or permit may be suspended for a period of not more than sixty days.

40. Subsection 2 of section 57 of *The Highway Traffic Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 57,
subs. 2,
re-enacted

- (2) Every person who contravenes any of the provisions of a regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than three months, or to both.

Penalty

41.—(1) Subsection 2a of section 58 of *The Highway Traffic Act*, as re-enacted by section 12 of *The Highway Traffic Amendment Act, 1962-63*, is amended by striking out "60" in the sixth line and inserting in lieu thereof "65", so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 58,
subs. 2a
(1962-63,
c. 56, s. 12),
amended

- (2a) No vehicle, other than a public vehicle or a semi-trailer as defined in clause b of subsection 6 of section 55, including load or contents, shall exceed the length of 35 feet, and no combination of vehicles, including load or contents, coupled together shall exceed the total length of 65 feet.

Length of
vehicle or
combination

(2) Subsection 5 of the said section 58 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 58,
subs. 5,
re-enacted

- (5) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and in addition his permit may be suspended for not more than six months.

Penalty

42.—(1) Subsection 11a of section 59 of *The Highway Traffic Act*, as enacted by subsection 2 of section 9 of *The Highway Traffic Amendment Act, 1967*, is amended by striking out "Lieutenant Governor in Council" in the first line and inserting in lieu thereof "Minister", so that the subsection shall read as follows:

R.S.O. 1960,
c. 172, s. 59,
subs. 11a
(1967, c. 35,
s. 9,
subs. 2),
amended

- (11a) The Minister may designate any part of the King's Highway as a construction zone, and every construction zone shall be marked by signs in accordance with the regulations.

Construction
zones

(2) Subsection 12 of the said section 59 is repealed and the following substituted therefor:

R.S.O. 1960,
c. 172, s. 59,
subs. 12,
re-enacted

Penalty

- (12) Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,
- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;
 - (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for each mile per hour that the motor vehicle was driven over the maximum speed limit; and
 - (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit.

R.S.O. 1960,
c. 172, s. 60,
re-enacted

43. Section 60 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Careless
driving

60. Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960,
c. 172, s. 61,
subs. 2,
repealed

44. Subsection 2 of section 61 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 62,
subs. 2,
repealed

45. Subsection 2 of section 62 of *The Highway Traffic Act* is repealed.

R.S.O. 1960,
c. 172, s. 67^a
(1964, c. 38,
s. 8),
subs. 6,
repealed

46. Subsection 6 of section 67^a of *The Highway Traffic Act*, as enacted by section 8 of *The Highway Traffic Amendment Act, 1964*, is repealed.

47. Clause *b* of section 72 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 72, cl. b, re-enacted

(*b*) when approaching within 100 feet of a level railway crossing,

48. Subsection 2 of section 77 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 77, subs. 2, repealed

49. Subsection 1 of section 79 of *The Highway Traffic Act* is amended by adding after "sounding" in the third line "or a lamp located on the roof of the vehicle is producing intermittent flashes of red light", so that the subsection shall read as follows: R.S.O. 1960, c. 172, s. 79, subs. 1, amended

(1) The driver of a vehicle, upon the approach of an ambulance, fire or police department vehicle or public utility emergency vehicle, upon which a bell or siren is sounding or a lamp located on the roof of the vehicle is producing intermittent flashes of red light, shall immediately bring such vehicle to a standstill as near as is practicable to the right-hand curb or edge of the roadway and parallel therewith and clear of any intersection. Fire department vehicle, etc., approaching

50. Section 85 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 85, repealed

51. Subsection 3 of section 86 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 86, subs. 3, repealed

52. Subsection 2 of section 87 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 87, subs. 2, repealed

53. Subsection 10 of section 89 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 89, subs. 10, re-enacted

(10) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. Penalty

54. Section 90 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 90, repealed

55. Subsection 2 of section 91 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 91, subs. 2, re-enacted

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 Penalty

and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence may be suspended for a period of not more than two years.

R.S.O. 1960, c. 172, s. 92, subs. 2, repealed **56.** Subsection 2 of section 92 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 93, subs. 2, repealed **57.** Subsection 2 of section 93 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 94, subs. 2 (1966, c. 64, s. 17, subs. 2), amended **58.**—(1) Clause *b* of subsection 2 of section 94 of *The Highway Traffic Act*, as re-enacted by subsection 2 of section 17 of *The Highway Traffic Amendment Act, 1966*, is amended by striking out “separate roadways” in the second line and inserting in lieu thereof “a median strip”, so that the clause shall read as follows:

(b) when meeting on such a highway, other than a highway with a median strip, a school bus on the front of which two red signal-lights are illuminated with intermittent flashes,

R.S.O. 1960, c. 172, s. 95, subs. 2, repealed **59.** Subsection 2 of section 95 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, s. 98, re-enacted **60.** Section 98 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Littering highway prohibited **98.** Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter upon, along or adjacent to a highway, except in receptacles provided for the purpose, is guilty of the offence of littering the highway.

R.S.O. 1960, c. 172, s. 100, re-enacted **61.** Section 100 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Defacing or removing notices or obstructions **100.** Every person who wilfully removes, defaces or in any manner interferes with any notice or obstruction lawfully placed on a highway is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

R.S.O. 1960, c. 172, s. 100a, subs. 1 (1966, c. 64, s. 19), re-enacted **62.** Subsection 1 of section 100a of *The Highway Traffic Act*, as re-enacted by section 19 of *The Highway Traffic Amendment Act, 1966*, is repealed and the following substituted therefor:

- (1) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any part of the King's Highway by pedestrians or animals or any class or classes of vehicles.

Regulating or prohibiting use of parts of King's Highway by pedestrians, etc.

63. Subsection 2 of section 100c of *The Highway Traffic Act*, as enacted by section 24 of *The Highway Traffic Amendment Act, 1968*, is repealed.

R.S.O. 1960, c. 172, s. 100c (1968, c. 50, s. 24), subs. 2, repealed

64. Part IX of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, Pt. IX (ss. 101-104), repealed

65. Section 117 of *The Highway Traffic Act*, as re-enacted by section 14 of *The Highway Traffic Amendment Act, 1961-62*, is amended by striking out "\$35,000" in the fourth line and inserting in lieu thereof "\$50,000" and by striking out "\$30,000" in the fourth line of clause *a* and inserting in lieu thereof "\$45,000", so that the section shall read as follows:

R.S.O. 1960, c. 172, s. 117 (1961-62, c. 52, s. 14), amended

117. Subject to subsection 3 of section 118, every driver and owner to whom this Part applies shall give proof of financial responsibility in an amount of at least \$50,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property in any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property,

Amounts of financial responsibility

- (a) claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to the amount of \$45,000; and
- (b) claims arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death to the amount of \$5,000,

and, in the case of an owner, such proof shall be given in respect of each motor vehicle registered in his name.

66. Clause *c* of subsection 1 of section 118 of *The Highway Traffic Act*, as amended by section 15 of *The Highway Traffic Amendment Act, 1961-62*, is further amended by striking out "\$35,000" in the amendment of 1961-62 and inserting in lieu thereof "\$50,000", so that the clause shall read as follows:

R.S.O. 1960, c. 172, s. 118, subs. 1, cl. c, amended

- (c) the certificate of the Treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in

money or securities

the amount or value of \$50,000 for each motor vehicle registered in the name of such person, and the Treasurer shall accept any such deposits and issue a certificate therefor if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the county or district in which the depositor resides.

R.S.O. 1960, c. 172, s. 143, subs. 1, re-enacted **67.**—(1) Subsection 1 of section 143 of *The Highway Traffic Act* is repealed and the following substituted therefor:

Duty to report accident

- (1) Every person in charge of a motor vehicle who is directly or indirectly involved in an accident shall, if the accident results in personal injuries, or in damage to property apparently exceeding \$200 report the accident forthwith to the nearest provincial or municipal police officer, and furnish him with such information concerning the accident as may be required by the officer under subsection 3.

R.S.O. 1960, c. 172, s. 143, subs. 4, re-enacted; subss. 5, 6, repealed

(2) Subsections 4, 5 and 6 of the said section 143 are repealed and the following substituted therefor:

Report of police officer

- (4) The report of a police officer under subsection 3 shall be in such form as is approved by the Minister.

R.S.O. 1960, c. 172, s. 143a (1960-61, c. 34, s. 15), subs. 2, re-enacted **68.** Subsection 2 of section 143a of *The Highway Traffic Act*, as enacted by section 15 of *The Highway Traffic Amendment Act, 1960-61*, is repealed and the following substituted therefor:

Penalty

- (2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than six months, or to both, and in addition his licence or permit may be suspended for a period of not more than two years.

R.S.O. 1960, c. 172, s. 144, subs. 2, repealed **69.** Subsection 2 of section 144 of *The Highway Traffic Act* is repealed.

R.S.O. 1960, c. 172, amended

70. *The Highway Traffic Act* is amended by adding thereto the following section:

Report of optometrist 1961-62, c. 101

- 145b.—(1) Every optometrist registered under *The Optometry Act, 1961-62* shall report to the Registrar the name, address and clinical condition of every person sixteen years of age or over attending upon

the optometrist for optometric services who, in the opinion of such optometrist, is suffering from an eye condition that may make it dangerous for such person to operate a motor vehicle.

- (2) No action shall be brought against a qualified optometrist for complying with this section. No action for compliance with subs. 1
- (3) The report referred to in subsection 1 is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection 1. Reports privileged

71. Section 151 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 151, repealed

72. Section 154 of *The Highway Traffic Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 154 re-enacted

154. Every person who contravenes any of the provisions of this Act or of any regulation is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$20 and not more than \$100. General penalty

73. Section 155 of *The Highway Traffic Act* is repealed. R.S.O. 1960, c. 172, s. 155, repealed

74. Subsection 2 of section 156 of *The Highway Traffic Act*, as amended by section 16 of *The Highway Traffic Amendment Act, 1964*, is repealed and the following substituted therefor: R.S.O. 1960, c. 172, s. 156, subs. 2, re-enacted

- (2) Every constable, who, on reasonable and probable grounds, believes that a contravention of any of the provisions of subsection 1 of section 7; clause *a*, *b*, *c* or *d* of subsection 1 of section 9; subsection 1 of section 10; subsection 2 of section 14; subsection 2 of section 17; subsection 2 or 3 of section 25; section 26; section 60, 91 or 100 or clause *a* of section 143*a* has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such contravention, may arrest such person without warrant whether such person is guilty or not. Arrests by constable without warrant

75. Subsection 1 of section 157 of *The Highway Traffic Act*, as amended by subsection 1 of section 17 of *The Highway Traffic Amendment Act, 1964*, is further amended by striking out "or" at the end of clause *b* and by striking out clause *c*, so that the subsection shall read as follows: R.S.O. 1960, c. 172, s. 157, subs. 1, amended

Impounding
motor
vehicle

(1) In the event of,

(a) a conviction under section 25 or 26 of this Act or section 222 or subsection 3 of section 225 of the *Criminal Code* (Canada); or

(b) a second conviction under subsection 2 of section 221 of the *Criminal Code* (Canada),

the magistrate or judge may order that the motor vehicle driven by or under the care or control of the person convicted at the time of the commission of the offence or last offence, as the case may be, shall be seized, impounded and taken into custody of the law for a period of three months, provided the motor vehicle was at such time owned by or registered in the name of such person, or owned by or registered in the name of the husband, wife, parent or dependent child of such person.

Commence-
ment

76.—(1) This Act, except subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 to 70 and sections 72 to 75, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 1 of section 2, sections 3 to 8, sections 10 to 14, sections 16 to 27, sections 29 to 31, sections 33 to 40, subsection 2 of section 41, subsection 2 of section 42, sections 43 to 46, sections 48 to 53, sections 55 to 61, section 63, sections 65 and 66, sections 68 to 70 and sections 72 to 75 come into force on the 1st day of September, 1969.

Idem

(3) Sections 32 and 67 come into force on the 1st day of January, 1970.

Short title

77. This Act may be cited as *The Highway Traffic Amendment Act, 1968-69*.

AN ACT to amend
The Highway Traffic Act

1st Reading

March 31st, 1969

2nd Reading

April 24th, 1969

3rd Reading

June 6th, 1969

MR. HASKETT

BILL 106

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Public Vehicles Act

MR. HASKETT

EXPLANATORY NOTE

This amendment increases the minimum fine from **\$20** to **\$50**.

BILL 106

1968-69

An Act to amend The Public Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 23 of *The Public Vehicles Act* is amended by striking out “\$20” in the fourth line and inserting in lieu thereof “\$50”, so that the subsection shall read as follows: R.S.O. 1960, c. 337, s. 23, subs. 1, amended

- (1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200. Offences

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Public Vehicles Amendment Act, 1968-69*. Short title

An Act to amend The Public Vehicles Act

1st Reading

March 31st, 1969

2nd Reading

3rd Reading

MR. HASKETT

BILL 106

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Public Vehicles Act

MR. HASKETT

BILL 106

1968-69

An Act to amend The Public Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 23 of *The Public Vehicles Act* is amended by striking out "S20" in the fourth line and inserting in lieu thereof "S50", so that the subsection shall read as follows: R.S.O. 1960, c. 337, s. 23, subs. 1, amended

- (1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200. Offences

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Public Vehicles Amendment Act, 1968-69*. Short title

An Act to amend "The Public Vehicles Act

1st Reading

March 31st, 1969

2nd Reading

April 24th, 1969

3rd Reading

May 9th, 1969

MR. HASKETT

BILL 107

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

The Energy Act, 1968-69

MR. SIMONETT

EXPLANATORY NOTES

GENERAL—The purpose of this revision is to make the administration of the Act more effective in the light of the experience gained under the present Act, thus improving the safety aspects of the production and storage of gas and oil and the transmission, distribution and use of gas, fuel oil and propane as defined in the Act.

SECTION 1. The terms "appliance", "contractor", "fuel oil", "gas", "inspector", "install", "manufactured gas", "pipe line", and "propane" are redefined; a number of terms, "hydrocarbon", "land", "person", "producer", "storage company" and "utility line" are deleted as being unnecessary for the purposes of the Act, and a number of new terms, "accessory", "operator", "pool" and "spacing unit" are added.

The Energy Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act and in the regulations, Interpre-
tation
 1. "accessory" means a part capable of performing one or more independent functions and contributing to the operation of the appliance that it serves;
 2. "appliance" means a device using gas, fuel oil or propane as fuel, and includes all valves, fittings, controls and components attached or to be attached thereto;
 3. "Board" means the Ontario Energy Board;
 4. "contractor" means a person,
 - (i) who carries on the business of installing, removing, repairing or servicing appliances, or
 - (ii) who sells or leases and agrees to install appliances;
 5. "Department" means the Department of Energy and Resources Management;
 6. "distributor" means a person who supplies gas, fuel oil or propane to a consumer, and "distribute" and "distribution" have corresponding meanings;
 7. "fuel oil" means any liquid hydrocarbon within the meaning from time to time of the Canadian Government Specifications Board specification 3-GP-2 entitled FUEL OIL, 3-GP-3 entitled KEROSENE,

3-GP-6 entitled DIESEL FUEL, or, when used for heating, cooking or lighting, within the meaning from time to time of 3-GP-27 entitled LIGHTING NAPHTHA;

8. "gas" means natural gas, manufactured gas, propane-air gas or any mixture of any of them;
9. "inspector" means an inspector appointed for the purposes of this Act and the regulations, and includes a chief inspector;
10. "install" means to place in position for permanent or temporary use;
11. "licence" means a licence issued under this Act;
12. "manufactured gas" means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals;
13. "Minister" means the Minister of Energy and Resources Management;
14. "oil" means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well;
15. "operator",
 - (i) when used in respect of any operations carried on for the purpose of drilling or plugging a well, means a person who has the right as lessee, sub-lessee, assignee or owner to carry on the drilling or plugging operations, and the person who has the control or management of such operations, and
 - (ii) when used in respect of a well, means a person who has the right as lessee, sub-lessee, assignee or owner to the production from the well, and the person who has the control and management thereof, provided that such person either drilled or produced the well;
16. "permit" means a permit issued under this Act;
17. "pipe line" means a pipe that is used for the transmission or distribution of gas, oil, fuel oil or propane, and includes every part thereof and adjunct thereto;

SECTION 2. The scope is narrowed to restrict the powers of the inspectors.

18. "pool" means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such underground accumulation;
19. "prescribed" means prescribed by a regulation;
20. "propane" means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene or any blend thereof;
21. "registered" means registered under this Act, and "registration" has a corresponding meaning;
22. "regulation" means a regulation made under the authority of this Act;
23. "spacing unit" means a surface area established by a regulation for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation;
24. "transmission line" means a pipe line, other than a production line, a distribution line, a pipe line within an oil refinery, oil or petroleum storage depot, chemical processing plant or pipe line terminal or station;
25. "transmit" means to carry a hydrocarbon by transmission line, and "transmission" has a corresponding meaning;
26. "well" means a hole drilled into a geological formation of Cambrian or more recent age, except a hole where no gas or oil is encountered that is drilled for the production of fresh water or salt;
27. "work" means a pipe line or a well and every part thereof and adjunct thereto that is used in the drilling for or production of gas or oil or the storage or distribution of gas or fuel oil or the transmission of gas, oil, fuel oil or propane. 1964, c. 27, s. 1; 1965, c. 37, s. 1; 1967, c. 25, s. 1. *amended*.

2.— (1) One or more chief inspectors and inspectors may be appointed under *The Public Service Act, 1961-62* for the purposes of this Act and the regulations. 1964, c. 27, s. 2 (1), ^{Appointment of inspectors 1961-62, c. 121} *amended*.

Powers

(2) Every inspector may, for the purposes of this Act and the regulations,

- (a) enter any premises where he has reason to believe there has been, are or may be hazardous conditions relative to gas, oil, fuel oil or propane;
- (b) make such inspections, tests and inquiries as are necessary to ascertain whether this Act and the regulations have been or are being complied with;
- (c) take samples of any substance that he has reason to believe may relate to a contravention of this Act or a regulation; and
- (d) require the production of any licence or other document prescribed by a regulation, and examine and copy it. 1964, c. 27, s. 2 (2), *amended*.

Assistance

(3) The occupant of any premises and his servants, agents and employees shall give all reasonable assistance to an inspector in the exercise of his powers under this Act. 1964, c. 27, s. 2 (3), *amended*.

Not required to testify

(4) No inspector shall be required to give testimony in any civil suit with regard to information obtained by him in the exercise of his powers under this Act, except with the written permission of the Minister.

No personal liability

(5) No inspector is personally liable for anything done by him in the exercise of his powers under this Act. 1964, c. 27, s. 2 (6, 7), *amended*.

Inspector's instructions

3.—(1) An inspector may give instructions orally or in writing to any person with respect to any matter in order to bring about compliance with this Act and the regulations and may require his instructions to be carried out within such time as he specifies.

Written instructions

(2) Where a person to whom an inspector gives oral instructions under subsection 1 requests that the inspector put the instructions in writing, he shall do so. 1964, c. 27, s. 2 (4, 5), *amended*.

Inspectors may tag works

4.—(1) An inspector may tag an appliance, container or work in relation to which he has reason to believe that a contravention of this Act or a regulation has been, is being, or is about to be committed by attaching a prescribed tag to some part of the appliance, container or work.

SECTION 6. This section is new

(2) An inspector who has tagged an appliance, container or work shall forthwith so notify, in writing, the person who appears to be in charge of the appliance, container or work. Notice

(3) No person shall alter, deface or destroy such an attached tag. Tag not to be destroyed

(4) No person, other than an inspector, shall remove such an attached tag. 1964, c. 27, s. 3 (1-3), *amended*. Tag not to be removed

(5) Except when authorized by an inspector, no person shall operate or remove gas, oil, fuel oil or propane from or knowingly supply gas, oil, fuel oil or propane to or use in any manner an appliance, container or work that bears a prescribed tag. 1964, c. 27, s. 3 (5), *amended*. Work not to be used

5.—(1) A person aggrieved by an instruction given under section 3 or a tag attached under section 4 may appeal to a chief inspector. Appeal to chief inspector

(2) Such appeal may be by telephone, and if requested by the chief inspector, shall be confirmed in writing. Idem

(3) Upon such an appeal the chief inspector may issue such instructions as he deems to be appropriate in the circumstances. 1964, c. 27, s. 4 (2-4), *amended*. Idem

6. No person shall without lawful authority tamper in any way with or remove any appliance, container or work which appears to have been involved in an asphyxiation, fire or explosion without the permission of an inspector. *New*. Tampering with or removal of equipment

7.—(1) No person shall,

- (a) conduct geophysical or geochemical exploration for gas or oil; or No exploring, leasing or producing without licence
- (b) lease gas or oil rights except from the Crown; or
- (c) produce gas or oil,

unless he is the holder of a licence for such purpose.

(2) Failure to comply with subsection 1 does not affect the validity of any contract. 1964, c. 27, s. 5 (1). Contracts not affected

8. No person shall operate a machine for boring, drilling, deepening or plugging wells unless the machine is licensed. 1965, c. 37, s. 2. No well-drilling machine to be operated without licence

No well to be bored, etc., without a permit

9. No person shall bore, drill or deepen a well unless he is the holder of a permit for such purpose. 1964, c. 27, s. 5 (3).

No gas to be injected, etc., without permit

10.—(1) No person shall repressure, maintain pressure in or flood any gas, oil or water horizon by the injection of gas, oil, water or other substance unless he is the holder of a permit for such purpose.

Exception

(2) Subsection 1 does not apply to a person who injects gas for storage in a designated gas storage area.

Reference to Board

(3) If, in the opinion of the Minister, the circumstances of a case so require, he may refer an application for a permit to repressure, maintain pressure in or flood a gas, oil or water horizon to the Board, and the Board shall report to the Minister thereon, but where, in the opinion of the Board, the circumstances of the case so require, the Board shall hold a hearing before reporting to the Minister. 1964, c. 27, s. 6, *amended*.

No transmission or distribution without licence

11.—(1) No person shall,

- (a) transmit or distribute gas, fuel oil or propane;
- (b) transfer propane from one pressure vessel to another pressure vessel; or
- (c) transport gas or propane by vehicle,

unless he is the holder of a licence for such purpose.

Contracts not affected

(2) Failure to comply with subsection 1 does not affect the validity of any contract. 1964, c. 27, s. 7 (1), *amended*.

Specifications for appliances, etc.

12. The Minister may establish or approve specifications or test reports for,

- (a) any appliance;
- (b) any accessory; or
- (c) any equipment, apparatus or other thing employed or to be employed in the distribution, storage or use of fuel oil or propane. *New*.

No sale, etc., of unapproved appliances

13. No person shall offer for sale, sell, lease, rent, buy or install,

- (a) any appliance;
- (b) any accessory; or

SECTION 10. The effect of subsection 3 is to transfer from the Board to the Minister the final responsibility with reference to the granting of permits to repressure, maintain pressure in or flood any gas or oil horizon.

SECTION 11. Subsection 1 is expanded to include all fuels within the scope of the Act; subsection 2 is expanded to include accessories, equipment, etc.

SECTION 16. This provision is new.

- (c) any equipment, apparatus or other thing employed or to be employed in the distribution, storage or use of gas, fuel oil or propane,

unless it is approved pursuant to a regulation. 1964, c. 27, s. 7 (2), *amended*.

14. No person shall carry on the business of installing, repairing, servicing or removing appliances unless he is registered for the purpose. 1964, c. 27, s. 7 (3), *amended*. Registered contractors to install, etc., appliances

15. Every installation, repair, service or removal of, Manner of installing appliances, etc.

(a) any appliance;

(b) any accessory; or

(c) any equipment, apparatus or other thing employed or to be employed in the distribution, storage or use of fuel oil or propane,

shall be done in accordance with the regulations. *New*.

16.—(1) Subject to subsection 2, no person shall install, repair, service or remove, Installers, etc., must have certificate

(a) any appliance;

(b) any accessory; or

(c) any equipment, apparatus or other thing employed or to be employed in the distribution, storage or use of fuel oil or propane,

unless he is the holder of a certificate for the purpose.

(2) No person shall install, repair, service or remove, Exception

(a) any appliance;

(b) any accessory; or

(c) any equipment, apparatus or other thing employed or to be employed in the distribution, storage or use of fuel oil or propane,

unless the installation, repair, service or removal is done in the presence of the holder of a certificate referred to in subsection 1. *New*.

Notice to distributor

17.—(1) No person shall initially activate an appliance supplied by pipe line with gas, fuel oil or propane without first giving notice to the distributor of the fuel of the address of the premises at which the installation was made or is to be made and the type of appliance to be supplied.

Inspection by distributor

(2) Where premises are initially connected to a supply of fuel by pipe line, no person shall initially activate an appliance connected thereto until the distributor of the fuel has inspected the appliance. 1964, c. 27, s. 7 (5, 6), *amended*.

Powers of distributors

18. A distributor shall have free access, at all reasonable times and upon reasonable notice, to all parts of every premises to which fuel is supplied for the purpose of,

- (a) inspecting, repairing, altering or disconnecting any appliance in or on the premises; or
- (b) placing, protecting or setting any meters upon any pipe or connection in or on the premises. 1964, c. 27, s. 7 (7), *amended*.

Pipe lines not to be activated until inspected

19.—(1) No person shall activate a pipe line until it has been inspected in accordance with the regulations.

Pipe line inspectors

(2) The inspection referred to in subsection 1 shall be made by a person who holds a certificate as a pipe line inspector. *New*.

Responsibility for compliance with Act

20. Every distributor, contractor or operator shall take every precaution reasonable in the circumstances to ensure that his employees and agents comply with this Act and the regulations. *New*.

Grant of licence, etc. 1964, c. 74

21.—(1) Subject to section 23 of *The Ontario Energy Board Act, 1964*, the Minister may, in his discretion, with or without an examination of the applicant, grant a licence, permit, certificate or registration, and he may, in so doing, impose such terms and conditions, whether of a pecuniary nature or otherwise, and such duties and liabilities as he in his discretion deems proper, but before granting a licence, permit, certificate or registration, he may refer the matter to the Board, in which case the Board shall hold a hearing and report to him thereon.

Renewal of licence, etc.

(2) The Minister may grant a renewal of a licence, permit, certificate or registration in whole or in part, and he may, in granting a renewal of a licence, permit, certificate or registration, impose such terms and conditions, whether of a pecuniary nature or otherwise, and such duties and liabilities

SECTION 17. This provision allows a contractor to install and connect an appliance before notifying the distributor.

SECTIONS 19 AND 20. These provisions are new.

SECTION 21. This section and subsections 2, 3 and 4 of section 22 transfer from the Board to the Minister responsibility with respect to imposing conditions, granting, renewing and suspending licences and permits and effecting or renewing registrations.

as he in his discretion deems proper, but if, in refusing to grant or in granting such a renewal, he imposes any term or condition that was not previously imposed, he shall, if requested by the applicant, refer the matter to the Board, in which case the Board shall hold a hearing and report to him thereon. 1964, c. 27, s. 10, *amended*.

22.—(1) No person shall,

Prohibitions

- (a) contravene or fail to comply with any provision of this Act or any regulation;
- (b) waste or cause to be wasted or permit loss or dispose of any gas, oil, fuel oil or propane in any manner which may give rise to, or cause, a hazard to public health or safety, or may contribute to air, land or water pollution;
- (c) dig, trench or excavate with mechanical equipment without first ascertaining the location of any pipe line which may be interfered with in the course of such digging, trenching or excavating and, except in an emergency, without giving the owner of the pipe line at least twenty-four hours notice before commencing such digging, trenching or excavating;
- (d) knowingly make a false statement in any document prescribed by a regulation;
- (e) fail to carry out the instructions of an inspector; or
- (f) wilfully delay or obstruct an inspector in the execution of his duties under this Act. 1964, c. 27, s. 9 (1); 1967, c. 25, s. 3, *amended*.

(2) Where a person contravenes any provision of sub-section 1, the Minister may, on such terms and conditions as he deems proper, refuse to grant a licence, permit, certificate or registration or the renewal of any of them, or suspend or revoke a licence, permit, certificate or registration but, before so doing, he may refer the matter to the Board, in which case the Board shall report to him thereon. 1964, c. 27, s. 10 (3), *amended*.

Renewal,
suspension
of licence,
etc.

(3) Where the Minister does not refer the matter to the Board, any person aggrieved thereby may apply to the Board for a hearing, in which case the Board shall hold a hearing and report thereon to the Minister. *New*.

Reference
to Board

23.—(1) The Lieutenant Governor in Council may make regulations,

Drilling
and
production
regulations

- (a) for the conservation of gas or oil;

- (b) prescribing areas where drilling for gas or oil is prohibited;
- (c) prescribing the terms and conditions of gas and oil production leases and gas storage leases or any part thereof, and providing for the making of statements or reports thereon;
- (d) regulating the location and spacing of wells;
- (e) providing for the establishment and designation of spacing units and regulating the location of wells in spacing units and requiring the joining of the various interests within a spacing unit or pool;
- (f) prescribing the methods, equipment and materials to be used in boring, drilling, completing, plugging or operating wells;
- (g) requiring operators to preserve and furnish to the Department drilling and production samples and cores;
- (h) requiring operators to furnish to the Department reports, returns, geological and other information;
- (i) requiring dry or abandoned wells to be plugged or replugged, and prescribing the methods, equipment and materials to be used in plugging or replugging wells;
- (j) regulating the use of wells for the subsurface disposal of waste substances. 1964, c. 27, s. 11 (1); 1965, c. 37, s. 3; 1967, c. 25, s. 4 (1), *amended*.

Regulations
respecting
appliances,
etc.

(2) The Lieutenant Governor in Council may, with respect to appliances, accessories, equipment, apparatus and other things employed or to be employed in the transmission, distribution, storage or use of gas, oil, fuel oil or propane, make regulations,

- (a) classifying them or any of them for the purpose of any regulation;
- (b) regulating their type, design, construction, installation, filling, maintenance, repair, removal, replacement, inspection and use;
- (c) prohibiting the sale, installation or use of them or any class of them;

- (d) designating organizations to test them or any class of them;
- (e) defining "approved";
- (f) providing for the certification or registration of persons who may inspect, install, repair, service or remove them or any class of them;
- (g) exempting them, or any class of them, from this Act and the regulations or any of the provisions thereof. 1964, c. 27, s. 11 (2), *amended*.

(3) The Lieutenant Governor in Council may make regu-^{General}lations, ^{regulations}

- (a) regulating the conditions of agreements between distributors and consumers;
- (b) prescribing classes of contractors and requiring and providing for the registration of them or any class of them;
- (c) prescribing methods of locating pipe lines prior to the commencement of excavation activities;
- (d) prescribing classes of meters and requiring and providing for the registration of meters or any class of them;
- (e) prescribing the fees to be paid for the inspection of pipe lines and appliances and prescribing by whom the fees shall be paid;
- (f) providing for the issue of licences, permits, certificates and labels;
- (g) prescribing classes of licences, permits, certificates and labels, and prescribing standard terms and conditions upon which licences, permits, certificates or labels may be issued or registrations made;
- (h) prescribing the fee payable for any application, examination, certificate, licence, permit, label or registration;
- (i) prescribing forms and tags, and providing for their use;
- (j) requiring and providing for the bonding or insuring of holders of licences, permits or certificates of registration;

- (k) requiring and providing for guarantees or other security by bond or other means that works commenced under permit will be completed in accordance with this Act and the regulations;
- (l) respecting the completion, correction or removal of works by an operator, or by the Minister upon the operator's default, and respecting the recovery of costs thereby incurred;
- (m) providing for the Minister to take possession of a work not complying with this Act and the regulations and to take such measures as are necessary to make the work comply with this Act and the regulations and to recover any resulting expenses by the sale of all or part of the work;
- (n) requiring and providing for the keeping of records and the making of returns, statements or reports on the exploration, leasing, drilling for or production of gas or oil or the storage, transportation, distribution, transmission or utilization of gas, oil, fuel oil or propane;
- (o) regulating safety standards and requiring and providing for the keeping of safety records and the making of safety returns, statements or reports in the drilling for, production, storage, transmission, distribution, measurement, transportation and utilization of gas, oil, fuel oil or propane;
- (p) exempting any person or any class of persons from compliance with this Act or the regulations or of any of the provisions thereof;
- (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1964, c. 27, s. 11 (3, 4), *amended*.

Codes

(4) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted. 1964, c. 27, s. 11 (5).

Scope of regulations

(5) Any regulation may be general or particular in its application. 1964, c. 27, s. 11 (7).

Conflict, with other Acts
1964, c. 74

24.—(1) In the event of conflict between this Act and any other general or special Act, this Act, subject only to *The Ontario Energy Board Act, 1964* prevails. 1964, c. 27, s. 12 (1).

(2) This Act and the regulations prevail over any municipal by-law. 1964, c. 27, s. 12 (2), *amended*. Idem.
with
by-laws

25.—(1) Every person who, Offences
and
penalties

(a) contravenes or fails to comply with any provision of this Act or a regulation;

(b) knowingly makes a false statement in any document prescribed by a regulation; or

(c) fails to carry out the instructions of any inspector,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1964, c. 27, s. 9 (1), *amended*.

(2) No information may be laid under this section without the written permission of the Minister in the prescribed form. 1964, c. 27, s. 9 (2), *amended*. Permission
of Minister

26. Every licence, permit, certificate, label, registration or approval issued, made or given under the predecessor of this Act and in force on the day this Act comes into force shall be deemed to have been issued, made or given under this Act. Existing
licences

27. *The Energy Act, 1964, The Energy Amendment Act, 1965 and The Energy Amendment Act, 1967*, are repealed. 1964, c. 27;
1965, c. 37;
1967, c. 25,
repealed

28. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

29. This Act may be cited as *The Energy Act, 1968-69*. Short title

1st Reading

March 31st, 1969

2nd Reading

3rd Reading

MR. SIMONETT

BILL 108

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

The Gasoline Handling Act, 1968-69

MR. SIMONETT

EXPLANATORY NOTES

GENERAL—The purpose of this revision is to make the administration of the Act more effective in the light of the experience gained under the present Act, thus improving the safety aspects of the handling of gasoline and associated products.

SECTION 1. The definitions of "consumer outlet", "equipment", "handling", "marina", "portable container", "service station", and "transport" are new.

The Gasoline Handling Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act and in the regulations,

Interpre-
tation

- (a) "associated product" means any product of petroleum, other than gasoline, wax and asphalt;
- (b) "bulk plant" means one or more storage tanks, including the appurtenances thereof, where gasoline or an associated product is received by pipe line, tank vessel, tank car or tank vehicle and is stored in bulk for subsequent transmission by pipe line or transportation or distribution by tank vessel, tank car or tank vehicle;
- (c) "consumer outlet" means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;
- (d) "equipment" means equipment used or to be used in the handling of gasoline or an associated product;
- (e) "flash point" means the lowest temperature, determined by using a Tagliabue closed-cup tester, at which the vapour of a product of petroleum forms a flammable mixture in air;
- (f) "gasoline" means a product of petroleum that has a flash point below 73°F. and that is designed for use in an internal combustion engine;
- (g) "handling" means the storing, transmitting, transporting or distributing of gasoline or an associated product, and includes putting gasoline or an associated product into the fuel tank of a motor vehicle, motor boat or other water craft or into a container;

- (h) "inspector" means an inspector authorized to enforce this Act;
- (i) "marina" means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor boats and other water craft or into portable containers;
- (j) "Minister" means the Minister of Energy and Resources Management;
- (k) "portable container" means a container that has a capacity of ten gallons or less, that is designed, manufactured and used or to be used for the storage or conveyance of gasoline or an associated product;
- (l) "regulation" means a regulation made under the authority of this Act;
- (m) "service station" means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers;
- (n) "transport" means to convey in or on a vehicle gasoline or an associated product, exclusive of the fuel carried for use in the vehicle, and "transporting" and "transportation" have corresponding meanings. 1966, c. 61, s. 1, *amended*.

Gasoline handling equipment must be approved

2. No person shall,

- (a) offer for sale or sell;
- (b) install; or
- (c) use in a service station, consumer outlet, marina or bulk plant,

any equipment that is not approved by the Minister pursuant to the regulations. 1966, c. 61, s. 3, *amended*.

Containers must be approved

3. In a service station, consumer outlet, marina or bulk plant, no person shall put gasoline or an associated product having a flash point below 73°F. into any container of a type that is not approved by the Minister pursuant to the regulations. *New*.

Approval of specifications for equipment

4. The Minister may establish or approve specifications or test reports for equipment and designate organizations to test equipment in accordance with such requirements. *New*.

SECTION 2. The provision is broadened to include the principle that only gasoline handling equipment that has been approved by the Minister pursuant to the regulations may be sold, used, etc.

SECTIONS 3, 4, 5 AND 7. These are new.

5. All equipment shall be installed, tested, operated or used in accordance with the regulations. *New.* Equipment must comply with regulations

6.—(1) No person shall,

(a) operate a service station;

(b) operate a marina;

(c) operate a bulk plant; or

(d) transport gasoline or an associated product,

Licence required to operate service station, etc.

unless licensed to do so by the Minister. 1966, c. 61, s. 2 (1), *amended.*

(2) The Minister may refuse to issue a licence under this Act to any person and may cancel or suspend any licence issued under this Act where the applicant or licensee, as the case may be, has contravened or failed to comply with any provision of this Act or the regulations. 1966, c. 61, s. 2 (2). Cancellation, suspension of licence

7. Every person who employs another person in the handling of gasoline or an associated product or in the installing of equipment shall take every precaution that is reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. *New.* Employers must take reasonable precautions

8.—(1) Every inspector appointed for the purposes of *The Energy Act, 1968-69* is authorized to enforce this Act. 1966, c. 61, s. 4 (1), *amended.* Inspectors 1968-69.

(2) Every inspector may, for the purposes of this Act and the regulations, Powers

(a) enter any premises where he has reason to believe there has been, are or may be hazardous conditions relative to gasoline or an associated product;

(b) make such inspections, tests and inquiries as are necessary to ascertain whether this Act and the regulations are being complied with;

(c) take samples of any liquid that he has reason to believe is or may contain gasoline or an associated product; and

(d) require the production of any licence or other document prescribed by a regulation, and examine and copy it.

- Instructions** (3) An inspector may give instructions orally or in writing to any person with respect to any matter in order to bring about compliance with this Act and the regulations and may require that his instructions be carried out within such time as he specifies.
- Idem** (4) Where a person to whom an inspector gives oral instructions requests the inspector to put his instructions in writing, he shall do so.
- Duty to assist inspector** (5) The occupant of any premises and his servants, agents and employees shall give reasonable assistance to an inspector in the exercise of his powers under this Act. 1966, c. 61, s. 4 (2-5), *amended*.
- No personal liability** (6) No inspector is personally liable for anything done by him in the exercise of his powers under this Act. *New*.
- Regulations** **9.** The Lieutenant Governor in Council may make regulations,
- (a) appointing such persons or classes of persons as may be necessary to assist in the enforcement of this Act and the regulations;
 - (b) exempting any person or class of persons from this Act or the regulations or any of the provisions thereof;
 - (c) exempting any equipment or any class of equipment from this Act or the regulations or any of the provisions thereof;
 - (d) respecting the term, issue, renewal and posting of licences and prescribing the fees therefor;
 - (e) designating organizations to test equipment to specifications established or approved by the Minister and, where the equipment conforms to the specifications, to place their label thereon;
 - (f) prescribing procedures for installing, testing, operating and using equipment;
 - (g) respecting the approval of equipment or any type thereof by the Minister;
 - (h) prescribing grades of gasoline and associated products, and providing for the identification thereof;
 - (i) prescribing forms and providing for their use;

(j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 61, s. 5 (1), *amended*.

10. This Act and the regulations prevail over any municipal by-law. 1966, c. 61, s. 5, *amended*. Act
prevails
over
by-laws

11. Every person who, Offences
and
penalties

(a) contravenes or fails to comply with any provision of this Act or the regulations;

(b) knowingly makes a false statement in any document prescribed by the regulations; or

(c) fails to carry out the instructions of an inspector,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1966, c. 61, s. 6 (1).

12. Every licence issued under the predecessor of this Act and in force on the day this Act comes into force shall be deemed to have been issued under this Act. Existing
licences

13. *The Gasoline Handling Act, 1966* is repealed. 1966, c. 61,
repealed

14. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

15. This Act may be cited as *The Gasoline Handling Act, 1968-69*. Short title

The Gasoline Handling Act, 1968-69

1st Reading

March 31st, 1969

2nd Reading

3rd Reading

MR. SIMONETT

BILL 108

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

The Gasoline Handling Act, 1968-69

MR. KERR

The Gasoline Handling Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act and in the regulations,

Interpre-
tation

- (a) "associated product" means any product of petroleum, other than gasoline, wax and asphalt;
- (b) "bulk plant" means one or more storage tanks, including the appurtenances thereof, where gasoline or an associated product is received by pipe line, tank vessel, tank car or tank vehicle and is stored in bulk for subsequent transmission by pipe line or transportation or distribution by tank vessel, tank car or tank vehicle;
- (c) "consumer outlet" means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;
- (d) "equipment" means equipment used or to be used in the handling of gasoline or an associated product;
- (e) "flash point" means the lowest temperature, determined by using a Tagliabue closed-cup tester, at which the vapour of a product of petroleum forms a flammable mixture in air;
- (f) "gasoline" means a product of petroleum that has a flash point below 73°F. and that is designed for use in an internal combustion engine;
- (g) "handling" means the storing, transmitting, transporting or distributing of gasoline or an associated product, and includes putting gasoline or an associated product into the fuel tank of a motor vehicle, motor boat or other water craft or into a container;

- (h) "inspector" means an inspector authorized to enforce this Act;
- (i) "marina" means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor boats and other water craft or into portable containers;
- (j) "Minister" means the Minister of Energy and Resources Management;
- (k) "portable container" means a container that has a capacity of ten gallons or less, that is designed, manufactured and used or to be used for the storage or conveyance of gasoline or an associated product;
- (l) "regulation" means a regulation made under the authority of this Act;
- (m) "service station" means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers;
- (n) "transport" means to convey in or on a vehicle gasoline or an associated product, exclusive of the fuel carried for use in the vehicle, and "transporting" and "transportation" have corresponding meanings. 1966, c. 61, s. 1, *amended*.

Gasoline handling equipment must be approved

2. No person shall,

- (a) offer for sale or sell;
- (b) install; or
- (c) use in a service station, consumer outlet, marina or bulk plant,

any equipment that is not approved by the Minister pursuant to the regulations. 1966, c. 61, s. 3, *amended*.

Containers must be approved

3. In a service station, consumer outlet, marina or bulk plant, no person shall put gasoline or an associated product having a flash point below 73°F. into any container of a type that is not approved by the Minister pursuant to the regulations. *New*.

Approval of specifications for equipment

4. The Minister may establish or approve specifications or test reports for equipment and designate organizations to test equipment in accordance with such requirements. *New*.

5. All equipment shall be installed, tested, operated or used in accordance with the regulations. *New.* Equipment must comply with regulations

6.—(1) No person shall,

(a) operate a service station;

(b) operate a marina;

(c) operate a bulk plant; or

(d) transport gasoline or an associated product,

Licence required to operate service station, etc.

unless licensed to do so by the Minister. 1966, c. 61, s. 2 (1), *amended.*

(2) The Minister may refuse to issue a licence under this Act to any person and may cancel or suspend any licence issued under this Act where the applicant or licensee, as the case may be, has contravened or failed to comply with any provision of this Act or the regulations. 1966, c. 61, s. 2 (2). Cancellation, suspension of licence

7. Every person who employs another person in the handling of gasoline or an associated product or in the installing of equipment shall take every precaution that is reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. *New.* Employers must take reasonable precautions

8.—(1) Every inspector appointed for the purposes of *The Energy Act, 1968-69* is authorized to enforce this Act. 1966, c. 61, s. 4 (1), *amended.* Inspectors 1968-69.

(2) Every inspector may, for the purposes of this Act and the regulations, Powers

(a) enter any premises where he has reason to believe there has been, are or may be hazardous conditions relative to gasoline or an associated product;

(b) make such inspections, tests and inquiries as are necessary to ascertain whether this Act and the regulations are being complied with;

(c) take samples of any liquid that he has reason to believe is or may contain gasoline or an associated product; and

(d) require the production of any licence or other document prescribed by a regulation, and examine and copy it.

- Instructions (3) An inspector may give instructions orally or in writing to any person with respect to any matter in order to bring about compliance with this Act and the regulations and may require that his instructions be carried out within such time as he specifies.
- Idem (4) Where a person to whom an inspector gives oral instructions requests the inspector to put his instructions in writing, he shall do so.
- Duty to assist inspector (5) The occupant of any premises and his servants, agents and employees shall give reasonable assistance to an inspector in the exercise of his powers under this Act. 1966, c. 61, s. 4 (2-5), *amended*.
- No personal liability (6) No inspector is personally liable for anything done by him in the exercise of his powers under this Act. *New*.
- Regulations **9.** The Lieutenant Governor in Council may make regulations,
- (a) appointing such persons or classes of persons as may be necessary to assist in the enforcement of this Act and the regulations;
 - (b) exempting any person or class of persons from this Act or the regulations or any of the provisions thereof;
 - (c) exempting any equipment or any class of equipment from this Act or the regulations or any of the provisions thereof;
 - (d) respecting the term, issue, renewal and posting of licences and prescribing the fees therefor;
 - (e) designating organizations to test equipment to specifications established or approved by the Minister and, where the equipment conforms to the specifications, to place their label thereon;
 - (f) prescribing procedures for installing, testing, operating and using equipment;
 - (g) respecting the approval of equipment or any type thereof by the Minister;
 - (h) prescribing grades of gasoline and associated products, and providing for the identification thereof;
 - (i) prescribing forms and providing for their use;

- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 61, s. 5 (1), *amended*.

10. This Act and the regulations prevail over any municipal by-law. 1966, c. 61, s. 5, *amended*. Act
prevails
over
by-laws

11. Every person who, Offences
and
penalties

(a) contravenes or fails to comply with any provision of this Act or the regulations;

(b) knowingly makes a false statement in any document prescribed by the regulations; or

(c) fails to carry out the instructions of an inspector,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1966, c. 61, s. 6 (1).

12. Every licence issued under the predecessor of this Act and in force on the day this Act comes into force shall be deemed to have been issued under this Act. Existing
licences

13. *The Gasoline Handling Act, 1966* is repealed. 1966, c. 61,
repealed

14. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

15. This Act may be cited as *The Gasoline Handling Act, 1968-69*. Short title

The Gasoline Handling Act, 1968-69

1st Reading

March 31st, 1969

2nd Reading

October 23rd, 1969

3rd Reading

October 31st, 1969

Mr. KERR

BILL 109

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Ontario Energy Board Act, 1964

MR. SIMONETT

EXPLANATORY NOTES

SECTION 1. The definitions are brought into line with the corresponding definitions in *The Energy Act, 1968-69* (Bill 107).

BILL 109

1968-69

**An Act to amend
The Ontario Energy Board Act, 1964**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. — (1) Paragraph 3 of section 1 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 3, re-enacted

3. “distributor” means a person who supplies gas, fuel oil or propane to a consumer, and “distributing” and “distribution” have corresponding meanings.

(2) Paragraph 4 of the said section 1, as re-enacted by subsection 2 of section 1 of *The Ontario Energy Board Amendment Act, 1967*, is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 4 (1967, c. 64, s. 1, subs. 2), re-enacted

4. “fuel oil” means any liquid hydrocarbon within the meaning from time to time of the Canadian Government Specifications Board specification 3-GP-2 entitled FUEL OIL, 3-GP-3 entitled KEROSENE, 3-GP-6 entitled DIESEL FUEL, or, when used for heating, cooking or lighting, within the meaning from time to time of 3-GP-27 entitled LIGHTING NAPHTHA.

(3) Paragraph 5 of the said section 1 is amended by striking out “or liquefied petroleum gas” in the first and second lines and inserting in lieu thereof “propane-air gas”, so that the paragraph shall read as follows: 1964, c. 74, s. 1, par. 5, amended

5. “gas” means natural gas, manufactured gas, propane-air gas or any mixture of any of them.

(4) Paragraph 6 of the said section 1 is repealed.

1964, c. 74, s. 1, par. 6, repealed

(5) Paragraph 8 of the said section 1 is repealed and the following substituted therefor:

1964, c. 74, s. 1, par. 8, re-enacted

8. "manufactured gas" means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals.

1964, c. 74,
s. 1,
amended

(6) The said section 1 is amended by adding thereto the following paragraphs:

13a. "pool" means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such accumulation;

.

14a. "propane" means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene, or any blend thereof;

.

15a. "spacing unit" means a surface area established by a regulation made under *The Energy Act, 1968-69* or a predecessor thereof for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation.

1968-69,
c.

1964, c. 74,
s. 15, subs. 3,
amended

2. Subsection 3 of section 15 of *The Ontario Energy Board Act, 1964* is amended by inserting after "section 23" in the second line "section 25a".

1964, c. 74,
s. 19,
subs. 1a
(1965, c. 83,
s. 1),
re-enacted

3.--(1) Subsection 1a of section 19 of *The Ontario Energy Board Act, 1964*, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor:

Board to
determine
rate base

(1a) In approving or fixing rates and other charges under subsection 1, the Board shall determine a rate base for the transmitter, distributor or storage company, and shall determine whether the return on the rate base produced or to be produced by such rates and other charges is reasonable.

1964, c. 74,
s. 19,
subs. 1b
(1965, c. 83,
s. 1),
re-enacted

(2) Subsection 1b of the said section 19, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor:

Formula for
determining
rate base

(1b) The rate base to be determined by the Board under subsection 1a shall be the total of,

- (a) a reasonable allowance for the cost of the property that is used or useful in serving the public, less an amount deemed adequate by the Board for depreciation, amortization and depletion;

SECTION 2. See section 7 of this Bill. This amendment is complementary and will bring the new section 25a into line with the exceptions mentioned in section 15 (3) of the Act.

SECTION 3. The amendment is designed to enable the Board to control unreasonable inflation of the rate base.

SECTIONS 4, 9 AND 10. These sections are designed to complement *The Expropriations Act, 1968-69*.

SECTION 5. This new provision implements a recommendation of the McRuer Report. It requires the Board to send a copy of its report to each of the parties on a reference to it of an application for a licence to drill a gas well in a designated gas storage area. The new provision also gives a right of appeal to the Lieutenant Governor in Council.

- (b) a reasonable allowance for working capital;
and
- (c) such other amounts as, in the opinion of the Board, ought to be included.

(1c) In determining the reasonable allowance for the cost of property under clause *a* of subsection 1*b*, the Board shall ascertain or estimate the actual cost thereof to the present owner and, where in the opinion of the Board the actual cost exceeds a reasonable allowance for inclusion in the rate base, shall make such deductions in respect of the excess as in the opinion of the Board are appropriate.

(1*d*) In considering whether the actual cost mentioned in subsection 1*c* exceeds a reasonable allowance for inclusion in the rate base and in determining the appropriate deductions to be made in respect of any such excess, the Board may consider all matters it deems relevant, including the public benefit resulting from the acquisition of the property, whether the acquisition at the price paid was prudent in the circumstances existing at the time and, where the property was acquired as an operating system or part thereof, the allowance made for its cost in the rate base of the former owner or, if no such rate base had been determined that included an allowance for the cost thereof, the allowance that would have been made therefor in a rate base for the former owner determined in accordance with this section.

4. Subsections 3, 4, 5, 6, 7 and 8 of section 21 of *The Ontario Energy Board Act, 1964* are repealed and the following substituted therefor:

(3) No action or other proceeding lies in respect of compensation payable under this section and, failing agreement, the amount thereof shall be determined by the Board.

(4) An appeal within the meaning of section 32 of *The Expropriations Act, 1968-69* lies from a determination of the Board under subsection 3 to the Court of Appeal, in which case that section applies and section 32 of this Act does not apply.

5. Section 23 of *The Ontario Energy Board Act, 1964* is amended by adding thereto the following subsection:

Copy of
report to be
sent to
parties

- (2) The Board shall send to each of the parties a copy of its report to the Minister made pursuant to subsection 1 within ten days after submitting it to the Minister and such report shall be deemed to be a decision of the Board within the meaning of section 33.

1964, c. 74,
s. 24,
amended

6. Section 24 of *The Ontario Energy Board Act, 1964* is amended by adding thereto the following subsection:

Idem

- (2) In making an order under clause *b* or *c* of subsection 1, the Board may prescribe the respective rights and obligations of persons having interests in the spacing unit, field or pool that in the opinion of the Board are just and reasonable and, in particular, may require the sharing of production among persons having interests, or the payment of royalties, rentals or other compensation by or to persons having interests, at rates or in amounts deemed by the Board to be just and reasonable, and the Board is not bound by the terms of any lease or agreement and such terms, in case of conflict, are superseded by the order of the Board.

1964, c. 74,
amended

7. *The Ontario Energy Board Act, 1964* is amended by adding thereto the following section:

Disposition
of gas
system

25a. (1) No gas transmitter, distributor or storage company, without the leave of the Board first being obtained, shall

- (a) sell, lease, convey or otherwise dispose of its gas transmission, distribution or storage system, or any part thereof that is used or useful in serving the public, as an entirety or substantially as an entirety; or
- (b) enter into an agreement for amalgamation with any other company.

Mortgages

- (2) Subsection 1 does not apply to a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness.

Hearing

- (3) On an application under subsection 1, the Board may proceed with or without a hearing.

1964, c. 74,
s. 39, subs. 2,
amended

8. Subsection 2 of section 39 of *The Ontario Energy Board Act, 1964* is amended by inserting after "Agriculture" in the third line "and Food".

SECTION 6. This new provision will give the Board additional discretionary powers when dealing with an application for the joining of interests in a spacing unit, field or pool.

SECTION 7. This provision is new. It is self-explanatory.

SECTION 8. The name of the department mentioned is brought up to date.

9. Subsection 4 of section 40 of *The Ontario Energy Board Act, 1964* is repealed. 1964, c. 74, s. 40, subs. 4, repealed

10. Section 41 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: 1964, c. 74, s. 41, re-enacted

41. Where compensation for damages is provided for in this Part, it shall be determined by the Land Compensation Board established under section 28 of *The Expropriations Act, 1968-69*. Determination of compensation 1968-69, c.

11. This Act comes into force on the day it receives Royal Assent. Commencement

12. This Act may be cited as *The Ontario Energy Board Amendment Act, 1968-69*. Short title

An Act to amend
The Ontario Energy Board Act, 1964

1st Reading

March 31st, 1969

2nd Reading

3rd Reading

MR. SIMONETT

BILL 109

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Ontario Energy Board Act, 1964

MR. KERR

(Reprinted as amended by the Legal and Municipal Committee)

EXPLANATORY NOTES

SECTION 1. The definitions are brought into line with the corresponding definitions in *The Energy Act, 1968-69* (Bill 107).

BILL 109

1968-69

**An Act to amend
The Ontario Energy Board Act, 1964**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 3 of section 1 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 3, re-enacted

3. “distributor” means a person who supplies gas, fuel oil or propane to a consumer, and “distributing” and “distribution” have corresponding meanings.

(2) Paragraph 4 of the said section 1, as re-enacted by subsection 2 of section 1 of *The Ontario Energy Board Amendment Act, 1967*, is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 4, (1967, c. 64, s. 1, subs. 2), re-enacted

4. “fuel oil” means any liquid hydrocarbon within the meaning from time to time of the Canadian Government Specifications Board specification 3-GP-2 entitled FUEL OIL, 3-GP-3 entitled KEROSENE, 3-GP-6 entitled DIESEL FUEL, or, when used for heating, cooking or lighting, within the meaning from time to time of 3-GP-27 entitled LIGHTING NAPHTHA.

(3) Paragraph 5 of the said section 1 is amended by striking out “or liquefied petroleum gas” in the first and second lines and inserting in lieu thereof “propane-air gas”, so that the paragraph shall read as follows: 1964, c. 74, s. 1, par. 5, amended

5. “gas” means natural gas, manufactured gas, propane-air gas or any mixture of any of them.

(4) Paragraph 6 of the said section 1 is repealed.

1964, c. 74, s. 1, par. 6, repealed

(5) Paragraph 8 of the said section 1 is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 8, re-enacted

8. "manufactured gas" means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals.

1964, c. 74,
s. 1,
amended

(6) The said section 1 is amended by adding thereto the following paragraphs:

13a. "pool" means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such underground accumulation;

.

14a. "propane" means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene, or any blend thereof;

.

15a. "spacing unit" means a surface area established by a regulation made under *The Energy Act, 1968-69* or a predecessor thereof for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation.

1968-69,
c.

1964, c. 74,
s. 13, subs. 2,
amended

2. Subsection 2 of section 13 of *The Ontario Energy Board Act, 1964* is amended by inserting after "to" in the first line "section 25a and", so that the subsection shall read as follows:

Applications

(2) Subject to section 25a and subsection 2 of section 35, where a proceeding before the Board is commenced by the filing of an application, the Board shall proceed by order.

1964, c. 74,
s. 15,
subs. 3,
amended

3. Subsection 3 of section 15 of *The Ontario Energy Board Act, 1964* is amended by striking out "subsection 2 of section 6 of *The Energy Act, 1964*" in the third and fourth lines and inserting in lieu thereof "*The Energy Act, 1968-69* and any predecessor thereof", so that the subsection shall read as follows:

Hearing
upon notice

(3) Subject to subsections 1 and 2 of this section, subsection 5 of section 19, subsection 2 of section 22, section 23 and subsection 2 of section 37 of this Act and to *The Energy Act, 1968-69* and any predecessor thereof, the Board shall not make any order or proceed in accordance with any reference or order in council under this or any other Act until it has held a hearing upon notice in such manner and to such persons as the Board directs.

1968-69
c.

SECTION 2. See section 7 of this Bill; this amendment is complementary.

SECTION 3. This amendment will bring the reference into line with *The Energy Act, 1968-69* (Bill 107).

SECTION 4. The amendment is designed to enable the Board to control unreasonable inflation of the rate base.

4.—(1) Subsection 1a of section 19 of *The Ontario Energy Board Act, 1964*, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor: 1964, c. 74, s. 19, subs. 1a (1965, c. 83, s. 1), re-enacted

(1a) In approving or fixing rates and other charges under subsection 1, the Board shall determine a rate base Board to determine rate base for the transmitter, distributor or storage company, and shall determine whether the return on the rate base produced or to be produced by such rates and other charges is reasonable.

(2) Subsection 1b of the said section 19, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor: 1964, c. 74, s. 19, subs. 1b (1965, c. 83, s. 1), re-enacted

(1b) The rate base to be determined by the Board under subsection 1a shall be the total of, Formula for determining rate base

- (a) a reasonable allowance for the cost of the property that is used or useful in serving the public, less an amount deemed adequate by the Board for depreciation, amortization and depletion;
- (b) a reasonable allowance for working capital; and
- (c) such other amounts as, in the opinion of the Board, ought to be included.

(1c) In determining the reasonable allowance for the cost of the property under clause a of subsection 1b, idem, cost of property the Board shall ascertain the actual cost of the property to the present owner, but

- (a) where the actual cost to the present owner of any of the property cannot be ascertained, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property; and
- (b) where in the opinion of the Board the actual cost to the present owner of any of the property is more than a reasonable allowance for inclusion in the rate base for the cost of that property, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property.

(1d) In considering whether the actual cost mentioned in subsection 1c exceeds a reasonable allowance for inclusion in the rate base and in determining the idem

appropriate deductions to be made in respect of any such excess, the Board may consider all matters it deems relevant, including the public benefit resulting from the acquisition of the property, whether the acquisition at the price paid was prudent in the circumstances existing at the time and, where the property was acquired as an operating system or part thereof, the allowance made for its cost in the rate base of the former owner or, if no such rate base had been determined that included an allowance for the cost thereof, the allowance that would have been made therefor in a rate base for the former owner determined in accordance with this section.

Findings
of fact

- (1e) Findings of fact on which determinations are made by the Board under subsections 1a, 1b, 1c and 1d shall be based on the evidence adduced at the hearing.

1964, c. 74,
s. 21,
subs. 3, 4,
re-enacted;
subs. 5-8,
repealed

5. Subsections 3, 4, 5, 6, 7 and 8 of section 21 of *The Ontario Energy Board Act, 1964* are repealed and the following substituted therefor:

Determina-
tion of
amount of
compensa-
tion

- (3) No action or other proceeding lies in respect of compensation payable under this section and, failing agreement, the amount thereof shall be determined by the Board.

Appeal
1968-69,
c.

- (4) An appeal within the meaning of section 32 of *The Expropriations Act, 1968-69* lies from a determination of the Board under subsection 3 to the Court of Appeal, in which case that section applies and section 32 of this Act does not apply.

1964, c. 74,
s. 23,
amended

6. Section 23 of *The Ontario Energy Board Act, 1964* is amended by adding thereto the following subsection:

Copy of
report to be
sent to
parties

- (2) The Board shall send to each of the parties a copy of its report to the Minister made pursuant to subsection 1 within ten days after submitting it to the Minister and such report shall be deemed to be a decision of the Board within the meaning of section 33.

1964, c. 74,
amended

7. *The Ontario Energy Board Act, 1964* is amended by adding thereto the following section:

Disposition
of gas
systems
and
acquisition
of share
control

- 25a.—(1) No gas transmitter, gas distributor or storage company, without first obtaining the leave of the Lieutenant Governor in Council, shall,

SECTIONS 5, 9 and 10. These sections are designed to complement *The Expropriations Act, 1968-69*.

SECTION 6. This new provision implements a recommendation of the McRuer Report. It requires the Board to send a copy of its report to each of the parties on a reference to it of an application for a licence to drill a gas well in a designated gas storage area. The new provision also gives a right of appeal to the Lieutenant Governor in Council.

SECTION 7. This provision is new. It is self-explanatory.

SECTION 8. The name of the department mentioned is brought up to date.

SECTION 9. The provision repealed has been superseded by *The Expropriations Act, 1968-69*.

SECTION 10. These amendments are designed to clarify the situation during the transitional period from *The Expropriation Procedures Act, 1962-63* to *The Expropriations Act, 1968-69* as to what procedures apply to the determination of compensation for lands expropriated for pipe-line purposes and the like and as to what tribunal will determine the compensation.

These amendments also provide that damages occurring during construction or maintenance of a pipe-line will be determined by the Land Compensation Board.

- (a) sell, lease, convey or otherwise dispose of its gas transmission, gas distribution or gas storage system, or any part thereof that is used or useful in serving the public, as an entirety or substantially as an entirety;
- (b) amalgamate with any other company; or
- (c) acquire such number of any class of shares that, together with shares already held by the gas transmitter, gas distributor or storage company and its associates will in the aggregate exceed 20 per cent of the shares outstanding of that class of a gas transmitter, gas distributor or storage company.

(2) Subsection 1 does not apply to a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness. Mortgages

(3) An application for leave under subsection 1 shall be made to the Board, which shall hold a public hearing and submit its report and opinion to the Lieutenant Governor in Council. Public hearing

8. Subsection 2 of section 39 of *The Ontario Energy Board Act, 1964* is amended by inserting after "Agriculture" in the third line "and Food". 1964, c. 74, s. 39, subs. 2, amended

9. Subsection 4 of section 40 of *The Ontario Energy Board Act, 1964* is repealed. 1964, c. 74, s. 40, subs. 4, repealed

10. (1) Section 41 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: 1964, c. 74, s. 41, re-enacted

41. Where compensation for damages is provided for in this Part and is not agreed upon, the procedures set out in clauses *a* and *b* of section 26 of *The Expropriations Act, 1968-69* apply to the determination of such compensation, and such compensation shall be determined under section 27 of that Act or by the Land Compensation Board established under section 28 of that Act. Determination of compensation 1968-69, c. . .

(2) Where, under the authority of section 40 of *The Ontario Energy Board Act, 1964*, a person has expropriated land under *The Expropriation Procedures Act, 1962-63* and at the time this section comes into force the compensation has not been finally determined or agreed upon, Transitional provision 1962-63, c. 43

- (a) if the compensation is in appeal under section 41 of *The Ontario Energy Board Act, 1964* as it existed before this section comes into force, the said section 41 continues to apply thereto; or
- (b) if the compensation remains to be determined otherwise than under clause *a*, it shall be determined under *The Expropriations Act, 1968-69* as if the plan were registered under that Act, but where a hearing has already been held by the board of negotiation, sections 26 and 27 of *The Expropriations Act, 1968-69* do not apply, except that if the negotiation proceedings did not result in settlement of the compensation, then the procedures of subsection 6 of section 27 of that Act apply to that determination of such compensation.

1968-69,
C. . . .

Commence-
ment

11.—(1) This Act, except section 7, comes into force on the day it receives Royal Assent.

Idem

(2) Section 7 shall be deemed to have come into force on the 22nd day of October, 1969.

Short title

12. This Act may be cited as *The Ontario Energy Board Amendment Act, 1968-69*.

An Act to amend
The Ontario Energy Board Act, 1964

1st Reading

March 31st, 1969

2nd Reading

October 23rd, 1969

3rd Reading

Mr. KERR

*(Reprinted as amended by the Legal
and Municipal Committee)*

BILL 109

2ND SESSION, 28TH LEGISLATURE, ONTARIO
18 ELIZABETH II, 1968-69

An Act to amend The Ontario Energy Board Act, 1964

MR. KERR

BILL 109

1968-69

**An Act to amend
The Ontario Energy Board Act, 1964**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 3 of section 1 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 3, re-enacted

3. “distributor” means a person who supplies gas, fuel oil or propane to a consumer, and “distributing” and “distribution” have corresponding meanings.

(2) Paragraph 4 of the said section 1, as re-enacted by subsection 2 of section 1 of *The Ontario Energy Board Amendment Act, 1967*, is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 4 (1967, c. 64, s. 1, subs. 2), re-enacted

4. “fuel oil” means any liquid hydrocarbon within the meaning from time to time of the Canadian Government Specifications Board specification 3-GP-2 entitled FUEL OIL, 3-GP-3 entitled Kerosine, 3-GP-6 entitled DIESEL FUEL, or, when used for heating, cooking or lighting, within the meaning from time to time of 3-GP-27 entitled LIGHTING NAPHTHA.

(3) Paragraph 5 of the said section 1 is amended by striking out “or liquefied petroleum gas” in the first and second lines and inserting in lieu thereof “propane-air gas”, so that the paragraph shall read as follows: 1964, c. 74, s. 1, par. 5, amended

5. “gas” means natural gas, manufactured gas, propane-air gas or any mixture of any of them.

(4) Paragraph 6 of the said section 1 is repealed. 1964, c. 74, s. 1, par. 6, repealed

(5) Paragraph 8 of the said section 1 is repealed and the following substituted therefor: 1964, c. 74, s. 1, par. 8, re-enacted

8. "manufactured gas" means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals.

1964, c. 74,
s. 1,
amended

(6) The said section 1 is amended by adding thereto the following paragraphs:

13a. "pool" means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such underground accumulation;

.

14a. "propane" means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene, or any blend thereof;

.

1968-69,
c.

15a. "spacing unit" means a surface area established by a regulation made under *The Energy Act, 1968-69* or a predecessor thereof for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation.

1964, c. 74,
s. 13, subs. 2,
amended

2. Subsection 2 of section 13 of *The Ontario Energy Board Act, 1964* is amended by inserting after "to" in the first line "section 25a and", so that the subsection shall read as follows:

Applications

(2) Subject to section 25a and subsection 2 of section 35, where a proceeding before the Board is commenced by the filing of an application, the Board shall proceed by order.

1964, c. 74,
s. 15,
subs. 3,
amended

3. Subsection 3 of section 15 of *The Ontario Energy Board Act, 1964* is amended by striking out "subsection 2 of section 6 of *The Energy Act, 1964*" in the third and fourth lines and inserting in lieu thereof "*The Energy Act, 1968-69* and any predecessor thereof", so that the subsection shall read as follows:

Hearing
upon notice

(3) Subject to subsections 1 and 2 of this section, subsection 5 of section 19, subsection 2 of section 22, section 23 and subsection 2 of section 37 of this Act and to *The Energy Act, 1968-69* and any predecessor thereof, the Board shall not make any order or proceed in accordance with any reference or order in council under this or any other Act until it has held a hearing upon notice in such manner and to such persons as the Board directs.

1968-69,
c.

4.—(1) Subsection 1a of section 19 of *The Ontario Energy Board Act, 1964*, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor: 1964, c. 74, s. 19, subs. 1a (1965, c. 83, s. 1), re-enacted

(1a) In approving or fixing rates and other charges under subsection 1, the Board shall determine a rate base Board to determine rate base for the transmitter, distributor or storage company, and shall determine whether the return on the rate base produced or to be produced by such rates and other charges is reasonable.

(2) Subsection 1b of the said section 19, as enacted by section 1 of *The Ontario Energy Board Amendment Act, 1965*, is repealed and the following substituted therefor: 1964, c. 74, s. 19, subs. 1b (1965, c. 83, s. 1), re-enacted

(1b) The rate base to be determined by the Board under subsection 1a shall be the total of, Formula for determining rate base

(a) a reasonable allowance for the cost of the property that is used or useful in serving the public, less an amount deemed adequate by the Board for depreciation, amortization and depletion;

(b) a reasonable allowance for working capital; and

(c) such other amounts as, in the opinion of the Board, ought to be included.

(1c) In determining the reasonable allowance for the cost of the property under clause a of subsection 1b, the Board shall ascertain the actual cost of the property to the present owner, but Idem, cost of property

(a) where the actual cost to the present owner of any of the property cannot be ascertained, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property; and

(b) where in the opinion of the Board the actual cost to the present owner of any of the property is more than a reasonable allowance for inclusion in the rate base for the cost of that property, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property.

(1d) In considering whether the actual cost mentioned in subsection 1c exceeds a reasonable allowance for inclusion in the rate base and in determining the Idem

appropriate deductions to be made in respect of any such excess, the Board may consider all matters it deems relevant, including the public benefit resulting from the acquisition of the property, whether the acquisition at the price paid was prudent in the circumstances existing at the time and, where the property was acquired as an operating system or part thereof, the allowance made for its cost in the rate base of the former owner or, if no such rate base had been determined that included an allowance for the cost thereof, the allowance that would have been made therefor in a rate base for the former owner determined in accordance with this section.

Findings
of fact

- (1e) Findings of fact on which determinations are made by the Board under subsections 1a, 1b, 1c and 1d shall be based on the evidence adduced at the hearing.

1964, c. 74,
s. 21,
subs. 3, 4,
re-enacted;
subs. 5-8,
repealed

5. Subsections 3, 4, 5, 6, 7 and 8 of section 21 of *The Ontario Energy Board Act, 1964* are repealed and the following substituted therefor:

Determina-
tion of
amount of
compensa-
tion

- (3) No action or other proceeding lies in respect of compensation payable under this section and, failing agreement, the amount thereof shall be determined by the Board.

Appeal
1968-69,
c.

- (4) An appeal within the meaning of section 32 of *The Expropriations Act, 1968-69* lies from a determination of the Board under subsection 3 to the Court of Appeal, in which case that section applies and section 32 of this Act does not apply.

1964, c. 74,
e. 23,
amended

6. Section 23 of *The Ontario Energy Board Act, 1964* is amended by adding thereto the following subsection:

Copy of
report to be
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parties

- (2) The Board shall send to each of the parties a copy of its report to the Minister made pursuant to subsection 1 within ten days after submitting it to the Minister and such report shall be deemed to be a decision of the Board within the meaning of section 33.

1964, c. 74,
amended

7. *The Ontario Energy Board Act, 1964* is amended by adding thereto the following section:

Disposition
of gas
systems
and
acquisition
of share
control

- 25a.—(1) No gas transmitter, gas distributor or storage company, without first obtaining the leave of the Lieutenant Governor in Council, shall,

- (a) sell, lease, convey or otherwise dispose of its gas transmission, gas distribution or gas storage system, or any part thereof that is used or useful in serving the public, as an entirety or substantially as an entirety;
- (b) amalgamate with any other company; or
- (c) acquire such number of any class of shares that, together with shares already held by the gas transmitter, gas distributor or storage company and its associates will in the aggregate exceed 20 per cent of the shares outstanding of that class of a gas transmitter, gas distributor or storage company.

(2) Subsection 1 does not apply to a mortgage or charge ^{Mortgagee} to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness.

(3) An application for leave under subsection 1 shall be made to the Board, which shall hold a public ^{Public hearing} hearing and submit its report and opinion to the Lieutenant Governor in Council.

8. Subsection 2 of section 39 of *The Ontario Energy Board Act, 1964* is amended by inserting after "Agriculture" in the third line "and Food". ^{1964, c. 74, s. 39, subs. 2, amended}

9. Subsection 4 of section 40 of *The Ontario Energy Board Act, 1964* is repealed. ^{1964, c. 74, s. 40, subs. 4, repealed}

10.—(1) Section 41 of *The Ontario Energy Board Act, 1964* is repealed and the following substituted therefor: ^{1964, c. 74, s. 41, re-enacted}

41. Where compensation for damages is provided for in this Part and is not agreed upon, the procedures set out in clauses *a* and *b* of section 26 of *The Expropriations Act, 1968-69* apply to the determination of such compensation, and such compensation shall be determined under section 27 of that Act or by the Land Compensation Board established under section 28 of that Act. ^{Determination of compensation 1968-69, c. ...}

(2) Where, under the authority of section 40 of *The Ontario Energy Board Act, 1964*, a person has expropriated land under *The Expropriation Procedures Act, 1962-63* and at the time this section comes into force the compensation has not been finally determined or agreed upon, ^{Transitional provision 1962-63, c. 43}

- 1964, c. 74,
s. 41.
- (a) if the compensation is in appeal under section 41 of *The Ontario Energy Board Act, 1964* as it existed before this section comes into force, the said section 41 continues to apply thereto; or
- 1968-69,
c. . . .
- (b) if the compensation remains to be determined otherwise than under clause *a*, it shall be determined under *The Expropriations Act, 1968-69* as if the plan were registered under that Act, but where a hearing has already been held by the board of negotiation, sections 26 and 27 of *The Expropriations Act, 1968-69* do not apply, except that if the negotiation proceedings did not result in settlement of the compensation, then the procedures of subsection 6 of section 27 of that Act apply to that determination of such compensation.

Commence-
ment

11.—(1) This Act, except section 7, comes into force on the day it receives Royal Assent.

Idem

(2) Section 7 shall be deemed to have come into force on the 22nd day of October, 1969.

Short title

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