

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Sched. B (the “Act”)

AND IN THE MATTER OF section 99 (1) of the Act

AND IN THE MATTER OF an Application by Hydro One Networks Inc. for authority to expropriate land for the purpose of operating a 115 kilovolt transmission lines in Port Colborne, Ontario (EB-2024-0142).

NOTICE OF CONSTITUTIONAL QUESTION

ONTARIO ENERGY BOARD FILE NO. EB-2024-0142

The landowners, Nyon Oil Inc. and 1170367 Ontario Inc. (collectively, “**Nyon**”) intend to question the constitutional applicability of s. 44 of the [*Electricity Act, 1998, S.O. 1998, c. 15 Sch. A*](#) (the “**Electricity Act**”) and s. 45 of its predecessor legislation, *The Power Commission Act*, R.S.O. 1950, c. 281 (the “**Power Commission Act**”)¹ insofar as they conflict with the expropriation of certain lands and fixtures completed by the federal government in the 1960s pursuant to the *Expropriation Act*, R.S.C. 1952, c. 106 (the “**Expropriation Act**”),² and the *St. Lawrence Seaway Authority Act*, R.S.C. 1952, c. 242 (the “**SLSAA**”).³

Hydro One Networks Inc. (“**HONI**”) asserts that its predecessors continued to own the hydroelectric infrastructure and transmission lines that were on the subject lands, notwithstanding the federal expropriation.

Nyon disagrees and asserts that the St. Lawrence Seaway Authority (the “**Seaway**”) expropriated the lands and fixtures thereon pursuant to federal legislation, which contained no exception for

¹ Attached hereto as Exhibit A.

² Attached hereto as Exhibit B.

³ Attached hereto as Exhibit C.

the fixtures previously owned by HONI's predecessor. The federal legislation is paramount to the provincial legislation and the entirety of the lands and fixtures transferred to the Seaway upon their expropriation.

The question is to be argued before the Ontario Energy Board, at a time and place to be scheduled by the Ontario Energy Board.

The following are the material facts giving rise to the constitutional question:

1. HONI operates hydroelectric fixtures and infrastructure on lands owned by Nyon, and has done so since approximately 1929.
2. In 1965 and 1968, Transport Canada, in the name of the Seaway, expropriated the subject lands, together with the hydroelectric fixtures and infrastructure thereon, pursuant to s. 18 of the SLSAA and the applicable provisions of the Expropriation Act.
3. The purpose of the Seaway is set out at s. 10 of the SLSAA:

10. The Authority [Seaway] is incorporated for the purposes of:

(a) acquiring lands for and constructing, maintaining and operating all such works as may be necessary to provide and maintain, either wholly in Canada or in conjunction with works undertaken by an appropriate authority in the United States, a deep waterway between the Port of Montreal and Lake Erie, and

(b) constructing, maintaining and operating all such works in connection with such a deep waterway as the Governor in Council may deem necessary to fulfil any obligation undertaken or to be undertaken by Canada pursuant to any present or future agreement.

4. All lands, fixtures, and property expropriated pursuant to the SLSAA vested in the federal government pursuant to s. 3(4) of the SLSAA.
5. After expropriation the Seaway and HONI's predecessor, Ontario Hydro (earlier known as the Hydro-Electric Power Commission of Ontario), entered into licences permitting the Ontario Hydro to operate the hydroelectric fixtures and transmission lines, but never transferred the fixtures and transmission lines back to Ontario Hydro.
6. Pursuant to two agreements of purchase and sale between Canada Lands and The Corporation of the City of Port Colborne ("**Port Colborne**"), dated May 10, 2005 and December 12, 2005, the subject property was transferred from Canada Lands to Port Colborne.
7. Port Colborne transferred the subject property to Nyon on May 1, 2015, pursuant to an agreement of purchase and sale dated January 30, 2006.

The following is the legal basis for the constitutional question:

8. Nyon states that it is the owner of the hydroelectric infrastructure and transmission lines on its property that were situated there at the time of expropriation by the Seaway.
9. The infrastructure and transmission lines were expropriated by the Seaway pursuant to s. 18 of the SLSA and the federal Expropriation Act.
10. The Seaway and HONI entered into two licences to allow HONI to continue to operate the infrastructure and transmission lines, but they were never transferred back to HONI by the federal government.

11. HONI states that, notwithstanding the federal expropriation, it continued to own the infrastructure and transmission lines by virtue of the provincial predecessor to the Electricity Act in force at the time of the federal expropriation (The Power Commission Act).

12. Section 44 of the Electricity Act states:

44 Despite any other Act, if property of a transmitter or distributor has been affixed to realty, the property remains subject to the rights of the transmitter or distributor as fully as it was before being so affixed and does not become part of the realty unless otherwise agreed by the transmitter or distributor in writing.

13. Section 45 of The Power Commission Act, which was the provincial predecessor to the Electricity Act in force at the time of the expropriation states:

45. Notwithstanding this Act or any other general or special Act, where works of the Commission have been affixed to realty they remain subject to the rights of the Commission as fully as they were before being so affixed and do not become part of the realty unless otherwise agreed by the Commission in writing.

14. Expropriation is the taking of land and fixtures thereon. The Expropriation Act describes land at s. 2(d) as follows:

(d) "land" includes all granted or ungranted, wild or cleared, public or private lands, and all real property, messuages, lands, **tenements and hereditaments of any tenure**, and all real rights, easements, servitudes and damages, and all other things done in pursuance of this Act, for which compensation is to be paid by Her Majesty under this Act; [Emphasis added].

15. Section 3(b) of the Expropriation Act states:

3. The Minister may by himself, his engineers, superintendents, agents, workmen and servants

...

(b) enter upon and take possession of any land, real property, streams, waters and watercourses, the appropriation of which is, in his judgment, necessary for the use, construction, maintenance or repair of the public work, or for obtaining better access thereto;

16. There is no provision in either the SLSAA or the Expropriation Act that provides exception for s. 45 of The Power Commission Act, or otherwise permitting for conflict with provincial legislation.

17. Nyon states that to the extent that the SLSAA and Expropriation Act conflict with the Electricity Act and/or The Power Commission Act, the federal legislation is paramount to the conflicting provisions of the provincial legislation and the provincial legislation is inoperative to the extent of the inconsistency.

18. The Electricity Act and The Power Commission Act conflict with the SLSA and the Expropriation Act, in that the provincial legislation would have excused certain property from federal expropriation. That was not the intent or purpose of the SLSA or the Expropriation Act. It is clear from a plain reading of those federal statutes that both intended for a complete taking of all lands and fixtures for the purpose of constructing and maintaining a deep waterway and operating all such works in connection with such deep waterway between the Port of Montreal and Lake Erie.⁴

⁴ See the *St. Lawrence Seaway Authority Act*, R.S.C. 1952, c. 242, ss. 10(a) and (b)

19. Accordingly, the OEB should decline to apply the conflicting provisions of the Electricity Act and its predecessor legislation, The Power Commission Act, if such a request is so made by HONI.

20. The conclusion is the land and fixtures thereon were expropriated by the federal government in 1965 and 1968, and then transferred by Canada Lands to Port Colborne and from Port Colborne to Nyon. Nyon is the current owner of the hydroelectric infrastructure and transmission lines that were on the subject property at the time of the federal expropriation.

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APPENDIX A

1950

c 281 Power Commission Act

Ontario

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CHAPTER 281

The Power Commission Act

1. In this Act, unless the contrary intention appears, Interpre-
tation.
- (a) "advisory council" means The Ontario Hydro-Electric Advisory Council;
 - (b) "Commission" means The Hydro-Electric Power Commission of Ontario;
 - (c) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, and any estate, term, easement, right or interest in, to, over, under or affecting land;
 - (d) "owner" includes mortgagagee, lessee, tenant, occupant, or any person entitled to a limited estate or interest, and a guardian, committee, executor, administrator or trustee in whom land or any property or interest therein is vested;
 - (e) "power" includes hydraulic, electrical, steam, gas or other power and also includes energy;
 - (f) "supply" includes delivery, dealing in, and sale;
 - (g) "works" includes all property, plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, transformation, transmission, distribution, delivery, sale or use of hydraulic, electrical, steam, gas or other power or energy;
 - (h) if a power is conferred or a duty imposed on the Commission, the power may be exercised and the duty shall be performed from time to time as occasion requires. R.S.O. 1937, c. 62, s. 1; 1944, c. 46, s. 1.

PART I

THE COMMISSION

2.—(1) The Commission shall continue to be a body corporate, and shall consist of three persons appointed by the Lieutenant-Governor in Council, two of whom may be members, and one of whom shall be a member, of the Executive Council. R.S.O. 1937, c. 62, s. 2. Commission.

Quorum. (2) Two members of the Commission shall constitute a quorum. R.S.O. 1937, c. 62, s. 3, *part*.

Chairman. **3.**—(1) The Lieutenant-Governor in Council may appoint one of the members of the Commission to be chairman and may appoint another member of the Commission to be vice-chairman of the Commission. R.S.O. 1937, c. 62, s. 3, *part*; 1946, c. 73, s. 1 (1).

Powers of vice-chairman. (2) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman shall act as and have all the powers of the chairman. 1946, c. 73, s. 1 (2).

Tenure of office. **4.** Every person appointed to the Commission shall hold office during pleasure, and the Lieutenant-Governor in Council, upon the death, resignation or removal from office of any member of the Commission, may appoint some other person in his place. R.S.O. 1937, c. 62, s. 4.

Remuneration of Commissioners. **5.**—(1) An amount not exceeding \$45,000 may be paid annually for the services of the chairman and the other members of the Commission, who shall receive from that amount such sums as may be determined by the Lieutenant-Governor in Council, and such sums shall be deemed to be part of the administration expenses of the Commission.

Seat in Assembly not vacated. Rev. Stat., c. 202. (2) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the chairman or of any other member of the Commission, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1937, c. 62, s. 5.

Officers and employees. **6.**—(1) The Commission may appoint and employ upon such terms of employment as it deems desirable a general manager, chief engineer, secretary and such other officers and employees as it may deem requisite. 1949, c. 73, s. 1.

Apportionment of salaries and expenses. (2) The salaries, remuneration and expenses of persons appointed or employed by the Commission, as well as any other expenses of the Commission, shall be apportioned by the Commission among, and shall be chargeable to, the various works and undertakings carried on by the Commission upon which such persons are employed, but any portion of such salaries, remuneration and expenses which are not properly chargeable to such works or undertakings and which are earned or incurred in the performance of work or services

other than those rendered in respect of works or undertakings of the Commission under contract with municipal corporations shall be chargeable to and payable out of such moneys as may be appropriated for that purpose by the Legislature.

(3) Expenditure heretofore or hereafter incurred by the Commission,

- Certain expenditures to be included as part of cost of supplying power.
- (a) for works or services in carrying out the directions of the Lieutenant-Governor in Council or for which the Commission has had other proper authority and which have not already been included in the cost of power to municipalities under contract with the Commission but which, in the opinion of the Commission, have proved or may ultimately prove beneficial to municipal corporations under contract with the Commission for a supply of power, or to municipal corporations which may from time to time thereafter enter into such contracts;
 - (b) deemed necessary or desirable by the Commission in the interests of municipal corporations then or that may thereafter be under contract with the Commission for a supply of power, in carrying on, promoting or extending the operations of the Commission in connection with the generation, distribution or supply of power or for any work or service deemed by the Commission incidental thereto,

may be included by the Commission as part of the cost of supplying electrical power or energy to any of such corporations, and shall be apportioned by the Commission as provided in this section and section 74.

(4) The apportionment by the Commission of such salaries, remuneration and expenses shall be final. R.S.O. 1937, c. 62, s. 6 (2, 3). Apportionment to be final.

(5) Without the consent of the Attorney-General no action of any kind whatsoever shall be brought against the Commission, and without the consent of the Attorney-General no action of any kind whatsoever shall be brought against any member of the Commission for anything done or omitted by him in the exercise of his office. 1946, c. 73, s. 2 (1). No action against Commission without consent of Attorney-General.

(6) Neither the Province nor the Commission nor any member thereof shall incur any liability by reason of any error or omission in any estimate, plan or specification prepared or furnished by the Commission. R.S.O. 1937, c. 62, s. 6. (5). Non-liability for errors in estimates, plans, etc.

7.—(1) The Ontario Hydro-Electric Advisory Council shall continue, and shall consist of five members appointed by Advisory Council.

the Lieutenant-Governor in Council each of whom shall hold office for two years from the date of his appointment or such other period as the Lieutenant-Governor in Council may prescribe and every such member shall be eligible for re-appointment.

Presiding officer.

(2) The members of the advisory council shall elect from amongst themselves a presiding officer whose term of office shall be one year, and who shall be eligible for re-election.

Meetings.

(3) The advisory council shall meet on the call of its presiding officer on three days written notice, and also whenever requested to do so by the Commission on similar notice.

Reports.

(4) The advisory council shall make a report for the consideration and assistance of the Commission upon every matter submitted to the advisory council by the Commission and upon any matter relative to the purposes of the Commission upon which the members of the advisory council deem it advisable to report.

Remuneration.

(5) The members of the advisory council shall be paid such per diem allowance and travelling expenses as the Lieutenant-Governor in Council shall from time to time decide.

Assistance.

(6) The Commission may provide the advisory council with such professional, technical, secretarial and other assistance as the Commission may see fit, and the cost thereof shall be deemed to be part of the administration expenses of the Commission.

Unqualified persons.

(7) No senator or member of the House of Commons of Canada, and no member of the Assembly, and no person not entitled to vote at the election of members of the Assembly shall be eligible to be a member of the advisory council.

Termination of appointment.

(8) The Lieutenant-Governor in Council may terminate the appointment of any member who in his opinion is incapable of performing his duties.

Council may act notwithstanding vacancy.

(9) The advisory council may act notwithstanding any vacancy in its membership and three members shall constitute a quorum at any meeting. 1944, c. 46, s. 2.

Fiscal year.

8. The fiscal year of the Commission shall include the period from the 1st day of January to the 31st day of December in the same year. 1950, c. 55, s. 1.

Annual report.

9.—(1) The Commission shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Commission.

(2) The annual report shall be signed by the chairman or vice-chairman of the Commission. Signing of report.

(3) 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 then in session, or if not, at the next ensuing session. 1950, c. 55, s. 2. Tabling of report.

10.—(1) The accounts of the Commission shall, upon the direction of the Lieutenant-Governor in Council, be from time to time, and at least once every year, audited and reported upon by an auditor or auditors named in the direction of the Lieutenant-Governor in Council. Audit of accounts.

(2) The expenses of such audits shall be fixed by the Commission, with the approval of the Lieutenant-Governor in Council, and shall be payable by the Commission as part of the costs of administration of the Commission. R.S.O. 1937, c. 62, s. 8. Expenses of audits.

11. The income of the Commission shall be applied by the Commission, Application of income of Commission.

- (a) to meet the necessary operating expenses;
- (b) to the preservation, improvement, supervision, renewal, repair, maintenance and insurance of its works;
- (c) to the payment of the remuneration and expenses of the commissioners and the officers and others employed by the Commission;
- (d) for the operations of the Commission under sections 55 and 68 and to meet obligations, charges and expenses arising from time to time in the course of such operations;
- (e) to meet interest expense and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (f) to provide reserves authorized by sections 13, 14, 15 and 17; and
- (g) to such other purposes as may be authorized or required by this Act. 1946, c. 73, s. 4; 1948, c. 69, s. 1.

12. All special funds and the income and revenue thereof and all moneys and revenues which now are in or hereafter come into the hands of the Commission, whether as agent, trustee, owner or otherwise, shall form one fund to be known "General fund".

as the general fund, and the Commission shall have power to make any and all expenditures out of the general fund for the purposes and objects of the Commission without regard to the special trusts or purposes under which the general fund or any part thereof may come into its hands, and the Commission shall account for and pay out of the general fund all moneys for which it is so accountable. R.S.O. 1937, c. 62, s. 10.

Reserve
accounts.

13.—(1) The Commission may establish and maintain reserve accounts,

- (a) to provide for the renewal, reconstruction and repair of works constructed or operated by the Commission;
- (b) to meet any expenditures or costs caused by or arising from injury to, or destruction, obsolescence or loss of use of any works or other property of the Commission and to meet other contingencies arising in the operations of the Commission and to provide for such part of the cost of properties to be acquired or which have been acquired as is not allocated to specific works; and
- (c) to provide a reserve as insurance against loss or damage to any property of the Commission or loss or damage to the persons or property of others caused by or arising from the works or operations of the Commission,

and may place to the credit of such reserve accounts and expend, use, apply, utilize and appropriate therefrom for the purposes of this section such amounts as may in the opinion of the Commission be sufficient for the purposes of this section.

Interest.

(2) The Commission may place to the credit of such reserve accounts interest at such rates as the Commission shall deem equitable and just upon the balances remaining from time to time to the credit of such reserve accounts. 1946, c. 73, s. 5.

Transfer to
frequency
standardiza-
tion reserve
account.

(3) The Commission may from time to time transfer from its reserve account established under clause *b* of subsection 1 such amounts as it deems advisable, and place the same to the credit of the frequency standardization reserve account. 1948, c. 69, s. 2.

Frequency
standardiza-
tion reserve
account.

14.—(1) An account to be known as the frequency standardization reserve account may be opened and maintained on the books of the Commission and the Commission may place to the credit of such account,

- (a) such amounts as the Commission transfers under subsection 3 of section 13 from the reserve account

established under clause *b* of subsection 1 of section 13;

- (*b*) such amounts as the Commission collects pursuant to clause *e* of section 26;
- (*c*) such amounts as may be made available for the credit of this account pursuant to subsection 2 of section 68;
- (*d*) such additional amounts as in the opinion of the Commission may be necessary for the purposes of this section;
- (*e*) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account. 1948, c. 69, s. 3, *part*.

(2) Any or all of the amounts at the credit of the frequency standardization reserve account may be used in the discretion of the Commission for meeting any expenditure or costs made or incurred under section 26, 27 or 28, except expenditure or costs made or incurred in respect to works held by it under section 84. 1948, c. 69, s. 3, *part*; 1949, c. 73, s. 3. Use of moneys.

15.—(1) An account to be known as the stabilization fund account may be opened and maintained on the books of the Commission and the Commission may place to the credit of that account, Stabilization fund account.

- (*a*) such amounts as the Commission may determine and collect for the purposes of this section from its customers;
- (*b*) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account. R.S.O. 1937, c. 62, s. 12 (1), cls. (*a*, *b*); 1939, c. 35, s. 1 (1).

(2) Any or all of the moneys in the stabilization fund account may be used in the discretion of the Commission for determining, and for adjusting and apportioning (including making equitable and stabilizing) the amounts payable to the Commission by persons or municipal corporations. Use of moneys.

(3) The costs and expenses incurred by the Commission which, in the opinion of the Commission, are for the protection or advancement of the interests in the undertakings under its supervision or control and are not properly chargeable to any system or to any municipal corporation under contract with the Commission may be charged by the Commission to the stabilization fund account. R.S.O. 1937, c. 62, s. 12 (3, 4). Items chargeable to account.

Investment
of funds in
Government
securities.

16. The Commission may, in its discretion, invest any funds not required in carrying out its objects in the debentures or other securities of the Dominion of Canada or of the Province of Ontario, or in securities guaranteed as to principal and interest by either of them. 1946, c. 73, s. 6.

Sinking
fund.

17. The Commission shall set apart annually as a sinking fund,

- (a) such sums as are received by the Commission from municipal corporations under clause *c* of section 74, and section 75;
- (b) such sums as are appropriated by the Commission for sinking fund purposes out of the revenues received from other corporations and persons under contract with the Commission for a supply of power. R.S.O. 1937, c. 62, s. 14.

Application
of funds
set apart as
sinking fund.

18. All funds set apart by the Commission as a sinking fund under section 17 shall be used or employed,

- (a) towards repayment of advances made by the Province of Ontario to the Commission as provided in section 49 and towards the retirement of other indebtedness incurred or assumed by the Commission;
- (b) to restore reserves or other funds of the Commission utilized for the payment of the cost of works; and
- (c) to purchase and hold for sinking fund purposes securities in which the Commission is authorized to invest under section 16. 1946, c. 73, s. 7.

Postpone-
ment of
sinking
fund
collection.

19.—(1) The Lieutenant-Governor in Council may authorize the Commission to postpone the collection or setting apart of any sums on sinking fund account to provide for the cost of any works newly constructed, acquired or performed for such period, not exceeding 10 years, as may be deemed advisable.

Interpre-
tation.

(2) For the purposes of this section, "works", in addition to the meaning given to it in section 1, includes preliminary reports, surveys, investigations, engineering, accounting or organization work or service, or any other work or service in connection with or incidental to any proposed construction or development. R.S.O. 1937, c. 62, s. 16.

PENSION FUND

Pension and
Insurance
Fund.

20.—(1) There shall be a fund known as The Pension and Insurance Fund of The Hydro-Electric Power Commission of

Ontario, in this section referred to as the "fund", for the payment of benefits by way of pensions or superannuation allowances to, or allowances upon the death or disability of, such employees of the Commission as the Commission may determine in accordance with this section and any regulations made under this section, and for the purposes of this section "employee" includes any person in the employ of the Commission on or after the 1st day of November, 1947.

(2) The fund shall consist of the moneys, securities and other assets in or credited to the fund in accordance with law and such amounts as may be contributed thereto by the Commission and its employees. Composition of fund.

(3) The contributions of the employees towards the cost of the benefits mentioned in subsection 1 shall be as prescribed by the regulations made under this section and be paid into the fund in accordance therewith. Contributions of employees.

(4) The Commission shall contribute towards the cost of the benefits mentioned in subsection 1 the amount of the difference between the amount of the contributions of the employees and the amount of the cost of the benefits as determined by actuarial valuations. Contributions of Commission.

(5) The Commission may enter into agreement with one or more insurers licensed under *The Insurance Act*, for, Insurance. Rev. Stat., c. 183.

- (a) providing insurance by way of death or disability benefits for such employees of the Commission as the Commission may determine in accordance with this section and any regulations made hereunder; and
- (b) payment by the Commission of the cost of the benefits mentioned in clause a,

and the cost referred to in clause b shall be charged by the Commission against the fund.

(6) Subject to the approval of the Lieutenant-Governor in Council, the Commission may make regulations, Regulations.

- (a) establishing The Pension and Insurance Plan of The Hydro-Electric Power Commission of Ontario, herein called the "plan";
- (b) prescribing the class or classes of employees who are eligible to be members of the plan, the time at which membership shall commence, and the period of time thereafter within which an employee may elect not to be a member of the plan;
- (c) providing for the payment out of the fund of the contributions made by any employee to the fund or

to either of the funds superseded by the fund where the employee elects not to be a member of the plan;

- (d) prescribing the period of employment with the Commission alone, or with a previous employer and the Commission, that shall constitute service for the purpose of determining pension benefits;
- (e) prescribing the persons who may receive benefits under the plan;
- (f) prescribing the contributions to the fund by employees and the rate or rates at which interest shall be calculated when payments are made out of the fund of any such contributions and of any contributions to either of the funds superseded by the fund;
- (g) prescribing the amount for which any employee or pensioner shall be insured from time to time;
- (h) prescribing the payments to be made from the fund, or by an insurer, upon
 - (i) termination of employment,
 - (ii) retirement from employment on pension,
 - (iii) disability, or
 - (iv) death,
 and the terms and conditions upon which, and the person or persons to whom, the same shall be made;
- (i) providing for payment out of the fund of the cost of any benefits provided under any agreement referred to in subsection 5;
- (j) prescribing the intervals of time within which an actuarial valuation of the fund shall be made;
- (k) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this section.

Cost to
Commission
chargeable
to adminis-
tration.

(7) The fund shall be maintained and administered by the Commission and the cost to the Commission of maintaining and administering it shall be deemed to be part of the cost of the administration of the Commission and shall be chargeable accordingly.

Freedom
from
attachment.

(8) The interest of any person in the fund or in any benefit payable therefrom shall not be subject to garnishment, attachment or seizure or any legal process and shall not be assignable. 1949, c. 73, s. 4 (1), *amended*.

21. The Commission, with the approval of the Lieutenant-Governor in Council, may enter into agreement with the corporation of any municipality receiving power from the Commission for including in the fund mentioned in section 20 employees of any commission established under *The Public Utilities Act*, or under this Act, for the management and control of works for the distribution of electrical power or energy in the municipality, upon such terms as to the contribution by the municipal corporation and otherwise as may be deemed expedient. R.S.O. 1937, c. 62, s. 18.

Municipal employees may be included in fund.

Rev. Stat., c. 320.

REPORT ON WATER POWERS

22. Whenever required by the Lieutenant-Governor in Council so to do, the Commission shall inquire into, examine and investigate water powers or water privileges in Ontario and report upon the value and capacity thereof, with such other information as the Lieutenant-Governor in Council may require. R.S.O. 1937, c. 62, s. 19.

Commission to report on water powers, etc.

ACQUISITION OF PROPERTIES

23. The Commission may report to the Lieutenant-Governor in Council, designating,

Acquisition of properties.

- (a) the land, water, water privileges or water powers, or the land and works, or portion thereof, of any person owning or holding under lease or otherwise, or developing, operating or using a water privilege or water power, or transmitting electrical or other power or energy in Ontario which, in the opinion of the Commission, should be purchased, acquired, leased, taken, expropriated, developed, operated or used by the Commission for the purposes of this Act; or
- (b) the quantity of the product of any person generating electrical power or energy in Ontario or bringing such power or energy into Ontario for use or transmission therein which the Commission requires for the purposes of this Act. R.S.O. 1937, c. 62, s. 20.

24.—(1) The Lieutenant-Governor in Council may authorize the Commission at any time and from time to time, to acquire by purchase, lease, or in any other manner, or without the consent of the owner thereof to enter upon, take possession of, expropriate and use, any land, lake, river, stream or other body of water or watercourse, and temporarily or permanently to divert or alter the boundaries or course of any lake, river, stream or other body of water or watercourse, or raise or lower

Power may be given to Commission.

the level of the same or flood or overflow any land. R.S.O. 1937, c. 62, s. 21 (1).

Power may be given to Commission, (2) In particular, but without limiting the generality of subsection 1, the Lieutenant-Governor in Council, upon the recommendation of the Commission, may authorize the Commission to, R.S.O. 1937, c. 62, s. 21 (2), *part.*

to acquire lands, waters, powers and works;

(a) acquire by purchase, lease or otherwise, land, waters, water privileges, water powers, buildings and works used for, or adapted or useful for, or capable of being used or made useful for generating, transforming, transmitting, distributing or selling electric or other power or energy; enter upon, take possession of, expropriate, acquire and use any such land, waters, water privileges, water powers, buildings and works without the consent of the owner thereof, or of any person in any manner entitled to any right, title, interest, claim or demand thereto or therein; and have and hold them however acquired or obtained, and develop, utilize, use, maintain, operate and improve them for any of the purposes of this Act;

to acquire assets and undertaking of companies;

(b) acquire by purchase the whole or any part of the property, assets and undertaking of any corporation engaged in the production or sale of electric or other power or energy, including shares held or owned by the corporation in any other company or companies of any kind or nature whatsoever, and to acquire the whole or any part of the properties, assets and undertakings of such other company or companies and to hold, develop, utilize, use, maintain, operate and improve any property or properties so acquired; 1946, c. 73, s. 8.

to acquire and construct works for production and use of electricity;

(c) generate and produce electrical, pneumatic, hydraulic, mechanical or other power or energy at places in Ontario by the use of water, coal, steam or oil, or by any other means, and transform, transmit, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Commission the electrical, pneumatic, hydraulic, mechanical or other power or energy and connect the works constructed or installed for these purposes with any other power works and with any system;

to acquire and use real and personal property for the generation and use of electrical power;

(d) for the purposes of clause c acquire by purchase, lease or otherwise, hold, improve and use real and personal property, acquire by purchase or otherwise water, coal, steam, oil and other supplies, and construct, maintain and operate works, including without limit-

ing the generality of the foregoing, development works, generating plants, transformer stations, transmission lines, switching and regulating works, distribution lines, access and other roads, and all other equipment, plant and works and things required for or incidental to any of such purposes;

- (e) acquire by purchase, lease or otherwise, lands, works, ^{to acquire works on provincial boundaries;} waters, water privileges and water powers upon or adjacent to the boundary line between Ontario and any other province and situate in Ontario, or in such other province, or partly in one and partly in the other of them, and erect, construct, maintain and operate upon any lands so acquired, works for the generation, transformation and transmission of electrical, pneumatic, hydraulic, mechanical or other power or energy, and enter into agreements with the Crown in right of such other province or with any commission appointed by the Lieutenant-Governor in Council of such other province or otherwise lawfully appointed or any other person interested in or affected by such works as to the terms and conditions upon which such works shall be constructed and operated and any rights so acquired be exercised; 1949, c. 73, s. 5.
- (f) acquire by purchase in the open market or otherwise shares or stock of any company owning or ^{to acquire shares in companies operating on such boundaries;} controlling any such lands, waters, water privileges, water powers or works; R.S.O. 1937, c. 62, s. 21 (2), cl. (e).
- (g) construct, maintain and operate, and acquire by ^{to acquire plant for transmitting and transforming power;} purchase, lease or otherwise, or without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission, transformation, supply and distribution of electrical power or energy; and conduct, store, transmit, transform and supply electrical power or energy and steam for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors, transformers or other conductors, equipment or devices, receive, conduct, convey, transmit, transform, distribute, supply or furnish such electrical power or energy and steam to or from or for any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over, upon or under the land of any person; 1943, c. 22, s. 2 (1).

to contract
for supply
of power to
Commission;

- (h) contract with any person generating, transmitting or distributing electrical power or energy, or proposing so to do, to supply electrical power or energy to the Commission, and require any person generating, transmitting or distributing electrical power or energy to supply so much thereof as the Commission may require;

to flood
lands and
improve
water
powers;

- (i) enter upon, take and use, without the consent of the owner thereof, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water which, in the opinion of the Commission, is capable of improvement or development for the purpose of providing water power, and construct such dams, sluices, canals, raceways and other works as may be deemed proper or expedient for such purposes, and flood and overflow any land to the extent to which the Commission may deem necessary for the purpose of providing storage of the water or for any other purpose in connection with such works, and contract with any municipal corporation, company or individual for the use of any of the improvements or works so made, on such terms and conditions as may be agreed upon;

to acquire
flooded
lands on
behalf of
municipality;

- (j) enter upon, take and use, without the consent of the owner thereof, any land which may, in the opinion of the Commission, be necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Commission or by any municipal corporation or for the relief of the municipal corporation from liability for damages for the flooding or overflowing of such lands; but subject to subsection 1 of section 42, the proceedings taken under this clause shall be at the sole expense of the municipal corporation, and the Commission may convey the lands so acquired to the corporation or make such other disposition thereof with the consent of the corporation as may be deemed expedient;

to acquire
distributing
plant;

- (k) acquire by purchase or expropriate any plant, machinery, appliances, wires, poles and other equipment, and the land occupied by or used in connection therewith or any part thereof, used or intended for the distribution of electrical power or energy in a municipality, the corporation of which has entered into an agreement with the Commission for the supply of electrical power or energy, and contract for the sale and transfer to such municipal corporation of such plant, equipment and land upon such terms and for

such price, not being less than the price paid by the Commission, with the expenses in connection with such purchase or expropriation added thereto, as may be agreed upon; but if part only of the property is taken the damage done to the property by the severance shall be taken into consideration in determining the compensation;

- (l) acquire from time to time by purchase in the open market or otherwise, shares or stock in or the securities of any incorporated company carrying on the business of developing, distributing or transmitting electrical power or energy and for the purposes of this Act the acquisition of such shares, or stock, or securities shall be an investment in works;

to acquire shares in companies;

- (m) acquire by purchase or otherwise on any terms and hold shares in any incorporated company carrying on the business of developing, supplying or transmitting electrical power or energy, and in connection with any such acquisition enter into any covenants and agreements, and pay for any such shares either in cash or in bonds, debentures or other securities of the Commission, and guarantee, or covenant or agree for or in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any company shares in which are so acquired, or of any company shares in which are held by any company in which shares are so acquired, and for the purposes of this Act the acquisition of shares of such companies shall be deemed to be an investment in works;

to acquire stock in development companies;

- (n) lease or operate the works for the generation, transmission, distribution or use of electrical energy of any person, firm or corporation on such terms as the Commission may arrange with the owner. R.S.O. 1937, c. 62, s. 21 (2), cls. (g-m).

to lease or operate works of others.

(3) In relation to all matters authorized by the Lieutenant-Governor in Council under this section, the Commission shall have and may exercise and enjoy, in addition to the powers conferred by this or any other Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act*, and in the application of this section, where the words "the Minister", "the Department" or "the Crown" appear in that Act, they shall, where the context permits mean the Commission.

The Commission to have powers of Minister of Public Works.

Rev. Stat., c. 323.

- (4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the

Mode of perfecting title.

Commission, signed by the secretary or by an Ontario land surveyor, the land so described shall thereupon become and be vested in the Commission. R.S.O. 1937, c. 62, s. 21 (3, 4).

Procedure. (5) Except as otherwise provided in this Act the Commission shall, in the exercise of its compulsory powers, authorized by this section and section 38, proceed in the manner provided by *The Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation shall apply *mutatis mutandis*. R.S.O. 1937, c. 62, s. 21 (5); 1944, c. 46, s. 3.

Powers of Board. (6) Where the Commission elects to have the compensation determined by the Ontario Municipal Board under section 28 of *The Public Works Act*, the Board shall, in addition to the powers conferred upon it by section 28 of *The Public Works Act* and by *The Ontario Municipal Board Act*, have the power, upon the application of the Commission or the owner, to direct the filing and serving of pleadings, and particulars thereof, and to direct discovery and production as in actions in the Supreme Court, and in accordance with the rules of practice in that behalf.

Authorizations may be retroactive. (7) The Lieutenant-Governor in Council may direct that any authorization to the Commission heretofore or hereafter given shall be retroactive, when the same shall be deemed to have taken effect from the time so fixed.

Exercise of powers not to be enjoined, etc. (8) No act or proceeding of the Commission pursuant to any authorization of the Lieutenant-Governor in Council under this section shall be restrained by injunction or other process or proceeding in any court. R.S.O. 1937, c. 62, s. 21 (6-8).

Change of frequency. **25.** Subject to the approval of the Lieutenant-Governor in Council and notwithstanding any agreement between the Commission and any person, the Commission may change the periodicity in alternations of current at which it supplies electrical power or energy to any person. 1948, c. 69, s. 3, *part*.

Powers of Commission on frequency change-over. **26.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may,

(a) for the purposes of standardizing and making uniform the periodicity in alternations of current at which it supplies electrical power or energy, alter, reconstruct, rebuild, re-assemble, construct, extend, replace or do whatever else may be necessary in respect of its works and works held by it under section 84;

- (b) for the purposes of standardizing and making uniform the periodicity in alternations of current at which electrical power or energy generated or procured by it is utilized and with the consent of the owner, alter, reconstruct, rebuild, re-assemble, construct, extend, replace or do whatever else may be necessary in respect of the electrical equipment, apparatus, appliances, devices and works of any person by which such electrical power is taken and used, except meters of any municipal corporation or commission or the electrical equipment, apparatus, appliances, devices or works of any municipal corporation or commission used for distribution stations or distribution or street lighting systems;
- (c) bear the expense of anything done pursuant to clause *a*;
- (d) bear the expense of anything done pursuant to clause *b* to the electrical equipment, apparatus, appliances, devices or works of commercial lighting consumers, or domestic or rural consumers other than rural power consumers;
- (e) charge to and collect from the owners of electrical equipment, apparatus, appliances, devices or works other than the electrical equipment, apparatus, appliances, devices or works mentioned in clause *d* the expense of anything done thereto pursuant to clause *b* to the extent approved by the Lieutenant-Governor in Council and bear the balance of such expense. 1948, c. 69, s. 3, *part*; 1949, c. 73, s. 6 (1).

27. The Commission may do whatever will in its opinion effect a reduction in the cost of anything done or to be done under clause *a* or *b* of section 26. 1949, c. 73, s. 7, *part*. Reduction of cost of frequency change-over.

28. Where the owner of any electrical equipment, apparatus, appliances, devices or works by which is utilized electrical power or energy generated or procured by the Commission changes them with the approval of the Commission in order to take the electrical power or energy at a changed periodicity in alternations in current, the Commission may bear the expense of the change to the same extent as if it had effected the change itself under clause *b* of section 26. 1949, c. 73, s. 7, *part*. Change made by owner.

29. Electrical equipment, apparatus, appliances, devices or works, or any part thereof, replaced by the Commission under clause *b* of section 26 shall become the property of the Commission. 1949, c. 73, s. 7, *part*. Ownership of replaced equipment.

Conversion
not a
breach of
contract.

30. Nothing done under section 25 shall be deemed a breach of contract by the Commission or entitle any person to rescind any agreement or release any guarantor from the performance of his obligation. 1949, c. 73, s. 7, *part*.

Limitation
of actions
arising
from
frequency
change-over.

31.—(1) No action shall be brought against any person in respect of anything done under or pursuant to or to give effect to section 25, 26 or 27 after the expiration of one year commencing on the date when the cause of action arose.

Notice of
claim.

(2) No action shall be brought against any person in respect of anything done under or pursuant to or to give effect to section 25, 26 or 27 unless notice in writing of the claim has been served upon or sent by registered post to such person within 90 days after the cause of action arose.

No right
of action
in certain
cases.

(3) No action shall be brought against any person, and no person shall be liable for loss of use of anything, or loss of production of or by anything, or loss of profits by reason of anything done pursuant to or to give effect to section 25, 26 or 27.

Saving.

(4) Subsections 1 and 2 shall not apply to any action between the Commission and any person in respect of or arising from any agreement between the Commission and such person for the doing by such person for the Commission of anything to give effect to section 25, 26 or 27. 1949, c. 73, s. 7, *part*.

Mode of
exercising
and extent
of powers.

32.—(1) Notwithstanding anything in this or any other Act, whenever the Commission has been authorized by the Lieutenant-Governor in Council to exercise any of the powers set out in clause g of subsection 2 of section 24, it may proceed under the following provisions of this section.

Commission
may enter,
etc., without
notice.

(2) The Commission may, without notice or without the deposit of any plan or description or any prerequisite or preliminary action or formality, and with or without the consent of the owner thereof, enter upon, take possession of and use for such time as the Commission may deem desirable any land which the Commission may deem to be required for the due exercise of the powers so authorized.

Compensa-
tion.

(3) Compensation shall be made to the owner for the land taken or used and for all damage to property resulting from the exercise of the said powers, and in fixing such compensation regard shall in all cases be had to the value of the land taken, or to the nature and extent of the estate, right, privilege, easement, or interest which the Commission decides to take and acquire in, over, upon or in respect of the land as the case may be, and the compensation shall be based thereon.

(4) Where the amount of the compensation has been agreed upon or fixed or otherwise determined, all of the provisions of *The Public Works Act* as to the payment or other disposition and application of the compensation or money payable in respect of the land, right or easement taken by the Commission shall apply *mutatis mutandis*. Rev. Stat., c. 323, how far to apply.

(5) The Lieutenant-Governor in Council may from time to time appoint some suitable person as a valuator, who shall receive his reasonable and necessary travelling and other expenses and such salary as may be fixed by the Lieutenant-Governor in Council, and the same shall be paid by the Commission as part of its general administration expense, and when no agreement is arrived at as to the amount of compensation to be paid to the owner, the valuator shall as soon as conveniently may be after a request to him either from the owner or the Commission, secure from the Commission a description of the land, right or easement which the Commission requires or has taken from the owner and make such inquiries and inspection and procure such expert advice as he may think desirable and in accordance with subsection 3 fix and determine the compensation to be paid for such land, right or easement, or property damage, and notify by registered letter the owner and the Commission of such finding. Appointment of and powers of valuator.

(6) Either the owner or the Commission, if dissatisfied with the amount of the compensation so fixed, may appeal within 30 days after the mailing of the notice of finding by the valuator by giving notice to the other that an appeal is desired from the same. Appeal from valuator.

(7) An appeal from the valuator shall be heard and determined by the Ontario Municipal Board or a member thereof, provided however that the Lieutenant-Governor in Council may from time to time designate a judge of the Supreme Court or a judge of a county or district court to hear and dispose of any such appeal or appeals, and where the Commission gives notice to the owner that an appeal is to be determined by a judge instead of by the Board or a member thereof, the judge designated shall hear and determine such appeal, and if a judge is so designated he shall receive his reasonable and necessary travelling expenses and such fee as may be fixed from time to time by the Lieutenant-Governor in Council and the same shall be paid by the Commission as part of its general administration expense. Who to hear appeals.

(8) The judge or the Board or any member thereof, as the case may be, shall appoint such time and place and give such notice of the hearing of appeals as may be thought proper and most convenient and the judge or Board or any member thereof shall for the purposes of this section have all the Powers of judge or Board on appeal.

Rev. Stat.,
c. 262.

powers that are conferred upon the Ontario Municipal Board by sections 38 and 41 of *The Ontario Municipal Board Act* and the provisions of that Act with respect to procedure and the enforcement of orders made thereunder from time to time shall apply *mutatis mutandis*.

Costs of
appeal.

(9) In the notice of appeal the appellant shall set out the amount which the appellant deems proper to have been fixed by the valuator and if, where the owner is the appellant, he fails to recover anything more than the amount fixed by the valuator, or if, where the Commission is the appellant, it fails to have the amount so fixed reduced, then the costs of the proceedings as between party and party shall be payable by the appellant, and if, under the provisions of this subsection, the costs are payable to the Commission, the same may be deducted from the compensation payable.

Scale of
costs.

(10) The costs of the proceedings may be fixed by the judge or Board or member thereof at such amount as may be deemed proper, due regard being had to the difference between the amount fixed by the valuator and the amount awarded by the judge or Board or member thereof, or may be directed to be taxed upon the scale of the division, county or Supreme Court scale, as the case may be, and, if it appears on such appeal that the claim to compensation put forward by the owner is grossly excessive, and the expense of the Commission has been thereby increased, the judge or Board or member thereof may fix and allow to the Commission by way of set-off against such costs as may be awarded to the owner hereunder, the amount of such excess expense.

Mode of
perfecting
title.

(11) The owner shall, upon reasonable notice, attend at a place to be fixed by the Commission, and execute such necessary instruments or documents as the Commission may require upon tender to him of the Commission's cheque for the amount awarded by the judge or Board or member thereof or fixed by the valuator, and costs, if any, less such costs as may have been awarded against him, and in the event of his failing to attend and execute such instruments or documents, or if for any reason the Commission deems it desirable, the Commission may file in the registry office or land titles office, as the case may be, in the district or county in which the land affected is situate, a plan and description of the land, right or easement so taken, signed by the secretary of the Commission, or by an Ontario land surveyor, and thereupon such land, right or easement shall be and become vested in the Commission. R.S.O. 1937, c. 62, s. 22.

Appeals.

33.—(1) In cases under section 32, either the Commission or the owner may, subject to subsection 2 of section 35, appeal

to the Court of Appeal from the order of the judge or the Board or member thereof, and, in all other cases, either the Commission or the owner may appeal to the Court of Appeal from the order of the judge or the Board, as the case may be.

(2) Where the appeal is taken under subsection 1, section 98 of *The Ontario Municipal Board Act* as to appeals from the Board shall apply. R.S.O. 1937, c. 62, s. 23. Rev. Stat., c. 262, to apply.

34. The powers conferred upon the Commission by or under this Act shall include the right to enter upon any land upon either side of the right-of-way acquired for the transmission or distribution lines or works of the Commission, or upon any land upon either side of such lines or works, and to fell or remove any trees or branches thereof or any other obstruction upon any such land or upon any public highway or place which, in the opinion of the Commission, it is necessary to fell or remove, but subject always to the payment of compensation as provided in section 32, and section 32 shall apply to the exercise of the powers mentioned in this section; provided that where the lines or works of the Commission are situated upon a highway, whether it be the King's Highway or any other highway, compensation shall be payable only to the extent to which it is payable by a municipality for felling or removing trees or branches thereof under and by virtue of section 483 of *The Municipal Act*. R.S.O. 1937, c. 62, s. 24. Removal of trees and obstructions beside right-of-way. Rev. Stat., c. 243.

35.—(1) Notwithstanding anything in section 32, where a claim is made against the Commission for damage to crops, gardens, shrubs, trees or other growing things, caused by or incidental to the construction, maintenance or repair of poles, wires, towers or works included in or connected with power transmission lines, notice of the claim shall be given in writing, signed by the claimant at as early a date as possible, and so that the nature, character, extent and evidence of the damage may still be apparent, and in any case, not later than 60 days after the cause for complaint arose. Owner to give notice of crop damage.

(2) If a claim is made after the time limited by subsection 1, and the claimant has failed to give the notice therein required, either the Commission or the owner may, notwithstanding such failure, request the valuator to attend and investigate the damage complained of, and the valuator, if satisfied that there was reasonable excuse for the failure to give or the insufficiency of, the notice, and that the Commission was not thereby prejudiced, may award such compensation as may appear to him to be just and in that event the finding of the valuator shall be final and binding upon the owner and the Commission. R.S.O. 1937, c. 62, s. 25. Effect of failure to give notice.

Powers of
Commission
as to lines
on highways.

36. In the exercise of the powers conferred and in carrying out any work authorized by this Act or any other general or special Act, the Commission has and always has had authority to put down, carry, construct, erect and maintain such conduits, wires, poles, towers and other equipment and works used in the transmission and distribution of electrical power and energy as it deems necessary or desirable, under, along, across or upon any public street or highway and to remove or replace them without taking any of the proceedings prescribed by this Act for the taking of land without the consent of the owner thereof, and the provisions of this Act with regard to compensation for lands so taken shall not apply, but the location of any such conduits, wires, poles, towers, equipment or works to be put down, carried, constructed or erected under, along, across or upon a public street or highway shall be agreed upon by the Commission and the municipal corporation or other authority having control of the public street or highway, and in case of disagreement shall be determined by the Ontario Municipal Board. 1943, c. 22, s. 3.

Cost of
improve-
ments.

37. Wherever in the course of constructing, reconstructing, altering or improving any highway it becomes necessary to take up, remove or change the location of poles, wires, conduits, transformers or other appliances or works placed on or under a highway by the Commission, the costs and expenses incurred in such work shall be apportioned and paid in the manner provided by sections 2 and 3 of *The Public Service Works on Highways Act*, which sections shall apply to the Commission in the same manner and to the same extent as to a municipal corporation, commission, company, or individual owning or operating appliances or works mentioned in such sections. R.S.O. 1937, c. 62, s. 27.

Rev. Stat.,
c. 318.

Buildings.

38.—(1) The Commission may expropriate, purchase, lease or otherwise acquire lands that the Commission may deem necessary for office, service, or other buildings, and may erect thereon such buildings and works as the Commission may require for its purposes.

Expense
repayable by
municipalities.

(2) All expenditures by the Commission for the purposes mentioned in subsection 1 shall be repayable to the Commission by the municipal corporations having contracts with the Commission, and shall be repaid by annual sums sufficient to form in 40 years a sinking fund for the repayment of the cost thereof. R.S.O. 1937, c. 62, s. 28.

Disposal of
works to a
municipality.

39.—(1) The Commission, upon such terms as it deems proper, may lease, sell or otherwise dispose of to a municipal corporation or commission any works or any interest therein

that the Commission is or has been using and that it deems advisable to so dispose of as aforesaid.

(2) The Commission may acquire from a municipal corporation or commission by purchase, lease or otherwise, upon such terms as the Commission may deem proper, any works or other property, real or personal, that the Commission may deem advisable for its purposes and such municipal corporation or commission may lease, sell or otherwise dispose of such works or other property to the Commission without the assent of the electors or the approval of the Ontario Municipal Board required by section 37 of *The Public Utilities Act*, but otherwise such municipal corporation or commission shall comply with the said section 37. Acquiring property from municipality. Rev. Stat., c. 320.

(3) The Commission, upon such terms as it deems proper, may contract with any corporation, firm or person for joint ownership or joint use of works or for rights to use the works of any corporation, firm or person or to permit any corporation, firm or person to use works of the Commission and for the purposes of this subsection, works shall include telephone and telegraph lines and other communication works either of the Commission or of any other corporation, firm or person in addition to the things mentioned in clause g of section 1. Joint use of works.

(4) The Commission may, upon such terms as it deems proper, sell, lease or otherwise dispose of any property, real or personal, that it may deem unnecessary for its purposes. Sale of property.
R.S.O. 1937, c. 62, s. 29.

40.—(1) Where any of the compulsory powers mentioned in section 24 are exercised with respect to land, and no entry on or use of the land taken has been made, except for the purpose of survey or examination, the Commission, at any time before the expiration of three months from the date of the award, may, by writing under the hand of the chairman and the seal of the Commission, registered in the proper registry or land titles office, declare that the land or any part thereof is not required and is abandoned by the Commission, and thereupon the land declared to be abandoned shall revert in the person from whom it was taken, or in those entitled to claim under him. Abandonment of lands after expropriation.

(2) Where the land taken, or any part thereof, is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and where part only of the land is abandoned the fact of such abandonment and the damages, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in deter- Total abandonment. Partial abandonment.

Rev. Stat.,
c. 323.

mining the amount to be paid to any person claiming compensation, and the amount of the damages, shall, subject to section 32, be determined in the manner provided by *The Public Works Act*, and if a reference as to compensation is pending, shall be determined on such reference. R.S.O. 1937, c. 62, s. 30.

Extent of
powers of
expropriation.

41. The compulsory powers conferred by this Act shall extend to land, works, rights, powers, privileges and property notwithstanding that they are or may be deemed to be devoted to a public use or that the owner thereof possesses the power of taking land compulsorily, and notwithstanding and regardless of the origin, nature and source of the owner's title thereto, and of the manner whereby it was acquired by the owner or any of his predecessors in title. R.S.O. 1937, c. 62, s. 31.

Adjustment
of proportions
of cost
of works on
waters.

42.—(1) Where in the exercise of the powers conferred by this Act the Commission constructs any works or improvements upon any lake, river, stream or other body of water the Lieutenant-Governor in Council may direct a judge of the Supreme Court or the judge of the county or district court to inquire into and determine the proportion in which any municipal or other corporation, company or individual owning a water power or water power site, whether developed or not, is benefited by such works or improvements and the judge may make an order fixing the proportion in which the cost of such works and improvements shall be borne by any such municipal or other corporation, company or individual and by the Province respectively. R.S.O. 1937, c. 62, s. 32 (1).

Powers of
judge on
inquiry.

(2) The judge, upon an inquiry under this section, shall have the like powers as a judge sitting in court, including the power to compel the attendance of witnesses, to hear evidence on oath and to require the production of books, papers, documents, matters and things and the order of the judge shall be enforceable in the manner provided by *The Judges' Orders Enforcement Act*.

Rev. Stat.,
c. 189.

Costs.

(3) No costs shall be awarded to any party appearing before the judge or otherwise interested in the inquiry.

Fees and
expenses.

(4) The judge shall be paid such fees and expenses as shall be fixed by the Lieutenant-Governor in Council.

Cost of
works,
etc., what
to include.

(5) For the purposes of this section the cost of the works or improvements shall be deemed to include all expenditures, charges and expenses as fixed by the Commission made or incurred by it in respect of the construction of such works or improvements, extensions and additions thereto, interest charges, operating expenses, repairs and maintenance, down

to the date of the order of the judge, the fees and expenses of the judge and the expenses incurred by the Commission in connection with the inquiry.

(6) Any person, or any municipal or other corporation ^{Appeal.} affected by the order made under the authority of subsection 1 may, with the consent in writing of the Commission, appeal from such order to the Court of Appeal.

(7) The Commission may establish a sinking fund to be ^{Sinking fund.} provided by the parties in the proportions directed by the order of the judge sufficient to discharge and pay off the cost of such works or improvements and such of the capital cost as may be incurred from time to time by the Commission after the date of the order of the judge within such periods as the Commission may fix, having regard to the life of such works or improvements and not exceeding 40 years.

(8) The Commission shall, subsequent to the order of the judge, annually fix and determine the cost, charges or expenses ^{Annual apportionment of costs by Commission.} incurred by it from time to time in the operation, maintenance, repair and renewal of such works and shall apportion and charge the same against the parties in the proportions fixed by the order of the judge, together with the payments in respect of sinking fund hereinbefore mentioned and the amounts so charged shall be payable on demand recoverable in the manner hereinafter provided.

(9) In fixing the amounts so payable the Commission shall ^{Allowance for previous expenditure.} give credit for any amount theretofore contributed to the cost of such works and improvements by a municipal or other corporation or by any individual.

(10) The amount so found payable by a municipal corporation shall be recoverable in the like manner as in the case of a charge for any other service rendered by the Commission to a municipal corporation and in the case of any other corporation or of an individual the amount so found due shall constitute a debt due to the Commission and shall be recoverable in any court of competent jurisdiction from the owners from time to time of the lands so found by the order of the judge to be benefited by such works or improvements and shall constitute a lien or charge upon such lands enforceable in the same manner and by the same proceedings as nearly as may be as in the case of a charge in favour of the Crown. ^{Recovery of amount assessed.}

(11) Where a proportion of the cost of such works and improvements is to be borne by the Province the amount due ^{Share of Province, how payable.} from time to time in respect thereof shall be payable out of any moneys appropriated by the Legislature for that purpose.

(12) When the proportions in which the cost of such works or improvements is to be borne have been fixed by order of the ^{Effect of order.}

judge or of the Court of Appeal, such order shall be final and binding unless and until it shall appear to the Commission that owing to change of circumstances or conditions in respect of such works or improvements it is equitable that there should be a readjustment of the proportions theretofore fixed by the order of the judge and in that case, upon the application of any person liable to contribute to the cost of such works or improvements, made with the consent in writing of the Commission, the judge may make further inquiry and may readjust such proportions to be thereafter applied in such manner as he may deem just and equitable, subject to appeal as hereinbefore provided. R.S.O. 1937, c. 62, s. 32 (3-12).

Limitations
Act not
applicable.

Rev. Stat.,
c. 207.

43. Where possession of land of the Commission has been taken by some other person, the right of the Commission, or anyone claiming under it, to recover it, shall not be barred by reason of the lapse of time, notwithstanding the provisions of *The Limitations Act*, or of any other Act of the Legislature, or by reason of any claim based on possession adverse to it for any period of time which might otherwise be made lawfully at common law, unless it is shown that the Commission had actual notice in writing of such adverse possession, and such notice was had by it 10 years before it or the said person claiming under it commenced action to recover such land; provided that no claim shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, watercourse or use of water or water right or privilege or flooding privilege of the Commission, or or to any way, easement, watercourse, or use of water, or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of the Commission, notwithstanding *The Limitations Act* or any other Act of the Legislature or any claim at common law based on lapse of time, or length of enjoyment or use. R.S.O. 1937, c. 62, s. 33.

Ownership
of works
retained.

44.—(1) Notwithstanding anything in this Act or any other general or special Act, where works of the Commission have been affixed to realty they shall remain subject to the rights of the Commission as fully as they were before being so affixed and shall not become part of the realty unless otherwise agreed by the Commission in writing.

Affixing
signs on
property
prohibited.

(2) Every person who without the consent of the Commission nails or otherwise attaches anything, or causes anything to be nailed or otherwise attached to or upon any property of the Commission shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$10.

(3) The penalties recovered for an offence against sub-section 2 shall be paid over to the Commission. 1944, c. 46, s. 4. Penalties paid to Commission.

TAXATION

45.—(1) Notwithstanding anything in *The Assessment Act*, land owned by and vested in the Commission shall be subject to assessment and taxation for municipal and school purposes at the actual value thereof according to the average value of the land in the locality. Lands of Commission to be taxable. Rev. Stat., c. 24.

(2) Subject to subsection 3, subsection 1 shall not apply to or include buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles, and other property, works or improvements owned, used or controlled by the Commission, or to an easement or the right of use or occupation or other interest in land not owned by the Commission, but all such buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles, and other property, works or improvements owned, used or controlled by the Commission, and every such easement or right, shall continue to be exempt from assessment and taxation as heretofore. Buildings, works, etc., to continue to be exempt.

(3) Where the Commission is carrying on the business of selling by retail electrical goods, supplies or appliances it may be assessed and shall thereupon be liable to taxation in respect of such business and the land and buildings owned or occupied for the purposes thereof in the same manner and to the same extent as a retail merchant carrying on the same business. Retail shops to be taxable.

(4) Notwithstanding anything in any Act, where land which was or is subject to easements, ways, rights of way or entry, flooding rights, licences or rights to maintain works thereon, owned by or belonging to the Commission, has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such easements, ways, rights of way or entry, flooding rights, licences, or rights to maintain works shall be deemed not to have been or be affected by the sale or registration. R.S.O. 1937, c. 62, s. 34, *amended*. Easement over lands sold for taxes not affected.

ADVANCES AND LOANS

46. The Lieutenant-Governor in Council may raise by way of loan in the manner provided by *The Provincial Loans Act* such sums as the Lieutenant-Governor in Council may deem requisite for the purposes of this Act, and such sums may be paid over to the Commission and shall be accounted for and audited in the manner provided for in this Act. R.S.O. 1937, c. 62, s. 35. Government authorized to raise funds necessary for work of Commission. Rev. Stat., c. 299.

Payment
over to
Commission
of moneys
appropriated.

47. Where the Legislature has appropriated money for the purposes of the Commission, such money shall be payable out of such appropriation to the Commission from time to time upon the requisition of the chairman of the Commission and the direction of the Lieutenant-Governor in Council, in such amounts and at such times as shall be stated in the requisition and direction, and this section shall have effect notwithstanding that there may be sums due from the Commission to the Province and notwithstanding anything in *The Audit Act*. R.S.O. 1937, c. 62, s. 36.

Rev. Stat.,
c. 28.

Where
appropriation
is exhausted,
special
warrant
may issue.

48. Where the appropriation made by the Legislature for any work of the Commission becomes exhausted in any fiscal year, and the chairman of the Commission reports to the Lieutenant-Governor in Council that it is necessary and expedient that such work be proceeded with and that an additional amount is required for that purpose, the Lieutenant-Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required in such fiscal year, and when issued such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Commission for such sums as shall be required. R.S.O. 1937, c. 62, s. 37.

Repayment
of advances.

49.—(1) The advances received by the Commission under the authority of sections 46, 47 and 48 shall be repayable as follows:

During the twelve-month period ending 31st October, in the years

1951—\$ 1,726,950.87	1961—\$15,492,724.75
1952—10,483,973.05	1962— 1,457,165.95
1953— 1,806,559.11	1963— 1,519,463.70
1954— 1,849,376.08	1964— 1,583,069.40
1955— 1,893,327.08	1965— 1,649,394.10
1956— 1,939,621.95	1966— 1,718,816.64
1957— 1,796,447.17	1967— 1,403,485.50
1958— 1,610,130.67	1968— 1,462,764.52
1959—14,745,686.58	1969— 1,060,733.64
1960— 1,341,659.01	1970— 1,106,410.72
	1971— 701,051.95

Further
repayment.

(2) Notwithstanding anything in this Act the Commission may in addition to the repayments provided for under subsection 1 make further repayments on account of the advances by the Province to the Commission from time to time out of funds in its hands. 1946, c. 73, ss. 9, 18; 1950, c. 55, s. 8.

50. The Commission shall pay annually to the Treasurer of Ontario, as interest on the indebtedness of the Commission to the Province, such sum as may be from time to time determined by the Lieutenant-Governor in Council to be sufficient to reimburse the Province the full amount of interest paid by the Government on moneys raised for the purposes of the Commission and the charges incurred by the Government in providing such money. R.S.O. 1937, c. 62, s. 38.

Interest on
advances by
province.

51.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may borrow from time to time such sums of money as the Commission may deem requisite for any of the purposes of the Commission and may issue notes, bonds, debentures or other securities and the Commission shall have power and shall be deemed always to have had power to make such securities bear such rate or rates of interest and make such securities payable as to principal and interest at such time or times and in such manner and at such place or places in Canada or elsewhere and in the currency or currencies of such country or countries as the Commission with the approval of the Lieutenant-Governor in Council may determine. 1949, c. 73, s. 8 (1).

General
borrowing
powers.

(2) The purposes of the Commission shall, without limiting the generality thereof, include,

Purposes of
Commission
shall
include.

- (a) repayment on account of the advances by the Province to the Commission;
- (b) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Commission under this or any other Act;
- (c) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Commission;
- (d) payment of the whole or any part of any other liability or indebtedness of the Commission;
- (e) carrying out any of the powers and purposes of the Commission referred to in sections 24 to 28, 38 and 84 or in respect of the acquisition or construction of works referred to in section 59, providing in whole or in part for expenditures of the Commission made or to be made in connection therewith, reimbursing the Commission for any such expenditures heretofore or hereafter made, and repaying in whole or in part any

temporary borrowings of the Commission for any of such purposes. R.S.O. 1937, c. 62, s. 39 (2); 1949, c. 73, s. 8 (2).

May borrow
net sum.

(3) For the purposes specified in subsection 2 the Commission may borrow and may issue as aforesaid in such amounts as will realize the net sum required by the Commission for such purposes and a recital or declaration in the resolution or minutes of the Commission authorizing the issue of securities to the effect that the amount of securities so authorized is necessary to realize the net sum required for the purposes of the Commission shall be conclusive evidence of the fact.

Commission
may sell
or pledge.

(4) The Commission on such terms and conditions as it deems advisable may sell or otherwise dispose of any such notes, bonds, debentures and other securities, may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security and may do any of these things.

Reissue of
securities.

(5) Any such securities dealt with as collateral security when redelivered to the Commission or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Commission again becomes entitled to such securities, may be treated by the Commission as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Commission may deem advisable, or at its option may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences, and upon such issue or reissue any person entitled thereto shall have the same rights and remedies as if the same had not been previously issued.

Commission
may pledge
securities.

(6) The Commission on such terms and conditions as it deems advisable may charge, pledge, hypothecate, deposit or otherwise deal with as collateral security any bonds, debentures or other securities in which it has invested its funds as in section 16 provided. R.S.O. 1937, c. 62, s. 39 (3-6).

Form and
execution
of securities.

(7) The notes, bonds, debentures and other securities of the Commission shall be in such form or forms and shall be executed in such manner as the Commission may determine.

Reproduc-
tion of seal
and
signatures.

(8) The Commission may provide that the seal of the Commission may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and that any signature upon any such security and upon the coupons, if any, attached thereto may be engraved,

lithographed or printed or otherwise mechanically reproduced thereon.

(9) The seal of the Commission when so mechanically reproduced shall have the same force and effect as if manually affixed and such mechanically reproduced signatures shall for all purposes be valid and binding upon the Commission notwithstanding that any person whose signature is so reproduced has ceased to hold office before the date of the security or before the issue thereof. 1949, c. 73, s. 8 (3).

Effect of mechanical reproduction of seal and signatures.

52. The Lieutenant-Governor in Council is authorized, on such terms as may be approved by Order in Council, to agree to guarantee the payment of the principal and interest of any bonds, debentures and other securities issued by the Commission, and the form and manner of any such guarantee or guarantees shall be such as the Lieutenant-Governor in Council may approve, and the guarantee or guarantees shall be signed by the Treasurer of Ontario, or such other officer or officers as may be designated by the Lieutenant-Governor in Council, and upon being so signed, the Province of Ontario shall become liable for the payment of the principal and interest of the bonds, debentures and securities guaranteed, according to the tenor thereof, and the Lieutenant-Governor in Council is authorized to make arrangements for supplying the money necessary to fulfil the requirements of the guarantee or guarantees, and to advance the amount necessary for that purpose, out of the public funds of the Province, and, in the hands of any holder of any such bonds, debentures or securities, any guarantee so signed shall be conclusive evidence that the terms of this section have been complied with. R.S.O. 1937, c. 62, s. 40.

Guaranteeing bonds of Commission

53. The Lieutenant-Governor in Council may, on behalf of the Province of Ontario, enter into any covenants or agreements in connection with the acquisition by the Commission of any shares in any incorporated company, and guarantee the observance and performance by the Commission of any contract or agreement of the Commission in relation to such acquisition. R.S.O. 1937, c. 62, s. 41.

Guaranteeing performance of contract for purchase of shares.

54.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may from time to time for any of the purposes of the Commission borrow by way of temporary loan from any chartered bank or from any person such sums as the Commission may deem requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Temporary loans.

(2) For the purposes of subsection 1, the Commission may pledge as security, notes, bonds, debentures or other securities

Security for temporary loans.

of the Commission pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Commission, or otherwise give such security as the Commission may determine, and any cheques, promissory notes, or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Commission may determine.

Guarantee
by Province.

(3) The Lieutenant-Governor in Council may guarantee the repayment of advances made by banks, or any other indebtedness incurred by the Commission. 1949, c. 73, s. 9.

BUSINESS OPERATIONS

Commission
may
purchase
and sell
supplies.

55.—(1) The Commission may, out of any funds in its hands, purchase such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the transmission, distribution, supply or use of electrical power or energy, and may dispose thereof to municipal corporations and commissions, and to other persons, firms and corporations.

Manufac-
turing and
dealing in
supplies.

(2) The Lieutenant-Governor in Council, upon the request of the Commission specifying,

(a) the nature and volume of the business to be carried on; and

(b) the extent of the liability which may be incurred in connection therewith,

may authorize the Commission within Ontario to manufacture such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of electrical power, and to acquire patents of invention, or interests therein, and to sell and dispose of such machinery, appliances, furnishings or patent rights, and the profits and losses arising from such operation shall be adjusted and apportioned among the municipalities having contracts with the Commission, or be otherwise applied as the Commission shall see fit.

Doing work
for contract-
ing munici-
palities, etc.

(3) The Commission may,

(a) undertake and carry out the preparation of plans, specifications and estimates for, and the construction, erection, installation and putting down of, any plant, machinery, and other things;

(b) purchase supplies, wires, poles, and other things;

(c) render engineering or other service,

for the generation, purchase, transmission, distribution, supply or use of electrical power or energy for light, heat or power purposes, or for the manufacture, procuring, producing, supply or use of any other public utility, by a municipal corporation or commission, or by any other corporation or any person, and the Commission may charge and collect from such corporation, commission or person the cost of any work done or service rendered by the Commission under this subsection.

(4) Subject to the approval of the Lieutenant-Governor in Council the Commission, out of any funds in its hands, may undertake and carry on investigation, experiments, research, development and other work in or for the generation, transformation, transmission, distribution, supply, sale or use of hydraulic, electrical, steam, gas or other power or energy and may use and apply the results thereof, and may undertake and carry on any electro-chemical, chemical, or physical process and, without limiting the generality thereof, electrolysis, reduction, synthesis and conversion of water and other resources, their constituents and compounds and the development and manufacture of products therefrom.

Work for
extending
use of
electricity.

(5) The Commission may acquire any patent or licence, or interest in any patent or licence and may use or supply or dispose of by sale, lease, hire, licence or otherwise any such patent, licence or interest and any product, article or commodity produced, used, acquired or found in the operations of the Commission and any right to or interest in any process or the right to use the same.

Dealing
in patents
and
products.

(6) The Commission may do any or all of the things authorized in this section and as principals, agents, contractors, trustees or otherwise and either alone or in conjunction with others, and a municipal corporation or commission may act as agent for the Commission.

Power to
act with
others.

(7) Any net profit obtained by the Commission from anything authorized in this section shall be applied as the Commission shall deem equitable towards reduction in the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or energy.

Profits to
reduce cost
of power.

56. Where, in the course of the operations of the Commission, any commodity is produced as a by-product or is found upon property vested in the Commission, the Commission may sell or otherwise dispose of such commodity at such prices and upon such terms as it may deem proper, and any revenue so obtained shall be applied in reduction of the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or

By-products,
sale of, to
reduce cost
of power.

energy from the works or property in connection with which the commodity is produced. R.S.O. 1937, c. 62, s. 44.

Unused works may be utilized to produce revenue.

57. Whenever any works constructed or acquired by the Commission for the purpose of supplying power or energy are not in use for that purpose, the Commission with the approval of the Lieutenant-Governor in Council may utilize them for such revenue-producing purposes as it may deem proper, and any revenue so derived shall be applied in the reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission for the supply of electrical power or energy from such works. R.S.O. 1937, c. 62, s. 45.

PART II

SUPPLY OF POWER

Application to Commission for supply of power to municipal corporation.

58.—(1) Any municipal corporation may apply to the Commission for the transmission and supply to the corporation of electrical power or energy for the use of the corporation and the inhabitants of the municipality for lighting, heating and power purposes, or for any of such purposes, or for any of the purposes mentioned in section 67.

Information and estimates to be supplied by Commission.

(2) The Commission shall thereupon furnish to the corporation an estimate of the cost per horse-power at which the electrical power or energy can be supplied to the corporation, including an estimate of the cost of the works by means of which the amount of electrical power or energy required by the corporation is to be supplied, and the Commission may furnish to the corporation, plans and specifications of the works necessary for the distribution of such power or energy by the corporation and an estimate of the cost thereof, and such other information as the Commission may deem advisable.

Vote of electors.
Rev. Stat., c. 243.

(3) The corporation may thereupon submit to a vote of the electors of the municipality, in accordance with *The Municipal Act*, a question as to securing a supply of electrical power or energy from the Commission, and if a majority of the electors vote in the affirmative, the council of the corporation may, by by-law, authorize the entering into, and the corporation shall thereupon enter into, a contract with the Commission in such form as may be approved by the Lieutenant-Governor in Council, and it shall not be necessary to submit a by-law approving thereof for the assent of the electors and the contract shall be valid and binding.

Debentures of contracting municipality not to be included in ascertaining limit of borrowing powers.

(4) Notwithstanding anything in *The Municipal Act* or in any general or special Act, debentures issued or purporting

to be issued by a municipal corporation that has entered into a contract with the Commission for a supply of electrical power or energy from the Commission for the purpose of carrying out the contract, or for constructing or equipping works for the development, transmission and distribution of electrical power or energy so supplied, shall not be included in ascertaining the limits of the borrowing powers of the corporation as prescribed by *The Municipal Act*, or in any general or special Act. R.S.O. 1937, c. 62, s. 46.

Rev. Stat.,
c. 243.

59.—(1) Where under the authority of the Lieutenant-Governor in Council, the Commission has acquired or constructed, is in the process of acquiring or constructing, or may hereafter acquire or construct works for the generation, transmission or distribution of electrical power or energy, wholly or partly in anticipation of a future demand for power in any of the territorial districts of Ontario as set forth in *The Territorial Division Act*, and His Majesty and the Commission have entered into an agreement in relation thereto as provided in subsection 2, such works shall be held by the Commission in trust for His Majesty in right of Ontario. R.S.O. 1937, c. 62, s. 47 (1).

When title
to under-
takings in
territorial
districts to
be in the
Crown.

Rev. Stat.,
c. 388.

(2) His Majesty may enter into an agreement or agreements with the Commission, relating to any or all of the works mentioned in subsection 1, providing for payment to the Commission out of the Consolidated Revenue Fund the amounts from time to time by which the revenues that have been or may hereafter be derived from such works are or may be insufficient to meet in full the annual costs and charges in connection therewith as determined by the Commission, including the items set forth in clauses *a*, *b* and *c* of section 74 and an amount to be determined by the Commission to be provided for the purposes of section 13, and such agreement or agreements when executed by the President of the Executive Council representing His Majesty and the Commission shall be valid and binding on the Province and the Commission respectively. R.S.O. 1937, c. 62, s. 47 (2); 1946, c. 73, s. 10.

Agreements
between the
Crown and
the Commis-
sion as to
undertakings
in territorial
districts.

(3) Such agreement or agreements may provide the time and manner of such payments, the works in respect of which such payments are to be made, the rates of interest on any sums so paid and the repayment of the same out of any surplus thereafter arising from the revenue derived from such works and generally such other matters, things and conditions as may be necessary or incidental thereto.

Terms of
agreements.

(4) For the purposes of this section all of such works may be treated as one or more units as the Commission may from time to time determine. R.S.O. 1937, c. 62, s. 47 (3, 4).

Union of
under-
takings.

Municipal
contracts.

(5) The Commission may contract with any municipal corporation or person for the supply of electrical power or energy from such works or procured pursuant to subsection 8 or 9 at such rates and upon such terms and conditions as the Commission may deem proper. R.S.O. 1937, c. 62, s. 47 (5); 1943, c. 22, s. 5 (1).

Cost in
s. 74 shall
not apply.

(6) The contract with a municipal corporation under subsection 5 may provide for the supply of electrical power or energy at fixed rates or price notwithstanding anything in section 74, and in such event the provisions as to cost in section 74 and the provisions in other sections of this Act relating to such cost shall not apply to such municipal corporation but otherwise this Act shall apply to such municipal corporation. R.S.O. 1937, c. 62, s. 47 (6).

Subs. 6
retroactive.

(7) Subsection 6 shall apply to municipal corporations supplied with power from works covered by an agreement authorized under subsection 2 or procured pursuant to subsection 8 or 9, and shall be deemed so to have applied since the 18th day of April, 1933. R.S.O. 1937, c. 62, s. 47 (7); 1943, c. 22, s. 5 (2).

Diversion
of power.

(8) The Commission may divert electrical power or energy from any system as defined in section 78 for use in any of the territorial districts of Ontario paying to the system supplying such power such price as shall be determined by the Commission and including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission may determine.

Purchase
of power.

(9) The Commission may purchase electrical power or energy for use in any of the territorial districts of Ontario at such price and upon such terms as it may see fit including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission may determine. 1943, c. 22, s. 5 (3).

Transfer of
power to
systems.

(10) The Commission may divert, transmit or transfer electrical power or energy from any or all of the works mentioned in subsection 1 for use in any system or systems as defined in section 78 crediting to the revenue derived from such works such price for the electrical power or energy as the Commission may determine. 1949, c. 73, s. 10.

Right to
enter on
lands to
put up
wires, etc.

60. A municipal corporation that has entered into a contract for the supply of electrical power or energy by the Commission may, by its officers, agents, servants and workmen, enter into and upon the lands of any person, including lanes, courts, yards and buildings, for the purpose of placing overhead or underground wires with their appurtenances without

the consent of the owner or occupant of such property, but subject to the payment of compensation for any damage caused thereby, to be determined in the manner provided by *The Municipal Act*, where a municipal corporation enters upon and takes land for the purposes of the corporation, but leave of a judge or payment into court shall not be necessary before the exercise of the powers vested by this section in the municipal corporation. R.S.O. 1937, c. 62, s. 48.

61.—(1) Where a municipal corporation has heretofore entered into or hereafter enters into a contract with the Commission to take power, either at the time of entering into the contract or, at any time thereafter, exclusively from the Commission, the municipal corporation shall not grant to any corporation or person any right or franchise to erect or lay down poles, wires, conduits or any other structures or works for the distribution of electrical power or energy in the municipality, either for the use of the municipal corporation or the inhabitants generally, or of any particular person, and every such right or franchise and every agreement therefor granted or entered into with or without the assent of the electors shall be null and void.

Rev. Stat.,
c. 243.

Granting of
franchises
by municipi-
palities
under con-
tract with
Commission
prohibited.

(2) Where it is alleged that any individual or corporation has erected or laid down upon, over or under any street or other highway in a municipality, any poles, wires, conduits or other structures or works for the transmission or distribution of electrical power or energy without the consent of the municipal corporation lawfully given under a by-law of the council thereof, or is continuing to maintain or use any such structures or works upon, over or under any such street or highway without lawful authority, the Lieutenant-Governor in Council, upon the complaint of the municipal corporation or of any ratepayer, or of the Commission, may direct an inquiry by the Ontario Municipal Board or by a commission composed of two judges of the Supreme Court, and the Board or commission may inquire into the matter, and if, as a result of the inquiry, it is found that such structures or works are upon, over or under any street or highway without lawful authority, the Board or commission may order the removal of all such poles, wires, conduits or other structures upon such notice and upon such terms and conditions as the Board or commission may deem just or reasonable, and an order made by a commission under this subsection may be filed with the Registrar of the Supreme Court and shall have the same force and effect and be enforceable in the like manner as a judgment of the Supreme Court. R.S.O. 1937, c. 62, s. 49 (1, 2).

Proceedings
for ascertain-
ing rights
where
franchise
claimed.

(3) Any such structure or work shall be deemed to be upon, over or under any street or highway without lawful authority

When work
to be deemed
unlawfully
upon the
highway.

where no such right or franchise is found to have existed or where the term for which the right or franchise was originally granted has expired, or where the right or franchise was not granted by by-law in compliance with the statutes relating thereto, and no such right or franchise shall be deemed to have been acquired by lapse of time or by any express or implied acquiescence on the part of the municipal corporation, or of any other municipal corporation, company or individual formerly owning or controlling such street or highway or the lands included therein. R.S.O. 1937, c. 62, s. 49 (3); 1938, c. 37, s. 19 (1).

ENFORCEMENT OF AGREEMENTS

Enforcement
of agree-
ments with
municipal
corporations.

62. Notwithstanding any provision in the contract or agreement entered into between a municipal corporation and the Commission providing for the determination of questions arising under the contract or agreement, or for the settlement of any dispute between the municipal corporation and the Commission by the Lieutenant-Governor in Council or in any other manner, the Commission may bring an action for any breach of the contract or agreement on the part of the municipal corporation, and the court may in any such action grant an injunction restraining the municipal corporation from doing any act or continuing any such breach, may order the municipal corporation to supply any omission or to do any act required to be done by the corporation under the terms of the contract or agreement, and may award to the Commission such sum as damages for any such breach as the court may consider a fitting penalty to impose upon the municipal corporation therefor. R.S.O. 1937, c. 62, s. 50.

POLICE VILLAGES

Trustees of
police village
may contract
with
Commission.

63.—(1) The trustees of a police village shall, for the purposes of this Part, be deemed a municipal corporation, and may exercise all the powers conferred upon municipal corporations by this Part, and may enter into a contract with the Commission for the supply of electrical power or energy as provided by this Act.

Submission
of by-law
to electors.

(2) The council of the township or the councils of the townships in which the police village is situate, upon the request of the police trustees, shall submit the question as to the supply of electrical power or energy provided for by section 58, to a vote of the electors of the police village qualified to vote thereon, and shall, upon the like request, issue debentures as provided by this Act.

Township
to levy
special rate.

(3) The council of the township in which the police village or any part thereof is situate shall annually levy by special

rate upon the rateable property in the police village, or in that part of the police village situate in the township, the amounts required to meet the payments to be made to the Commission, and to pay off the debentures issued under subsection 2. R.S.O. 1937, c. 62, s. 51.

64.—(1) Where the trustees of a police village have entered into a contract with the Commission for the supply of electrical power or energy, and have heretofore constructed, purchased or acquired, or hereafter construct, purchase or acquire, works for distributing electrical power or energy, and the trustees of the police village desire to extend or improve such works, they may apply to the council of the township for the passing of a by-law for the issue of debentures for such extension or improvement, and the council shall pass the necessary by-law for borrowing such further sums as may be necessary for such extension or improvement, and for levying by an annual special rate upon the rateable property in the police village the sums required for the payment of the debentures issued for the extensions or improvements.

Extension,
etc., of
works in
police
village.

(2) The by-law shall be approved by the Commission before the final passing thereof, but shall not require the assent of the electors.

Assent of
electors not
required.

(3) Such approval may be given if it is shown to the satisfaction of the Commission that the extension or improvement is necessary or desirable, and that sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon. R.S.O. 1937, c. 62, s. 52.

Approval of
Commission.

65.—(1) The trustees of a police village shall be a commission for the control and management of works established for the distribution of electrical power or energy in the police village, and shall have and may exercise and perform the like powers and duties as nearly as may be as a commission formed under *The Public Utilities Act* in an incorporated village.

Trustees
to be a
Commission.

Rev. Stat.,
c. 320.

(2) The trustees of a police village shall appoint a competent person to act as secretary-treasurer for the purpose of keeping the accounts of the trustees for the distribution and supply of electrical power or energy and acting as custodian of funds collected by the trustees or received by them from the treasurer of the township for the establishment of works in connection with the distribution of power. R.S.O. 1937, c. 62, s. 53 (1, 2).

Secretary-
treasurer.

(3) The secretary-treasurer shall give security for the due accounting of all sums of money coming to his hands and for

Security.

the payment over to the township treasurer of the sums required from time to time to meet payments coming due for interest and principal and to provide a sinking fund for the payment of any debentures issued for the works undertaken by the trustees under any contract with the Commission. R.S.O. 1937, c. 62, s. 53 (3); 1943, c. 22, s. 6.

Audit of
accounts.

(4) The accounts of the secretary-treasurer shall be audited by the auditor of the township in which the police village is situate, or if the police village includes parts of two or more townships, then by the auditor of that township having the highest assessment in the police village. R.S.O. 1937, c. 62, s. 53 (4).

TOWNSHIPS

By-laws may
be passed
by township,
re,

66.—(1) Notwithstanding anything in *The Public Utilities Act*, or in any other Act, the council of a township may from time to time pass by-laws,

establishing
areas in
township;

(a) for establishing, with the approval of the Commission, an area in the township as to which any of the by-laws passed under clauses *b*, *c* and *d* may have effect, or establishing the whole township as such an area;

contract
with Com-
mission
for power;

(b) for entering into a contract with the Commission, with the assent of the municipal electors of the area qualified to vote on money by-laws, for the supply of electrical power or energy for the use of the municipality and the inhabitants thereof in any area established under clause *a*;

works;

(c) for acquiring real and personal property and acquiring, constructing, reconstructing, extending and operating works for the development, transmission and distribution of electrical power or energy in the municipality;

general
powers.
Rev. Stat.,
cc. 243, 215,
320.

(d) for exercising, for such purposes, any of the powers which may be exercised by a town under *The Municipal Act*, *The Local Improvement Act*, *The Public Utilities Act*, or this Act.

Alteration
of areas.

(2) The council, with the approval of the Commission, may from time to time, by by-law, enlarge the boundaries of any area established under clause *a* of subsection 1, or otherwise alter its boundaries or incorporate with it any other established area.

Debenture
issue.

(3) When the council has passed a by-law under clause *a* of subsection 1 or under subsection 2, it may issue debentures for the purposes of clause *b*, *c* or *d* of subsection 1, and levy a special rate for the amounts required to be raised on account

of principal or sinking fund and of interest for the payment of such debentures in the area so established, enlarged or altered, and notwithstanding anything in *The Municipal Act* or in any other Act, it shall not be necessary to obtain the assent of the electors to the by-law for the issue of such debentures.

(4) The council of a township which has entered into a contract with the Commission for the supply of electrical power or energy for the use of the municipality and the inhabitants thereof in any area established under clause *a* of subsection 1 may by by-law provide for entrusting the construction of the works and the control and management thereof to a commission to be called "The Hydro-Electric Commission of (*naming the area*) of (*naming the township*)" or if the area comprises the whole township, "The Hydro-Electric Commission of the Township of (*naming the township*)".

Commission for construction and management of works.

(5) It shall not be necessary to obtain the assent of the electors to the establishment of any commission under subsection 4, but the commissioners elected shall be residents of the area for which they are elected commissioners.

Assent of electors not necessary.

(6) Upon the incorporation of any area in another area the commission, if any, for the area so incorporated shall be deemed to be disestablished and the commission, if any, for the other area shall be a commission for the combined area.

Disestablishment of commission on incorporation with other areas.

(7) Subject to subsection 8, where a commission has been established under this section and the members thereof have been elected, all the powers, rights, authorities and privileges which by *The Public Utilities Act* are conferred upon a municipal corporation in respect of electrical power or energy shall, while the by-law for establishing it remains in force, be exercised by the commission within the area for which it was established or within the area to which such area may have been enlarged and not by the council of the corporation.

Revenue of commission.

(8) Nothing in this section shall divest the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act shall divest the council of the rights and powers conferred upon it by *The Local Improvement Act*.

Council to provide money for works.

(9) Sections 42, 43, 44, 47 and 48 of *The Public Utilities Act* shall apply to every commission established under this section.

Rev. Stat., c. 215.
Provisions of Rev. Stat., c. 320 to apply.

(10) A by-law establishing a commission under this section may be repealed by the council at any time with the consent of the Commission and it shall not be necessary to obtain the assent of the electors to a repeal.

Repeal of by-law establishing commission.

Reverting
of works.

(11) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works shall be vested in the council, and the commission shall cease to exist. 1950, c. 55, s. 3.

POWERS OF MUNICIPALITIES

Supply of
light, heat
and power,
etc.

67.—(1) In addition to the powers conferred by this Act, a municipal corporation that has entered into a contract with the Commission for the supply of electrical power or energy shall have and may exercise in respect of such power or energy all the powers that are by *The Public Utilities Act* or *The Municipal Act* conferred upon corporations in respect of light and heat, and all the powers that are conferred upon corporations by *The Municipal Act* for contracting debts for any purpose within the jurisdiction of the council thereof, and also the power to expropriate land, making compensation therefor under the provisions of *The Municipal Act*.

Rev. Stat.,
cc. 320, 243.

By-law for
borrowing
money.

(2) The council of a municipal corporation may, if it sees fit, submit to the electors a by-law providing for borrowing, by the issue of debentures, the money required for any of the purposes mentioned or referred to in sections 58 and 63 and in this section at the same time as the council submits to the electors a question as to supply of electrical power under section 58, and the by-law for borrowing money may be finally passed either before or after the corporation has entered into a contract with the Commission for the supply of electrical power or energy; but the debentures authorized by the by-law shall not be issued until the corporation has entered into a contract with the Commission for the supply of such electrical power or energy.

Supplying
power
outside of
municipality.

(3) A municipal corporation that has entered into a contract with the Commission under this Act may, from time to time, with the approval of the Commission, contract with any other municipal corporation or with any person for the supply or distribution of electrical power or energy in any other municipality, and such other municipal corporation shall have authority to enter into the contract; but a municipal corporation shall not exercise the power conferred by this section in another municipality without the consent of the council thereof. R.S.O. 1937, c. 62, s. 55.

CONTRACTS OF COMMISSION

Supply of
power.

68.—(1) In addition to the powers conferred upon it by this Act or any other Act to contract with municipal corporations for the supply by it of electrical power and energy and to contract with persons pursuant to sections 59, 86 and 90, the

Commission, subject to the approval of the Lieutenant-Governor in Council, may contract with any other person for the supply of electrical power or energy to such person upon such terms and conditions as the Commission may deem proper.

(2) The revenue, or any part thereof, derived by the Commission from supplying power or energy under subsection 1 for use outside of Ontario and which in the opinion of the Commission is so derived because of anything done pursuant to section 26 may be placed to the credit of the frequency standardization reserve account. Application of revenue.

(3) Any net profit made by the Commission in supplying power or energy under subsection 1 shall be applied in reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission. Application of net profit.

(4) Net profit referred to in subsection 3 shall be determined by deducting from the revenue received from supplying power or energy under subsection 1 all moneys placed to the credit of the frequency standardization reserve account pursuant to subsection 2 and an amount determined by the Commission for costs and charges as enumerated in clauses *a*, *b* and *c* of section 74 and for the purposes of section 13 and clause *d* of subsection 1 of section 14. 1948, c. 69, s. 4, *part*. Determination of net profit.

(5) The Commission may contract with a railway company or power or transmission company for the use of its right-of-way and property for the purposes of the Commission. 1948, c. 69, s. 4, *part*; 1950, c. 55, s. 4. Use of right-of-way of railway, power and transmission companies.

69. Notwithstanding anything in section 68, it shall not be necessary to obtain the approval of the Lieutenant-Governor in Council to any contract for a supply by the Commission of electrical power or energy to any person from works that the Commission has acquired or constructed and is operating for the distribution of electrical power or energy. R.S.O. 1937, c. 62, s. 57. Approval of Lieutenant-Governor in Council not required to certain contracts.

70.—(1) If any agreement heretofore or hereafter entered into by the Commission for the supplying of electrical power or energy by the Commission to a municipal corporation or for any other work or service to be done or supplied by the Commission to a municipal corporation contains any term or condition conflicting with or contrary to this Act, the agreement shall be deemed to be amended in such manner and to such extent as to give effect to this Act. Amendment of agreements.

(2) Subject to subsection 1, where the Commission has heretofore entered, or shall hereafter enter into an agreement for the supplying of electrical power or energy by or to the Effect of approval.

Commission or for any other work or service to be done by or supplied to the Commission and such agreement has been or is hereafter approved by the Lieutenant-Governor in Council, it shall thereupon be valid and binding upon the parties thereto. 1948, c. 69, s. 5.

State of
emergency.

71.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into by the Commission or by any municipal corporation for which the Commission supplies electrical power, pursuant to section 84, where at any time the Commission is of opinion that a state of emergency exists by reason of damage to or destruction, failure or breakdown of any of its works, wastage of power, power demand in excess of its power resources or other matters restricting its ability to deliver power, and the Commission so declares, the Commission may, during the state of emergency,

- (a) allocate and distribute its available power amongst the customers under such contracts and interrupt or decrease delivery of power under any contract during the continuance of the emergency; and
- (b) with the approval of the Lieutenant-Governor in Council, regulate, restrict, prohibit and control the generation, transformation, transmission, distribution, supply and use of electrical power supplied by it,

in order to effect what is in its opinion the most economical, efficient and equitable use and distribution of such electrical power. 1947, c. 79, s. 2, *part*.

Modifica-
tion of
restrictions.

(2) The Commission may at any time modify, restrict, suspend or re-impose any order, regulation, restriction, prohibition or control, heretofore or hereafter given, made or exercised pursuant to subsection 1.

Cessation
of power
delivery.

(3) The Commission may interrupt or decrease delivery of electrical power or energy in such manner and to such extent as it sees fit to any of its customers who fails to comply with any direction, order, regulation, restriction, prohibition or control given, made or exercised by it pursuant to subsection 1 by such means as it may deem proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

Entry by
municipal
corporation.

(4) Any municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution may interrupt or decrease delivery of electrical power or energy in such manner and to such extent as it sees fit to any of its customers who fails to comply with any

direction, order, regulation, restriction, prohibition or control given, made or exercised by the Commission pursuant to subsection 1, by such means as it may deem proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

(5) Nothing done under this section or under any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section or done to enforce or give effect thereto by the Commission, its servants or agents, or by any municipal corporation or municipal commission or its servants or agents, shall be deemed a breach of contract by the Commission or any municipal corporation or municipal commission or entitle any person to rescind any contract or release any guarantor from the performance of his obligation, or render the Commission, its servants or agents, or any municipal corporation or municipal commission, its or their servants or agents liable in any action-at-law or other legal proceedings for damages or otherwise. No breach of contract.

(6) Every person who refuses or neglects to comply with any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section shall be guilty of an offence and in addition to any other liability shall on summary conviction be liable to a penalty of not less than \$100 and not more than \$500 and a further penalty of not less than \$100 and not more than \$500 for each day upon which such refusal or neglect is repeated or continued. Penalties.

72.—(1) Where the Commission supplies or distributes power directly to the consumer either on its own behalf or by arrangement or under contract with the municipal corporation, the amount payable by the owner or occupant of any building or lot, or part of lot, for the electrical power or energy supplied to him for use therein or thereon, and all rents, rates, costs and charges in connection with the service or supply of such power or energy or the installation of any works for such service or supply shall be a lien and charge upon the building or lot or part of lot in the same manner and to the same extent as municipal taxes on land, and in default of payment the clerk of the municipality, upon being notified in writing by the Commission of the sum due, shall forthwith enter the same upon the collector's roll and it shall be collected in the same manner as municipal taxes on land and upon recovery thereof shall be paid over to the Commission; provided that when a mortgage or lease of the building or lot, or part of lot, in question, has been duly registered before an entry upon the collector's roll as above described, the lien and charge hereby created shall rank after advances actually Enforcing payment of arrears of rates and charges.

Lien for rates to be postponed on mortgages or leases prior to entry on roll.

made under such mortgage and after rent accrued due under such lease before such entry.

When
power
deemed to
be supplied.

(2) For the purposes of this section, electrical power or energy shall be deemed to be supplied to the consumer not only when it is actually used by the owner or occupant but when it is rendered available or held in reserve for him under the terms of his contract with the Commission or the municipality. R.S.O. 1937, c. 62, s. 59.

Repayment
by municip-
alities of
expenditures

73. The expenditure by the Commission upon any works undertaken under this Act for the benefit of any municipality that has entered into a contract with the Commission shall be repayable to the Commission by the municipality. R.S.O. 1937, c. 62, s. 60.

Cost of
power to
municipality.

74. Notwithstanding anything in any general or special Act passed before the 3rd day of April, 1928, or in any contract entered into before the 3rd day of April, 1928, and, except where under the terms of any such contract power or energy is to be supplied to a municipal corporation at a fixed price, the price payable for power or energy by any municipal corporation shall be the cost to the Commission, as determined by it, of supplying and delivering power or energy to the corporation, including the corporation's proportion, as adjusted by the Commission, of,

- (a) the cost of operating, maintaining, renewing and insuring the works and the cost of administration of the Commission;
- (b) interest and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (c) an annual sum sufficient to form in 40 years, with interest at four per cent per annum, a sinking fund for the repayment of the advances made by the Province under this Act for the cost of the works, for the repayment of any other indebtedness incurred or assumed by the Commission in respect of the cost of the works, and for the restoration of any reserve or other funds of the Commission utilized for the payment of the cost of the works; and
- (d) an amount to be determined by the Commission for the purposes of sections 13 and 15 and clause *d* of section 14. R.S.O. 1937, c. 62, s. 61; 1946, c. 73, s. 11; 1948, c. 69, s. 7.

Collection
of moneys
from municip-
alities on
sinking fund
account.

75. Notwithstanding anything in this Act, a municipal corporation that has entered into or hereafter enters into a

contract with the Commission for a supply of power may be relieved by the Commission from payment of any sum on account of the sinking fund account for the first five years during which payments are made to the Commission by the corporation under such contract, and the amounts required from such corporation on sinking fund account shall be payable during the then next ensuing 40 years. R.S.O. 1937, c. 62, s. 62.

76. The Commission may, during the first three years after any municipality first begins to take power from the Commission, extend the time for payment of any sum payable by a municipality, and such municipality shall pay to the Commission interest on the amount that may be in arrear or for the payment for which time is extended until the payment thereof, at such rate not exceeding seven per cent per annum, as the Commission may determine. R.S.O. 1937, c. 62, s. 63. Extending time for payments by municipalities.

77. Any surplus held by the Commission to the credit of any municipality may be retained by the Commission as security against future obligations to the Commission of the same municipality for so long during the continuance of the contract of the municipality as the Commission may think fit, but the Commission shall allow to the municipality interest at the rate of four per cent per annum upon the amount of such surplus retained by the Commission. R.S.O. 1937, c. 62, s. 64. Surplus funds, application of.

78. Where, by contract with the Commission, one or more municipalities have assumed the cost of the purchase of, or works for the development of, electrical power for the supply of such municipality or municipalities under this Act, such municipality or municipalities shall, for the purpose of this Act, be defined as a "system", and the Commission, on such conditions as may be deemed equitable or advisable, may include in any such system one or more other such municipalities, whether already part of any system or not, and may unite any two or more systems into one system, and may join in a system two or more such municipalities whether already part of any system or not, and for the purposes of this section an area set apart under section 66, or a rural power district, may be considered as a municipality. R.S.O. 1937, c. 62, s. 65. What to be deemed a system.

79.—(1) Wherever physical connections may be made between any of the systems operating under this Act, the Commission may make the necessary connections so as to divert power from any one system to any other system, and the means of such connection, and the price to be paid by the system receiving the power to the system supply- Supplying power from one system to another.

ing the power, shall in all cases be determined by the Commission, and the cost of the power so taken by any one system from any other shall be dealt with by the Commission under this Act as the cost or part of the cost of the power to be paid by the municipalities forming part of such system, under their contracts with the Commission.

Adjustment
between
systems.

(2) The price payable for power by one system to another shall be collected by the Commission from the system owing the same for the system entitled to receive the same, and all sums so paid to any system shall be applied to the cost of construction, maintenance and operation of such system in such manner as the Commission may direct. R.S.O. 1937, c. 62, s. 66.

Apportion-
ment of
amounts
payable by
municipal-
ities.

80.—(1) The Commission shall annually adjust and apportion the amounts payable by municipal corporations under sections 74 to 79.

Annual
adjustment
of expendi-
tures for
municipal-
ities.

(2) The Commission shall also annually adjust and apportion among the municipalities all such expenditures, made by the Commission in exercise of the powers conferred upon the Commission by this Act, as have been incurred for or on behalf of the municipalities.

Adjustment
to be final.

(3) The adjustment and apportionment made by the Commission shall be final and binding upon the municipal corporations. R.S.O. 1937, c. 62, s. 67.

PART III

SUPPLY OF POWER FOR STREET LIGHTING IN TOWNSHIPS

Petition of
residents in
an area
for supply
of power
for street
lighting.

81.—(1) A majority of the resident freeholders according to the last revised assessment roll, residing within the area described in the petition and situated in the township, may petition the council of the township to take the necessary proceedings to procure from the Commission a supply of electrical power or energy for the purpose of lighting the highways in the area described in the petition.

Certificate
as to
sufficiency of
signatures.

(2) The petition shall be accompanied by the certificate of the clerk of the townships stating that the petition is signed by a majority of the resident freeholders in the area described in the petition as shown by the last revised assessment roll.

Application
by council
to the
Commission.

(3) The council of the corporation shall thereupon request the Commission to supply electrical power or energy for the purposes mentioned in the petition.

Estimate of
cost to be
furnished
on request.

(4) Upon such request the Commission shall furnish to the corporation an estimate of the cost of electrical power or

energy for the purpose of lighting the highways in the area defined in the petition, and may furnish to the corporation,

- (a) plans and specifications of the works necessary for the distribution of such power or energy;
- (b) an estimate of the cost of such works; and
- (c) such other information as the Commission may deem advisable. R.S.O. 1937, c. 62, s. 68.

82.—(1) Within one month after the delivery of the statements and estimates mentioned in section 81, the council shall, at a special meeting called for that purpose, of which notice shall have been given to each of the petitioners, consider the statements and estimates furnished by the Commission.

Consideration of the estimates, etc., by the council.

(2) If at such meeting the petitioners or any of them desire to withdraw their names from the petition they may do so, and if the remaining names are insufficient to constitute a majority of the resident freeholders in the area described in the petition, no further proceedings shall be taken thereon.

Withdrawal of petitioners.

(3) If at the close of the meeting there are sufficient names remaining of the petitioners to constitute a majority of the resident freeholders in the area described in the petition, the corporation may, without submitting a by-law to a vote of the electors, and without any of the other formalities required in the case of a by-law under Part II, pass a by-law for entering into a contract with the Commission for the supply of electrical power or energy for the purposes required by the petitioners and may enter into a contract with the Commission for that purpose.

Council may pass a by-law authorizing contract.

(4) Upon similar procedure, the corporation may, from time to time by by-law, enlarge or alter the boundaries of any such area, and thereupon the contract mentioned in subsection 3 shall apply to such area as enlarged or altered, and in the event of the enlarging of such area it shall be necessary only to have a petition from a majority of the resident freeholders in the new area; in the event of alteration of the boundaries of any such area the council, without petition, may from time to time by by-law alter the boundaries so long as such alteration does not alter by more than 10 per cent the amount of the assessment upon which the special rate is raised to meet the cost as mentioned in subsections 5 and 6; in the event of any alteration reducing by more than 10 per cent the amount of such assessment the petition must have a majority of the resident freeholders in the area remaining subject to such assessment.

Where areas altered.

Debenture
issue.

(5) The by-law may provide for the issue of debentures of the corporation, payable within 20 years from the issue thereof, to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy, and for the levying of a special rate for payment of principal and interest, in the manner provided by *The Municipal Act*, upon the taxable property within the area described in the petition, or within such area as enlarged or altered.

Rev. Stat.,
c. 243.

Special rate
on property
affected.

(6) All moneys required to meet the costs incurred by the corporation under this Part shall be raised, levied and collected by an annual special rate upon the taxable property within the area described in the petition, or within such areas as enlarged or altered.

Council may
assume part
of cost.

(7) The council of the corporation may from time to time by by-law, without the assent of the electors, provide that the whole or such part of the costs as to the council may seem proper shall be paid by the corporation and while such by-law remains in force only the moneys required to meet the balance of the costs shall be raised in the manner prescribed in subsection 6.

Street
lighting.

Rev. Stat.,
c. 215.

(8) Notwithstanding that any street lighting in a township may have been undertaken as a local improvement under *The Local Improvement Act*, the council upon the procedure and for the purposes set out in this Part may enter into a contract with the Commission for a new area or enlarge any existing area and include in any such area the whole or any part of the lands specially assessed for the local improvements; thereafter all moneys required to meet the costs at any time incurred by the corporation in respect to street lighting in the area, whether under this Act or *The Local Improvement Act*, shall be raised, levied and collected in the manner prescribed in this Part and it shall not be necessary to levy any special rate under *The Local Improvement Act* to provide for the payments which would otherwise be levied under that Act in respect of the lands included in the area, and only that part of the cost under *The Local Improvement Act* which is specially assessed on the lands not included in such area shall be collected under that Act.

Contract,
application
of.

(9) When the corporation has entered into a contract with the Commission as provided in subsection 3, it shall not be necessary for the corporation to enter into a separate contract with the Commission for any other area in the township, but the corporation may pass a by-law making the contract applicable to the other area; thereupon the contract shall apply to the other area as fully as if the the other area had been included in the original petition for the contract.

(10) The council of the corporation may from time to time by by-law without the assent of the electors and without any petition as mentioned in this Part incorporate any such area with any other adjoining area in the township and the contract with the Commission for the area with which the other area is incorporated shall apply to the whole area.

Extension
of contract
to adjoining
areas.

(11) Where any such area is wholly or partly within an area in the township set apart by the council under section 66, the contract, with the approval of the Commission, may be made with the hydro-electric commission of the area under section 66. R.S.O. 1937, c. 62, s. 69.

Contract
may be
made with
h.e.c.

83. All the provisions of Part II, as to the annual payments to be made by corporations that have entered into contracts with the Commission, shall apply to contracts entered into under this Part, and shall extend to the works constructed under the last-mentioned contracts. R.S.O. 1937, c. 62, s. 70.

Annual
payments to
the Com-
mission.

PART IV

DISTRIBUTION OF POWER IN RURAL POWER DISTRICTS

84.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may contract with the corporation of a township, or townships, or with the corporations of two or more townships, for the supply and distribution by the Commission of electrical power in the township or townships.

Contracts
for supply
of power.

(2) The Commission may lay out and define areas, called "rural power districts", in the township or townships for the distribution of electrical power.

Defining
areas.

(3) The Commission may, on behalf of the corporation,

Commission
acts for
corporation.

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transforming and distributing in, any such rural power district of electrical power;
- (b) supply electrical power to any customer of the corporation or at any premises in any such rural power district;
- (c) perform, enjoy and enforce all contracts in which the corporation agrees to supply or sell electrical power to any customer or at any premises in such rural power district. 1939, c. 35, s. 3, *part.*

Alterations
of
boundaries.

(4) The Commission may unite any two or more rural power districts in one rural power district and may join into a rural power district or may include in a rural power district one or more townships or any part or parts thereof whether already part of any rural power district or not and may alter the boundaries of any rural power district, and may thereupon utilize for the supply and distribution of electrical power or energy in any rural power district so formed or reconstituted or altered or that may have been so formed or reconstituted or altered all or any portion of the revenue that may be derived or may have been derived from any contract for the distribution of electrical power or energy made between the Commission and the corporation of any township forming such rural power district or any part thereof. 1939, c. 35, s. 3, *part*; 1943, c. 22, s. 8.

Signing of
contracts.

(5) Contracts in which the municipal corporation agrees to supply or sell electrical power shall be sufficiently executed on behalf of the corporation if signed by its clerk or by such other officer as may be designated by the council of the corporation. 1939, c. 35, s. 3, *part*.

Use of
moneys for
standardi-
zation of
frequency.

(6) The Commission may in its discretion use any of the revenue that may be derived or may have been derived from the distribution of electrical power or energy by the Commission on behalf of the corporation of any township forming a rural power district or any part thereof for altering, reconstructing, rebuilding, re-assembling, constructing, extending, replacing or whatever else may be necessary in respect of works held by it under subsection 3, for the purpose of standardizing and making uniform to such extent and in such manner as it may deem necessary the periodicity in alternations of current at which it supplies electrical power to customers of the corporation or at premises pursuant to subsection 3. 1948, c. 69, s. 8.

Powers of
Commission.

85. For the purposes of this Part, the Commission may exercise any of the powers that the Commission may exercise or be authorized to exercise under Part I and may upon such terms as it deems proper, sell, lease or otherwise dispose of any lands and works acquired or held for the purposes of this Part. 1939, c. 35, s. 3, *part*; 1946, c. 73, s. 12.

Right of
park board
to contract
for power.

86.—(1) Subject to the approval of the Lieutenant-Governor in Council, where any Act of the Legislature sets apart lands as a park, and provides for the appointment of a board of commissioners therefor, and makes such board of commissioners a body corporate, such board may purchase from the Commission electrical power or energy for use within the park, and may sell electrical power or energy to customers therein and execute contracts accordingly and the Commission may con-

tract with the board to supply and distribute such electrical power or energy.

(2) Upon the execution of a contract between the Commission and any such board, the Commission may make any such park a rural power district or part of a rural power district or incorporate the whole or any part of such park in any rural power district and the provisions of this or any other Act applying to a rural power district shall be applicable. R.S.O. 1937, c. 62, s. 72.

When park
not to be rural
power
district.

87. When at the time of entering into the contract the corporation of any such township has been operating a distribution system for distributing electrical power or energy to inhabitants of the township, or has a contract with the Commission for a supply of electrical power or energy under any other Part of this Act, the Commission, with the approval of the corporation, may take over, acquire, reconstruct, extend and operate such distribution system, and may perform, enjoy and enforce the contracts with the customers thereof, and may incorporate such system in a rural power district. R.S.O. 1937, c. 62, s. 73.

Commission
may take
over existing
distribution
system.

88. Notwithstanding anything in this Act, where the trustees of a police village have not a subsisting contract with the Commission, it shall not be considered a separate corporation from the township or townships out of which it was formed for the purposes of this Part. R.S.O. 1937, c. 62, s. 74.

Police village
not to be
deemed
separate
corporation.

89. The council of the township or the council of each of the townships entering into a contract under section 84 or 87 may pass a by-law for entering into the contract, and the corporation of the township may execute the contract, and it shall not be necessary to submit the by-law to the vote of the electors or to comply with any of the other formalities required in the case of a by-law under Part II. R.S.O. 1937, c. 62, s. 75.

Assent of
electors not
required to
contract.

90.—(1) The Commission may enter into an agreement or agreements with His Majesty in right of Ontario providing for the supply and distribution of electrical power or energy by the Commission on behalf of the Province in unorganized townships, in provincial parks and in other territory without municipal organization and including under any such agreement from time to time any one or more of the areas that may be defined under subsection 2, and any such agreement, when executed by the President of the Executive Council, representing His Majesty, and by the Commission, shall be valid

Agreement
as to
supplying
power.

and binding on His Majesty in right of Ontario and on the Commission respectively.

Commission
may define
areas.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Commission may define areas in unorganized townships, in provincial parks and in other territory without municipal organization; the Commission may make any such area or areas a rural power district or part thereof, or part of an existing rural power district; the Commission may alter, enlarge or diminish any such area and may incorporate the whole or any part of any such area in any other rural power district, but before adding to any area land not previously included in any area, the approval of the Lieutenant-Governor in Council shall first be obtained; for the purposes of this section a rural power district shall include any such district established under this section or under section 84. R.S.O. 1937, c. 62, s. 76 (1, 2).

Supply of
power.

(3) In any such area, the Commission may,

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transformation and distribution and supply of electrical power or energy in any such area;
- (b) distribute and supply electrical power or energy in any such area;
- (c) contract with any person, firm or corporation for the supply of electrical power or energy in any such area. R.S.O. 1937, c. 62, s. 76 (3); 1939, c. 35, s. 4.

Deemed
rural
power.

(4) Save as in this section provided, all other provisions in relation to rural power districts in this or any other Act shall apply to each such area and the distribution and supply of electrical power or energy therein. R.S.O. 1937, c. 62, s. 76 (4).

Application
of Part II as
to annual
payments.

91. All the provisions of Part II as to the annual payments to be made by the corporations that have entered into contracts with the Commission shall apply to a contract entered into under this Part, and shall extend to the works constructed under the contract for transforming, distributing and supplying electrical power or energy in a rural power district except where the contract is with a municipal corporation for the supply of power from any of the works mentioned in section 59. R.S.O. 1937, c. 62, s. 77; 1939, c. 35, s. 5.

Rates to be
fixed by
Commission.

92. The rates to be charged to customers receiving electrical power or energy from the Commission in a rural power

district or any section thereof shall be fixed by the Commission under this Act. R.S.O. 1937, c. 62, s. 78; 1939, c. 35, s. 6; 1943, c. 22, s. 9.

93. The Commission shall fix, adjust and apportion annually the cost of all the works mentioned in sections 84 and 87 to be borne by each of the municipal corporations entering into any such contract. R.S.O. 1937, c. 62, s. 79.

Apportionment of cost on annual adjustment.

STREET LIGHTING IN RURAL POWER DISTRICTS

94.—(1) A corporation that has entered into a contract with the Commission under this Part may, under procedure similar to that provided in Part III, enter into a contract with the Commission for the lighting by the Commission of highways in any area in a rural power district, and in pursuance of such contract, the Commission may, on behalf of the corporation, acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the lighting of the highways in such area, and the by-law of the corporation need not provide for the issue of debentures of the corporation to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy.

Lighting of highways.

(2) Under similar procedure the corporation, with the approval of the Commission, may enlarge or alter the boundaries of any such area within any rural power district, and thereupon the contract mentioned in subsection 1 shall apply to such area as enlarged or altered.

Where areas enlarged.

(3) All the works mentioned in subsection 1 shall be deemed street lighting works and shall not form any part of the primary or secondary lines in the rural power district.

Street lighting works.

(4) All the provisions of Part II as to the annual payments to be made by the corporations that have entered into contracts with the Commission shall apply to a contract entered into under this section and shall extend to all works constructed under such contract.

Part II to apply.

(5) All moneys required to meet the costs incurred by the corporation under this section shall be raised, levied and collected by an annual special rate upon the taxable property lying within the area described in the petition, or within such area as enlarged or altered.

Raising of moneys.

(6) The council of the corporation may from time to time by by-law provide that the whole or such part of the said costs as to the council may seem proper shall be paid by the corporation and be chargeable to the municipality as a whole and while the by-law remains in force only the moneys required

Council may assume part of cost.

to meet the balance of the said costs shall be raised in the manner prescribed in subsection 5, and the assent of the electors shall not be required to any such by-law.

Lighting
highways
in local
areas.

(7) Whenever the corporation has entered into a contract with the Commission under Part III for the supply of electrical power or energy for the purposes required by the petitioners in any area, the corporation, without a petition or any of the other preliminary proceedings provided in Part III, may by by-law enter into a contract with the Commission for lighting the highways in such area under this Part and thereafter all the provisions of this Part shall apply to such area and the lighting of the highways therein in lieu of the provisions of Part III.

Application
of subss. 8 to
10 of s. 82.

(8) Subsections 8, 9 and 10 of section 82 shall apply *mutatis mutandis* to any contract and to any area under this section. R.S.O. 1937, c. 62, s. 80.

Lighting
of highways
without a
petition.

95.—(1) Notwithstanding anything in this or any other Act, the council of a township that has entered into a contract with the Commission under this Part, may, without petition and without submitting a by-law to a vote of the electors, enter into a contract with the Commission for the lighting by the Commission of highways in the municipality, and pursuant to such contract, the Commission, on behalf of the corporation, may acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the lighting of the highways and a by-law of the corporation authorizing the execution of the contract by the corporation need not provide for the issue of debentures of the corporation to meet the cost of construction and installation of the works necessary for this purpose.

Street
lighting
works.

(2) All the works mentioned in subsection 1 shall be deemed street lighting works and shall not form any part of the primary or secondary lines in a rural power district.

Part II
as to annual
payment
to apply.

(3) The provisions of Part II with respect to the annual payments to be made by any corporation that has entered into a contract with the Commission shall apply to any contract entered into under this section and shall extend to all works constructed under such contract.

Charging
of cost.

(4) Notwithstanding anything in this or any other Act, the cost incurred by the corporation under this section shall be paid by the corporation and be chargeable to the municipality as a whole and the assent of the electors to a by-law for such purpose shall not be required. 1950, c. 55, s. 5.

PART V

CONTROL AND REGULATION BY COMMISSION

96. In this section and in sections 97, 98 and 100,

Interpreta-
tion.

- (a) "corporation" means a municipal corporation, an incorporated company, or an individual or firm duly authorized by municipal by-law or agreement to construct and operate works for conducting, furnishing or distributing electricity for light, heat or power purposes in, under or upon any highway, and includes any board or commission incorporated or unincorporated acting on behalf of a municipal corporation or of the inhabitants of a municipality;
- (b) "highway" includes a street, lane, road, square or other public communication;
- (c) "works" includes wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus. R.S.O. 1937, c. 62, s. 81.

97.—(1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of a highway, in, under or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first-mentioned corporation and after notice to the other and hearing any objections that it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve thereof, and all works that the first-mentioned corporation has constructed or may thereafter construct, the location and mode of construction of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed, and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, except that provided for by section 98, notwithstanding any statute or law to the contrary.

Approval of
distributing
works.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to its works, servants or workmen in maintaining, repairing or operating them.

Approval
upon con-
ditions.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between

Insulation.

the wires of different corporations or from any other cause, that insulators or other appliances be affixed to the poles of either corporation, or that the wires of either of them be attached to the insulators or other appliances, the Commission may authorize or direct the insulators or other appliances to be so affixed and the wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger, and anything done by either corporation pursuant to such authority or direction shall be deemed to be done lawfully.

Works to be done at expense of initiating corporation.

(4) Anything authorized or directed to be done under subsection 3 shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation and under such supervision as the Commission may direct. R.S.O. 1937, c. 62, s. 82.

Claims for damages by one corporation against another.

98.—(1) If any damage or injury is done to the works of a corporation or any of them, or is occasioned in the maintenance or operation of them, by reason of the works of another corporation or any of them being constructed or operated in closer proximity to the works of the first-mentioned corporation than, but for section 97, would have been lawful, no action shall lie in respect thereof, but the corporation doing the damage or injury shall make due compensation therefor, and any question or dispute as to the damage or injury having been so done or occasioned or as to the amount of the compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* with respect to arbitration in the case of claims against municipal corporations shall apply *mutatis mutandis* to the procedure upon an arbitration under this section.

Rev. Stat., c. 243.

Notice of claim.

(2) The corporation claiming damages shall, within one month after the expiration of any calendar year in which it claims that any such damage or injury has been so done or occasioned, give notice in writing to the other corporation of its claim and of the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that calendar year shall be barred forever. R.S.O. 1937, c. 62, s. 83.

Exclusive jurisdiction of Commission.

99. The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is by sections 96, 97 and 98 conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any court. R.S.O. 1937, c. 62, s. 84.

Jurisdiction of courts ousted.

100. No court shall have authority to grant or shall grant an injunction or other order restraining, either temporarily

or otherwise, the construction, maintenance or operation of any works the location and mode of construction of which have been approved by the Commission if such works are being, or have been constructed in the place and according to the mode so approved. R.S.O. 1937, c. 62, s. 85.

101.—(1) Upon the complaint in writing of any municipal corporation, company or person that any municipal corporation, company or person receiving power from the Commission is charging for electric lighting or heating or for electrical power or energy a rate that is excessive or unfair, or that any municipal corporation is making use of the power conferred upon it by this Act for the purpose of granting a bonus by supplying power, light or heat below cost to manufacturers or others, the chairman of the Commission may appoint a time and place at which the Commission or some member thereof will hear and determine the matter of the complaint, and such notice of the appointment as the chairman may direct shall be given by the secretary of the Commission to such persons as the chairman may direct.

Complaints as to rates charged for light, heat or power.

(2) At the time and place appointed the Commission or a member thereof shall hear and determine the matter of the complaint, and may dismiss or allow the complaint, and may regulate and determine the rates to be charged, and may direct the amendment of any by-law or agreement accordingly, or may make such order as may seem meet.

Hearing of complaints and regulation of rates.

(3) The Commission, or the member thereof hearing the complaint, shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 62, s. 86.

Powers of Commission on inquiry. Rev. Stat., c. 308.

102.—(1) The Commission, with the approval of the Lieutenant-Governor in Council, may make rules and regulations,

Regulations as to,

- (a) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works and matters used or to be used in the generation, transformation, transmission, distribution, delivery or use of electrical power or energy in Ontario;
 - (b) prohibiting the use in Ontario of any such works or matters until they have been inspected and approved;
 - (c) prohibiting the advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works
- construction of works, etc.;
use of works until authorized;
advertising or sale of works in unauthorized manner;

or matters unless and until they have been inspected and approved, and prescribing the precautions to be taken in the sale or other disposal of such works or matters and the warnings and instructions to be given to purchasers and others in advertisements and by circular or otherwise in order to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;

inspection,
test and
approval.

(d) providing for the inspection, test and approval of all such works and matters before being used for any such purposes.

Issuing of
plans and
specifica-
tions.

(2) The Commission may prepare and issue plans and specifications governing the design, construction and test of any of the works or matters mentioned in subsection 1, and may amend or alter such plans and specifications. R.S.O. 1937, c. 62, s. 87 (1, 2).

Appointment
of persons
or associa-
tions to in-
spect and
test.

(3) The Commission may appoint persons or associations having, in the opinion of the Commission, special knowledge and facilities to inspect, test and report upon any of the works or matters mentioned in subsection 1.

Approval by
adoption of
report.

(4) The Commission may approve of any of the works or matters mentioned in subsection 1 by adopting the report made pursuant to subsection 3 or otherwise as the Commission may deem advisable. 1950, c. 55, s. 6.

Orders
relating to
installations,
alterations,
etc.

(5) The Commission may issue such orders relating to work to be done in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works or matters mentioned in subsection 1 as the Commission may deem necessary for the safety of the public, or of workmen, or for the protection of property.

Appoint-
ment of
inspectorial
staff.

(6) The Commission may appoint such inspectors and other officers as it may deem necessary for the purposes of this section.

Fees for
permits,
inspection,
test and
approval.

(7) The Commission may prescribe the fees to be paid for permits and for inspection, test and approval of all such works and matters mentioned in subsection 1 and of plans and specifications relating thereto, and may prescribe also the time and manner of payment of such fees.

Collection
and dis-
position of
fees and
fines.

(8) The Commission shall collect the fees prescribed by it under the authority of subsection 7, and shall provide for the remuneration, travelling and other expenses of the inspectors and other qualified persons, together with all other expenses incurred in carrying out the provisions of this section,

out of such fees and out of any fines imposed for breach of any of the provisions of this section or of any rules, regulations, plans, specifications or orders made under the authority thereof, and out of the funds appropriated for carrying out the work of the Commission.

(9) Every inspector appointed under this section may enter upon, pass over or through any land, building or premises at any reasonable hour for the purpose of performing the duties assigned to him under this section. Powers of inspectors.

(10) Nothing in this Act or in any of the rules or regulations, plans, specifications or orders issued under the authority of this section shall render the Commission or any of its inspectors or other employees liable, or shall affect the liability of any municipal or other corporation or commission, company, firm or individual, for any injury, loss or other damages caused to any person or property by reason of defects in any of the works or matters mentioned in this section or by reason of any order of the Commission, notwithstanding any inspection or test or the issue of any certificate by the Commission or by any of its inspectors or other employees. Liability.

(11) Every municipal or other corporation or commission, and every company, firm or individual, Penalties,

(a) hindering, molesting, disturbing or interfering with an inspector or other employee in the performance of his duty under this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for each offence; for interference;

(b) refusing or neglecting to comply with the provisions of this section, or with any rule or regulation, plan or specification made under the authority thereof, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for each offence; for disobedience to regulations;

(c) refusing or neglecting to comply with any order issued by the Commission under subsection 5 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$500 and a further penalty of not less than \$100 and not more than \$500 for each and every day upon which such refusal or neglect is repeated or continued. for disobedience to order.

(12) The penalties recovered for an offence against this section shall be paid over to the Commission. Penalties paid to Commission.

(13) This section shall not apply to any mine as defined under *The Mining Act*, save only as regards any dwelling Section not to apply to mines. Rev. Stat., c. 236.

house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. R.S.O. 1937, c. 62, s. 87 (3-11).

Proving regulations as to installations, etc.

(14) The rules and regulations made pursuant to this section may be proved by the production of a copy of such rules and regulations certified to by the secretary and bearing the seal of the Commission and the production of such certified copy bearing the seal of the Commission shall be *prima facie* evidence of the due execution thereof by the secretary. R.S.O. 1937, c. 62, s. 87 (12); 1944, c. 46, s. 5.

Debentures for extension or improvement not to be issued without approval of Commission.

103.—(1) A municipal corporation that has entered into a contract with the Commission for the supply of electrical power or energy shall not pass a by-law for the issue of debentures, or borrow money by other means, for any extension or improvement to an electrical light, heat or power system without having first obtained the assent of the Commission to the amount of such issue and borrowing and the purposes to which the proceeds of the issue are to be applied.

Liability of members of council.

(2) Every member of the council of a municipal corporation passing a by-law in contravention of subsection 1 shall be personally responsible for any loss or expense occasioned to the corporation by such action unless he shows that he voted against the passing of the by-law or did everything in his power to prevent the passing of the by-law.

By-law to be void.

(3) Every by-law passed in contravention of subsection 1 shall be illegal and void, and the Commission may take the same proceedings for quashing the by-law, or restraining the corporation from issuing debentures thereunder, as might be taken by a ratepayer of the municipality.

Section to have effect notwithstanding other enactments.

(4) This section shall have effect notwithstanding the provisions of any other general or special Act relating to any municipal corporation.

Issue of debentures when Commission approves estimated cost.

(5) The provisions of this section shall not apply to any by-law or by-laws authorizing the issue of debentures to defray the cost of, or to repay temporary loans incurred in connection with any works mentioned in subsection 1, when the estimated cost of such works and the borrowing of the estimated cost has been approved by the Commission and the principal amount of the debentures so authorized does not exceed the estimated cost aforesaid by more than five per cent.

Restriction as to application of local improvement by-law.
Rev. Stat., c. 215.

(6) Equipment, plant and works constructed and erected on petition only as defined in clause *n* of subsection 1 of section 2 of *The Local Improvement Act* shall not be deemed extensions or improvements within the meaning of this section. R.S.O. 1937, c. 62, s. 88.

104.—(1) The rates chargeable by any municipal corporation generating or receiving and distributing electrical power or energy shall be subject at all times to the approval and control of the Commission, and the rates charged by any company or individual receiving power from the Commission for the supply of electrical power or energy shall be subject at all times to such approval and control. Rates to be approved.

(2) Notwithstanding anything in this Act, the Commission may from time to time, when in its opinion it is in the interests of the municipal corporations under contract with the Commission so to do, make orders fixing the rates to be charged by the corporation or commission of any municipality having a population of less than 200,000 for electrical power or energy supplied by the Commission. Powers as to fixing municipal rates.

(3) In a municipality where the rates fixed by the Commission under subsection 2 prove insufficient to provide for the costs of supplying electrical power or energy in the municipality, the Commission may charge the deficit to the stabilization fund account and may from time to time impose such terms as to repayment of the amount so charged together with interest thereon, or any part thereof, or may relieve the municipality from obligation to repay the same to such extent as to the Commission may seem just and equitable. R.S.O. 1937, c. 62, s. 89. Where amount collected proves insufficient.

105.—(1) The Commission may prescribe for any municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution a system of bookkeeping and keeping accounts of the assets, liabilities, revenues and expenditures in respect of the production, development, distribution or sale of electrical power or energy or the dealing in electrical fittings, fixtures, appliances, machines or equipment. System of bookkeeping.

(2) The Commission may require from any municipal corporation or municipal commission which owns, operates, controls or manages an electrical public utility receiving electrical power or energy from the Commission for distribution such returns and statements as the Commission may deem proper, and the Commission shall have access to and the right to inspect the books, records, minutes, statements and returns relating to such electrical public utility and to extract therefrom such information as in the opinion of the Commission may be useful for publication and to embody any of the information in the reports of the Commission. 1946, c. 73, s. 13. Returns and statements.

106. Section 77 of *The Ontario Municipal Board Act* shall not apply to municipal corporations or municipal commis- Jurisdiction of Ontario Municipal Board. Rev. Stat., c. 262.

sions that are subject to the provisions of sections 104 and 105 of this Act in so far as such sections relate to the development or distribution of electrical power or energy. R.S.O. 1937, c. 62, s. 91.

Insurance
by municipi-
palities.

107.—(1) Every municipal corporation and municipal commission having a contract with the Commission for the supply of electrical power or energy shall maintain insurance against loss or damage to the person and property of employees and others occurring during the course of the operations of such corporation or commission. R.S.O. 1937, c. 62, s. 92 (1).

Amount
and terms.

(2) The insurance shall be for such amount and upon such terms and conditions as the Commission may direct and approve, and a contract of insurance for the purpose of this section may protect more than one municipal corporation or municipal commission as the insured thereunder. R.S.O. 1937, c. 62, s. 92 (2); 1950, c. 55, s. 7 (1).

Insurance
fund.

(3) In lieu of such insurance, such corporation or commission may, with the approval of the Commission, establish a fund sufficient, in the opinion of the Commission, to protect the corporation or commission against any such loss or damage.

Group
insurance
for municipi-
palities.

(4) The Commission, at the request of any municipal corporation or commission, may enter into a contract with an insurance corporation for effecting such insurance on behalf of the municipal corporation or commission as may be required under subsections 1 and 2, notwithstanding anything in *The Insurance Act* or any other general or special Act to the contrary, and the cost of insurance so affected by the Commission in default of payment shall be chargeable to the municipal corporation or commission as part of the cost of power payable by the municipal corporation or commission under section 74. R.S.O. 1937, c. 62, s. 92 (3, 4).

Rev. Stat.,
c. 183.

Where
insurance
not
necessary.
Rev. Stat.,
c. 430.

(5) Where any municipal corporation or commission is in Schedule 1 of the regulations made under *The Workmen's Compensation Act* and is paying assessment to the Workmen's Compensation Board, notwithstanding any other provision in this Act, it shall not be necessary for such municipal corporation or commission to maintain insurance against injury to the persons of employees. 1950, c. 55, s. 7 (2).

Collection
of arrears on
direction
from Com-
mission.

108. Where it appears to the Commission, upon the examination of the accounts of any municipal corporation or municipal commission receiving power from the Commission under a contract between the municipal corporation and the

Commission under this Act, that there are arrears due and owing for electrical power or energy supplied by the municipal corporation or municipal commission, or for rents, rates, costs and charges in connection with the service or supply of such power or energy or for the installation of any works for such service or supply, and that the municipal corporation or municipal commission has not taken the necessary proceedings for the collection of such arrears, the Commission may give, in writing, such directions as it may deem proper, signed by the chairman or secretary, for the collection of the arrears by any method by which they may be collected, and it shall be the duty of the municipal corporation or municipal commission forthwith after receiving such directions to take all proceedings necessary to carry them into effect. R.S.O. 1937, c. 62, s. 93.

109. Where a municipal corporation or a municipal commission receiving electrical power or energy from the Commission under a contract made with the Commission in pursuance of the provisions of this Act, Offences and penalties.

- (a) supplies electrical power or energy to any person upon terms and at rates other than those which have been approved of by the Commission;
- (b) grants to any person to whom electrical power or energy is supplied by the municipal corporation or commission, special terms by way of bonus or otherwise as to the rates to be paid for electrical power or energy, or as to the terms at which they are to be supplied;
- (c) neglects or refuses to carry out any direction of the Commission given under section 108;
- (d) by any means whatsoever, directly or indirectly reduces the cost of electrical power or energy to any individual, firm or corporation so that it is supplied to such individual, firm or corporation at a lower rate or upon better terms than those approved of by the Commission;
- (e) fails to keep accounts in the manner prescribed by the Commission or makes improper entries therein, or charges against any account items not properly chargeable thereto,

such municipal corporation or municipal commission shall be guilty of an offence, and every member of the municipal council of such municipal corporation or every member of the municipal commission, as the case may be, shall be disqualified from sitting and voting in the council or from Disqualification of councillor or commissioner.

Rev. Stat.,
c. 243.

election thereto, or from acting as a member of the municipal commission or being appointed thereto, and from holding any other municipal office for a period of five years from the date of judgment or order declaring his disqualification, and proceedings may be taken against him in the same manner as in the case of a member of a municipal council who has become disqualified or has forfeited his seat under *The Municipal Act*; provided that no member of the municipal council or of the municipal commission, as the case may be, shall be found to be so disqualified who proves to the satisfaction of the court or judge before whom the application for a declaration of his disqualification is made, that he was not a party to the offence and that he did everything in his power to prevent the commission of the offence. R.S.O. 1937, c. 62, s. 94.

When
default made
Commission
may take
action.

110. When a municipal corporation or a municipal commission neglects or refuses to carry out any of the provisions of this Act, or any direction or regulation lawfully given or made under this Act, the Commission, if it deems it necessary or desirable so to do, may appoint some person to do whatever is necessary to remedy such neglect or default and to comply with this Act or any such direction or regulation, and the reasonable and proper costs and charges incurred by the Commission in so doing shall be a debt due and payable by the municipal corporation or municipal commission to the Commission and shall be added to and shall be chargeable and collected with the charges set out in section 74. R.S.O. 1937, c. 62, s. 95.

Utilization
of funds,

111. A municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution may, subject to the approval of the Commission, utilize funds in its hands derived from or pertaining to the electric utility for which such power or energy is received and not required for current operating expenses or current working capital thereof in the following manner and not otherwise,

reduction of
indebted-
ness;

(a) in the reduction of any indebtedness incurred with respect to the construction and equipment of works for the production, development, distribution or sale of electrical power or energy; or

erection of
buildings;

(b) in purchasing or otherwise acquiring a site and erecting thereon buildings for the occupation and use of the municipal commission as offices and for other business purposes, subject to the approval by the Commission of the site and cost of the plans of any such building, and, subject to such approval, any such office building may be larger than is required for the immediate use of the municipal commission,

and any part of such building not immediately required for the use of the municipal commission may be leased by it to the corporation or to any other municipal commission for the purpose of any public utility in the municipality; or

- (c) in the renewal of such buildings; or renewal of buildings;
- (d) in the extension of works for the production, development, distribution or sale of electrical power or energy or in the alteration, reconstruction, rebuilding, re-assembling, construction, replacing or whatever else may be necessary in respect of such works for the purpose of receiving from the Commission and distributing electrical power or energy at a changed periodicity in alternations of current; or extension, etc., of works;
- (e) in the purchase of such marketable securities and on such terms as the Commission may approve. 1946, c. 73, s. 14; 1948, c. 69, s. 9. purchase of marketable securities.

112.—(1) Whenever it appears from the accounts of a municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution that there is a surplus of revenue derived from or pertaining to an electric utility over the expenses thereof after providing for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the production, development, distribution or sale of electrical power or energy, and for such depreciation and other reserves as the Commission may deem proper, the surplus shall be applied and disposed of in such manner as the Commission may by general regulation or special order direct, When accounts of a corporation show a surplus,

- (a) in altering, reconstructing, rebuilding, re-assembling, constructing, replacing or doing whatever else may be necessary in respect of works for the production, development, distribution or sale of electrical power or energy for the purpose of receiving from the Commission and distributing electrical power or energy at a changed periodicity in alternations of current; alteration of works;
- (b) in repaying to persons to whom electrical power or energy is being supplied by such municipal corporation or municipal commission money paid by them for electrical power or energy so supplied, such repayment being made either directly or by a credit on or reduction in bills for electrical power or energy; or in repayment to customers;

to general
purposes of
municipal
corporations.

(c) to the extent to which such surplus is derived from the supply of electrical power or energy for the lighting of the streets of the municipality or for the operation of any street railway or electric railway or any public utility of the corporation other than an electric utility, by payment over of such surplus or of such portion thereof as the Commission may deem proper, to the treasurer of the municipality to be applied to the general purposes of the corporation. 1946, c. 73, s. 15, *part*; 1948, c. 69, s. 10.

Application
of section
notwith-
standing
special
provisions.

(2) Subsection 1 shall apply to every municipal corporation or municipal commission that has entered into a contract with the Commission for the supply of electrical power or energy, and shall have effect notwithstanding any provision in any general or special Act, and shall be deemed so to have applied and to have had effect since the 16th day of April, 1912. R.S.O. 1937, c. 62, s. 96 (2); 1944, c. 46, s. 6 (2).

Liability for
misapplica-
tion of funds.

(3) Any member of the council of a municipal corporation and any member of a municipal commission where such municipal corporation or municipal commission is receiving electrical power or energy from the Commission for distribution by an electric utility, who is in any manner a party to any disposition or application of a surplus referred to in subsection 1 other than that directed by the Commission, or to any disposition, use, application or dealing with funds pertaining to such electric utility in any manner prohibited by this or any other Act shall forfeit his office and proceedings may thereupon be taken against him as provided in *The Municipal Act* in the case of a member of a municipal council who has become disqualified, and the Commission may take the same proceedings in respect thereof as might be taken by a ratepayer of the municipality. 1946, c. 73, s. 15, *part*.

Rev. Stat.,
c. 213.

Disqualifi-
cation.

(4) If it is found upon such proceedings that such member of the municipal council or commission has forfeited his office, he shall be disqualified from holding any municipal office for a period of two years thereafter. R.S.O. 1937, c. 62, s. 96 (4).

Orders of
Commis-
sion,
penalty for
disobeying.

113. A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order, regulation, prohibition or direction of the Commission or of a member thereof made under section 101, or any order, regulation, prohibition or direction of the Commission made under sections 71, 102, 104, 105, 107, 108, 109 and 112, in addition to any other liability, shall forfeit to His Majesty for the use of Ontario, the sum of \$100 for each day during which such neglect or refusal continues. 1947, c. 79, s. 3.

114.—(1) Where the Commission is of opinion that it is necessary or expedient for the protection of life or property, ^{Ordering wires under ground.} or for the convenience of the public, that the use of overhead lines upon any highway or part thereof in a city or town, including the wires of telegraph, telephone, electric light, heat or power companies, should be discontinued, the Commission may so direct, and, upon such terms and subject to such conditions as it may prescribe, may require that such wires be placed and carried in underground conduits to be constructed and maintained in accordance with the directions and to the satisfaction of the Commission, and may abrogate any right to carry lines on poles in such city or town that may have been given by any Act or by any municipal by-law, licence or agreement. R.S.O. 1937, c. 62, s. 98 (1); 1938, c. 37, s. 19 (2).

(2) In this section, as in sections 115 to 119,

^{Interpretation.}

- (a) “lines” means the wires, cables or other conductors used for the purpose of conveying or distributing electricity or electrical power or energy, for telegraph, telephone or electric light, heat or power purposes;
- (b) “company” includes a municipal corporation or municipal commission, a partnership and an individual, owning, leasing, using or controlling lines in a city or town. R.S.O. 1937, c. 62, s. 98 (2).

115. Where the corporation of the city or town is willing to undertake the construction of a tunnel or conduits or other system for carrying lines underground in any highway or part thereof, the Commission, upon such terms and subject to such conditions as it may prescribe, may require all companies whose lines are carried overhead upon any such highway or public communication to make use of such tunnel or conduits or other system for the purpose of carrying their lines, and to pay to the corporation such compensation for the use thereof as may be agreed upon or as the Commission may determine, and such compensation may be either a lump sum or a sum to be paid annually or periodically as the Commission may determine and direct. R.S.O. 1937, c. 62, s. 99. ^{Construction of tunnel by municipal corporation.}

116. Where the corporation of a city or town desires to construct a tunnel, conduits or other system for the purpose mentioned in section 115, the corporation may do so and may exercise in respect thereof the powers of expropriation conferred upon the corporation by *The Municipal Act*. R.S.O. 1937, c. 62, s. 100. ^{Powers of corporation of city or town. Rev. Stat., c. 243.}

117. All works undertaken under sections 115 and 116 shall be done in accordance with the directions and to the ^{Work to be subject to direction of Commission.}

satisfaction of the Commission, and shall be maintained, kept in repair, altered, enlarged or improved to the satisfaction of the Commission and as it may direct. R.S.O. 1937, c. 62, s. 101.

Overhead
lines, dis-
obedience
of orders
respecting.

118. If any order or direction of the Commission for discontinuing the use of overhead lines is not obeyed, the lines, poles and other structures in connection therewith upon the highway shall be deemed to be unlawfully erected and maintained, and may be removed by or under the direction of the Commission and at the expense of the owner or user of them, and the company owning or using such lines shall incur a penalty of \$100 for each day during which the order of the Commission is disobeyed. R.S.O. 1937, c. 62, s. 102.

Under-
ground
lines.

Joint order
by Commis-
sion and
Dominion
Transport
Board.

119.—(1) Where lines, the construction or operation of which is authorized by the Legislature, and lines the construction of which is authorized by the Parliament of Canada, run through or into the same city or town, and the corporation of such city or town is desirous of having such lines placed underground, the Commission and the Board of Transport Commissioners for Canada may, after the receipt of the applications hereinafter mentioned, by joint session or conference in conformity with the practice to be established by them, hear and determine the application, and may order, on such terms and conditions as they may prescribe, any company constructing or operating lines in the city or town to place such lines underground, and may abrogate any right to carry lines on poles in such city or town, which may have been given by any Act or municipal by-law, licence or agreement.

Filing
applications
for order.

(2) Any such company, or any municipal corporation or other public body, or any person interested, may file with the secretary of the Commission, and with the secretary of the Board of Transport Commissioners for Canada, the application for an order under this section, together with evidence of the service of such application upon the companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipality within which the lines are situate.

Rules of
procedure.

(3) The chairman of the Commission and the chairman of the Board of Transport Commissioners for Canada may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof.

Membership
of joint
board.

(4) The chairman of the Commission and the chairman of the Board of Transport Commissioners for Canada may from time to time assign or appoint from each body the members

comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise.

(5) Any such order may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as any rule, order or decree of such court. R.S.O. 1937, c. 62, s. 103. Enforcement of orders.

PART VI

MUNICIPAL COMMISSIONS

120.—(1) Except as provided in this section, notwithstanding anything in any general or special Act, subsection 3 of section 40 of *The Public Utilities Act* shall apply in every city and town that has entered into a contract with the Commission for the supply of electrical power or energy, and a commission shall be established under Part III of *The Public Utilities Act* for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy. R.S.O. 1937, c. 62, s. 104 (1). Municipal commission to be established in every city or town under contract with Commission. Rev. Stat., c. 320.

(2) Notwithstanding anything in *An Act respecting the City of Toronto*, being chapter 119 of the Statutes of Ontario, 1911, in a city having a population of 60,000 or over according to the last enumeration of the assessor, the corporation of which has entered into a contract with the Commission under this Act, the commission to be established for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy shall consist of three members, one of whom shall be the mayor of the city, one of whom shall be appointed by the municipal council of the city for two years and until his successor is appointed, and the third of whom shall be appointed by the Commission for two years and shall be eligible for re-appointment. 1946, c. 73, s. 16 (1). Municipal commission, how composed in city of 60,000 or over.

121. Where, by this Act or by any contract heretofore or hereafter entered into between the Commission and a municipal corporation, duties are imposed upon or covenants or undertakings are entered into by the municipal corporation, they shall extend to and be deemed to include and shall be binding upon any commission having the management or control of any public utility or other municipal undertaking for and on behalf of the municipal corporation, and any board of education, board of high school trustees or board of public school trustees appointed or elected for the municipality represented by the municipal corporation. R.S.O. 1937, s. 62, s. 106. Agreement to extend to municipal commissions, boards, etc.

APPENDIX B



CHAPTER 106.

An Act respecting the Expropriation of Lands.

SHORT TITLE.

1. This Act may be cited as the *Expropriation Act*. Short title.
R.S., c. 64, s. 1.

INTERPRETATION.

- 2.** In this Act,
- (a) "conveyance" includes a "surrender" to the Crown; and any conveyance to Her Majesty, or to the Minister, or to any officer of the department, in trust for or to the use of Her Majesty, shall be held to be a surrender; Definitions.
"Convey-
ance."
 - (b) "department" means the department of the Government of Canada charged with the construction and maintenance of public work; "Depart-
ment."
 - (c) "Exchequer Court" or "the Court" means the Exchequer Court of Canada; "Exchequer
Court" or
"Court."
 - (d) "land" includes all granted or ungranted, wild or cleared, public or private lands, and all real property, messuages, lands, tenements and hereditaments of any tenure, and all real rights, easements, servitudes and damages, and all other things done in pursuance of this Act, for which compensation is to be paid by Her Majesty under this Act; "Land."
 - (e) "lease" includes any agreement for a lease; "Lease."
 - (f) "Minister" means the head of the department charged with the construction and maintenance of the public work; "Minister."
 - (g) "public work" or "public works" means and includes the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads "Public
works."

and bridges, the public buildings, the telegraph lines, Government railways, canals, locks, dry-docks, fortifications and other works of defence, and all other property, which now belong to Canada, and also the works and properties acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public moneys are voted and appropriated by Parliament, and every work required for any such purpose, but not any work for which the money is appropriated as a subsidy only;

- "Registrar of deeds." (h) "registrar of deeds" or "registrar" includes the registrar of land titles, or other officer with whom the title to the land is registered;
- "Registry of deeds." (i) "registry of deeds" or other words descriptive of the office of the registrar of deeds, includes the land titles office, or other office in which the title to the land is registered;
- "Superintendent." (j) "superintendent" means the superintendent of the public work of which he has, under the Minister, the charge and direction. R.S., c. 64, s. 2.

POWER TO TAKE LAND, ETC.

- Powers of the Minister. 3. The Minister may by himself, his engineers, superintendents, agents, workmen and servants,
- Entering lands. (a) enter into and upon any land to whomsoever belonging, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary for any purpose relative to the public work;
- Taking possession. (b) enter upon and take possession of any land, real property, streams, waters and watercourses, the appropriation of which is, in his judgment, necessary for the use, construction, maintenance or repair of the public work, or for obtaining better access thereto;
- Deposit and removal of materials. (c) enter with workmen, carts, carriages and horses upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land required for the public work, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom, for the making, constructing, maintaining or repairing the public work;
- Temporary roads. (d) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits

as are required by him for the convenient passing to and from the works during their construction and repair;

- (e) enter upon any land for the purpose of making proper drains to carry off the water from the public work, or for keeping such drains in repair; Drains.
- (f) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any rivers, streams, railways, roads, streets or ways, or raise or sink the level of the same, in order to carry them over or under, on the level of, or by the side of the public work, as he thinks proper; but before discontinuing or altering any railway or public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof; and in such case the owner of such railway or road shall take over the substituted railway or road in mitigation of damages, if any, claimable by him under this Act, and the land theretofore used for any railway or road, or the part of a railway or road so discontinued, may be transferred by the Minister to, and shall thereafter become the property of, the owner of the land of which it originally formed part; and Changing course of streams, etc.
- (g) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric light wire or pole. Alteration of water-pipes, etc.

4. Whenever it is necessary, in the building, maintaining or repairing of the public work, to take down or remove any wall or fence of any owner or occupier of land or premises adjoining the public work, or to construct any back ditches or drains for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased; and after the same has been so replaced, or when such drain or back ditch is completed, the owner or occupier of such land or premises shall maintain such walls or fences, drains or back ditches, to the same extent as such owner or occupier might be by law required to do, if such walls or fences had never been so taken down or removed, or such drains or back ditches had always existed. Removal and replacement of fences, etc., adjoining any public work. R.S., c. 64, s. 4.

5. (1) Whenever any gravel, stone, earth, sand or water is taken as aforesaid, at a distance from the public work, the Minister may lay down the necessary sidings, water-pipes or conduits, or tracks over or through any land intervening between the public work and the land on which such material or water is found, whatever the distance is; and all Power to make sidings, etc., to land from which materials are taken.

the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply and may be used and exercised to obtain the right of way from the public work to the land on which such materials are situate; and such right may be acquired for a term of years, or permanently, as the Minister thinks proper.

And for
maintaining
the public
work.

(2) The powers in this section contained may, at all times, be exercised and used in all respects, after the public work is constructed, for the purpose of repairing and maintaining the same. R.S., c. 64, s. 5.

When whole
lot can be
more advan-
tageously
purchased
than a part.

6. Whenever for the purpose of procuring sufficient lands for railway stations or gravel pits, or for constructing, maintaining and using the public work, any land may be taken under the provisions of this Act, and by purchasing the whole of any lot or parcel of land, of which any part may be taken under the said provisions, the Minister can obtain the same at a more reasonable price, or to greater advantage than by purchasing such part only as aforesaid, he may purchase, hold, use or enjoy the whole of such lot or parcel, and also the right of way thereto, if the same is separated from the public work, and may sell and convey the same, or any part thereof, from time to time, as he deems expedient; but the compulsory provisions of this Act shall not apply to the taking of any portion of such lot or parcel which is not, in the opinion of the Minister, necessary for the purposes aforesaid. R.S., c. 64, s. 6.

Who may be
employed to
make
surveys of
land.

7. (1) The Minister may employ any person duly licensed or empowered to act as a surveyor for any province of Canada or any engineer, to make any survey, or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by Her Majesty for the public work.

Boundaries.

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

Effect of
survey.

(3) Such surveys, boundaries, plans and descriptions shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and such boundaries had been established and such monuments planted by a land surveyor duly licensed and sworn in and for the province in which the property is situate.

Boundaries
true and
unalterable.

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

- (a) they are so established, and such monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected,
- (b) a procès-verbal or written description of such boundaries is approved and signed in the presence of two witnesses by such engineer or surveyor on behalf of the Minister and by the other person concerned, or in case of the refusal of any proprietor to approve or to sign such procès-verbal or description, such refusal is recorded in such procès-verbal or description, and
- (c) such boundary marks or monuments are planted in the presence of at least one witness who shall sign the said procès-verbal or description.

(5) It shall not be incumbent on the Minister or those acting for him to have boundaries established with the formalities in this section mentioned, but the same may be resorted to whenever the Minister deems necessary. R.S., c. 64, s. 7.

Formalities
not
obligatory.

8. (1) In any case where Her Majesty has contracted with any person, whether corporation or individual, for the construction or execution of any public work, or where by direction of the Governor in Council, or of the Minister within the scope of his powers, any officer, employee or agent of Her Majesty is charged with the construction or execution of any public work, if in the opinion of the Governor in Council it be necessary or expedient that any material, wherever situate, which is required to be excavated or removed for the purposes of the work shall be excavated or removed by blasting, or by the use of explosives, the Governor in Council may authorize the work to be performed in that manner, notwithstanding that the blasting or explosions may cause damage to or may injuriously affect lands, buildings or property or the prosecution of any industry or work situate in the vicinity of the works or which may be thereby affected.

Governor in
Council may
order
material to
be excavated
or removed
on any
public work
by blasting
or use of
explosives.

(2) Any such contractor, officer, employee or agent when so authorized by Order in Council may proceed with the blasting and use of explosives as by the Order in Council authorized, using due care and such precautions and prudent means as the circumstances of the case permit in order to avoid any unnecessary damage; and in any such case the owner or any person interested in the lands, buildings or other property which may be damaged or injuriously affected by the blasting or the explosions, and whether such damages or injurious affection be necessarily caused thereby or by negligence on the part of the contractor, his

Due care
and
precautions
to be used

officers or servants, or any officer, employee or servant of Her Majesty in the operation of blasting or in the use of explosives, shall be entitled to receive compensation therefor from Her Majesty.

Compensation for damages.

Liability of contractor.

(3) Where the construction or execution of the public work is contracted for, then, unless the contract otherwise provides, the amount of compensation payable by Her Majesty shall be chargeable to the contractor; and, if not paid by him forthwith upon demand, may be recovered from him by Her Majesty as money paid to the contractor's use, or may be deducted from any moneys in the hands of Her Majesty belonging or in anywise payable to the contractor.

Provisions to be effective notwithstanding pending actions or future proceedings, or judgment, injunction or restraining order.

(4) The provisions of this section have effect and apply notwithstanding any action, suit or proceeding now pending or hereafter to be instituted in which it is sought to enjoin or restrain the contractor, his servants or agents or any officer, servant or agent of Her Majesty from proceeding with the work by means of blasting or the use of explosives or from blasting or using explosives in a manner to cause any damage or injury and notwithstanding any judgment, injunction or restraining order that may have been heretofore pronounced, entered or granted by any court enjoining or restraining the contractor, his servants or agents, or any officer, servant or agent of Her Majesty from blasting or using explosives, or from so doing in a manner to cause any damage or injury or otherwise from doing anything that has been authorized by the Governor in Council pursuant to this section, or that may be necessary to be done for carrying into effect or executing any power or authority hereunder conferred. R.S., c. 64, s. 8.

EXPROPRIATION.

Proceedings, for taking possession of lands.

Deposit of plans and description.

9. (1) Land taken for the use of Her Majesty shall be laid off by metes and bounds; and when no proper deed or conveyance thereof to Her Majesty is made and executed by the person having the power to make such deed or conveyance, or when a person interested in such land is incapable of making such deed or conveyance, or when, for any other reason, the Minister deems it advisable so to do, a plan and description of such land signed by the Minister, the deputy of the Minister or the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed and sworn in and for the province in which the land is situate, shall be deposited of record in the office of the registrar of deeds for the county or registration division

sion in which the land is situate, and such land, by such deposit, shall thereupon become and remain vested in Her Majesty.

(2) When any land taken is required for a limited time only, or only a limited estate or interest therein is required, the plan and description so deposited may indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate or interest, shall become and be vested in Her Majesty.

If a limited estate only is required.

(3) All the provisions of this Act, so far as they are applicable, apply to the acquisition for public works of such right of possession and such limited estate or interest.

All provisions of this Act apply.

R.S., c. 64, s. 9.

10. In case of any omission, mis-statement or erroneous description in such plan or description, a corrected plan and description may be deposited with like effect. R.S., c. 64, s. 10.

Corrections.

11. A plan and description of any land at any time in the occupation or possession of Her Majesty, and used for the purposes of any public work, may be deposited at any time in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein. R.S., c. 64, s. 11.

Plan of land in possession of H.M. may be deposited at any time.

12. In all cases, when any such plan and description, purporting to be signed by the deputy of the Minister, or by the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed as aforesaid, is deposited of record as aforesaid, the same shall be deemed and taken to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work; and the said plan and description shall not be called in question except by the Minister, or by some person acting for him or for the Crown. R.S., c. 64, s. 12.

Deposit deemed to be by authority of Minister.

13. A copy of any such plan and description, certified by the registrar of deeds, to be a true copy thereof, shall, without proof of the official character or handwriting of such registrar, be deemed and taken as *prima facie* evidence of the original, and of the depositing thereof. R.S., c. 64, s. 13.

Certified copy to be evidence.

Notwith-
standing
death of
registrar.

14. A copy of any such plan and description, certified by the registrar of deeds, as mentioned in section 13, is *prima facie* evidence of the original and of the depositing thereof, although such registrar at the time the same is so offered in evidence, is dead, or has resigned or has been removed from office. R.S., c. 64, s. 14.

When
provincial
Crown lands
are taken.

15. When the land taken is Crown land, under the control of the government of the province in which such land is situate, a plan of such land shall also be deposited in the Crown land department of the province. R.S., c. 64, s. 15.

AGREEMENTS AND CONVEYANCES.

Contracts on
behalf of
persons
legally in-
capable to
contract.

16. Any tenant in tail or for life, *grevé de substitution*, seigneur, guardian, tutor, curator, executor, administrator, master or person, not only for and on behalf of himself, his heirs, successors and assigns, but also for and on behalf of those whom he represents, whether infants, issue unborn, lunatics, idiots, married women, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown; and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, by the construction of any public work, and give acquittance therefor. R.S., c. 64, s. 16.

Appoint-
ment by
Court of
legal repre-
sentative.

17. In any case in which there is no guardian or other person to represent any person under any disability, the Court may, after due notice to the persons interested, appoint a guardian or person to represent for the purposes hereof such person so under such disability, with authority to give such acquittance. R.S., c. 64, s. 17.

Disposal of
compensa-
tion money.

18. The Court in making any order mentioned in sections 16 and 17 shall give such directions as to the disposal, application or investment of such compensation money as it deems necessary to secure the interests of all persons interested therein. R.S., c. 64, s. 18.

Contracts
under this
Act valid.

19. Any contract or agreement made hereunder and any conveyance or other instrument made or given in pursuance of such contract or agreement are good and valid to all intents and purposes whatsoever. R.S., c. 64, s. 19.

20. Every such contract or agreement made before the deposit of plans and description, and before the setting out and ascertaining of the land required for the public work, shall be binding at the price agreed upon for the same land, if it is afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land has, in the meantime, become the property of a third person. R.S., c. 64, s. 20.

Effect of contract made before deposit of plan.

21. No surrender, conveyance, agreement or award under this Act shall require registration or enrolment to preserve the rights of Her Majesty under it, but the same may be registered in the registry of deeds for the place where the land lies, if the Minister deems advisable. R.S., c. 64, s. 21.

Registration not necessary.

WARRANT FOR POSSESSION.

22. (1) When any resistance or opposition is made by any person to the Minister, or any person acting for him, entering upon and taking possession of any lands, a judge of the Court, or any judge of any superior court may, on proof of the execution of a conveyance of such lands to Her Majesty, or agreement therefor, or of the depositing in the office of the registrar of deeds of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the district or county within which such lands are situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof.

Warrant for possession, how issued and executed.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof; and shall forthwith make return to the Exchequer Court of such warrant, and of the manner in which he executed the same. R.S., c. 64, s. 22.

Return to be made to the Exchequer Court.

COMPENSATION.

23. The compensation money agreed upon or adjudged for any land or property acquired or taken for or injuriously affected by the construction of any public work shall stand in the stead of such land or property; and any claim to or encumbrance upon such land or property shall, as respects Her Majesty, be converted into a claim to such compensation money or to a proportionate amount thereof, and shall be void as respects any land or property so acquired or taken, which shall, by the fact of the taking

Compensation money to stand in lieu of land.

possession thereof, or the filing of the plan and description, as the case may be, become and be absolutely vested in Her Majesty. R.S., c. 64, s. 23.

Abandonment of land not required.

Written notice.

Registration of abandonment.

Land to revest subject to interest retained.

Compensation in case of abandonment.

Payment where price does not exceed \$100.

Particulars of estate or interest to be declared upon demand.

24. (1) Whenever, from time to time, or at any time before the compensation money has been actually paid, any parcel of land taken for a public work, or any portion of any such parcel, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, declare that the land or such portion thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing.

(2) Upon such writing being registered in the office of the registrar of deeds for the county or registration division in which the land is situate, such land declared to be abandoned shall revest in the person from whom it was taken or in those entitled to claim under him.

(3) In the event of a limited estate or interest therein being retained by the Crown, the land shall so revest subject to the estate or interest so retained.

(4) The fact of such abandonment or revesting shall be taken into account, in connection with all the other circumstances of the case, in estimating or assessing the amount to be paid to any person claiming compensation for the land taken. R.S., c. 64, s. 24.

25. Where the compensation money agreed for or adjudged does not exceed one hundred dollars, it may, in any province, be paid to the person who, under this Act, can lawfully convey the land or property or agree for the compensation to be made in the case, saving always the rights of any other person to such compensation money as against the person receiving the same. R.S., c. 64, s. 25.

26. Every person who has any estate or interest in any land or property acquired or taken for, or injuriously affected by the construction of any public work, or who represents or is the husband of any such person, shall, upon demand made therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. R.S., c. 64, s. 26.

27. In any case in which land or property is acquired or taken for, or injuriously affected by, the construction of any public work, the Attorney General of Canada may cause to be exhibited in the Court an information in which shall be set forth.

Information
by Attorney
General
showing.

- (a) the date on which and the manner in which such land or property was so acquired, taken or injuriously affected;
- (b) the persons who, at such date, had any estate or interest in such land or property and the particulars of such estate or interest and of any charge, lien or encumbrance to which the same was subject, so far as the same can be ascertained;
- (c) the sums of money which the Crown is ready to pay to such persons respectively, in respect of any such estate, interest, charge, lien or encumbrance; and
- (d) any other facts material to the consideration and determination of the questions involved in such proceedings. R.S., c. 64, s. 27.

Date of
acquisition,
etc.

Persons
interested.

Amount of
tender.

Other facts

28. (1) Such information shall be deemed and taken to be the institution of a suit against the persons named therein, and shall conclude with a claim for such a judgment or declaration as, in the opinion of the Attorney General, the facts warrant.

Information
beginning of
action.

(2) The information shall be served in like manner as other informations, and all proceedings in respect thereof or subsequent thereto shall be regulated by and shall conform as nearly as may be to the procedure in other cases instituted by information in the Court. R.S., c. 64, s. 28.

Service.

29. Any person who is mentioned in any such information, or who afterwards is made or becomes a party thereto, may, by his answer, exception or defence, raise any question of fact or law incident to the determination of his rights to such compensation money or any part thereof, or in respect of the sufficiency of such compensation money. R.S., c. 64, s. 29.

Defences
thereto.

30. Such proceedings, so far as the parties thereto are concerned, bar all claims to the compensation money or any part thereof, including any claim in respect of dower, or of dower not yet open, as well as in respect of all mortgages, hypothecs or encumbrances upon the land or property; and the Court shall make such order for the distribution, payment or investment of the compensation

Proceedings
a bar to all
claims for
compensa-
tion money.

money and for the securing of the rights of all persons interested, as to right and justice, and according to the provisions of this Act, and to law appertain. R.S., c. 64, s. 30.

Alterations
in or addi-
tions to
works may
be ordered.

31. Where the injury to any land or property alleged to be injuriously affected by the construction of any public work may be removed wholly or in part by any alteration in, or addition to, any such public work, or by the construction of any additional work, or by the abandonment of any portion of the land taken from the claimant, or by the grant to him of any land or easement, and the Crown, by its pleadings, or on the trial, or before judgment, undertakes to make such alteration or addition, or to construct such additional work, or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be assessed in view of such undertaking, and the Court shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or portion of land abandoned, or such grant made to him. R.S., c. 64, s. 31.

INTEREST.

Rate of
interest five
per cent
from date
of tender.

32. (1) Interest at the rate of five per cent per annum may be allowed on such compensation money from the time when the land or property was acquired, taken or injuriously affected to the date when judgment is given; but no person to whom has been tendered a sum equal to or greater than the amount to which the Court finds him entitled shall be allowed any interest on such compensation money for any time subsequent to the date of such tender.

Interest
may be
refused or
diminished
in certain
cases.

(2) Where the Court is of opinion that the delay in the final determination of any such matter is attributable in whole or in part to any person entitled to such compensation money or any part thereof, or that such person has not, upon demand made therefor, furnished to the Minister within a reasonable time a true statement of the particulars of his claim required to be furnished as hereinbefore provided, the Court may, for the whole or any portion of the time for which he would otherwise be entitled to interest, refuse to allow him interest, or it may allow the same at such rate less than five per cent per annum as to the Court appears just.

If expro-
priation is
prior to
July 7th,
1900.

(3) This section does not apply to any case where the land was expropriated or injuriously affected prior to the 7th day of July, 1900. R.S., c. 64, s. 32.

COSTS.

33. The costs of and incident to any proceedings here- As to costs.
under shall be in the discretion of the Court, which may
direct that the whole or any part thereof shall be paid by
the Crown or by any party to such proceeding. R.S.,
c. 64, s. 33.

PAYMENT OF COMPENSATION OR COSTS.

34. The Minister of Finance may pay to any person, Payment of compensation and costs.
out of any unappropriated moneys forming part of the
Consolidated Revenue Fund of Canada, any sum to which,
under the judgment of the Court, in virtue of the pro-
visions of this Act, he is entitled as compensation money
or costs. R.S., c. 64, s. 34.

LANDS VESTED IN HER MAJESTY.

35. (1) All lands, streams, watercourses and property Lands acquired vested in Her Majesty.
acquired for any public work shall be vested in Her Majesty
and, when not required for the public work, may be sold
or disposed of under the authority of the Governor in
Council.

(2) All hydraulic powers created by the construction of Hydraulic powers.
any public work, or the expenditure of public money there-
on, shall be vested in Her Majesty, and any portion thereof
not required for the public work may be sold or leased
under the authority aforesaid.

(3) Any portion of the shore or bed of any public harbour Shores and beds of public harbours may be sold or leased.
vested in Her Majesty, as represented by the Government
of Canada, not required for public purposes, may, on the
joint recommendation of the Ministers of Public Works
and of Transport, be sold or leased under the authority
aforesaid.

(4) No such sale or lease shall prejudice or affect any Private rights saved.
right or privilege of any riparian owner.

(5) The proceeds of all such sales and leases shall be Proceeds of sale or lease.
accounted for as public money. R.S., c. 64, s. 35; 1936,
c. 34, s. 4.

WORKS INTERFERING WITH NAVIGATION.

36. (1) Whenever in any Act of the Parliament of Interference with navigation.
Canada authority is given by the appropriation of public
money or otherwise to construct any bridge, wharf or other
public work in any navigable water, such authority includes
authority to interfere with the navigation of such water in

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such

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such manner and to such extent as is approved by the Governor in Council, subject always to any provisions of any such Act for limiting such interference.

Certain
works are
lawful
works.

(2) Every bridge, wharf or other public work heretofore constructed with the public money of Canada in or over navigable water, is and shall be deemed to be a lawful work or structure. R.S., c. 64, s. 36.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

APPENDIX C



CHAPTER 242.

An Act to establish the St. Lawrence Seaway Authority.

SHORT TITLE.

1. This Act may be cited as the *St. Lawrence Seaway Authority Act*. 1951 (2nd Sess.), c. 24, s. 1. Short title.

INTERPRETATION.

- 2.** In this Act, Definitions.
- (a) "Authority" means The St. Lawrence Seaway Authority established by this Act; "Authority."
- (b) "canal" means a canal, lock or navigable channel and all works and property appertaining or incident to such canal, lock or channel; "Canal."
- (c) "deep waterway" means adequate provision for navigation requiring a controlling channel depth of twenty-seven feet with a depth of thirty feet over lock sills in general in accordance with paragraph (j) of the preliminary article of the Agreement between Canada and the United States providing for the Development of Navigation and Power in the Great Lakes-St. Lawrence Basin, dated the 19th day of March, 1941; "Deep waterway."
- (d) "member" means a member of the Authority; "Member."
- (e) "Minister" means the Minister of Transport; "Minister."
- (f) "President" means the President of the Authority. "President."
- 1951 (2nd Sess.), c. 24, s. 2.

CONSTITUTION OF AUTHORITY.

3. (1) There is hereby established a corporation called "The St. Lawrence Seaway Authority", consisting of a President and two other members as provided in this Act. The St. Lawrence Seaway Authority.

(2) Except as provided in section 9, the Authority is for all purposes an agent of Her Majesty in right of Canada and its powers under this Act may be exercised only as an agent of Her Majesty. An agent of H.M.

Power to
enter into
contracts.

(3) The Authority may, on behalf of Her Majesty, enter into contracts in the name of Her Majesty or in the name of the Authority.

Property
of H.M.

(4) Property acquired by the Authority is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Authority. 1951 (2nd Sess.), c. 24, s. 3.

Actions,
suits, etc.

4. Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Authority on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Authority in the name of the Authority in any court that would have jurisdiction if the Authority were not an agent of Her Majesty. 1951 (2nd Sess.), c. 24, s. 4.

Appointment
of members,
tenure of
office and
salaries.

5. (1) The Governor in Council shall appoint the members of the Authority to hold office during good behaviour for a term not exceeding ten years, who shall be paid such salaries as may be fixed by the Governor in Council.

Reappoint-
ment.

(2) A member, on the expiration of his term of office, may be reappointed for a further term not exceeding ten years.

Appoint-
ment of
temporary
substitutes.

(3) Where a member of the Authority is absent or incapable for any reason of performing the duties of his office or the office thereof is vacant, the Governor in Council may appoint a temporary substitute member to hold the office upon such terms and conditions as the Governor in Council may prescribe. 1951 (2nd Sess.), c. 24, s. 5.

Head office.

6. The head office of the Authority shall be at the City of Ottawa or in such other place in Canada as the Governor in Council may designate. 1951 (2nd Sess.), c. 24, s. 6.

CONDUCT OF BUSINESS OF AUTHORITY.

President to
be chief
executive.

7. (1) The President is the chief executive officer of the Authority, is charged with the general direction and control of the business of the Authority, and shall have such other powers as may be conferred on him by the by-laws.

Absence or
incapacity of
President.

(2) During incapacity or absence for any reason of the President or a vacancy in the office of the President, one of the other members designated by the Governor in Council may exercise and perform all the powers and functions of the President.

In case of
vacancy.

(3) The exercise of the powers of the Authority is not impaired by reason of a vacancy in its membership. 1951 (2nd Sess.), c. 24, s. 7.

8. The Authority with the approval of the Governor in Council may make by-laws not inconsistent with this Act with respect to

- (a) the management of the affairs of the Authority and the conduct of its business, and
- (b) the establishment of a pension fund for the officers and employees of the Authority employed in a continuing capacity and for the members, and for their dependents, and authorizing contributions to be made to it out of the funds of the Authority. 1951 (2nd Sess.), c. 24, s. 8.

9. The Authority may employ such officers and employees for such purposes and on such terms and conditions as may be determined by it and the officers and employees so employed are not officers or servants of Her Majesty. 1951 (2nd Sess.), c. 24, s. 9.

PURPOSES, CAPACITIES AND POWERS OF AUTHORITY.

10. The Authority is incorporated for the purposes of

- (a) acquiring lands for and constructing, maintaining and operating all such works as may be necessary to provide and maintain, either wholly in Canada or in conjunction with works undertaken by an appropriate authority in the United States, a deep waterway between the Port of Montreal and Lake Erie, and
- (b) constructing, maintaining and operating all such works in connection with such a deep waterway as the Governor in Council may deem necessary to fulfil any obligation undertaken or to be undertaken by Canada pursuant to any present or future agreement. 1951 (2nd Sess.), c. 24, s. 10.

11. Subject to this Act, the Authority, for the purposes set out in section 10, has the capacities and powers of a natural person as if it were a corporation incorporated for such purposes by Letters Patent under the Great Seal. 1951 (2nd Sess.), c. 24, s. 11.

12. The Authority, with the approval of the Governor in Council, may lease to any person any lands, property or water power held in the name of the Authority or held in the name of Her Majesty under the control of the Authority. 1951 (2nd Sess.), c. 24, s. 12.

13. The Authority, with the approval of the Governor in Council, may, from time to time, borrow money from Her Majesty or otherwise for the purposes for which it is

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incorporated,

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incorporated, but the aggregate of the amounts borrowed under this Act and outstanding shall not at any time exceed three hundred million dollars. 1951 (2nd Sess.), c. 24, s. 13.

Management
and oper-
ation of
canals and
works.

14. The Governor in Council may entrust to the Authority the management and operation of any canals or works similar or related to the works mentioned in section 10 upon such terms and conditions as the Governor in Council approves. 1951 (2nd Sess.), c. 24, s. 14.

TOLLS.

Tariffs
of tolls.

15. (1) The Authority may, subject to sections 16 and 17, establish tariffs of tolls to be charged by it with respect to

- (a) vessels entering, passing through, or leaving a canal or works under its administration;
- (b) passengers, goods or cargo carried in such a vessel;
- (c) goods or cargo landed, shipped, trans-shipped or stored in a canal or on canal lands under its administration;
- (d) the use of any wharf, building, plant, property or facilities under its administration; and
- (e) any service performed by the Authority.

For use of
whole or
part.

(2) The tolls that may be charged by the Authority pursuant to this section may be for the use of the canals and works administered by it as a whole or for the use of any particular part thereof or for any particular service rendered by the Authority.

Filing of
tariffs.

(3) Every such tariff or amendment thereto shall be filed with the Board of Transport Commissioners and becomes operative from the date of such filing.

Complaints
to be made
to the Board
of Transport
Commis-
sioners.

(4) Any person interested may at any time file a complaint with the Board of Transport Commissioners that there is unjust discrimination in an existing tariff and the Board shall thereupon consider such complaint and make a finding thereon which shall be reported to the Authority.

Application
of s. 53 of
the *Railway
Act*.

(5) Section 53 of the *Railway Act* applies, *mutatis mutandis*, in the case of every report of the Board of Transport Commissioners as if the same were a decision made pursuant to the *Railway Act*. 1951 (2nd Sess.), c. 24, s. 15.

Tolls to be
fair and
reasonable.

16. The tolls that may be charged by the Authority shall be fair and reasonable and designed to provide a revenue sufficient to defray the cost to the Authority of its operations in carrying out the purposes for which it is incorporated, which costs shall include

- (a) payments in respect of the interest on amounts borrowed by the Authority to carry out such purposes;
- (b) amounts sufficient to amortize the principal of amounts so borrowed over a period not exceeding fifty years; and
- (c) the cost of operating and maintaining the canals and works under the administration of the Authority, including all operating costs of the Authority and such reserves as may be approved by the Minister. 1951 (2nd Sess.), c. 24, s. 16.

17. Where the works have been constructed and are maintained and operated by the Authority to provide, in conjunction with works undertaken by an appropriate authority in the United States, the deep waterway mentioned in section 10, tolls may be established pursuant to sections 15 and 16 or by agreement between Canada and the United States and, in the event of such an agreement, shall be charged by the Authority in accordance with directions given by the Governor in Council. 1951 (2nd Sess.), c. 24, s. 17.

In case of works constructed, etc., in conjunction with works undertaken by the U.S.

EXPROPRIATION.

18. (1) With the prior approval of the Governor in Council, the Authority may, without the consent of the owner, take or acquire lands for the purposes of this Act and, except as otherwise provided in this section, all the provisions of the *Expropriation Act* are, *mutatis mutandis*, applicable to the taking, acquisition, sale or abandonment of lands by the Authority under this section.

Taking or acquiring lands.

(2) For the purposes of section 9 of the *Expropriation Act* the plan and description may be signed by the President of the Authority.

Signed by the President.

(3) The Authority shall pay compensation for lands taken or acquired under this section or for damage to lands injuriously affected by the construction of works erected by it and all claims against the Authority for such compensation may be heard and determined in the Exchequer Court of Canada in accordance with sections 46 to 49 of the *Exchequer Court Act*.

Compensation.

(4) The Authority shall pay out of the funds administered by it the compensation agreed upon or adjudged by the Court to be payable. 1951 (2nd Sess.), c. 24, s. 18.

Payment.

REGULATIONS.

19. (1) The Authority may, with the approval of the Governor in Council on the recommendation of the Minister,

Regulations.

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make regulations for the administration, management and control of the works and property under its jurisdiction including

- (a) the regulation and control of vessels navigating a canal or pertinent works;
- (b) the regulation of plant, machinery or appliances for loading or unloading vessels in a canal; and
- (c) the seizure, detention or sale of vessels, goods or cargo in respect of which any sum is due for tolls and is unpaid or in respect of which any provision of this Act or any regulation has been violated.

Offence and
penalty.

(2) A person who violates a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars. 1951 (2nd Sess.), c. 24, s. 19.

GENERAL.

Authority
to comply
with
directions of
the G. in C.

20. The Authority shall comply with any direction not inconsistent with this Act with respect to the exercise of its powers or the conduct of its business given to it by the Governor in Council for the purpose of ensuring compliance on the part of Canada with any obligation of Canada to any other nation. 1951 (2nd Sess.), c. 24, s. 20.

Contributor
under *Civil
Service
Superannua-
tion Act*.

21. (1) Notwithstanding this Act or any other statute or law, where a person is employed by the Authority and immediately before his employment he was a contributor under a Part of the *Civil Service Superannuation Act* other than Part VI, and his employment by the Authority was entered into with the consent of the Minister of the Department or Branch of the Public Service in which he was employed, he continues, while in the employment of the Authority to be such a contributor under the *Civil Service Superannuation Act*, and for the purposes of that Act his service in employment under this Act shall be counted as service in the Civil Service and upon his death or retirement therefrom, he, his widow, children or other dependants, if any, may, subject to subsection (2), be granted the respective allowances or gratuities provided by that Act.

In case of
retirement
from
employment
by the
Authority.

(2) Where a person to whom subsection (1) applies is retired from employment by the Authority for a reason other than misconduct,

- (a) if before his employment by the Authority he was employed in a position to which the *Civil Service Act* applied, he may be appointed to a position to which the *Civil Service Act* applies of a class not lower than the position in which he was so employed;

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(b)

- (b) if before his employment by the Authority he was employed in any other position in the Public Service, he may be appointed to a position in the Public Service to which the *Civil Service Act* does not apply of a class not lower than the class in which he was so employed;
- (c) if he fails to apply for or refuses appointment to a position to which he may be appointed under paragraph (a) or (b) and has not reached retirement age or become disabled or incapable of performing the duties of the position, he shall be deemed for the purposes of the *Civil Service Superannuation Act*, to have retired voluntarily from a position in the Civil Service; or
- (d) if he applies for and is not appointed to such a position he shall be deemed, for the purposes of the *Civil Service Superannuation Act* to have been retired from his position in the Civil Service by reason of the abolition of office.

(3) The *Government Employees Compensation Act* applies to officers and servants of the Authority and, notwithstanding section 9, for the purposes of that Act, but not otherwise, such officers and servants shall be deemed to be employees in the service of Her Majesty. 1951 (2nd Sess.), c. 24, s. 21.

Application of Government Employees Compensation Act.

22. The *Navigable Waters Protection Act* does not apply to works undertaken by the Authority pursuant to this Act. 1951 (2nd Sess.), c. 24, s. 22.

Non-application of Navigable Waters Protection Act.

23. Notwithstanding that the Authority is an agent of Her Majesty, it may enter into contracts with Her Majesty. 1951 (2nd Sess.), c. 24, s. 23.

Contracts with H.M.

24. The accounts and financial transactions of the Authority shall be audited by the Auditor General. 1951 (2nd Sess.), c. 24, s. 24.

Audit.

LOANS AND GUARANTEES BY CROWN.

25. (1) The Minister of Finance, with the approval of the Governor in Council, may, from time to time,

Loans and guarantees.

(a) make loans to the Authority out of money in the Consolidated Revenue Fund, or

(b) guarantee repayment of the principal of and interest on money borrowed by the Authority,

but no such loans or guarantees shall be made or given in any fiscal year except to the extent that Parliament has authorized such loans and guarantees to be made or given in that year.

Loans and
guarantees
for
repayment
of borrowed
money.

(2) Notwithstanding subsection (1), the Minister of Finance, with the approval of the Governor in Council, may, from time to time,

(a) make loans to the Authority out of money in the Consolidated Revenue Fund, or

(b) guarantee repayment of the principal of and interest on money borrowed by the Authority,

for the purpose of repaying money that has been borrowed under this Act.

Terms and
conditions.

(3) A loan or guarantee under this section shall be made or given in such manner and subject to such terms and conditions as the Governor in Council approves. 1951 (2nd Sess.), c. 24, s. 25.

Temporary
loans.

26. (1) The Minister of Finance, at the request of the Minister, and with the approval of the Governor in Council, may, from time to time, make temporary loans to the Authority out of money in the Consolidated Revenue Fund.

Aggregate
amount
of loans
out-
standing.

(2) The aggregate amount of loans outstanding under this section shall not at any time exceed ten million dollars.

Terms and
conditions.

(3) A loan under this section is subject to such terms and conditions as the Governor in Council approves and is repayable within a period not exceeding twelve months from the day on which the loan was made.

Reports to
be laid
before
Parliament.

(4) A report of every loan to the Authority under this section shall be laid by the Minister of Finance before Parliament within fifteen days after it is made, or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session. 1951 (2nd Sess.), c. 24, s. 26.

Special
account.

27. (1) The Minister of Finance, with the concurrence of the Minister, may direct that money borrowed by the Authority under this Act shall be deposited in the Consolidated Revenue Fund to be placed to the credit of a special account in the name of the Authority.

Payments.

(2) The Minister of Finance may, upon application by the Authority approved by the Minister, pay out to or for the purposes of the Authority, all or any part of the money in the special account established under subsection (1). 1951 (2nd Sess.), c. 24, s. 27.

SAVING CLAUSE.

Operation
of 1911,
c. 28 not
affected.

28. Nothing in this Act affects the operation of *The International Boundary Waters Treaty Act*, chapter 28 of the statutes of 1911. 1951 (2nd Sess.), c. 24, s. 28.

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COMMENCEMENT.

R.S., 1952.

COMMENCEMENT.

29. Each section of this Act shall come into force on a day or days to be fixed by proclamation of the Governor in Council. 1951 (2nd Sess.), c. 24, s. 29.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

2-3 ELIZABETH II.

CHAP. 44.

An Act to amend certain Acts respecting the Superannuation of Government Employees transferred to Crown Corporations.

[Assented to 10th June, 1954.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

CANADIAN BROADCASTING CORPORATION ACT.

1. Section 13 of the *Canadian Broadcasting Corporation Act*, chapter 32 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

"(3) Subsection (1) does not apply in respect of any civil servant appointed to the staff of the Corporation on or after the 1st day of January, 1954, to whom, but for this subsection, subsection (1) would apply, and every such civil servant is deemed, for the purposes of the *Public Service Superannuation Act*, to have ceased to be employed in the Public Service, for a reason other than disability or misconduct, as of the date of his appointment as aforesaid, and to have ceased to be a contributor under the *Public Service Superannuation Act* as of that date." Application of ss. (1).

CANADIAN OVERSEAS TELECOMMUNICATION CORPORATION ACT.

2. Section 9 of the *Canadian Overseas Telecommunication Corporation Act*, chapter 42 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

"(5) Subsections (3) and (4) do not apply in respect of any person who is appointed or becomes employed under or pursuant to this Act on or after the 1st day of January, 1954, to whom, but for this subsection, subsections (3) and (4) apply." Application of ss. (3) and (4).

(4) would apply, and every such person is deemed, for the purposes of the *Public Service Superannuation Act*, to have ceased to be employed in the Public Service, for a reason other than disability or misconduct, as of the date of his appointment or employment as aforesaid, and to have ceased to be a contributor under the *Public Service Superannuation Act* as of that date."

GOVERNMENT COMPANIES OPERATION ACT.

3. Section 5 of the *Government Companies Operation Act*, chapter 133 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

Application
of ss. (2)

"(5) Subsection (2) does not apply in respect of any person who becomes employed by a Company on or after the 1st day of January, 1954, to whom, but for this subsection, subsection (2) would apply, and every such person is deemed, for the purposes of the *Public Service Superannuation Act*, to have ceased to be employed in the Public Service, for a reason other than disability or misconduct, as of the date of his employment as aforesaid, and to have ceased to be a contributor under the *Public Service Superannuation Act* as of that date."

Interim
contribu-
tions.

4. Upon the coming into force of this Act or as soon thereafter as possible, the amount of any contributions made by a person under the *Public Service Superannuation Act* in respect of any service of that person with a corporation to which any enactment contained in section 1, 2 or 3 relates since the date, on or after the 1st day of January, 1954, of his appointment or employment as described in that enactment, shall be paid out of the Superannuation Account in the Consolidated Revenue Fund to that person or, in the event of the death of that person prior to such payment, as though the said amount were a return of contributions or other lump sum payment to which, under the *Public Service Superannuation Act*, his widow and children were jointly entitled.

ST. LAWRENCE SEAWAY AUTHORITY ACT.

5. (1) Subsections (1) and (2) of section 21 of the *St. Lawrence Seaway Authority Act*, chapter 242 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor:

Retirement
from
employment
by
Authority.

"**21.** (1) The following provisions are applicable to every person employed by the Authority who was a contributor under the *Public Service Superannuation Act* immediately prior to his employment by the Authority, and

whose employment by the Authority was entered into with the consent of the Minister of the department or branch of the Public Service in which he was employed, namely:

- (a) if that person is retired from employment by the Authority for a reason other than misconduct, and if before his employment by the Authority he was employed in a position to which the *Civil Service Act* applied, he may be appointed to a position to which the *Civil Service Act* applies of a class not lower than the position in which he was so employed; and
- (b) if that person is retired from employment by the Authority for a reason other than misconduct, and if before his employment by the Authority he was employed in a position in the Public Service to which the *Civil Service Act* did not apply, he may be appointed to a position in the Public Service to which the *Civil Service Act* does not apply of a class not lower than the class in which he was so employed."

(2) The said Act is further amended by adding thereto, immediately after section 21 thereof, the following section:

"21A. (1) A person to whom the provisions of subsection (1) of section 21 are applicable continues to be a contributor under the *Public Service Superannuation Act* until the coming into operation of a by-law under section 8 establishing a pension fund as described in that section, at which time he ceases to be a contributor under the *Public Service Superannuation Act* and becomes a contributor to the pension fund so established.

Contributors
under *Public
Service
Superannua-
tion Act.*

(2) During any period in which a person who is employed by the Authority continues, pursuant to subsection (1), to be a contributor under the *Public Service Superannuation Act*,

Idem.

(a) the Authority is deemed to be a Public Service corporation within the meaning of section 23 of that Act; and

(b) the person so employed is deemed, for the purposes of the *Public Service Superannuation Act*, to be employed in the Public Service;

and for the purposes of that Act he is deemed to have ceased to be employed in the Public Service, for a reason other than disability or misconduct, as of the date he ceases, pursuant to subsection (1), to be a contributor under that Act.

(3) For the purposes of the *Public Service Superannuation Act*, the Authority is deemed to be a public service employer within the meaning of section 28 of that Act."

Authority
deemed to be
public service
employer.

Effect of
addition to
Schedule A,
*Public
Service
Superannua-
tion Act.*

6. Nothing in this Act shall be construed as limiting or restricting the right of the Governor in Council, under subsection (3) of section 30 of the *Public Service Superannuation Act*, to amend Schedule A to that Act by adding thereto the name of The St. Lawrence Seaway Authority, but in the event that the said Schedule is so amended prior to the coming into operation of a by-law under section 8 of the *St. Lawrence Seaway Authority Act* establishing a pension fund as described in that section, subsection (2) of section 5 of this Act is deemed to have been repealed on the day on which that amendment takes effect.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

3 - 4 ELIZABETH II.

CHAP. 58.

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 28th July, 1955.]

HER Majesty, by and with the advice and consent of the R.S., c. 242;
Senate and House of Commons of Canada, enacts 1953-54, c. 44.
as follows:

1. Section 18 of the *St. Lawrence Seaway Authority Act*, chapter 242 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

“(5) For greater certainty it is hereby declared that the ^{Indian lands.} Authority, acting under this section, is a corporation empowered to take or to use lands or any interest therein without the consent of the owner, within the meaning of section 35 of the *Indian Act*.”

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

4 - 5 ELIZABETH II.

CHAP. 11

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 7th June, 1956.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. 242;
1953-54, c. 44;
1955, c. 58.

1. Section 10 of the *St. Lawrence Seaway Authority Act* is amended by deleting the word "and" at the end of paragraph (a) thereof and by adding after paragraph (b) thereof the following paragraphs:

"(c) acquiring lands for, and constructing, maintaining and operating, alone or jointly or in conjunction with an appropriate authority in the United States, bridges connecting Canada with the United States as authorized by this Act, and in connection therewith, or as incidental thereto, acquiring with the approval of the Governor in Council shares or property of any bridge company and operating and managing bridges; and
(d) acquiring lands for, and constructing or otherwise acquiring, maintaining and operating such works or other property as the Governor in Council may deem to be necessarily incidental to works undertaken pursuant to this Act."

2. Section 12 of the said Act is amended by adding thereto the following subsection:

"(2) The Minister of Finance shall out of the Consolidated Revenue Fund pay to the Authority an amount equal to the net proceeds realized from the disposition of any property held in the name of the Authority or held in the name of Her Majesty under the control of the Authority."

Proceeds of
disposition.

3. The said Act is further amended by adding thereto, immediately after section 14 thereof, the following section:

"14A. (1) The Authority may, alone or jointly or in conjunction with the Saint Lawrence Seaway Development

Authority
may
construct
bridge over
Pollys Gut.

Corporation of the United States, construct, maintain and operate a bridge over Pollys Gut in the St. Lawrence River for the passage of pedestrians, vehicles, railway trains and for other like purposes, with all necessary approaches and facilities, from Cornwall Island in the County of Stormont in the Province of Ontario to Massena Point in the State of New York.

Approval of
plans and site
by Governor
in Council.

(2) Construction of the bridge mentioned in this section shall not be commenced until the Governor in Council has approved the plans and site thereof and the plans and site so approved shall not be altered except with the consent of the Governor in Council."

4. Subsection (1) of section 15 of the said Act is amended by deleting the word "and" at the end of paragraph (d) thereof, by inserting the word "and" at the end of paragraph (e) thereof, and by adding thereto the following paragraph:

"(f) pedestrians or vehicles entering, passing over or leaving a bridge or highway under its administration and passengers or goods carried in such a vehicle."

5. The said Act is further amended by adding thereto, immediately after section 20 thereof, the following section:

Powers of
co-operating
United
States
authorities.

"20A. Where, by this Act, the Authority or a corporation incorporated pursuant to section 24A is empowered to do any act or thing jointly or in conjunction with the Saint Lawrence Seaway Development Corporation or other authority in the United States, the Saint Lawrence Seaway Development Corporation or other authority may do, in Canada, all such acts and things as may be necessary to enable it to act jointly or in conjunction with the Authority or corporation for the purposes of this Act."

6. Section 22 of the said Act is repealed and the following substituted therefor:

*Navigable
Waters
Protection
Act* not
applicable.
Works con-
structed
under this
Act lawful
works.

"22. (1) The *Navigable Waters Protection Act* does not apply to works undertaken pursuant to this Act.

(2) Any work constructed in accordance with this Act is a lawful work notwithstanding that it interferes with navigation."

7. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

Incorporation
of subsidi-
aries.

"24A. (1) The Authority may, with the approval of the Governor in Council, procure the incorporation of any one or more corporations for the purpose of undertaking or carrying out any acts or things that the Authority is authorized to undertake or carry out under this Act.

(2) For the purposes of this section, upon the request of the Authority, the Secretary of State of Canada may, by letters patent under his seal of office, grant a charter under Part I of the *Companies Act* constituting such persons as are named by the Authority and any others who may thereafter be appointed by the Authority in their stead or in addition thereto a corporation for any purpose mentioned in subsection (1). Issue of charter.

(3) The Authority may remove any members, directors or officers of a corporation incorporated under this section at any time and may appoint others in their stead, or may appoint additional persons as members. Appointment of members, directors, officers.

(4) Subsection (2) of section 3, and sections 4, 9, 15, 16, 21, 23 and 24, apply *mutatis mutandis* in respect of a corporation incorporated pursuant to this section as though the corporation were the Authority. Application of this Act to subsidiaries.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956

4-5 ELIZABETH II.

CHAP. 47

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 14th August, 1956.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. 242;
1953-54, c. 44;
1955, c. 58;
1956, c. 11.

1. Subsection (1) of section 14A of the *St. Lawrence Seaway Authority Act*, as enacted by section 3 of chapter 11 of the statutes of the present session of Parliament, is repealed and the following substituted therefor:

"14A. (1) The Authority may, alone or jointly or in conjunction with the Saint Lawrence Seaway Development Corporation of the United States, construct, maintain and operate, either

Authority
may
construct
bridge over
Pollys Gut
or over
the south
channel

(a) a bridge over Pollys Gut in the St. Lawrence River for the passage of pedestrians, vehicles, railway trains and for other like purposes, with all necessary approaches and facilities, from Cornwall Island in the County of Stormont in the Province of Ontario to Massena Point in the State of New York, or

(b) a bridge over the south channel in the St. Lawrence River for the passage of pedestrians, vehicles and for other like purposes, with all necessary approaches and facilities, from Cornwall Island in the County of Stormont in the Province of Ontario to the United States mainland in the State of New York."

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956

7 - 8 ELIZABETH II.

CHAP. 9

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 20th March, 1959.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. 242;
1953-54, c. 44;
1955, c. 58;
1956, cc. 11,
47.

1. Section 13 of the *St. Lawrence Seaway Authority Act* is repealed and the following substituted therefor:

"13. The Authority, with the approval of the Governor in Council, may, from time to time, borrow money from Her Majesty or otherwise for the purposes for which it is incorporated, but the aggregate of the amounts borrowed under this Act and outstanding shall not at any time exceed three hundred and thirty-five million dollars."

Power to
borrow
money.

THE QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1959

10-11 ELIZABETH II.

CHAP. 18

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 23rd March, 1962.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S., c. 242;
1953-54, c. 44;
1955, c. 58;
1956, cc.
11, 47;
1959, c. 9.

1. Section 13 of the *St. Lawrence Seaway Authority Act* is repealed and the following substituted therefor:

1959, c. 9,
s. 1.

“**13.** The Authority, with the approval of the Governor in Council, may, from time to time, borrow money from Her Majesty or otherwise for the purposes for which it is incorporated, but the aggregate of the amounts borrowed under this Act and outstanding shall not at any time exceed three hundred and forty-five million dollars.”

Power to
borrow
money.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1962

12 ELIZABETH II.

CHAP. 29

An Act to amend the St. Lawrence Seaway Authority Act.

[Assented to 12th December, 1963.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. 242;
1953-54, c. 44;
1955, c. 58;
1956, cc. 11,
47;
1959, c. 9;
1962, c. 18.

1. Section 13 of the *St. Lawrence Seaway Authority Act* is repealed and the following substituted therefor:

1962, c. 18,
s. 1.

“13. The Authority, with the approval of the Governor in Council, may, from time to time, borrow money from Her Majesty or otherwise for the purposes for which it is incorporated, but the aggregate of the amounts borrowed under this Act and outstanding shall not at any time exceed five hundred and thirty-five million dollars.”

Power to
borrow
money.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1963