

No. 108

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 108

A Bill respecting Public Highways

HON. MR. TAYLOR

General. This Bill will replace the present Public Highways Act, chapter 257 of the Revised Statutes. It extensively revises the present Act especially in such matters as classification of highways and the control of access to and development adjacent to highways both by the Province and by municipal authorities. It also provides for the development of a grid system of secondary roads under municipal jurisdiction **and provides for** the basis of the Crown's liability for non-repair of highways maintained by the Province.

2. Definitions.

BILL

No. 108 of 1966

An Act respecting Public Highways

(Assented to _____, 1966)

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

1. This Act may be cited as "*The Public Highways Development Act*".

2. In this Act,

- (a) "Board" means the Secondary Roads Board;
- (b) "centre point of the intersection" means the point where the centre line of the through part of a highway meets the centre line of, or the centre line of the prolongation of, another highway that intersects or meets the highway;
- (c) "construction" means the construction or reconstruction of a highway and the doing of such other work as is necessary to put a highway in a condition for use by vehicles, but does not include maintenance;
- (d) "council", with reference to a special area, means the Minister of Municipal Affairs;
- (e) "controlled highway" means a primary highway or any other highway designated as a controlled highway by the Minister;
- (f) "controlled street" means a highway designated by the council of an urban municipality as a controlled street;
- (g) "Department" means the Department of Highways;
- (h) "former Act" means *The Public Highways Act*, being chapter 53 of the Statutes of Alberta, 1929, chapter 74 of the Revised Statutes of Alberta, 1942, and chapter 257 of the Revised Statutes of Alberta, 1955;
- (i) "highway" or "road"
 - (i) means land used or surveyed for use as a public highway or road, and

- (ii) includes a bridge forming part of a public highway or road and any structure incidental to the public highway or road or bridge;
- (j) "highway authority" means
 - (i) the Minister, as to highways subject to his direction, control and management, or
 - (ii) an urban municipality, as to highways subject to its direction, control and management, or
 - (iii) a rural municipality, as to highways subject to its direction, control and management;
- (k) "maintenance" means the preservation and repair of a highway and any other work necessary to keep the highway in serviceable condition;
- (l) "Minister" means the Minister of Highways;
- (m) "owner" means
 - (i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,
 - (ii) a purchaser of land whose interest as purchaser is recorded on the certificate of title for that land,
 - (iii) a tenant or any person who is in possession or occupation of land, and
 - (iv) in the case of Crown land, a person shown in the records of the Department administering the land as having an estate or interest in the land;
- (n) "permit" means a permit issued under this Act or pursuant to the regulations under the former Act;
- (o) "primary highway" means a highway or proposed highway designated as a primary highway under this Act;
- (p) "roadside improvement" means
 - (i) any building, structure or fixture or road, or
 - (ii) any tree, shrub or hedge, or
 - (iii) any sign, notice, advertising device or flashing or rotating light;
- (q) "roadway" means that part of a highway designed or intended for use by vehicular traffic;
- (r) "rural municipality" means a county, municipal district or special area;
- (s) "rural road" means a road subject to the direction, control and management of a rural municipality or a road, other than a primary highway, in an improvement district and subject to the direction, control and management of the Minister;
- (t) "secondary road" means a highway designated by the Minister as a secondary road pursuant to this Act;

3. Financial responsibility for construction and maintenance.

4. Designation of primary highways.

5. Minister's responsibility as to primary highways.

6. Agreements re primary highways passing through towns or villages.

- (u) "street" means a highway subject to the direction, control and management of an urban municipality;
- (v) "traffic control device" means any sign, signal, marking or device placed or erected for the purpose of regulating, warning or guiding traffic;
- (w) "town" includes a new town;
- (x) "urban municipality" means a city, town or village.

PART 1

CONSTRUCTION AND MAINTENANCE OF HIGHWAYS

3. Except as otherwise provided in an agreement made pursuant to this Act, each highway authority is responsible for the costs of construction and maintenance of all highways subject to its direction, control and management.

Primary Highways System

4. (1) The Minister may by order designate as a primary highway

- (a) any existing highway in the Province, or
- (b) any proposed highway,

and may prescribe a route number for the primary highway so designated.

(2) In an order under this section, the existing highway or the land to be used for the proposed highway is sufficiently described if its location is indicated on a map attached to the order showing the route of the primary highway.

(3) No order shall be made under this section in respect of a highway or proposed highway within a city unless the title to the highway or the land to be used for the proposed highway is vested in the Crown in right of Alberta pursuant to an agreement made under section 21.

5. All primary highways are subject to the direction, control and management of the Minister.

6. (1) The Minister may enter into an agreement with a town or village with respect to a primary highway within its boundaries.

(2) An agreement under this section may provide for any matter with respect to the construction and maintenance of the primary highway by the Minister, including, without limitation,

- (a) the construction, maintenance or abandonment of any works or undertakings of the town or village

7. Agreement may provide for traffic control of primary highway in the town or village.

8. Designation of secondary roads.

9. Secondary Roads Board.

10. Duties of Board.

that may directly or indirectly affect the primary highway or the control of traffic on it, and

- (b) the contribution by the town or village to the Minister of a portion of the cost of construction or maintenance of the primary highway.

7. (1) An agreement under section 6 may provide that, as of a specified effective date, the by-laws of the town or village under sections 300 to 302 of *The Town and Village Act* are, in relation to the primary highway, to be in accordance with the agreement.

(2) Where an agreement under section 6 provides for any matters mentioned in subsection (1), any by-law under sections 300 to 302 of *The Town and Village Act* that is, on or after the specified effective date in the agreement, not in accordance with the agreement, is invalid in so far as it applies to the primary highway.

Secondary Roads System

8. The Minister may by order designate as a secondary road

- (a) any existing or proposed rural road, town street or village street, following his approval of a plan submitted by a rural municipality under section 12, or
- (b) any highway in an improvement district, or
- (c) a highway, title to which is vested in the Crown in right of Alberta, passing through an Indian reserve.

9. (1) The Minister may establish a Secondary Roads Board composed of

- (a) the Deputy Minister of Highways,
- (b) two employees of the Department appointed by the Minister, and
- (c) one representative from the rural municipalities of the Province appointed by the Minister.

(2) The representative of the rural municipalities shall receive such remuneration as the Minister prescribes.

(3) The Board may request any representative of a rural municipality appointed by the council to attend a Board meeting and the Minister may reimburse that person his reasonable expenses in attending the meeting.

(4) The Deputy Minister shall be chairman of the Board and may designate one of the members as vice-chairman.

10. The Board shall

- (a) co-ordinate the establishment of a secondary roads system in the Province, and

11. Regulations re secondary roads.

12. Submission of secondary road system plan by rural municipality.

13. Consideration of plan by the Board.

- (b) advise the Minister in matters of policy with respect to the secondary roads system.

11. The Minister may make regulations providing for

- (a) the design and standards of construction for secondary roads,
- (b) the standards of maintenance for secondary roads,
- (c) the numbering of routes within the secondary roads system,
- (d) the placing and erecting of traffic control devices for secondary roads,
- (e) limiting or restricting the weight and load to be carried by any vehicle or class of vehicles on any secondary road or portion thereof,
- (f) the terms and conditions upon which an electrical transmission line, a pipe line other than a pipe line to which *The Pipe Line Act, 1958* applies, a drainage ditch or an irrigation canal or ditch, may be constructed on, across, over or under a secondary road,
- (g) procedures pertaining to applications to the Board, and the conduct of business at Board meetings, and
- (h) any other matters pertaining to the establishment and operation of the secondary roads system.

12. (1) A rural municipality may submit to the Board a plan for a secondary roads system for the municipality.

(2) The plan shall show the roads that are to form the secondary roads system for the municipality and may include

- (a) a street within a town or village that borders on or is contained within the boundaries of the rural municipality, and
- (b) boundary line roads.

(3) Where a system of secondary roads in the plan includes a street within a town or village, the rural municipality shall supply the town or village with a copy of the plan and the town or village is entitled to be notified of and be represented at any proceedings before the Board at which the rural municipality is entitled to be represented.

13. (1) The Board shall consider the plan and may approve it in whole or in part or disapprove it in its entirety.

(2) Where the Board approves the plan in part or disapproves the plan, it may recommend to the rural municipality any changes the Board considers necessary and the rural municipality may submit a revised plan.

(3) When the Board approves the initial plan or any revised plan, the Board shall submit it to the Minister for his approval.

14. Approval by Minister.

15. Submission of new plan.

16. Information to be supplied by rural municipality.

17. Cost-sharing agreements re construction and maintenance of secondary roads.

14. The Minister may disapprove the plan or approve the plan in whole or in part and where the Minister approves it in part, the part approved is, for the purposes of this Act, the approved plan.

15. (1) Where a plan has been approved by the Minister, the rural municipality may submit to the Board a plan for addition, alteration or deletion of secondary roads in the system shown on the existing approved plan.

(2) An application to the Board under subsection (1) shall be dealt with in the same manner as an application in the first instance.

16. Where a plan has been approved by the Minister, the rural municipality shall submit to the Board, at the times fixed by the Minister and in the form prescribed by him, the following information regarding secondary roads in the municipality,

- (a) the estimated expenditures for the cost of construction for the ensuing year,
- (b) detailed statements of receipt and expenditures made in respect of construction and maintenance for the current year, and
- (c) a statement showing the road mileage in the system, the mileage completely constructed and the stage of construction of mileage that is not yet completely constructed.

17. (1) The Minister may enter into an agreement with a rural municipality, town or village with respect to the sharing of costs of construction and maintenance of secondary roads within its boundaries.

(2) An agreement under this section shall provide for

- (a) the cost or estimated cost of construction,
- (b) the period of construction,
- (c) the proportion of the cost to be borne by the Crown, and
- (d) the terms upon which and the time or times when payments are to be made to the municipality for the Crown's share of the cost,

and may provide for any other matter relating to construction or maintenance of the secondary roads.

(3) An agreement under this section may also

- (a) provide for any matter relating to
 - (i) the control of traffic on the secondary road, and
 - (ii) the construction, maintenance or abandonment of any works or undertakings of the rural municipality, town or village that may directly or indirectly affect the secondary road or the control of traffic on it, and

18. Agreements with rural municipalities re secondary roads through Indian reserves.

19. Grants to municipalities.

20. Cost-sharing agreements.

- (iii) limiting or restricting the weight and load to be carried by any vehicle or class of vehicles on the secondary road or any portion thereof,
- and
- (b) provide that, as of a specified effective date, the by-laws of the municipality under, as the case may be,
 - (i) sections 271 to 273b of *The Municipal District Act*, or
 - (ii) sections 300 to 302 of *The Town and Village Act*,
 are, in relation to the secondary road, to be in accordance with the agreement.
- (4) Where an agreement under this section provides for any matters mentioned in clause (b) of subsection (3), any by-law under the provisions referred to in subclause (i) or (ii) of that clause that is, on or after the specified effective date, not in accordance with the agreement, is inoperative with respect to the secondary road.
- (5) Where a rural municipality, town or village does or omits to do any thing in breach of an agreement under this section or purports to do any act with respect to a secondary road under a by-law that is inoperative as to that road by virtue of subsection (4), the Supreme Court of Alberta, on application by the Crown, may grant an order to restrain the rural municipality, town or village from doing that act or to compel it to do any act that will remedy the breach of the agreement.

18. Where the Minister designates a road passing through an Indian reserve as a secondary road, the Minister may enter into an agreement with a rural municipality

- (a) providing that the secondary road is made subject to the direction, control and management of the rural municipality, and
- (b) providing for the construction and maintenance of the secondary road by the rural municipality and the proportion of the cost thereof to be borne by the Crown.

**Grants and Cost-sharing Agreements
respecting Streets and Rural Roads**

19. The Minister may, from moneys appropriated by the Legislature for that purpose, make grants to urban and rural municipalities to aid in the construction and maintenance of streets and rural roads.

20. (1) The Minister may enter into an agreement with any other urban or rural municipality under which the Crown may contribute to the cost of construction and maintenance of any street or road, other than a secondary road, that is subject to its direction, control and management.

21. Transfer of title to a city street to the Crown.

22. Highways subject to the direction, control and management of the Minister.

23. Agreement for contribution by a private person to construction costs of traffic interchange, etc.

- (2) An agreement under this section shall provide for
 - (a) the cost or estimated cost of construction,
 - (b) the period of construction,
 - (c) the proportion of the cost to be borne by the Crown,
and
 - (d) the terms upon which and time or times when payments are to be made to the highway authority for the Crown's share of the cost,and may provide for any other matter pertaining to construction or maintenance of the highway.

21. (1) The Minister and a city may enter into an agreement for the transfer by the city to the Crown in right of Alberta of title to any city street or for the purchase of land from the city for the purposes of a highway to be constructed and maintained by the Minister.

(2) Notwithstanding anything in *The City Act*, the Minister may, with the consent of a city, purchase or expropriate land within the city for the purposes of a highway.

(3) Where the title to a street or any land is vested in the Crown in right of Alberta pursuant to this section, the highway constructed thereon is subject to the direction, control and management of the Minister and not the city.

Other Highways under the Administration of the Minister

22. The Minister has the direction, control and management of

- (a) roads within improvement districts, other than roads under the administration of another member of the Executive Council,
- (b) highways through Indian reserves, the title to which is vested in the Crown in right of Alberta and that are not the subject of an agreement with a rural municipality under section 18, and
- (c) highways in cities where the title to the highway is vested in the Crown in right of Alberta pursuant to section 21.

23. The Minister may enter into an agreement with any person under which that person agrees to contribute the whole or part of the costs of construction of any traffic interchange, underpass, overpass or any other addition or improvement with respect to a primary highway or a road subject to the direction, control and management of the Minister.

24. Abrogation of common law rights in relation to controlled highways and streets.

25. Designation of controlled highways.

26. Regulations re controlled highways.

PART 2

CONTROL OF ACCESS AND ADJACENT DEVELOPMENT

24. (1) A person

- (a) is not, of right, entitled to any direct access to or from a controlled highway or controlled street from or to any land adjacent thereto, and
- (b) does not have any right of easement, light, air or view to, from or over a controlled highway or controlled street.

(2) No person is entitled as of right to any compensation solely by reason of the designation of a highway as a controlled highway or the designation of a street as a controlled street.

Controlled Highways

25. (1) All primary highways are controlled highways.

(2) The Minister may designate any road subject to his direction, control and management as a controlled highway.

26. (1) The Minister may make regulations

- (a) classifying controlled highways as freeways, expressways, arterial highways, collector highways and any other class he may prescribe,
- (b) prescribing terms and conditions applicable to the granting of permits under this Part,
- (c) exempting any class or classes of means of access to or from a controlled highway from the requirement for a permit under this Part,
- (d) prohibiting, except under the authority of a permit, the placing, erecting, enlarging or extending or re-erecting of a building, structure, fixture or a road within such distance from a controlled highway as the regulations may prescribe,
- (e) prohibiting, except under the authority of a permit, the placing of a tree, hedge or shrub within such distance from a controlled highway as the regulations may prescribe,
- (f) prohibiting, except under the authority of a permit, the construction of an electrical transmission line, a pipe line other than a pipe line to which *The Pipe Line Act, 1958* applies, a drainage ditch or irrigation canal or ditch, within such distance of a controlled highway as the regulations may prescribe,
- (g) prohibiting, except under the authority of a permit, the display of a sign, notice or advertising device within such distance from a controlled highway as the regulations may prescribe,

27. Closing of means of access.

- (h) prohibiting the display of a flashing or rotating light within such distance from a controlled highway as the regulations may prescribe, and
 - (i) providing for the exemption from a requirement for a permit under any regulations under clauses (d) to (g).
- (2) Regulations under clauses (d) to (h) of subsection (1) may prescribe different distances with respect to any class of controlled highways but no distance prescribed under those regulations shall exceed
- (a) in the case of regulations under clause (d), (g) or (h) of subsection (1),
 - (i) one thousand feet from any limit of the controlled highway, or
 - (ii) one-half mile from the centre point of the intersection of the controlled highway and another highway,
 or
 - (b) in the case of regulations under clause (e) or (f) of subsection (1),
 - (i) one hundred feet from any limit of the controlled highway, or
 - (ii) two hundred feet from the centre line of the roadway of the controlled highway,
 whichever distance is the greater.

27. (1) The Minister may at any time close

- (a) any highway providing access to or from a controlled highway, or
- (b) any means of access between a controlled highway and land adjacent to a controlled highway.

(2) No person shall enter upon or leave a controlled highway except by way of

- (a) a highway connecting with the controlled highway,
or
- (b) a means of access existing pursuant to a permit, or
- (c) a means of access in existence prior to
 - (i) the designation of the controlled highway by or pursuant to the regulations under the former Act or pursuant to this Act, or
 - (ii) the designation of a highway as a primary highway under section 4,
 and not subsequently closed by the Minister pursuant to the former Act or subsection (1), or
- (d) a means of access exempted under the regulations from the requirement for a permit.

(3) No person shall construct or maintain a means of access to or from a controlled highway unless

28. Compensation following closure of means of access.

29. Notice to remove things placed, etc., in contravention of regulations.

- (a) a permit authorizes the construction or maintenance, or
- (b) the regulations exempt the construction and maintenance from the requirement for a permit, or
- (c) the means of access was in existence prior to
 - (i) the designation of the controlled highway by or pursuant to the regulations under the former Act or pursuant to this Act, or
 - (ii) the designation of the highway as a primary highway under section 4,
 and has not been subsequently closed by the Minister pursuant to the former Act or subsection (1).

28. (1) Subject to subsections (2) to (4), where a means of access was maintained in accordance with this Part and the regulations at the time it is closed pursuant to section 27, the Minister shall compensate each person owning an estate or interest in the adjacent land as registered owner, life tenant, tenant or purchaser for the loss resulting to him from the closing of the means of access.

(2) The aggregate amount of compensation payable in an individual case shall not exceed the difference between

- (a) the appraised value of the adjacent land prior to the closing of the means of access, and
- (b) the appraised value of that land after the closing of the means of access.

(3) Where, prior to its closing, the means of access was maintained pursuant to a permit, the payment of compensation is subject to the terms of the permit.

(4) Where a direct means of access is closed and a service or frontage road is provided, no compensation shall be paid under this section.

(5) A claim for compensation under this section shall be made by filing the claim and particulars thereof in the office of the Minister not later than one year from the date of the closing of the means of access of the Minister and the compensation shall be determined as of that date.

(6) Where compensation cannot be mutually agreed upon, the claim shall be dealt with under the same procedure as that applicable to claims for damages for injurious affection under section 16 and sections 18 to 21 of *The Expropriation Procedure Act* except where those provisions are inconsistent with this section.

29. (1) The Minister may, by notice, require an owner of land to move, remove or alter

- (a) any thing placed, erected, enlarged, extended, re-erected, constructed or displayed on the land within the distance from a controlled highway prescribed in the regulations made under section 26, or

30. Compensation re expense of moving, etc., any thing in accordance with notice.

31. Minister's powers to do acts required in notice.

32. Issue of permits.

33. Offence re failure to comply with a notice under section 26.

- (b) any means of access constructed or maintained on the land providing direct access to a controlled highway,

as specified in the notice within the time prescribed in the notice or any extension thereof allowed by the Minister.

(2) A notice under subsection (1) shall be in writing and shall be served upon the owner either personally or by mail.

30. (1) An owner who complies with a notice given under section 29 is entitled to due compensation from the Crown for his reasonable expense in moving, removing or altering any thing as required by the notice unless it is or was

- (a) placed, erected, enlarged, extended, re-erected, constructed or displayed in contravention of the regulations under section 26, or
- (b) constructed or maintained in contravention of section 27.

(2) A claim for compensation under this section shall be made by filing the claim and particulars thereof in the office of the Minister not later than one year from the date of service of the notice.

(3) Where compensation cannot be mutually agreed upon, the claim shall be dealt with under the same procedure as that applicable to claims for damages for injurious affection under section 16 and sections 18 to 21 of *The Expropriation Procedure Act* except where those provisions are inconsistent with this section.

31. (1) Where notice has been served pursuant to section 26 and the person fails to comply with the notice within the time specified in the notice, or any extension thereof, the Minister may, in writing, direct any person to enter upon the land and do or cause to be done any acts that were required to be done by the notice.

(2) The expenses incurred by the Minister under this section may be recovered as a debt due to the Crown from the person who failed to comply with the notice and where two or more persons failed to comply with the notice, they are jointly and severally liable under this subsection.

32. (1) The Minister may issue any permit upon such terms and conditions as he considers proper, and may, in his discretion, cancel a permit at any time.

(2) A permit may be issued on behalf of the Minister by any employee of the Department authorized by the Minister to do so.

33. (1) Any person who fails to comply with a notice given to him under section 29 is guilty of an offence.

34. General offence.

35. Definitions for the purposes of the provisions under the heading "Controlled Streets".

36. Designation of controlled street.

37. By-laws re controlled streets.

(2) Upon conviction for an offence, the convicting magistrate shall order the person convicted to move, remove or alter within a period specified in the order, the thing in respect of which he is convicted.

(3) A person who fails to comply with an order made against him under subsection (2) is guilty of an offence and liable to a further fine of not more than twenty-five dollars for each day during which the breach of the order continues.

(4) A prosecution for an offence of failure to comply with an order under subsection (2) may be commenced at any time within two years from the date of service of the notice under section 29.

(5) In a prosecution for the offence of failure to comply with a notice given under section 29, a copy of a notice purporting to be made under that section and to be signed by the Minister shall be admitted in evidence as *prima facie* proof of the contents of the notice and the signature of the Minister thereon.

34. A person who contravenes any of the provisions of this Part or the regulations is guilty of an offence.

Controlled Streets

35. In this section and sections 36 to 38,

- (a) "hamlet" means a hamlet as defined in *The Municipal District Act* but in which there are more than ten buildings used in whole or in part as dwelling places;
- (b) "street" includes a road in a hamlet;
- (c) "urban municipality" includes a rural municipality in respect of a hamlet.

36. The council of an urban municipality may by by-law designate any of its streets as a controlled street.

37. (1) A council of an urban municipality may make by-laws regulating

- (a) the placing, erecting, re-erecting, enlarging or extending of buildings, structures or fixtures or roads,
- (b) the placing of trees, hedges or shrubs, and
- (c) the display of signs, notices, advertising devices or flashing or rotating lights,

within such distances of controlled streets as the by-laws prescribe.

(2) A council of an urban municipality may make by-laws regulating and controlling the means of access to controlled streets.

(3) A by-law under this section may,

38. Agreements re controlled streets.

39. Liability of the Crown for non-repair.

- (a) subject to subsection (4), provide for any matter provided for in sections 26 to 34, and
- (b) empower the council to do any thing that the Minister is empowered to do by those sections.

(4) A by-law providing for any matter provided for in section 28 or 30 shall not purport to confer jurisdiction on a court or judge but may confer jurisdiction on the Public Utilities Board and for that purpose may make any procedure under Part II of *The Expropriation Procedure Act* apply in respect of claims for compensation.

38. (1) Subject to the approval of the Lieutenant Governor in Council, the Minister and an urban municipality may enter into an agreement

- (a) providing for any matters in respect of which the council may make by-laws pursuant to section 37, and
- (b) providing that any by-law made under section 37 shall, as of a specified effective date, be in accordance with the agreement.

(2) An agreement providing for any matters mentioned in subsection (1) may be incorporated as part of an agreement made under section 17 or 20.

(3) Where an agreement provides for any matters referred to in clause (b) of subsection (1), any by-law that is, on or after the specified effective date, not in accordance with the agreement, is inoperative with respect to the controlled street concerned.

(4) Where the urban municipality does or omits to do any thing in breach of an agreement providing for any of the matters referred to in subsection (1), or purports to do any act with respect to a controlled street under a by-law that is inoperative as to that street by virtue of subsection (3), the Supreme Court of Alberta, on the application by the Crown, may grant an order to restrain the urban municipality from doing any act in breach of the agreement or to compel the doing of any act that will remedy its breach of the agreement or its unlawful act, as the case may be.

PART 3

GENERAL

Crown Liability for Damages

39. (1) Highways subject to the direction, control and management of the Minister shall be kept in a reasonable state of repair having regard to the character of the highway and the locality in which it is situated or through which it passes.

40. Liability of the Crown regarding drainage.

(2) The Crown is liable for damages sustained by any person by reason of the default of the Minister under subsection (1).

(3) The Crown is not liable for damages under this section unless the claimant has suffered by reason of the default of the Crown a particular loss or damage beyond what is suffered by him in common with all persons affected by the want of repair.

(4) Nothing in this section casts upon the Crown any obligation or liability in respect of acts done or omitted to be done by a person exercising powers or authorities conferred upon him by law, and over which the Minister has no control, where the Minister is not a party to the act or omission.

(5) Default under this section shall not be imputed to the Crown in any action if the Crown proves that it did not have actual or constructive notice of the disrepair of the highway or that it took reasonable means to prevent the disrepair.

(6) No action shall be brought against the Crown for the recovery of damages caused

(a) by the presence or absence or insufficiency of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or upon the highway, or

(b) by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the highway that is not on the roadway.

(7) No action shall be brought for the recovery of damages under this section unless notice in writing of the claim and of the injuries complained of has been served upon or sent by registered letter to the Minister within one month after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

40. (1) The Minister shall make adequate provision for

(a) the drainage of all highways subject to his direction, control and management, and

(b) the disposition of any water collected in a drainage ditch or other artificial depression created by the Minister on or contiguous to a highway subject to his direction, control or management.

(2) A person who is the owner of land in the vicinity of a highway subject to the direction, control and manage-

41. Agreements re fences.

42. By-laws regulating roadside improvements.

43. Order for removal of roadside improvement and compensation.

ment of the Minister and who claims that he has suffered damage by reason of the default of the Minister under subsection (1) may recover damages from the Crown.

(3) No action shall be brought for the recovery of damages under this section unless notice in writing of the claim and of the injuries complained of has been served upon or sent by registered letter to the Minister within one month after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

Protection of Highways

41. (1) A highway authority may agree with the owner of land adjoining a highway with respect to the moving, removal or construction of a fence along the highway and may pay compensation to the owner therefor.

(2) Where the highway authority considers it necessary that a fence on land adjoining a highway be moved, removed or constructed but is unable to make an agreement under subsection (1), the highway authority

(a) may enter upon the adjoining land for the purpose of moving, removing or constructing the fence, and

(b) where the fence was removed but not replaced, shall compensate the owner of the fence for it.

(3) Unless otherwise provided in an agreement under subsection (1), the repair and maintenance of a fence moved or constructed pursuant to this section is thereafter the responsibility of the owner.

42. (1) A highway authority may by order or by-law, as the case may be, determine and fix the distance up to a maximum of three hundred feet from the centre line of a highway subject to its direction, control and management within which the owner of any land shall not, without approval of the Minister or the council, place, erect or plant any roadside improvement that may

(a) cause a drifting or accumulation of snow on a highway, or

(b) injure the highway, or

(c) obstruct the vision of pedestrians or drivers of vehicles on the highway, or

(d) create a hazard to traffic on the highway.

(2) This section does not apply to a primary highway.

43. Where a highway authority is of the opinion that a roadside improvement on or over land adjacent to a highway

(a) is causing or will cause a drifting or accumulation of snow on the highway, or

44. Obstruction or injury to a highway.

45. Injury to highway by vehicle without tires.

46. Damage to highway by water from irrigated land.

- (b) is injuring or will injure the highway, or
- (c) is obstructing or will obstruct the vision of pedestrians or drivers of vehicles on the highway, or
- (d) is or is likely to create a hazard to traffic on the highway, or
- (e) is placed, erected or planted in contravention of a by-law made under section 42,

and the highway authority is unable to agree with the owner for its removal or as to the amount of compensation to be paid therefor, the highway authority may apply by originating notice of motion to a district court for an order authorizing it to enter upon the land affected to remove any roadside improvement with respect to which the application is made, and the judge, upon such notice to the owner as he deems proper, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion are just.

44. (1) A person who, without justification or excuse,

- (a) obstructs or deposits any material on a highway, or
- (b) interferes with, breaks, cuts or otherwise injures a highway,

is guilty of an offence.

(2) The court that convicts a person of an offence under clause (a) of subsection (1) may also order the convicted person to forthwith remove any obstruction or material deposited on the highway.

(3) Where any person contravenes subsection (1), the highway authority concerned may remove the obstruction or material deposited on the highway or repair the highway, as the case may be, and recover its expenses incurred in doing so from that person in an action in debt.

(4) Subsection (3) applies whether or not a conviction is made under subsection (1) or an order is made under subsection (2).

45. A person who moves an engine, tracked vehicle, traction engine or other machine not equipped with rubber tires on a highway without taking proper steps to prevent injury to a highway is guilty of an offence.

46. (1) No person shall cause or permit water used or intended to be used for irrigation purposes to escape from irrigated land into a highway ditch or into or upon a highway.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) A person convicted of an offence under this section who

47. Temporary closing of highway during construction or maintenance.

48. Closure of highway by Minister.

- (a) continues to cause or permit any water used or intended to be used for irrigation purposes to escape from the land into a highway ditch or into or upon a highway, or
- (b) does not, within two days from the day of the conviction, take action to the satisfaction of the highway authority to prevent the water used or to be used for irrigation purposes from escaping from the land into a highway ditch or into or upon a highway,

is guilty of an offence and liable on summary conviction to a fine of not more than twenty-five dollars for each day during which he neglects to take any action to prevent the water from escaping, and in default of payment of the fine to imprisonment for a term of not more than ninety days.

(4) In fixing a fine under this section the court shall

- (a) take into account any damage that has been done to the highway through the escape of the water, and
- (b) include in the fine such sum as appears to the court to be the amount of the damage caused.

(5) Nothing in this section derogates from the right of the highway authority to claim by way of civil action for any damage caused to the highway by the escape of the water into a highway ditch or into or upon a highway.

47. (1) While any construction or maintenance of a highway is in progress, the highway authority may close to traffic any part of the highway in which construction or maintenance is being carried out, for such time as it considers necessary.

(2) Every person using a highway closed to traffic in accordance with this section does so at his own risk and the highway authority is not liable in any action for damages resulting from the use by a person of a highway so closed to traffic.

(3) Where a highway is closed pursuant to this section, no person shall enter upon or travel on the highway unless he is authorized to do so by the highway authority or unless he enters upon or travels on the highway in the course of his duties in connection with the construction or maintenance being done on that highway.

48. (1) Subject to the regulations, the Minister may by order close the whole or any portion of a highway the title to which is vested in the Crown in right of Alberta and may re-open any highway or portion thereof so closed.

(2) When a highway closed under this section is within a town, village or rural municipality, the highway is no longer subject to the direction, control and management of that town, village or rural municipality.

49. Injury to traffic signs, devices.

50. Snow fences.

51. Powers of peace officers re conditions dangerous to persons or property.

52. General penalty for offences.

49. (1) A person who wilfully defaces, knocks down, moves, injures or renders illegible, a traffic control device or illumination device placed or erected by a highway authority is guilty of an offence.

(2) In fixing a fine under this section the court may

- (a) take into account any damage that has been done to the sign, signal or traffic control device, and
- (b) include in the fine such sum as appears to the court to be the amount of the damage caused.

50. (1) The highway authority

- (a) may enter into and upon and occupy any land that is contiguous to a highway and erect upon such land snow fences for the purpose of preventing the highway from becoming blocked by snowdrifts, and
- (b) may from time to time enter upon the land for the purpose of maintaining, repairing, removing or replacing a snow fence.

(2) No person is entitled to rent or other compensation in respect of an entry or occupation effected under this section.

(3) A snow fence erected pursuant to this section continues to be the property of the highway authority that erected it.

(4) Unless he is authorized to do so by the highway authority that erected it, a person who knocks down, moves, removes, injures or interferes with a snow fence erected pursuant to this section is guilty of an offence.

51. (1) Where a peace officer finds upon any land conditions existing which may cause danger to life or to property of any person travelling on a highway, the peace officer may enter upon the land with such equipment and persons as he deems necessary and do any acts necessary to remedy the conditions.

(2) No person is entitled to compensation in respect of damages resulting from any acts done pursuant to this section.

52. Any person contravening any of the provisions of this Act or the regulations for which no penalty is specifically provided, is guilty of an offence and liable on summary conviction,

- (a) for a first offence, to a fine of not more than two hundred dollars and in default of payment of the fine to a term of imprisonment of not more than fifteen days, and
- (b) for a second or subsequent offence, to a fine of not less than fifty dollars and not more than five hundred dollars and in default of payment of the fine to a term of imprisonment of not more than thirty days.

53. Bridges.

54. Ferries and cable cars.

Bridges

53. (1) Notwithstanding any other provision of this Act, the Minister may direct the construction or maintenance of a bridge on a highway.

(2) The cost of construction of the bridge shall be either

(a) paid by the Province, or

(b) paid by the urban municipality, rural municipality, irrigation district or drainage district concerned, or

(c) apportioned between the Province and the urban municipality, rural municipality, irrigation district or drainage district concerned, upon the basis prescribed in the regulations,

whichever the Minister directs.

(3) Where the cost of construction is to be apportioned, the total cost of the construction may in the first instance be defrayed by the Province out of moneys appropriated by the Legislature for that purpose.

(4) The Province is entitled to recover as a debt due to the Crown the part of the cost of the construction or reconstruction apportioned to any urban municipality, rural municipality, irrigation district or drainage district or to deduct it from payments to be made in future from the Province to it under an agreement made under this Act or the provisions of any other Act.

(5) Notwithstanding any other Act, the regulations may transfer or provide for the transfer of the direction, control and management of a bridge from a highway authority to an irrigation district or drainage district subject to any terms and conditions prescribed in the regulations.

Ferries and Cable Cars

54. (1) The Minister, where he considers it expedient to do so, may

(a) establish and operate a ferry, or

(b) establish and operate a cable car,

over or on a river, stream, lake or other body of water, and may do such other works as are necessary for the operation of the ferry or cable car.

(2) The Minister may provide for the collection of such tolls as he may fix.

(3) Children going to or returning from school shall not be charged a toll on a ferry or a cable car.

(4) A person who uses a ferry or a cable car and refuses to pay the toll to the operator of the ferry or cable car is guilty of an offence.

(5) A person who wilfully damages a ferry or cable car operated under this section is guilty of an offence.

55. Regulations of the Lieutenant Governor in Council.

56. Transitional.

57. (1) Consequential amendment. Subsection (1) amends chapter 215 of the Revised Statutes. Section 425 deals with by-laws regulating construction near highways and is amended to conform with other provisions in the Bill.

(2) Subsection (2) amends chapter 63 of the Statutes of Alberta, 1959. Section 3, subsection (2), clause (b) reads:

(2) Except as otherwise provided in this Act, nothing in this Act

(b) subjects the Crown, in its capacity as a highway authority, to any greater liability than that to which a city under The City Act is subject in that capacity,

Matters pertaining to the liability of the Crown as a highway authority are dealt with in this Bill.

55. The Lieutenant Governor in Council may make such regulations as are necessary to carry out the provisions of this Act according to their intent or to meet cases that arise and for which no provision is made by this Act, and without restricting the generality of the foregoing, may make orders or regulations

- (a) governing the operation of ferries and cable cars,
- (b) governing the basis for apportionment of the costs of construction of bridges, in cases where the Minister directs the costs to be apportioned pursuant to section 53,
- (c) prescribing the terms and conditions upon which any persons may use highways for the purpose of geophysical exploration within the meaning of *The Mines and Minerals Act, 1962* and governing the conduct of such exploration in relation to the use of highways, and
- (d) governing the closing and leasing of highways closed by the Minister pursuant to section 48.

Transitional and Consequential

56. (1) Upon the commencement of this Act, all orders of the Lieutenant Governor in Council for the designation of highways as main and secondary highways under the former Act shall be deemed to be orders of the Minister designating those highways as primary highways.

(2) A reference to a main or secondary highway in any Act, regulation, order or by-law shall be deemed to be a reference to a highway designated as a primary highway under this Act.

57. (1) *The Municipal District Act* is amended as to section 425

- (a) by striking out the words “a district highway established pursuant to *The Public Highways Act*” in subsection (1) and by substituting the words “a highway designated as a secondary road pursuant to *The Public Highways Development Act*”,
- (b) by striking out the words “one hundred and twenty-five feet” in subsection (2) and by substituting the words “three hundred feet”,
- (c) by striking out the words “district highway” in subsection (3) and by substituting the words “secondary road”.

(2) *The Proceedings Against the Crown Act* is amended as to section 3, subsection (2) by striking out clause (b).

(3) Subsection (3) amends chapter 87 of the Statutes of Alberta, 1964. Section 12 presently reads:

12. Every public road, highway, street and lane in a special area is subject to the direction, control and management of the Minister.

(4) Subsection (4) amends chapter 338 of the Revised Statutes. Section 300, clause (b) is amended to change main and secondary highways to refer to primary highways.

(5) Subsection (5) amends chapter 356 of the Revised Statutes. The amendments are made to bring references to the various classes of highways under the present Act into line with the classifications used in the Bill.

(3) *The Special Areas Act, 1964* is amended by striking out section 12 and by substituting the following:

12. Except for a highway designated as a primary highway under *The Public Highways Development Act*, every public highway, road, street and lane in a special area is subject to the direction, control and management of the Minister.

(4) *The Town and Village Act* is amended as to section 300, clause (b) by striking out the words "main or secondary highway within the meaning of *The Public Highways Act*" and by substituting the words "a highway designated as a primary highway under *The Public Highways Development Act*".

(5) *The Vehicles and Highway Traffic Act* is amended

- (a) as to section 16, subsection (8) by striking out the words "a main or secondary highway within the meaning of *The Public Highways Act*" and by substituting the words "a highway designated as a primary highway under *The Public Highways Development Act*",
- (b) by striking out section 76 and by substituting the following:

76. (1) In this section,

- (a) "freeway", "expressway", "arterial highway" and "collector highway" means primary highways classified as such pursuant to the regulations under *The Public Highways Development Act*;
- (b) "secondary road" means a secondary road within the meaning of *The Public Highways Development Act*;
- (c) "street" means a street within the meaning of *The Public Highways Development Act*.

(2) The operator of a vehicle being about to enter upon

- (a) a freeway from an expressway, arterial highway, collector highway or road, or
- (b) an expressway from an arterial highway, collector highway, city street or road, or
- (c) a collector highway or street from a road, alley, lane or driveway, or
- (d) an alley or lane or private road from a driveway,

shall bring his vehicle to a stop at a point not less than twenty feet from such highway being entered upon, unless the intersection point is marked with a "yield" sign.

(3) The operator of a vehicle being about to enter upon

- (a) any highway from a highway that is marked by a "stop" sign, or
 - (b) any intersection that is marked by a "stop" sign as an intersection at which vehicles are required to stop when entering the intersection from a particular highway, street, or road,
- shall bring his vehicle to a stop at a point not less than twenty feet from the highway or intersection being entered upon.

(4) Where a vehicle is required to stop pursuant to subsection (2) or (3), the driver of the vehicle shall not proceed until the condition of the traffic upon the highway being entered upon is such that he can enter thereon in safety, and he shall yield the right of way to all traffic approaching thereon.

(5) The operator of a vehicle being about to enter upon a highway that is marked by a "yield" sign need not stop his vehicle before entering thereon but he shall yield the right of way to all traffic upon the highway or street being entered upon.

(6) The council of a municipality may, by by-law, designate any highway or intersection within the municipality as a highway or intersection at which vehicles are required to stop or yield the right of way before entering thereon and may authorize the erecting of "stop" or "yield" signs thereon, as desired.

(7) An engineer employed by the Department of Highways may designate any highway as a highway at which vehicles are required to stop or yield the right of way before entering thereon and may authorize the erecting of "stop" or "yield" signs thereon, as desired.

(8) Notwithstanding subsection (2),

- (a) the operator of a vehicle emerging from any lane or driveway shall stop the vehicle before driving onto a sidewalk crossing and shall yield the right of way to any pedestrian on the sidewalk or sidewalk crossing, and
- (b) an operator of a vehicle entering any lane or driveway shall yield the right of way to any pedestrians on a sidewalk or sidewalk crossing.

(9) No person shall drive across any boulevard or sidewalk except at proper and lawful vehicular crossing provided therefor.

(10) In a prosecution under this section, the existence of a sign indicating "stop" or "yield" is *prima facie* proof that the sign was properly designated by the proper authority without other or further proof thereof.

58. Repeal of former Act.

59. This Act is no longer used.

60. Commencement of Act.

(11) Unless otherwise provided for in this Act, no person other than

(a) a council, or

(b) the Minister, with respect to highways subject to his direction, control and management, shall authorize the placing of any traffic control device regulating or prohibiting the stopping, standing or parking of vehicles on any roadway.

(c) as to section 89

(i) by striking out, in subsection (6), the words “, other than a main highway or secondary highway within the meaning of *The Public Highways Act*,” and by substituting the words “, other than a highway designated as a primary highway under *The Public Highways Development Act*,”,

(ii) by striking out subsection (8) and by substituting the following:

(8) In this section “highway” means a primary highway, a secondary road or rural road.

Repeal

58. This Act repeals and replaces *The Public Highways Act*, being chapter 257 of the Revised Statutes.

59. *The Main Highways Loan Act*, being chapter 187 of the Revised Statutes, is hereby repealed.

Commencement

60. This Act comes into force on a date to be fixed by proclamation.

No. 108

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act respecting Public Highways

Received and read the

First time

Second time

Third time

HON. MR. TAYLOR
