

Control of Roadside Development in Ontario

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● THE PROGRESSIVE development of the highway as a means of communication has been as remarkable in Ontario as it has been in the United States. The registration of motor vehicles in Ontario has grown from 4,230 vehicles in 1910, to 1,868,922 vehicles in 1958, with the inevitable concentration if not saturation, in the major urban centers. This increased vehicle registration is paralleled by the expansion of the provincial highway budget which has grown to \$261,257,000 in 1959. Just as the United States and Canada have been confronted with similar tasks in the past, so have they both been faced in recent years with the pressing necessity for highway systems that will serve expanding economies.

At the present time it is almost axiomatic that a modern highway will develop the countryside through which it passes; and yet this same development, if uncontrolled, will ultimately result in the elimination of the highway as a traffic artery capable of performing that function for which it was primarily constructed. In attempting to resolve this problem, the delicate balance between the proprietary rights of the individual and the welfare of the public must be found. Lawyers are historically the protagonists of civil liberties and property rights, and if the legal advisors to highway authorities sometimes come into conflict with the highway engineers, the result may reflect the equitable balance of these interests.

Within the last few years, the Ontario Department of Highways, with the assistance of the Automotive Safety Foundation, has produced two engineering studies dealing with the future development of highways in Ontario. The first of these, "A Plan for Ontario Highways," outlined the problems of the King's Highway System and the measures necessary to deal with them. The second study, "Ontario's Roads and Streets," provided the same information in respect to the municipal road systems. The efficiency of the highways, roads and streets dealt with in these studies must be predicated in part at least upon their preservation as traffic facilities and further upon the protection of adjacent lands for future highway revision. It is with these general principles in mind that the control of roadside development must be considered.

CANADA

The legislation of all the provinces of Canada contain some provisions for the establishment of areas of control adjacent to the provincial highways. Most of the provinces also provide for the establishment of what are commonly called controlled access highways and in some cases the degree of control is dependent on whether the highway is of this special nature. The usual method employed is to establish areas contiguous to the highways within which no development of any kind may be carried on except in accordance with the terms of a permit which may be issued by the road authority. The extent of the controlled areas varies from province to province and may be different for various types of undertakings. Thus the erection of any building is usually prohibited within a smaller area than that within which a sign may be prohibited. The citations for the relevant statutes are contained in Appendix A.

The restrictions may be contained in either the statute itself or the regulations made pursuant to the statute, and the restrictions may be itemized or may be general with a discretion vested in the road authority. The provisions of the provinces relating to this topic were reviewed and the problem was considered by H. W. Adcock, Manager of Operations for the Ontario Department of Highways in a paper presented at the 1957 annual meeting of The Canadian Good Roads Association.

In Alberta, the Minister of the Crown responsible for the administration of the highway department may establish an area of control adjacent to any controlled access

highway that may not extend further than 2,000 ft from the centerline of the highway. In Manitoba, British Columbia, New Brunswick, Nova Scotia, Saskatchewan and Alberta, permits are required for all types of buildings and signs adjacent to controlled access highways. In Quebec, the controlled access highways are established by special act of the legislature; and in British Columbia, there is a special act dealing with all controlled access highways. Signs are usually dealt with in the highway legislation but in Quebec there is a special statute respecting signs which prescribes the location and specifications for signs which are visible from the highway.

ONTARIO

A brief description of the various types of highway systems in Ontario will facilitate a review of the manner in which roadside development has been approached by local and provincial authorities. The most relevant statutory authorities have been reproduced in Appendix B for convenient reference.

In general, Ontario highways, roads and streets are constructed and maintained by either the province or the local municipality. Under the authority of Secs. 5 and 39 of the Highway Improvement Act, 1957, any highway may be designated as part of the King's Highway or as a secondary highway respectively. Sec. 34 of the same statute authorizes the designation of any part of the King's Highway as a controlled access highway. The highways so designated, constitute the provincial road system which is constructed and maintained by the Ontario Department of Highways and which presently includes approximately 11,420 miles of main highways. The counties may establish county road systems under Sec. 40 of the same statute, while the balance of the public highways are vested in the local municipalities within which they are situated by virtue of Secs. 426, 427 and 428 of The Municipal Act. Although the province does not have direct jurisdiction over county or municipal roads, it does subsidize them in amounts ranging from 33 $\frac{1}{3}$ percent in cities to 100 percent in some townships.

The municipalities may control the development adjacent to their highways by virtue of the combined operation of The Municipal Act and The Planning Act, 1955. Subsection 1 of Sec. 27 (a) of the latter statute as enacted in 1959 is the most significant authority as it provides for zoning bylaws restricting the use of land abutting on any defined highways. Secs. 24 and 26 of the same statute provide for areas of subdivision control within which lands may only be disposed of by a plan of subdivision which has been approved by the Minister of Planning and Development. The latter section allows the minister to refer any proposed plan to other government departments for consideration, and as a result, the department of highways has an opportunity to make suggestions and conditions relating to any plan of subdivision of lands adjacent to the King's Highway or a secondary highway. This provides indirect control by the department and permits the proper integration of the subdivision road system with that of the main highway, while permitting the planning of direct entrances to the highway, if any, to be located and fixed in accordance with proper standards. The regulation of development and use of land adjacent to the King's Highway and secondary highways is provided for in various sections of The Highway Improvement Act, 1957, which are now dealt with in detail.

Controlled Access Highways

Controlled access highways are the portions of the King's Highway where entrances and intersections may be eliminated or strictly controlled. Experience with this type of highway since 1939 has indicated the necessity and advisability of controlling buildings, structures, signs, public utilities and other similar undertakings within some defined area extending beyond the standard right-of-way requirement for a divided highway, the standard now fixed at 300 ft. In addition to this it was recognized that at interchange and intersection points a more extensive area of control must be provided than that which would be enforced in other locations. The regulation and restriction envisaged by these controls was more than justified by difficulties in providing for service roads, widening, interchanges and revisions on earlier highways which had to be reconstructed to adequately handle the unprecedented traffic volumes encountered during and after World War II.

Sec. 36 of The Highway Improvement Act, 1957, provides the present statutory definition of the controls which the Minister of Highways may enforce in the areas abutting on a controlled access highway. No person may erect or place any building, structure, road, fence or shrub within 150 ft of the right-of-way or within 1,300 ft of an intersection, or sell produce or merchandise within the same area except in accordance with a permit. Similarly, no person may place an advertising device or pole line within $\frac{1}{4}$ mile, or a shopping center, stadium or other facility generating traffic, within $\frac{1}{2}$ mile of a controlled access highway unless a permit has been obtained. Entrances are prohibited except for those authorized by permit. Provision is made for the elimination of any objects which violate these provisions even if they predated the establishment of the controlled access highway—although in the latter case, compensation would be payable to the owner of the land or the person affected. Penalties and remedies are provided for infractions of the statutory provisions and the minister is given the express power to place conditions in any permit and to revoke any permit at his discretion.

The King's Highway and Secondary Highways

The King's Highway and secondary highways cover the balance of the system administered by the department. The control that is exercised adjacent to these highways is similar in principle to that relating to the controlled access highways, with some modifications which are permissible because of the nature of the highway facility. The authority is found in Sec. 33 of The Highway Improvement Act, 1957, and a comparison of this section with Sec. 36 indicates that there are no prohibitions of entrances, pole lines or the sale of merchandise as there are on the controlled access highways. The area of control at intersection and interchange points is reduced from 1,300 ft to 600 ft. With the exception of these variations, the sections are the same so that some degree of uniformity is obtained in relation to the entire highway system.

Entrances on the King's Highway and secondary highways are dealt with under Sec. 30, which though prohibitory in tone, is regulatory in practice. The section provides a basis upon which entrance design standards may be prescribed with a degree of assurance that they may be enforced. Obstructions on lands adjacent to the right-of-way which are a traffic hazard or prejudicial to the highway itself may be removed under Subsection 7 of Sec. 29, subject to the payment of compensation.

Administration

The previously reviewed statutory provisions establish the boundaries within which the specified types of development may be controlled by the Department of Highways. However, the establishment of these areas is, in general, for the purpose of control rather than absolute prohibition; and although the latter may be necessary in some cases, usually development will be permitted in accordance with the requirements and policy of the department. The aim of the department is to allow such reasonable development of the lands immediately adjacent to a provincial highway as is consistent with standards for a safe and functional highway.

When a highway passes through metropolitan areas where land values are in the thousands of dollars per acre, any unreasonable or unjustifiable restriction on the use of the land will not be enforced with the support and cooperation of industries or municipalities. Experience in Ontario has been that the associations representing industries will cooperate in the promotion of any restrictions that are in the public interest and not of an arbitrary and unnecessary nature, and the support of these associations makes the administration of any set of regulations a matter of education rather than open warfare.

Buildings.—There are several factors which should be analyzed before permitting the erection of a building and these must be reduced to an equitable balance between the land owner and the public as represented by the department.

Most zoning bylaws regulate the size and location of buildings in relation to the amount of land available for the undertaking. The distance at which the building must be located from the highway, the setback distance, is therefore of great significance

to the land owner and the municipality in order that the optimum use of the land may be realized. The setback distance should make adequate provision for the future development and revision of the highway, and it should also provide some protection for the attractive appearance of the lands adjacent. The distance must therefore be determined having regard to the use and design of the highway, local topography, and land values. In Ontario, the standard setback distance on the King's Highway is 35 ft, but this may be subject to increase or decrease depending on the particular circumstances of the highway. It may be decreased if existing adjacent buildings are closer to the right-of-way than the prescribed standard and right-of-way requirements are adequate, or it may be increased if the prescribed standard will not adequately protect the Department for any impending right-of-way or design requirements.

The manner by which ingress and egress to the establishment will be taken is also a factor. There may be no reason for prohibiting the erection of buildings adjacent to a fully controlled access highway, provided that adequate access may be obtained on some highway other than the controlled access highway. Even on a portion of uncontrolled King's Highway it might be considered necessary to provide for access by way of an intersecting sideroad rather than direct access onto the King's Highway. When the application for the building permit is made to the department, the access problem may be analyzed and conditions may be attached to any building permit providing for that access which is consistent with highway requirements. Although entrances may be governed by different principles, they are a fundamental part of the development envisaged by a building permit and they should not be omitted at this stage to be dealt with by some other agency at a later stage. There have been cases where a building permit has been granted but an entrance permit for the building has subsequently been refused, and the consternation which that situation can create leaves nothing to the imagination.

Entrances.—On a fully controlled access highway, no entrances are permitted and if any entrances existed prior to the date of designation as a controlled access highway, they may be closed subject to compensation being paid to the owner with such mitigation of the compensation as may be obtained by the provision of alternative access to service roads or municipal roads. If entrances are permitted on a highway then they should be restricted and regulated to protect the users of both the highway and the entrances.

The regulation of entrances must also be governed by reasonable consideration for both the land owner and the public. Most highway engineers are familiar with the once adequate highway that has been decimated by entrances and development until the motorists must reduce his speed to a rate that is consistent with safe driving but inconsistent with the adequate movement of traffic. This untimely demise of a highway may be postponed if not eliminated by a modified control of access that prohibits a multitude of residential entrances and restricts access to locations which preserve the highway but assist local development.

The location of the entrance in relation to the physiography of the highway is important. In Ontario an entrance on any provincial highway will only be granted if minimum standards of both horizontal and vertical curvature may be complied with. These standards vary with the speed limit of the highway and may be modified by the volume of traffic anticipated and the type of establishment served by the entrance. Commercial and industrial entrances generate traffic movements that are completely unacceptable in an area where a residential entrance might be permitted. In addition to the degree of curvature, there must be some reference to the visibility which the motorist may have in the approaches to the entrance, and here again, the standards of visibility requirements will be based upon the speed limit of the highway as modified by any special factors existing at the location.

One factor which was not sufficiently considered created difficulties that necessitated a revision of the standards. Entrepreneurs would obtain an entrance permit for one type of entrance that, at the time, was consistent with the standards and requirements. Subsequently, the same person would extend his operation and establish new businesses which would all use the same entrance. As the original permits were not restricted in clear and unambiguous language, there was great difficulty in controlling extensive de-

velopment in areas where the department knew that revisions and design alterations would necessitate the acquisition of right-of-way. If buildings were erected beyond the boundaries of the areas controlled by the department, they would all use the single entrance, creating turning movements and other traffic hazards that often had fatal results as well as making highway revision extremely expensive.

There is currently this exact situation. A multi-million dollar tourist establishment complete with theatres, swimming pool and gymnasium has developed from an original service station entrance. This experience led to a form of permit that is clearly restricted to a specified use and which may be canceled for unauthorized extensions of the permitted use. Although conditions in a permit are often repugnant to a developer, they are usually the only alternative to the prohibition of access if development is to be regulated to a reasonable degree.

Within the last few years, the design engineers have had some success in establishing design standards for various types of entrances. These standards have been applied in the case of all new entrances since the introduction of the standards, and as highways are reconstructed, any existing entrances are relocated and designed to conform with the present standards. The authority to regulate the design of an entrance is contained in the legislation and is absolutely necessary in the establishment of uniform design standards for entrances.

Signs.—The control of advertising devices along and adjacent to the right-of-way is just as controversial as the erection of buildings and the establishing of entrances. The area within which control over advertising devices is exercised is somewhat wider than for buildings and extends to $\frac{1}{4}$ mile on either side of the right-of-way. This applies to all of the King's Highways, secondary highways and controlled access highways, but in practice, the degree of control varies with the type of highway. No field advertising signs are permitted on, or adjacent to, controlled access highways, but they are permitted in moderation and at specified intervals on other highways.

The immoderate displaying of signs and other ornate advertising devices provides a distraction for the motorist who may already be faced with heavy traffic congestion, traffic signals and highway directional signs. They may interfere with the recognition of important regulatory signs placed by the road authority. It is obvious that in this age of competition advertising cannot be eliminated on the highways but location, size and colors can be regulated so that the less desirable aspects of roadside advertising are kept to a minimum.

The type of sign and its function necessitate some classification system for uniform treatment of similar situations. A sign is first assigned to a particular category after which it is dealt with according to the department's specifications for that category. The colors that may be used are restricted so that possible confusion with official signs is minimized and this restriction is emphasized in the case of signs that are illuminated or luminous. The location of the sign is regulated in accordance with standards that will prevent distraction at dangerous locations such as curves or hills or other areas of limited visibility. Similarly, locations are segregated so that congestion of signing will not develop; field advertising signs or the large commercial posters maintained by advertising companies are required to be at least 1,000 ft apart in rural areas while this distance is reduced in urban areas. The area of such field advertising signs is also restricted and varies with the distance of the sign from the highway, the permissible area increasing with the specified distance. The area of all signs is restricted but according to standards which are dependent on the use for which the sign is intended. Signs which are for identification of the premises on which they are situated are dealt with a little more generously, but here again the location of the sign on the building is regulated so that the appearance of the building with the sign will not detract, or at least detract as little as possible, from the surrounding area.

The message which may be carried on a sign is also of interest to the department and will in part determine the category of sign and the regulations that will be applied. Signs that carry an extended message which may be distracting may thus be strictly controlled. Identification signs that contain only the name of a company may be less offensive and may be treated in a different manner. The characteristics of a sign that may convert a highway sign design to advertising purposes are controlled, as is any

message that has the same effect. The various factors that should be considered in the control of signs and advertising devices are obvious to all highway authorities and the multitude of such regulations that are used in Ontario necessitate a substantial manual.

The three particular phases of development that have been reviewed are for purposes of general illustration and are not exhaustive. Public utilities, pipe lines, gasoline pumps and other structures are also regulated by similar restrictions.

Enforcement

The success of any program of roadside development control depends on the manner in which the regulations are enforced and the authority given to the highway agency to police the legislation. The limited experience in Ontario has indicated that certain provisions are essential.

It is a disservice to both the landowner and the road authority to allow any unauthorized development that may have to be removed, so there must be a method of prohibition and prosecution that will bring the issue before a court of competent jurisdiction without delay. This should be a summary procedure with adequate penalties and restrictive devices.

Authority should be given to not only prosecute and restrain the person committing the offense, but also the person authorizing the commission of that offense so that all of the parties will be made responsible for their actions. Since an unauthorized structure may remain even after the owner has been successfully prosecuted, there must be a system which may be used for the expeditious removal of the structure. While the owner may be entitled to reasonable notice so that he may take the necessary action, the road authority should be able to act on the default of the properly notified owner. This right of removal may also extend to structures which, though lawfully placed, now must be removed in the interests of highway improvement. The owner in such a case must be compensated for the resulting damages, but it should not be necessary for the road authority to acquire the lands solely for the purpose of removing a sign or other similar structure. The use of a written form of permit which may be issued subject to expressed conditions has proven to be a satisfactory method of recording the permission granted.

The system that Ontario has utilized in an attempt to control roadside development is certainly not a complete or universal remedy. It has, however, provided a point from which experience and education may lead to a more enlightened form of regulation.

Appendix A

STATUTES RELATING TO ROADSIDE DEVELOPMENT IN CANADA

Alberta

The Public Highways Act, Revised Statutes of Alberta, 1955, Chapter 257.

British Columbia

The Highway Act, Revised Statutes of British Columbia, 1948, Chapter 144.

The Controlled Access Highways Act, Statutes of B.C., 1953 (Second Session), Chapter 10.

The Motor Vehicle Act, Statutes of B.C., 1957, Chapter 39.

Manitoba

The Public Works Act, Revised Statutes of Manitoba, 1954, Chapter 216.

New Brunswick

The Highway Act, Revised Statutes of New Brunswick 1952, Chapter 103, and see Statutes of New Brunswick, 1955, Chapter 52.

Newfoundland

The Department of Highways Act, Statutes of Newfoundland, 1957, No. 7, and see Statutes of Newfoundland, 1958, No. 39.

Nova Scotia

The Public Highways Act, Revised Statutes of Nova Scotia, 1954, Chapter 235.

Ontario

The Highway Improvement Act, 1957, Statutes of Ontario, 1957, Chapter 43.

The Municipal Act, Revised Statutes of Ontario, 1950, Chapter 243.

The Planning Act, 1955, Statutes of Ontario, 1955, Chapter 61, and see Statutes of Ontario, 1959, Chapter 71.

Prince Edward Island

The Highways Act, Statutes of Prince Edward Island, 1956, Chapter 15.

Quebec

The Roads Act, Revised Statutes of Quebec, 1941, Chapter 41.

The Sign Boards and Posters Act, Revised Statutes of Quebec, Chapter 145.

Saskatchewan

The Highways and Transportation Act, Revised Statutes of Saskatchewan, Chapter 23.

Appendix B

STATUTES RELATING TO ROADSIDE DEVELOPMENT IN ONTARIO

The Highway Improvement Act, 1957

Section 5

The Lieutenant-Governor in
way as the King's Highway.

Section 29 (7)

Subject to the payment of such compensation as may be agreed upon or as may be determined in the manner provided by section 11, the Minister may direct the owner of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the King's Highway to remove it where in his opinion the safety or convenience of the travelling public so requires or where in his opinion it might cause the drifting or accumulation of snow or be injurious to the highway.

Section 30

(1) Notwithstanding anything in any general or special Act, no person, including a municipality and a local board thereof,

(a) shall obstruct or deposit material on or take up or in any way interfere with the King's Highway; or

(b) shall construct any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

except in accordance with the conditions of a permit issued therefor by the Minister.

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a penalty of not less than \$50 and not more than \$1,000.

Section 33

(1) In this section, "centre point of an intersection" is the point where the centre line of the through portion of the King's Highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the King's Highway.

- (2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,
- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of the King's Highway or within 600 feet of the centre point of an intersection;
 - (b) place any tree, shrub or hedge within 150 feet of any limit of the King's Highway or within 600 feet of the centre point of an intersection;
 - (c) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of the King's Highway, or
 - (d) use any land, any part of which lies within one-half mile of any limit of the King's Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers.
- (3) No person shall authorize or permit any act prohibited by subsection 2.
- (4) The Minister may order that subsection 2 or such clauses thereof as he may specify do not apply within the limits of any city, town or village or such parts thereof as he may specify.
- (5) The Minister may give notice to the owner of any land requiring him,
- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected, or altered; or
 - (b) to remove therefrom or alter thereon any sign, notice, or advertising device displayed,
- in contravention of subsection 2.
- (6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof.
- (7) Where the person to whom notice is given under sub-section 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device as required by the notice.
- (8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a penalty of not less than \$10. and not more than \$100. for a first offence and to a penalty of not less than \$50. and not more than \$500. for a second or subsequent offence.
- (9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device was placed, erected or altered, as the case may be
- (a) before the 24th day of March, 1950, and in compliance with the Highway Improvement Act and the regulations thereunder; or
 - (b) before the day on which the King's Highway was so designated and in compliance with the Highway Improvement Act; or
 - (c) in compliance with a permit therefor, in which case the making of compensation is subject to any provisions of such permit.
- (10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.
- (11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper, and may in his discretion cancel any such permit at any time.
- (12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section.

Section 36

(1) In this section, "centre point of an intersection" is the point where the centre line of the through portion or portions of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway.

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

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection.
- (c) sell, offer or expose for sale any vegetables, fruit or other produce or any goods or merchandise upon or within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (d) place, erect or alter any power line, pole line or other transmission line within one-quarter mile of any limit of a controlled-access highway;
- (e) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of a controlled-access highway;
- (f) use any land, any part of which lies within one-half mile of any limit of a controlled-access highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre, or any other purpose that causes persons to congregate in large numbers; or
- (g) construct or use any private road, entranceway, gate, or other structure or facility as a means of access to a controlled-access highway.

(3) No person shall authorize or permit any act prohibited by subsection 2.

(4) The Minister may order that subsection 2 or such clauses thereof as he may specify does not apply within the limits of any city, town or village or such parts thereof as he may specify.

(5) The Minister may give notice to the owner of any land requiring him,

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or
- (c) to close up any private road, entranceway, gate or other structure of facility constructed or maintained as a means of access to a controlled-access highway,

in contravention of subsection 2.

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter, and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof.

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, or to close up the private road, entrance way, gate or other structure or facility as required by the notice.

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a penalty of not less than \$10 and not more than

\$100 for a first offence and to a penalty of not less than \$50 and not more than \$500 for a second or subsequent offence.

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gas-line pump or other structure of any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, private road, entrance-way, gate or other structure or facility was placed, erected, altered, constructed or used, as the case may be.

- (a) before the 24th day of March, 1950, and in compliance with The Highway Improvement Act and the regulations thereunder; or
- (b) before the day on which the controlled-access highway was so designated and in compliance with The Highway Improvement Act; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to any provisions of such permit.

(10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper and may in his discretion cancel any such permit at any time.

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section.

Section 39

The Lieutenant-Governor in Council may designate any highway as a secondary highway and thereupon Part 1 and all the other provisions of this Act and the regulations that apply to the King's Highway apply mutatis mutandis to such secondary highway.

The Municipal Act

Section 426

Except in so far as they have been stopped up according to law all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them, or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, shall be common and public highways.

Section 427

(1) Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this or any other Act.

(2) In the case of a dedicated highway such vesting shall be subject to any rights in the soil reserved by the person who laid out or dedicated the highway.

Section 428

Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality shall have jurisdiction over all highways and bridges within the municipality.

The Planning Act, 1955

Section 27a

(1) By-laws may be passed by the councils of municipalities:

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.
2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

4. For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway, or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.