



CHAPTER 144.

An Act respecting Highways and the Traffic thereon.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Preliminary.

Short title.

1. This Act may be cited as the “ Highway Act.” R.S. 1936, c. 116, s. 1.

Interpretation.

2. In this Act, unless the context otherwise requires:—
 “ Highway ” includes all public streets, roads, ways, trails, lanes, bridges, trestles, ferry landings and approaches, and any other public way:
 “ Land ” includes all lands of every tenure and description whatsoever, including foreshore and lands covered with water, within the Province, and including lands granted by the Dominion to any person:
 “ Minister ” means the Minister of Public Works. R.S. 1936, c. 116, s. 2.

Division of Act into parts.

3. This Act is divided into four parts, relating to the following subjects:—

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R.S. 1936, c. 116, s. 3 (*altered*).
1875

PART I.

ESTABLISHMENT AND CONTROL OF HIGHWAYS.

Roads deemed
public highways.

4. All roads, other than private roads, shall be deemed common and public highways. R.S. 1936, c. 116, s. 4.

Highways vested
in His Majesty.

5. Unless otherwise provided for, the soil and freehold of every public highway shall be vested in His Majesty, his heirs and successors. R.S. 1936, c. 116, s. 5.

Certain roads
declared to be
public highways.

6. Where public money has been expended on a travelled road that has not been theretofore established by notice in the Gazette or otherwise dedicated to the public use by a plan deposited in the Land Registry Office for the district in which the road is situate, that travelled road shall be deemed and is hereby declared to be a public highway. R.S. 1936, c. 116, s. 6; 1945, c. 36, s. 2.

Power to widen
highways so
declared.

7. Any public highway declared to be a public highway by section 6 that has not a width of at least thirty-three feet on each side of the mean centre line of the travelled road may be enlarged to that width when deemed necessary by the Minister. R.S. 1936, c. 116, s. 7.

Power of Minister
to establish and
alter highways.

8. (1) It shall be lawful for the Minister in his absolute discretion to make public highways of any width and to vary and alter any existing roads and to take, either at the time the highway is first made or declared or at any subsequent time, additional land beyond the width of the highway so established where necessary for the use or purpose of the Department of Public Works, and to declare the same by a notice in the Gazette setting forth the direction and extent of such highway; and for such purpose, by himself, his agents, and workmen, without any notice to and without any consent on the part of any person owning or occupying the land, or having or claiming any estate, right, title, or interest therein, to enter upon, set out, ascertain, and take possession of any private roads and any lands in the Province, and any timber thereon; and also in the like discretion to enter upon any land for the purpose of erecting, maintaining, and removing snow-fences, or cutting any drains that may be thought necessary, or for the purpose of taking therefrom any gravel, timber, stone, and other materials required for the construction or maintenance of any highway.

Amendment of
notices in Gazette.

(2) The Minister may by notice in the Gazette amend any notice given by him pursuant to subsection (1) for the purpose of correcting any error or supplying any omission therein or for the purpose of defining more particularly the limits of any public highways previously established by a notice in the Gazette.

Naming and
changing name of
highways.

(3) The Minister may by notice in the Gazette give a name to or change the name of any highway in unorganized territory. Where the notice changes the name of a highway, a certified copy of the notice shall be transmitted by the Minister to the Registrar of the land registration district in which the highway is situate, and the Registrar shall thereupon note the change of name on any subdivision plan in his office whereby the highway was dedicated, and upon any plan in his office whereon the highway is named or referred to. R.S. 1936, c. 116, s. 8; 1945, c. 36, ss. 3, 4.

Effect of entry.

9. The entry by the Minister, his agents, servants, or workmen, as in the last preceding section mentioned, for the purpose of taking possession of any roads or lands shall operate as a complete extinguishment of every title and claim to the roads or lands so entered upon and taken possession of. R.S. 1936, c. 116, s. 9.

Power to construct
and keep highways
open.

10. The Minister may construct, keep open, and maintain a highway across any lands taken under the powers conferred by this Act; and no person shall, upon any pretext or claim whatsoever, hinder, delay, or obstruct the construction, keeping open, and maintenance of any such highway. R.S. 1936, c. 116, s. 10.

Power to close
highways.

11. (1) The Minister may at any time, by notice published in the Gazette, in such form and containing such particulars as he may determine, discontinue and close in whole or in part any highway the maintenance of which is not considered necessary in the public interest, whereupon that highway or the part thereof so discontinued and closed shall cease to be a public highway. The land comprised in any highway which has been discontinued and closed may, under the authority of the Lieutenant-Governor in Council, be transferred to, and shall thereafter become the property of, the owner of the land of which it originally formed part, or the owner of the land adjoining the land so transferred, or may be leased by the Minister to either of those owners, or may be sold, leased, or disposed of by public auction or by tender under the authority of the Lieutenant-Governor in Council, or may, under the authority of the Lieutenant-Governor in Council, be leased or transferred to the Dominion Government. The proceeds of all sales, leases, and dispositions made under this section shall be accounted for as part of the Consolidated Revenue Fund.

Notice of intention
to close highway.

(2) Where the highway or part thereof intended to be discontinued and closed pursuant to subsection (1) is in actual use by any person as a highway, the Minister shall, prior to the publication of the notice in the Gazette, give public notice of his intention so to discontinue and close the same, by notice published by one

insertion each week for four consecutive weeks in a newspaper published in the Province and circulating in the locality in which the highway or part thereof is situate. R.S. 1936, c. 116, s. 11; 1945, c. 36, s. 5.

Provisions as to
fencing and
draining.

12. Where, by reason of the taking of any lands and the construction of a highway thereon under the provisions of this Act, and by reason of the disturbance of any existing fences, ditches, or culverts, or by reason of any diversion of water owing to the construction of any such highway, it is necessary to make and provide any fences, ditches, or culverts, such fences, ditches, and culverts, as the case may be, shall be made and provided as part of, and the cost thereof shall be included as part of, the cost of the construction of the highway; but any ditches or culverts so constructed on adjacent lands and any fences constructed under this section shall thereafter be maintained and repaired by the respective land-owners along whose land or in connection with whose land they are constructed, except where by reason of undue hardship to the land-owner in any case other provision is made by Order of the Lieutenant-Governor in Council. R.S. 1936, c. 116, s. 12.

Conveyance of
water across
highway.

13. Where the owner or occupier of any land is desirous of conveying water across or along a public highway by means of a pipe, ditch, or flume, such works must be constructed to the satisfaction of the Minister. R.S. 1936, c. 116, s. 13.

Powers of Minister
respecting unsafe
structures on
highways.

14. Where any structure, that is to say, any ditch, flume, pipe, pole-line, wire, cable, skid-road, or other erection or structure exists or is constructed, erected, or maintained across, along, or through any highway in unorganized territory or any arterial or primary highway (within the meaning of section 45) in a municipality, and where the Minister is of opinion that the structure is unsafe and that it is necessary or advisable for the protection of the highway or the safety of persons using the highway that the structure be repaired, altered, renewed, or removed, and if the Minister by notice in writing affixed to or posted up in the vicinity of the structure or served on the person by whom the structure was constructed or erected, or is maintained, requires the repair, alteration, renewal, or removal of the structure, then, notwithstanding the provisions of any public or private Act or any consent by or under which the structure was so constructed or erected or is maintained, the Minister, unless the structure is forthwith repaired, altered, renewed, or removed to his satisfaction, may cause the structure to be so repaired, altered, renewed, or removed, and may recover the cost of the repair, alteration, renewal, or removal from the person by whom the structure was

constructed, erected, or maintained; and the Minister shall not by reason of anything done under this section incur any liability for loss or damage resulting from the repair, alteration, renewal, or removal of the structure. R.S. 1936, c. 116, s. 14.

Application for establishment of public highway.

15. Every person desirous of having a public highway established shall give thirty days' notice of his intention to apply to the Minister to establish such public highway, by an advertisement published, at his own expense, in the Gazette and in a newspaper published or circulating in the district wherein such applicant desires to have the highway established; but nothing in this section shall be construed as affecting the right of the Minister to make and declare highways under the provisions of section 8. R.S. 1936, c. 116, s. 15.

Compensation for lands taken.

16. (1) Compensation shall be paid in respect of lands entered upon and taken possession of under this Part for the following matters only:—

(a) Improvements on the lands so taken, that is to say, everything constructed on or annexed to the soil by the hand of man, such as roads, buildings, structures, and fences, and improvements made by clearing, planting, grading, or cultivating the soil:

(b) Lands which were originally granted to some person by the Crown, either in the right of the Province or the Dominion, and by the taking of which the total area taken for the purpose of highways from the lands comprised in the original Crown grant is found to exceed one-twentieth of the total area of the lands comprised in the Crown grant, and then only for the area in excess of one-twentieth of that total area; but, where the lands comprised in the Crown grant have been subdivided into parcels by any registered conveyance or plan of subdivision, the area of land which may be so taken from any parcel without the payment of compensation shall not exceed one-twentieth of the area of that parcel, and where lands are being taken from two or more of the parcels at the same time the total area to be so taken without the payment of compensation shall be apportioned among those parcels on the basis of their respective areas.

Arbitration.

(2) If the amount of compensation payable in any case under subsection (1) is not agreed upon, the amount may be appraised and awarded by arbitration, and for that purpose the provisions of the "Public Works Act" relating to arbitration shall mutatis mutandis apply.

Increased value of remaining lands a set-off against compensation.

(3) In determining the compensation payable to any owner in respect of any land entered upon and taken possession of under this Part, there shall be taken into consideration the increased value, beyond the increased value common to all lands in the locality, that will be given to the remaining lands of the owner through which the highway will pass, by reason of the passage of the highway through the same or by reason of the construction of the highway or of works incidental thereto, and the increased value that will be so given shall be set off against the compensation otherwise payable to that owner under this section.

Compensation for materials taken.

(4) Where in respect of gravel, sand, stone, timber, or other materials taken by the Crown for the construction, maintenance, or repair of any highway or bridge the provisions of any Statute or the reservations contained in any Crown grant permit of the same being so taken without the payment of compensation, and where the same are taken from improved lands, the Minister may, notwithstanding the provisions or reservations aforesaid, pay reasonable compensation therefor; but the payment and amount of compensation shall be in the absolute discretion of the Minister. R.S. 1936, c. 116, s. 16.

Transfer of portions of highways.

17. The Lieutenant-Governor in Council may, under special circumstances, transfer or direct the issue of a lease to any person of any part of a highway vested in the Crown; but no transfer shall be made or direction be given under this section until the Minister has given thirty days' public notice of the intention to make the transfer or issue the lease, by notice published in one issue of a newspaper published in the Province and circulating in the locality in which the highway or part thereof is situate. R.S. 1936, c. 116, s. 17.

Penalty for contravention of Part.

18. Any person contravening or committing any breach of or committing any offence against any of the provisions of this Part, or refusing, omitting, or neglecting to fulfil, observe, carry out, or perform any duty or obligation by this Part created, prescribed, and imposed, shall be liable, on summary conviction, to a fine of not less than five dollars and not more than three hundred dollars. R.S. 1936, c. 116, s. 18.

PART II.

REGULATION OF TRAFFIC.

Rule of road for vehicles meeting.

19. In case a person travelling or being upon a highway in charge of a vehicle drawn by one or more horses or other animals, or propelled by some other means, meets another vehicle drawn

or propelled as aforesaid, he shall seasonably turn out to the right from the centre of the travelled portion of the highway, allowing to the vehicle so met one-half of the travelled portion of the highway. R.S. 1936, c. 116, s. 19.

Rule at highway intersections.

20. The person in charge of a vehicle so drawn or propelled upon a highway when approaching and entering upon or crossing an intercommunicating highway shall keep to the right of the middle line of the first-mentioned highway. R.S. 1936, c. 116, s. 20.

Right of way at highway intersections.

21. The person in charge of a vehicle so drawn or propelled upon a highway shall have the right of way over the person in charge of another vehicle approaching from the left upon an intercommunicating highway, and shall give the right of way to the person in charge of another vehicle approaching from the right upon an intercommunicating highway; but the provisions of this section shall not excuse any person from the exercise of proper care at all times. R.S. 1936, c. 116, s. 21.

Rule of road for rider or vehicle overtaken by another.

22. In case a person travelling or being upon a highway in charge of a vehicle so drawn or propelled, or on horseback, is overtaken by any vehicle or horseman travelling at a greater speed, the person so overtaken shall as soon as practicable turn out to the right and allow the overtaking vehicle or horseman to pass, and shall not increase the speed of his vehicle or horse until completely passed by the overtaking vehicle or horseman. R.S. 1936, c. 116, s. 22.

Rule of road for vehicle overtaking another.

23. In case a person travelling upon a highway in charge of a vehicle or upon horseback overtakes any vehicle or horseman, it shall be the duty of such person to turn out to the left; and if he finds it impracticable to turn out as aforesaid, he shall so regulate the speed of his vehicle or horse as to allow the overtaken vehicle or horseman to precede him to some point on the highway where such turning out to the left and a passing can safely be effected. R.S. 1936, c. 116, s. 23.

Stopping of vehicle where impracticable to turn out.

24. In the case of one vehicle being met or overtaken by another, if by reason of the extreme weight of the load on either of the vehicles so meeting or on the vehicle so overtaken the driver finds it impracticable to turn out as aforesaid, he shall immediately stop, and if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage. R.S. 1936, c. 116, s. 24.

Horse-racing on highway prohibited.

25. No person shall race with or drive furiously any horse or other animal upon any highway. R.S. 1936, c. 116, s. 25.

Pedestrians
on highways.

26. Every pedestrian proceeding along any highway where a sidewalk is provided shall proceed upon the sidewalk. Every pedestrian proceeding along any highway where no sidewalk is provided shall proceed on the extreme left-hand side of the roadway. 1939, c. 24, s. 3.

Prohibition against
cyclists riding more
than two abreast.

27. Except for the purpose of passing, no person shall ride a bicycle on a highway on the left side of any two other persons riding bicycles on that highway. 1943, c. 26, s. 2.

Unlawful practices
and offences.

28. The following acts, practices, matters, and things, in respect of any highway in unorganized territory, or any arterial or primary highway (within the meaning of section 45) in a municipality, shall be unlawful, and shall be deemed to be offences against this Part, namely:—

- (a) Camping, unless where impracticable to do otherwise, either by night or day, so that any part of the camp is within twenty feet of the centre of any highway:
- (b) Making any fire within twenty feet of the centre of any highway, or making a fire at any place so as to endanger any bridge or cribbing, or leaving unextinguished any fire on a highway:
- (c) Leaving any dead animal within two hundred feet of the centre of any highway:
- (d) Leaving or keeping a wagon detached from its team upon any highway without leaving a space of twelve feet clear on one side of the travelled portion of the highway:
- (e) Leaving any portion of the chains, yokes, or other harness or of the cargo or apparatus of any team or train within six feet of the centre of any highway:
- (f) Wilfully or without lawful authority placing or maintaining by day or by night any obstruction on any part of a highway, or changing the level of a highway in any way whatsoever, or stopping the natural flow of water through any drain or culvert on or under any highway:
- (g) Constructing or maintaining a ditch the water from which causes damage to any highway:
- (h) Dragging logs or timber over or along any public highway, except as authorized by permit from the Minister therefor:
- (i) Riding a bicycle or other wheeled vehicle on any sidewalk constructed in whole or in part at the expense of the Province:
- (j) Digging up, breaking up, or removing any part of any highway, or cutting down or removing trees or timber grown on any highway, or excavating in or under any

highway without first having obtained a permit from the Minister therefor:

- (k) Placing or maintaining any skids, rails, or other mechanical devices on, along, or across any highway without first having obtained a permit from the Minister therefor:
- (l) Placing or maintaining any loading-platform, mail-box, or other structure on any highway without first having obtained a permit from the Minister therefor:
- (m) Throwing or causing to be deposited or to flow upon any highway any noxious, offensive, or filthy water or substance. R.S. 1936, c. 116, s. 26.

Power of Justices to abate offences.

29. Upon being satisfied, by information on oath made before him, that there exists within his territorial jurisdiction any practice, matter, or thing constituting an offence against this Part, any Justice may issue his warrant under his hand for the removal of the cause of such offence, and may entrust the execution of such warrant to any constable or other person; and the person or persons causing the offence aforesaid shall, on summary conviction, be liable to pay, in addition to any other penalty by this Part imposed for such offence, all costs and expenses incurred in and about the removal of the cause of the offence aforesaid. R.S. 1936, c. 116, s. 27.

Compensation for persons removing nuisances from highways.

30. In case any dead animal shall be left lying, or any fire shall be left unextinguished, upon or near a highway in contravention of the provisions of this Part, it shall be lawful for any person to remove and properly dispose of, or cause to be removed and properly disposed of, such dead animal, or to extinguish or cause to be extinguished such fire, and such person shall be entitled to recover a reasonable compensation for his trouble and expense in the premises from the person or persons contravening the provisions of this Part. R.S. 1936, c. 116, s. 28.

Persons liable for offences in or about a camp or pack-train.

31. If an offence against this Part has taken place or has been committed or permitted in or about a camp, or a team, or a train of pack-animals, the person in charge of the camp, team, or train of pack-animals shall be responsible for and shall be deemed guilty of the offence; and if there is no person so in charge, then each person in or about the camp, team, or train shall be responsible for and shall be deemed guilty of the offence: Provided that for each offence proved the total penalties inflicted shall not exceed the maximum penalty in this Part provided. R.S. 1936, c. 116, s. 29.

Violation of clause (g) of s. 28.

32. Any person who causes damage to a public highway contrary to clause (g) of section 28 shall, in addition to the fine

provided by the next succeeding section, be liable to pay to the Minister such sum for the said damage as may be awarded by the Justice. R.S. 1936, c. 116, s. 30.

Offences.

33. (1) Every person who violates any provision of this Part or of the regulations, or who refuses or neglects to observe or perform any duty or obligation created or imposed by this Part or the regulations, shall be guilty of an offence against this Part, and each day's continuance of the violation, refusal, or neglect shall constitute a new and distinct offence.

Penalty.

(2) Every person guilty of an offence against this Part for which no specific penalty is otherwise provided shall be liable to a fine not exceeding fifty dollars. R.S. 1936, c. 116, s. 31.

Recovery of penalties and moneys payable.

34. All penalties imposed and all costs, expenses, compensation, damages, and moneys payable or recoverable under this Part shall be recoverable before a Justice upon proceedings under the "Summary Convictions Act." R.S. 1936, c. 116, s. 32.

Interpretation for purposes of section.

35. (1) In this section:—

"Extraordinary traffic" includes any carriage of goods or persons over a highway, at either one or more times, and whether in vehicles drawn by animal power or propelled by some other means, which taken in conjunction with the nature or existing condition of the highway is so extraordinary or improper in the quality or quantity of the goods or the number of persons carried, or in the mode or time of use of the highway, or in the speed at which the vehicles are driven or operated, as, in the opinion of the Minister, substantially to alter or increase the burden imposed on the highway through its proper use by ordinary traffic, and to cause damage and expense in respect of the highway beyond what is reasonable or ordinary:

"Minister" means the Minister of Public Works or any person authorized by him in writing to exercise the powers vested in the Minister under this Part.

Power of Minister to regulate extraordinary traffic.

(2) Where in the opinion of the Minister any highway is liable to damage through extraordinary traffic thereon, he may regulate, limit, or prohibit the use of the highway by any person operating or in charge of the extraordinary traffic, or owning the goods carried thereby or the vehicles used therein; and every person driving on or using the highway in contravention of such regulation, limitation, or prohibition shall be guilty of an offence against this Act, and shall be liable, on summary conviction, to a fine of not less than fifty dollars and not more than three hundred dollars: Provided that any person to whom this section might

otherwise apply may, with the approval of the Minister, enter into an agreement for the payment to the Crown of compensation in respect of the damage or expense which may, in the opinion of the Minister, be caused by the extraordinary traffic, and thereupon that person shall not in respect of that traffic be subject to any prohibition or penalty prescribed by this section.

Power of Minister to close highway to traffic.

(3) The Minister may close to traffic or use any highway at such time and for such period of time and in respect of such classes of traffic or use as in his opinion may be necessary for the construction or protection of any highway or other public work.

Application of section.

(4) This section shall apply to all highways in unorganized territory, but shall apply only to arterial and primary highways (within the meaning of section 45) in municipalities. R.S. 1936, c. 116, s. 33.

Power of Lieut.-Governor in Council to make regulations.

36. (1) The Lieutenant-Governor in Council may make such regulations in respect of vehicles driven, used, or operated on and in respect of pedestrians using any highway in unorganized territory or on any arterial or primary highway (within the meaning of section 45) in a municipality as are deemed necessary or advisable for:—

- (a) Carrying into effect the provisions of this Part:
- (b) Regulating, in respect of any designated highway or class of highways, the speed of vehicles, and the gross weight of vehicle or loads, the weight on any axle, tire, or wheel, the number of axles or wheels, the wheel-base, the kind, width, size, and inflation of tires, and the system of load suspension; and so regulating any matter enumerated in this clause either separately or in relation to any or all of the other matters so enumerated, and either generally or in respect of the time of the year and the physical condition of the highways:
- (c) Regulating the use of chains, cleats, ribs, clamps, flanges, or other devices on the tires of vehicles:
- (d) Prescribing the lights to be carried and displayed on vehicles other than motor-vehicles and trailers as defined in the "Motor-vehicle Act":
- (e) Regulating, in respect of any designated highway, vehicle, or load, or class of highways, vehicles, or loads, the width, length, and height of vehicles, and the width, length, height, fastenings, and distribution of loads:
- (f) Regulating the gauge or width of vehicles from centre to centre of runners or wheels:
- (g) Prescribing penalties for the enforcement of any regulation made under this section:

- (h) Regulating or prohibiting the parking or standing of vehicles on any highway, and providing for the displaying of additional warning signs or lights in defined cases in respect of vehicles on any highway:
- (i) Providing for the designation of portions of highways on which a distinguishing middle line shall be marked, and for the marking upon the surface thereof of a distinguishing middle line; and prescribing that all vehicles proceeding on those highways shall be kept to the right of the middle line so marked, except when passing an overtaken vehicle elsewhere than at a curve in the highway:
- (j) Providing for the designation of highways on which vehicles shall during all or certain named hours of the day proceed in one direction, and for the marking of those highways with conspicuous signs or signals so as to indicate the rule in regard thereto and the direction in which vehicles shall proceed; and prescribing that vehicles shall proceed on those highways only as such signs or signals indicate:
- (k) Prescribing in respect of any designated highway or class of highways that the driver of every vehicle approaching upon an intercommunicating highway shall before proceeding to cross or enter upon the designated highway or a highway of the class designated, and while at a distance of not more than twenty feet therefrom, bring his vehicle to a full stop:
- (l) Regulating the turning of vehicles and the reversion of vehicles on any highway or at any intersection of highways:
- (m) Providing for and compelling the weighing of vehicles and their loads, and the furnishing of satisfactory evidence of their weight; and providing for the removal from any vehicle of a load or any portion of a load which is found to be in excess of the weight prescribed by the regulations:
- (n) Prescribing, in respect of any highway where there is a railway intersecting, that the driver of every motor-vehicle shall before proceeding to cross such railway, and while at a distance of not more than twenty feet therefrom, bring his motor-vehicle to a full stop:
- (o) Establishing, in respect of any designated highway, pedestrian crossings for the use of pedestrians:
- (p) Prescribing the manner in which a pedestrian crossing shall be marked on a highway, and in which signs or notices shall be erected on a highway to indicate to the

drivers of motor-vehicles that they are approaching a pedestrian crossing:

- (q) Prescribing the use of a pedestrian crossing that may be made by pedestrians, and regulating pedestrian traffic on a crossing:
- (r) Prohibiting pedestrians from crossing designated portions of a highway except at a pedestrian crossing:
- (s) Regulating motor-vehicle traffic when approaching a pedestrian crossing.

Further power to make regulations.

(2) The Lieutenant-Governor in Council may make regulations providing for:—

- (a) The erection and maintenance on highways of signs and guide-posts approved by the Minister:
- (b) The preservation of signs and guide-posts erected on highways:
- (c) Prohibiting or regulating the erection of signs and signboards and the pasting or painting of signs or notices, and the exposing of any advertising device upon or within a distance to be specified in the regulation from any highway or any specified portion of a highway:
- (d) The tearing-down and removal of signs, advertisements, and guide-posts on any highway or specified portion of a highway, or at any specified distance from a highway:
- (e) The erection and maintenance of fences and gates across highways when considered necessary by the Minister, the preservation of fences and gates so erected, and for the opening and closing of such gates by persons using the highway:
- (f) The declaring of the Cariboo Road between Yale and Lytton, or any part of that highway, a toll-road; the fixing of the rates of toll to be paid to the Crown for the use of the toll-road so declared, which rates of toll may be varied or limited in their application in the case of settlers residing along the route of the toll-road; the erection and maintenance of toll-gates; the appointment, duties, and powers of toll-gate keepers; the collection and enforcement of payment of tolls, including the seizure, detention, and sale of vehicles and property in respect of which a toll is payable; and for preventing the evasion of payment of tolls:
- (g) The granting of permits by the Minister, in his discretion, or subject to such conditions as may be prescribed, for the doing of anything which is by or under this Act prohibited or made unlawful without a permit:

(h) The prescribing of forms to be used for purposes of this Act or the regulations:

(i) The prescribing of fees for anything done or permitted to be done under the regulations.

Application of power in certain cases.

(3) The power of the Lieutenant-Governor in Council to make regulations under clauses (a) to (e) of subsection (2) shall apply in respect of all highways in unorganized territory, but shall apply only in respect of arterial and primary highways (within the meaning of section 45) in municipalities. R.S. 1936, c. 116, s. 34; 1947, c. 41, ss. 2-4.

Evidence of weight of vehicle or load.

37. On the prosecution of any person charged with a violation of the regulations in operating or using on any highway a vehicle the weight of which or the weight of the load carried on which was in excess of the weight prescribed by the regulations, it shall be sufficient prima facie evidence for any credible witness to state upon oath that to the best of his judgment and opinion the weight of the vehicle in question or of the load carried thereon at the time of the alleged violation was in excess of the weight so prescribed; and upon that evidence being given the person charged may be convicted, unless he proves that the weight of the vehicle or load, as the case may be, was not in excess of the weight so prescribed. R.S. 1936, c. 116, s. 35.

Lights on bicycles.

38. (1) Every bicycle propelled by muscular power shall be equipped with a lamp mounted on the front thereof capable of displaying a white light visible under normal atmospheric conditions at least two hundred feet in the direction in which the bicycle is fronted, and with a red reflector of a make or design approved by the Commissioner of Provincial Police for the purpose of this section, or lamp mounted on the rear thereof capable of reflecting or displaying a red light towards the rear, and such lamp or lamps shall be kept lighted during the period from one-half hour after sunset to one-half hour before sunrise while the bicycle is being ridden or propelled upon any highway. In addition to the equipment so required, every bicycle that is ridden or propelled upon any highway shall have the most conspicuous portion of its rear mud-guard, for a length of not less than nine inches and the full width of the mud-guard, painted white.

Trailing of bicycles prohibited.

(2) No person shall ride or operate on any highway a bicycle which is trailed behind or alongside any vehicle or street-railway car, whether attached to that vehicle or car by the arm and hand of the rider or operator of the bicycle or otherwise.

Number of persons permitted to ride a bicycle.

(3) No person riding or operating a bicycle on a highway shall carry any other person on the bicycle; provided that, if a bicycle is specially constructed to carry more than one person,

the number of persons for which it is constructed may ride that bicycle.

Penalty.

(4) Every person riding on or propelling or operating a bicycle on any highway in contravention of any provision of this section shall be liable, on summary conviction, to a fine not exceeding twenty-five dollars. R.S. 1936, c. 116, s. 36; 1939, c. 24, s. 4.

Duty of person in charge in case of bicycle accident.

39. (1) In case an accident occurs by which any person or property is injured, directly or indirectly, owing to the presence or operating of a bicycle on any highway, the person in charge of the bicycle shall:—

- (a) Remain at or immediately return to the scene of the accident; and
- (b) Render all possible assistance:
- (c) Give to any one sustaining loss or injury and to any police officer or constable who is present his name and address, and also the name and address of the owner of the bicycle, and, if the bicycle has been licensed or registered, the licence or registration number of the bicycle.

Written report.

(2) If the accident results in death or injury to any person or in injury to property causing aggregate damages apparently exceeding twenty-five dollars, the person in charge of the bicycle shall forthwith make a written report of the accident and shall mail or deliver the same to the nearest Provincial or municipal police office or station, and the officer in charge of the office or station shall within twenty-four hours after receipt of the report mail or deliver a copy thereof to the Commissioner of Provincial Police.

Report not open to public inspection.

(3) Every report made under this section shall be without prejudice, and shall be for the information of the municipal and Provincial police, but shall not be open to public inspection. The fact that a report has been so made shall be admissible in evidence solely to prove a compliance with this section, and the report shall be admissible in evidence on the prosecution of any person for the offence of making a false statement therein. 1945, c. 36, s. 6.

Riding a bicycle to common danger.

40. (1) Every person riding or operating a bicycle on any highway shall ride and operate the same in a careful and prudent manner, having regard to all the circumstances, including the rate of speed, the nature, condition, and use of the highway, and the traffic that actually is at the time or might reasonably be expected to be on the highway. In describing any offence under this section, it shall be sufficient to charge an accused person with riding to the common danger, and the Court or Magistrate

shall be entitled to receive evidence for the prosecution showing what acts or circumstances have constituted the offence charged, and the conviction of the Court or Magistrate shall be sufficient if it sets forth that the accused person did ride to the common danger, without the necessity of setting forth the specific acts or circumstances which constituted the offence.

Penalty.

(2) Every person who is guilty of the offence of riding to the common danger within the meaning of this section shall be liable, on summary conviction, to a fine of not less than five dollars and not more than twenty-five dollars. 1945, c. 36, s. 6.

Seizure of bicycle in case of offence.

41. (1) Where by this or any other Act, or by any by-law of a municipality any provision is made in respect of bicycles and an offence created in respect of the violation thereof, the Magistrate or Court may, in addition to or in lieu of any penalty otherwise prescribed, order that the bicycle shall be seized, impounded, and held by an officer of the Court for a period not exceeding one month from the time when the bicycle is seized; and on the expiry of that period the person entitled thereto may again have possession of the bicycle.

Entry for purpose of seizure.

(2) For the purpose of seizing and impounding a bicycle pursuant to an order made under subsection (1), any police officer may enter by force any place or building in which the bicycle is situated. 1945, c. 36, s. 6.

Passing street-car on left prohibited.

42. (1) No person in charge of a vehicle or on a bicycle or on horseback or leading a horse overtaking a street-car operated in or near the centre of the travelled portion of the highway that is stationary or in motion shall pass on the left-hand side of such street-car, having reference to the direction in which the street-car is travelling.

Except in case of "emergency vehicle."

(2) Subsection (1) shall not apply to an emergency vehicle as that expression is defined in the "Motor-vehicle Act."

In cases specified.

(3) The driver of an emergency vehicle shall not drive such vehicle to the left of a street-car if there is sufficient room to drive to the right of such street-car, nor shall he so drive unless he gives repeated audible signals by siren or bell. 1945, c. 36, s. 6.

PART III.

CLASSIFICATION AND IMPROVEMENT OF HIGHWAYS.

Interpretation.

43. (1) In this Part, unless the context otherwise requires:—
 "Construction" includes the original work of constructing a new highway, and also the work of reconstructing or putting a highway or any section of a highway in repair

by general and continuous regrading or remetalling of its surface, or by building, rebuilding, or enlarging bridges thereon, or by executing such other highway-work of substantial improvement or protection as may be classified by the Minister as substantial:

“Department” means the Department of Public Works:

“Maintenance” means the work, subsequent to the construction of a highway, of preserving and keeping it in repair, including the making, cleaning, and keeping open of ditches, gutters, drains, culverts, and water-courses, and the repairing of retaining-walls, cribs, river-protection works, and other works necessary to keep open and maintain the highway for use by the traffic for which it is required:

“Municipal area” or “area” means the area of land within the limits of a municipality and over which the jurisdiction of the municipal corporation extends.

“Population” of a municipality.

(2) For the purposes of this Part, the certificate of the Minister from time to time, in writing under his seal, as to the “population” of any municipality shall be conclusive. R.S. 1936, c. 116, s. 37.

Application of Part limited to certain municipal areas.

44. The provisions of this Part, except the provisions of sections 45 and 46 relating to the classification of highways and except the provisions of section 58, shall apply only to such highways and portions of highways as are within the limits of a municipality, and none of the provisions of this Part shall apply to highways or portions of highways within the limits of any city or city municipality having a population of more than two thousand. R.S. 1936, c. 116, s. 38; 1947, c. 41, s. 5.

Classification of highways.

45. For the purposes of this Part, certain highways may be classified as follows:—

(a) “Arterial highways,” comprising highways of such importance as, on the recommendation of the Minister approved by Order of the Lieutenant-Governor in Council, are classified as arterial highways:

(b) “Primary highways,” comprising such highways affording main channels of communication connecting with important extra-provincial highways, or connecting important centres of population or important terminal points, as, on the recommendation of the Minister approved by Order of the Lieutenant-Governor in Council, are classified as primary highways:

(c) “Secondary highways,” comprising such highways of less general importance as, on the recommendation of the Minister approved by Order of the Lieutenant-

Governor in Council, are classified as secondary highways. R.S. 1936, c. 116, s. 39.

Procedure for classification of highways.

46. (1) From time to time the Minister shall denote the highways which in his opinion should be classified as arterial, primary, and secondary highways respectively by delineating upon a map the route of each such highway throughout each municipal area through or in which it runs or is intended to run. After observing the following conditions, that is to say:—

- (a) As to arterial and primary highways, after consultation with the Municipal Council of every municipality through or within the limits of which the highway runs or is intended to run:
- (b) As to secondary highways, after agreement made with and ratified by by-law of the Municipal Council of every municipality through or within the limits of which the highway runs or is intended to run, approving of the proposed classification and route of the highway,—

the Minister shall submit the map to the Lieutenant-Governor in Council for classification of the highways denoted thereon.

Publication of notice of classification.

(2) Upon the making of the order classifying any arterial, primary, or secondary highway, the Minister shall cause notice of the fact of its classification under this Act to be published in one issue of the Gazette, and no change shall be made in the route or classification of the highway except by Order of the Lieutenant-Governor in Council. R.S. 1936, c. 116, s. 40.

Cost of construction and maintenance of classified highways.

47. (1) Subject to the provisions of subsections (2) and (3), the cost of construction and maintenance of classified highways shall be borne as follows:—

- (a) In the case of arterial highways, the cost of construction and maintenance shall be borne entirely by the Department:
- (b) In the case of primary highways, the cost of construction and of maintenance shall be borne seventy-five per centum by the Department and twenty-five per centum by the municipal corporation of the area through or in which the highway runs:
- (c) In the case of secondary highways, the cost of construction shall be borne equally by the Department and the municipal corporation of the area through or in which the highway runs, and the cost of maintenance shall be borne forty per centum by the Department and sixty per centum by the municipal corporation.

Power of Department to increase contribution in certain cases.

(2) Where a secondary highway runs in or through a municipality having a population of less than one thousand, the Department may, in the discretion of the Minister, contribute not

exceeding seventy-five per centum of the cost of construction and maintenance of the highway.

Power of Department to pay entire cost of bridges in certain cases.

(3) The Department may build, rebuild, repair, or protect a bridge upon any highway, where the cost of the work is provided by a specific vote of the Legislature; and in case of damage by flood or other accident, or where otherwise deemed necessary in the public interest, the Department may, with the approval of the Lieutenant-Governor in Council, replace, repair, rebuild, or protect any highway bridge, whether upon a classified or unclassified highway, and pay the entire cost thereof. R.S. 1936, c. 116, s. 41.

Control of construction and maintenance of classified highways.

48. (1) The control of the construction and maintenance of every arterial or primary highway shall be vested in the Department. Subject to the regulations made under this Part, the control of the construction and maintenance of every secondary highway shall be vested in the municipal corporation of the area in or through which the highway runs.

Construction of sidewalks on arterial or primary highway.

(2) Upon obtaining the approval of the Department, the municipal corporation of any area in or through which an arterial or primary highway runs may construct, at the expense of the corporation, sidewalks on that highway. R.S. 1936, c. 116, s. 42.

Powers of Department within municipalities extended.

49. (1) In addition to all other powers, the Department shall have and may exercise within the limits of any municipality in or through which an arterial or primary highway runs all the powers which a municipal corporation authorized to lay out, construct, and maintain the highway might exercise for that purpose.

Power of Department to exercise rights of municipal corporation under any by-law or contract.

(2) The Department, in respect of an arterial or primary highway, shall have all the rights, powers, and advantages conferred by by-law, contract, or otherwise upon the municipal corporation having control of the highway before it became classified as an arterial or primary highway under this Act; and the Department may sue in the name of the Minister upon such rights or under such by-law or contract in the same manner and to the same extent as the municipal corporation might have done if the highway had not been classified as an arterial or primary highway. R.S. 1936, c. 116, s. 43.

Protection of arterial highways.

50. (1) Notwithstanding the provisions of any public or private Act, no person shall:—

(a) Dig up, break up, or remove any part of the improved, graded, surfaced, or travelled portions of any arterial highway for the purpose of any work constructed or maintained or proposed to be constructed in, upon, or over the arterial highway, or for any purpose whatsoever; or

- (b) Excavate in or under any arterial highway; or
- (c) Place any sign, erection, or obstruction upon any arterial highway,—

except with the consent of the Minister and after having obtained from him a permit in writing therefor, and subject to such conditions to be set out in the permit as the Minister may consider proper.

(2) Every person violating any of the provisions of subsection (1) shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty dollars.

(3) No part of the expense of any work constructed or maintained or thing done by any person under a permit granted by the Minister under subsection (1) shall be borne by the Department, nor shall the Crown be liable for any loss or damage caused to person or property, directly or indirectly, by any work constructed or maintained or thing done under the permit. R.S. 1936, c. 116, s. 44.

Duty of Department to keep and furnish accounts of expenditure on primary highways.

51. (1) The Department shall keep an account of expenditure showing the amount spent on construction and the amount spent on maintenance of each primary highway, and shall from time to time transmit a statement thereof to each municipal corporation liable to contribute to the cost of the highway.

Notice to municipalities before commencing construction-work.

(2) Before commencing any work of construction in any year on a primary highway the Department shall give thirty days' notice thereof in writing to each municipal corporation liable to contribute to the cost of the highway. R.S. 1936, c. 116, s. 45.

Duty of municipal corporation to submit estimates of expenditure on secondary highways.

52. (1) The municipal corporation having control of the construction and maintenance of any secondary highway shall, not later than the first day of February in each year, submit to the Minister estimates showing the proposed expenditure for the construction and maintenance thereof for the year commencing the first day of April following; and unless the municipal corporation submits the estimates of expenditure as required by this subsection, and obtains the approval thereof by the Minister in writing before any work covered by the estimates is undertaken, the Department shall not be liable to bear any portion of the cost of construction or maintenance of the secondary highway for that year.

Duty of municipal corporation to keep and furnish accounts of expenditure on secondary highways.

(2) The municipal corporation having control of the construction and maintenance of any secondary highway shall keep an account of expenditure showing the amount spent on construction and the amount spent on maintenance, and shall from time to time transmit a statement thereof to the Department. R.S. 1936, c. 116, s. 46.

Basis of apportionment of costs of continuous highway through two or more municipalities.

53. (1) For the purpose of determining the amounts payable by the several municipal corporations in respect of a primary or secondary highway which runs in a continuous route in or through two or more municipal areas, the highway may be considered as a whole, or the Minister may divide the highway into such sections as under the circumstances of the case he deems proper, and the total amount of cost to be borne by the municipal corporation for the construction or maintenance of the highway as a whole or of any section shall be apportioned among the several municipal corporations in proportion to the mileage of the highway or section in each municipality.

Decision of Minister as to apportionment final.

(2) In case of any dispute between the municipal corporations as to the apportionment of the cost to be borne by them, the Minister, on notice to the parties to the dispute, and after hearing all such parties as apply to be heard, may apportion the cost between the several municipal corporations, and the decision of the Minister shall be final. R.S. 1936, c. 116, s. 47.

Recovery of moneys due to Department.

54. All moneys due to or recoverable by the Department under the provisions of this Act, including the allocated cost of construction and of maintenance of any primary highway, may be recovered by action in any Court as for a debt due to the Crown. The certificate of the Minister stating the amount due from any municipal corporation under this Act shall be conclusive evidence of liability. R.S. 1936, c. 116, s. 48.

Power of municipal corporation to provide moneys to meet expenditures.

55. Every municipal corporation liable for the payment of any moneys under this Act may provide funds therefor in any manner authorized under the "Municipal Act" for the providing of funds for municipal purposes, but it shall not be necessary by reason of anything contained in that Act for any by-law ratifying any agreement made under this Act or for raising money upon the credit of the municipality for the payment of moneys for which the municipal corporation is liable under this Act to be submitted to or receive the assent of the electors of the municipality. R.S. 1936, c. 116, s. 49.

Power of Department to require proper maintenance of secondary highways.

56. Where the Minister deems it advisable, the Department may give notice to any municipal corporation that a secondary highway within its municipal area is not being kept in a proper state of maintenance; and if after fifteen days from the giving of the notice the highway in the opinion of the Minister has not been put in a proper state of maintenance, the Department may cause the highway to be put into a proper state of maintenance, and may pay the cost thereof, and may recover the amount of such cost from the municipal corporation. R.S. 1936, c. 116, s. 50.

Power of Lieut.-Governor in Council to make regulations.

57. (1) The Lieutenant-Governor in Council may make regulations for the purpose of carrying out the provisions of this Part, and may either by general regulations or by special regulations in any particular case prescribe the nature and quality of material and work to be applied in the construction or maintenance of primary and secondary highways.

Power to enter into agreements with Dominion.

(2) The Lieutenant-Governor in Council may enter into agreements with the Governor in Council, or with any member of His Majesty's Privy Council for Canada, for the application to the construction and improvement of highways within the Province of any moneys appropriated for highway construction or improvement pursuant to the provisions of any Act of the Parliament of the Dominion.

Power to vary conditions of payment by Department and municipalities.

(3) Where an agreement entered into pursuant to subsection (2) provides for the application of any moneys so appropriated to the cost of any highway-work under this Act, the Minister may in consequence of the agreement vary the conditions of payment and the amounts payable in respect of that work by the Department and by municipal corporations under this Act. R.S. 1936, c. 116, s. 51.

Power of Lieut.-Governor in Council in respect of buildings, etc., along highways.

58. (1) The Lieutenant-Governor in Council may fix the distance from any highway or portion of a highway at which fences, buildings, or other structures may be placed, and also the distance from any highway or portion of a highway at which trees, shrubs, or hedges may be planted.

(2) The Minister may direct the removal of any tree, shrub, bush, hedge, fence, signboard, gasoline-pump, building, or other object growing or standing on lands adjacent to any highway or portion of a highway where, in his opinion, the safety or convenience of the travelling public so requires, or when any such object might cause the drifting or accumulation of snow or is injurious to the road-bed, but subject to the payment of such compensation as may be agreed upon or as may be determined by arbitration in the manner provided in the "Public Works Act." 1947, c. 41, s. 6.

PART IV.

PROTECTION OF BRIDGES.

Application of Part.

59. This Part shall apply to all bridges owned by the Province or subject to Provincial control. R.S. 1936, c. 116, s. 52.

Driving of animals over bridges faster than a walk prohibited.

60. Subject to the provisions of clause (c) of section 62, it shall be unlawful for any person to ride or drive any animal, whether attached to a vehicle or otherwise, or any animals in

droves or in pack-trains, on or over a bridge at a pace faster than a walk. R.S. 1936, c. 116, s. 53.

Mooring of rafts or vessels to bridges prohibited.

61. It shall be unlawful to moor, make fast, or in any other way attach any raft, vessel, boat, barge, or other floating body to any bridge, or to any pier, pile, guide, trestle, or abutment of the same. R.S. 1936, c. 116, s. 54.

Power to make rules and regulations governing traffic on bridges.

62. It shall be lawful for the Minister, or any person authorized by him in writing to exercise the powers vested in the Minister under this section, to make, alter, and repeal from time to time, as he may deem expedient, rules and regulations governing the traffic over any bridge coming under the provisions of this Part for any of the following purposes:—

- (a) For defining the maximum load that may be hauled on and over any bridge at one time:
- (b) For defining the maximum number of head of animals of any kind, in bands or pack-trains, that may be driven on or over any bridge at one time, and for defining the intervals of time and space between said bands or pack-trains:
- (c) For permitting an increased pace over trestle bridges if such increase in speed is not deemed hazardous to the structure:
- (d) For closing a bridge to or restricting the use of same to particular class or classes of traffic. R.S. 1936, c. 116, s. 55.

Penalty for contravention of preceding provisions.

63. Every person who contravenes any of the preceding provisions of this Part relating to the protection of bridges, or of any rule or regulation made in accordance with the preceding provisions of this Part, shall be liable, on summary conviction, to a fine not exceeding fifty dollars. R.S. 1936, c. 116, s. 56.

Employer liable in damages.

64. The employer of any person who, while in charge of any animals or vehicles of such employer, is guilty of a violation of this Part shall, in addition to all penalties imposed by this Part, be liable to His Majesty for all damage resulting from such violation, and the same may be recovered from the employer by action in any Court of competent jurisdiction at suit of the Attorney-General. R.S. 1936, c. 116, s. 57.

Further power to make regulations governing traffic on bridges.

65. The Minister, or any person authorized by him in writing to exercise the powers vested in the Minister under this section, may from time to time make regulations prescribing the conditions upon which traffic of any kind, including railway traffic, may be carried across any bridge to which this Part applies; and particularly, and without in anywise limiting the generality of the foregoing provisions, may make regulations:—

- (a) Prescribing the speed at which railway traffic may be moved across any bridge:
- (b) Prescribing the speed at which vehicular traffic may be moved across any bridge:
- (c) Fixing and prescribing the length and weight of trains and vehicles which may be moved across any bridge:
- (d) Preventing the depositing of rubbish, offal, or offensive or inflammable matter upon any bridge. R.S. 1936, c. 116, s. 58.

Penalty for
contravention of
regulations.

66. Every person contravening or permitting the contravention of, or omitting, refusing, or neglecting to conform to, observe, and perform the provisions made and prescribed by any regulation made under the last preceding section of this Part shall be liable, on summary conviction, to a fine of not less than ten dollars and not more than two hundred and fifty dollars. R.S. 1936, c. 116, s. 59.

Officers and
employees personally
liable in addition
to corporation.

67. In the event of any corporation being guilty of any offence against the last preceding section, or any rules or regulations made under section 65, every officer and every employee of the corporation taking part in or being in anywise concerned in the act or omission constituting the offence shall personally be deemed to commit an offence against this Part, and may be personally prosecuted and punished therefor in addition to the prosecution and punishment of the corporation. R.S. 1936, c. 116, s. 60.

Saving clause.

68. Nothing in this Part contained shall interfere with the public rights of navigation or shipping. R.S. 1936, c. 116, s. 61.

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