

Title: A History of Drainage
Statutes of Ontario (1835-1973).

Introduction

The history of drainage statute law in Ontario is almost 140 years old and during that period there have been almost 150 amendments. It is difficult to characterize this development, except to say that changes came piecemeal in response to particular problems. The result was a system of drainage law that was extremely complex and sometimes unwieldy or as drainage referee Henderson once put it, " a system of shreds and patches." This is not to say that the development of drainage statutes was haphazard or totally unintergrated, but rather that changes were instituted in response to different demands from various sections of the province, and also in response to the particular difficulties encountered by farmers, engineers, and lawyers as the pace of drainage construction increased. Finally, perhaps it would not be wrong to characterize the development of drainage laws as a fundamentally conservative process with few radical reconstructions of the Act or departures from the basic approach. Indeed, almost every change in the statutes built on the already existing base in an attempt to improve what apparently was considered to be a basically adequate system for the construction of drains.

1835-68

Statute law affecting drainage in Ontario, had its' origin in 1835 with " an Act to regulate Line Fences and Watercourses."¹ This legislation authorized the opening of ditches and watercourses among interested parties and it declared that the cost of such construction be borne in proportion to the interests of the individuals concerned. The purpose of this legislation as set out in section 16, was "to enable the owners or occupiers of such swampy or sunken land to cultivate or improve the same." If one of the parties failed to complete his share of the work, any of the other parties to the agreement could complete the work and sue to recover the cost. Any disputes arising out of the operation of the act, were to be settled by reference to the Fence Viewers. The Fence Viewers were appointed by the municipality and they were empowered to extend a ditch across land which derived no benefit from it. A time limit of four years was originally placed on the operation of this act, but at the end of the trial period in 1839, the legislation was extended indefinitely.² Major alterations to the act were undertaken in 1859, but they did not really affect its' substance.

¹ 4 Wm. 4 Ch. 12.

² 2 Vic. Ch. 18.

Until 1859, this remained the sole drainage statute in Ontario, but at this time, sections 278 and 279 were added to "an Act respecting the Municipal Institutions of Upper Canada."³ These sections enabled the municipality to control to a large degree, the installation of drains. According to the statute, upon receiving a petition, signed by the majority of resident owners in any part of the township, a municipal Council could order an examination of the area concerned, by an engineer or another competent person. If after obtaining a report of this examination, it was the opinion of the Council that the work would "greatly benefit" the township, the Council could pass a by-law which would outline the work to be done, assess the land immediately benefitted, and allow the Council to issue debentures. There was an appeal from the assessment to a County Court Judge and the Act also provided for publication of the by-law at least once a week for one month in the local press, before work was undertaken. In 1866, amendments were introduced, which dealt with the problem of a drainage scheme going beyond the boundaries of the initiating municipality.⁴ Essentially, this amendment provided for the engineer to make his report and for notice to be given to the other municipalities involved, and these organizations then had an opportunity to appeal the report to arbitrators. The single maintenance provision

³C.S.U.C. 1859, Ch. 14, sec.: 278,279.

⁴Statutes of Province of Canada, 29-30 Vic 1866, Ch. 51 secs.: 281-282.

of the Act, indicated the responsibility of the municipality to "preserve, maintain, and keep the drain" and if it refused or neglected to do so, it could be liable to an indictment for such neglect or refusal, as well as damages.

1868-1882

The period 1868 to 1882 was extremely active in terms of innovations to the drainage statutes as at least thirty different amendments were introduced. In 1868 the "Line Fences and Watercourses Act"⁵ was extended to apply to unoccupied and non-resident land. Municipal Councils were brought into the administration of the Act, for the first time. The Council was now required to pay any charges brought against unoccupied land and to recover such expenses from the interested land owners through taxation. Adjoining municipalities were compelled to allow ditches begun in another municipality to be extended through their territory. Provisions were also made for the assessment of land benefitted in adjacent municipalities and appeals were allowed from the awards of the Fence Viewers to a County Court Judge. In 1874, all previous acts were repealed and an act was introduced entitled, "An Act Respecting Ditching Watercourses."⁶ The scope of the act was outlined clearly by the legislature:

"this act shall not affect the acts relating to municipal institutions or the acts affecting drainage of land, as this act is intended to apply to individuals and not public or local rights or liabilities."

⁵ 32 Vic., Ch. 46.

⁶ 38 Vic., Ch. 26.

The new legislation was essentially the same as its' predecessor, except that now for the first time, an Ontario land surveyor could be appointed to assist the Fence Viewers.

The Municipal Act was also amended in 1868. It's provisions were changed to read "the majority of residents or others in any part of any municipaltiy"⁷ could submit a drainage petition. Previously, this clause had required the petition to bear the names of a "majority of resident owners in any part of any township." The Council could now pass a by-law if, in its' opinion, this was "desirable" as opposed to the previous wording, "greatly benefitted." In 1869, the section referring to persons entitled to sign the petition was changed to "a majority of resident owners as shown by the last revised assessment roll or a majority of non-resident owners or a majority of all the owners."⁸ Added in 1873, was the provision that an order for mandamus would go if the council failed to keep or maintain the drain."⁹ This altered the previous language which spoke in terms of an

⁷ 3L Vic., Ch. 43.

⁸ 33 Vic., Ch. 26.

⁹ 36 Vic., Ch. 39.

indictment. In 1877, an amendment was passed that if banking, pumping, or other mechanical operations were required, the petition would have to contain the names of two-thirds of the owners described in the section.¹⁰ This provision is still part of the present Drainage Act.

Perhaps the greatest innovations of this period, were the various acts introduced to facilitate public construction and financing of drainage works. The first of these was passed in 1868, "an Act respecting the Public Works of Ontario."¹¹ The legislation set up a provincial department of Public Works and one of its most important responsibilities was to construct drainage works in swampy lands. The legislation gave public authorities the power to erect a drain without waiting for the land owners involved to take the initiative. The Commissioner of Public Works was empowered to have surveys and studies made of possible drainage works and in his annual report to the legislature to make recommendations to the Lieutenant Governor. The Commissioner also had power to remove obstructions in drains, and to give permission to private

¹⁰1877, 40 Vic., CH. 26.

¹¹32 Vic., CH. 28.

drains flowing into the main drain. Drains constructed under this act were vested in the Province and the responsibility of the Crown.

While it was recognized that proper drainage increased the productivity and monetary value of wetlands, the high costs of construction prevented many farmers from taking advantage of such schemes. In an attempt to remedy this situation, the legislature assented to the "Ontario Drainage Act."¹² This Act specifically allocated \$200,000 to be spent on drains constructed under the Public Works Act. But the monies were loans, and after the drain was constructed, lands benefitted were to be charged under a complicated procedural system using arbitrators appointed under the Public Works Act to solve disputes. Each parcel of land was assessed a rent charge at the rate of 7.6 per cent, payable over twenty-two years. The collection and payment of the rent charge was the responsibility of the municipality. Up until 1871, drains constructed under the Municipal Institutions Act were not eligible for this type of financial assistance, but at that time, "an act to provide for the construction of drainage works

¹²33 Vic., Ch. 2.

and to authorize the investment of certain monies and debentures to be issued for the construction of such works"¹³ was passed. This legislation outlined the drainage provision of the Municipal Institutions Act and declared that if these procedures were followed then the initiating municipality might submit the proposed drainage scheme to the Public Works Commissioner, who then reported to the Lieutenant Governor in Council, as to the propriety of the works. Following this report, the Cabinet might authorize the investment of any surplus of the Consolidated Revenue Fund in the purchase of the Municipal Drainage Aid Act, which was essentially the same as the old act,¹⁴ with the added provision that any by-law passed under the authority of the Municipal Institutions Act, after March, 1872, would be regarded on the same footing as a by-law passed under the repealed act of 1871.¹⁵ In the same year, the Ontario Drainage Act was re-written. Unlike the previous Ontario Drainage Act of 1869, the Commissioner of Public Works could now act on the written application of the Municipal Council on a petition of the majority of owners of land to be benefitted by the drain.¹⁶ Again \$200,000 was specifically allotted for the drainage works. In 1874, all the duplicating language

¹³ 35 Vic. Ch. 26. ¹⁴ 36 Vic., Ch. 39

¹⁵ 32 Vic., Ch. 43. ¹⁶ 36 Vic., Ch. 38

of the Municipal Drainage Aid Act of 1873 was repealed and it was held, logically enough, that procedures outlined therein could be taken under the relevant sections of the Municipal Institutions Act of 1873.¹⁷

"The Ontario Tile Drainage Act" first appeared in 1878. It allowed a Municipal Council to issue debentures for not less than \$2,000 and not more than \$10,000, for the purpose of lending monies to farmers to build tile drains.¹⁸ The amount to be loaned to an individual farmer was not to exceed 75% of the total estimated cost of the work and no sum was to be loaned which would require a greater taxation rate than three cents per dollar, on the value of the lot proposed to be drained. In 1879, the provisions of this act were extended to apply to stone and timber drains¹⁹ and in 1880, an amendment made it necessary that a ditch, constructed as an outlet to under-drainage by private funds or under the Tile, Stone, Timber Drainage Act, be constructed under the provisions of the Ditches and Watercourses Act.²⁰

¹⁷ 37 Vic., Ch. 20.

¹⁸ 41 Vic., Ch. 9.

¹⁹ 42 Vic., Ch. 8.

²⁰ 43 Vic., Ch. 6.

1882-1891

In 1882, the Municipal Act was amended to extend to the improvement and completion of drains, as well as their initial construction.²¹ The amendment also provided for straightening of streams, the removal of obstructions preventing the free flow of water, and the lowering of the waters of any lake or pond to reclaim flooded land. Initiated too, was a procedure whereby a County Council could authorize, the construction of a drain which affected two or more municipalities, upon the request of one of the municipalities involved. The costs of arbitration, publication of by-laws etc., was now held to be part of the overall cost of the drainage works.

An amendment to the Ontario Tile Drainage Act in 1885, limited the amount the Municipal Council could borrow, to a maximum, at any one time, of \$10,000.²² In 1887, the interest rate on loans made by the province to municipalities, under the Ontario Drainage Act, or the Ontario Municipal Drainage Act, or the Ontario Tile, Stone, Timber, Drainage Acts, was reduced from 5% to 4%.²³ The same amendment increased the amount of money which the Lieutenant

²¹45 Vic., Ch. 26.

²²48 Vic., Ch. 10.

²³50 Vic., Ch. 6.

Governor in Council could invest in the buying of debentures, from \$250,000 to \$350,000.

Fundamental changes were made to the Ditches and Watercourses Act in 1883,²⁴ which established the essential characteristics it was to retain until repealed in 1963. The Act provided that in case owners immediately adjacent to an outlet would benefit from the opening or deepening of an existing ditch or drain, they could do so, and the ditch would be kept and maintained by them and their successors. The function of the Municipal Council under this act, was not to respond to a petition or requisition as at present, but simply to appoint an engineer by by-law to carry out duties under the act. It is important to note, however, that only if the parties could not reach an agreement, could one of them summon the engineer to act, as it were, as an arbitrator.

If the parties could not reach an initial agreement, then any owner could file a requisition on the Municipal Clerk, who would serve it on the other parties, for the parties to meet at the drainage sight to attempt to agree on what amount of work would be done by each. If a private agreement was reached, then it would be registered with the municipal clerk.²⁵ Only if there was no agreement

²⁴46 Vic., Ch. 27. ²⁵ Thus it can be clearly seen that not only section 4 of the present Ontario Drainage Act, but also section 2, had its' precursor in the Ditches and Watercourses Act.

at this particular meeting, could any owner file a requisition with the municipal clerk, requesting that the engineer attend at the same place with the other parties being present.

Once the engineer was summoned by the parties, he had the power to hear evidence, compel the attendance of other parties that he deemed to be interested in the ditch or drain, and within thirty days, make an award in writing. The award was not a money award, but simply the amount of work amount of work to be carried out by each party. There was an appeal to the County Court Judge. Works constructed under the act were almost always done by the parties themselves, but if the work was still not completed, he could let it to the lowest bidder.

An amendment in 1884 provided that every ditch or drain constructed under the act, continue to a sufficient outlet, so that no land would be flooded, as a result of the construction of a drain.²⁶ The act held that it was lawful to construct a ditch or drain through any number of lots until a sufficient outlet was reached.

In 1887, restrictions on the actual size of the drain were enumerated for the first time.²⁷ It was held that where the parties could not agree among themselves, they could requisition for an engineer where it was necessary for the drainage works to pass through the land

²⁶ 47 Vic., Ch. 43.

²⁷ 50 Vic., Ch. 37.

or more than five owners, unless other conditions, which do not require detailing at this point, were met. Also, in no case would an engineer assess lands lying more than 50 rods above the point of commencement of the drain. The amendment also provided that if one of the owners did not keep his portion in repair, that any other interested party could, after meeting the notice requirements of the amendment, ask the municipality to do so. The municipality then appointed an engineer, who decided whether or not the complaint was well founded. If the complaint was not well founded, the complaining party was required to pay the engineer's fee. In 1890, railway lands were brought within the ambit of the Ditches and Watercourses Act and special procedures were outlined if such lands were concerned with drainage works.²⁸

Up until 1891, the basic procedure for resolving disputes for all the various acts, with the exception of the Ditches and Watercourses Act, was essentially a form of arbitration. In the annual report of the Drainage Committee of the Ontario Association of Land Surveyors, it was indicated that the cost of arbitration under the municipal Drainage Act, for example was quite high, especially where a corporation was involved.²⁹ It was indicated that this could be more than \$100 a day and

²⁸ 53 Vic., Ch. 67.

²⁹ Fifth Annual Report, p. 29.

that frequently, arbitration ran for more than a week.³⁰ It was probably complaints of this nature that lead to the "Drainage Trials Act" of 1891 which attempted to simplify and clarify the appellate process, with regard to the "Municipal Aid to Drainage Act" and the "Municipal Act". Introduced, was the referee, who was to be an officer of the High Court, and a barrister of at least ten years standing. The referee was substituted for the arbitrators in the previous acts and given their powers. He also was given the powers of a Judge of the High Court of Ontario, with respect to drainage matters. Specifically, these powers included those given in the present section 67 of the Ontario Drainage Act, including the power to grant an order for mandamus and an injunction. All interlocutory applications were to be made to him, subject to appeal to the High Court. An appeal from the decision of the referee lay to the Ontario Court of Appeal. The referee however, did not have exclusive jurisdiction, as this act gave discretion to parties to the action as to whether they brought a drainage dispute before the referee (section 9 and 19). The present section 76 of the Ontario Drainage Act, which empowers a judge of any court to

³⁰ "As a rule, the arbitrators appointed were some local men, who had a knowledge of general municipal politics and were usually appointed more for their ability at log-rolling than for their ability or training to give judicial and independent thought to the matters before them. This latter condition led to many long and bitterly contested law suits..."

transfer an action brought before him concerning drainage, to the drainage referee, was also entered in the statute books for the first time.

1892-1894

The report of the Drainage Committee of the Association of Ontario Land Surveyors in 1892, indicated that the year 1891 was an extremely slow one in terms of drainage construction due to the confusion over the introduction of the Drainage Trials Act. It seems that the general confusion over the state of drainage law and the hiatus in construction, brought about the appointment of a commission to enquire into and report on the working of the drainage laws. The Commissioners were Chairman J. B. Rankin, William P. McGeorge, Archibald MacIntyre, Robert Lamarsh, E. T. Balfour (M.P.P., South Essex), and D. M. Briton Q.C. (Drainage Referee. Apparently,

"the method adopted by the Commission for securing the evidence of the different parties interested was exceedingly thorough, as the Commission met the parties on their own ground, and patiently listened to the opinions of all sorts of conditions of men-Reeves, Counsellors, Ratepayers of the Highlands and Lowlands-in fact any one who had a suggestion to make toward the improvement of the Act was cheerfully awarded a hearing."³¹

The Commission report of 1893 was 135 pages long and was a summary of the attitudes then current in the province. The Commission report centered on the major statutes, which were the Ditches and Watercourses Act and the relevant sections of the Municipal Act.

³¹ 8 A.O.L.S. 1893, p. 26.

With respect to the Municipal Act, the major complaints received, varied from area to area. Some of the general complaints received were as follows:

- 1) The procedures under the Municipal Act were too time consuming, expensive, and uncertain.
- 2) The Referee should hear appeals from the Court of Revision rather than the County Court Judge.
- 3) Drainage matters should be taken out of the hands of municipalities and placed under the control of the Board of Engineers and Agriculturalists who would be appointed by the Lieutenant Governor.
- 4) That a procedure should be adopted whereby those who want to withdraw from a petition would be allowed to do so at an early stage in the drainage process or not at all.
- 5) That land could not finally be said to have been benefitted until the engineer made his report, and thus the validity of the petition could not be absolutely determined without an engineer's report. The Commission decided that if the validity of the petition was destroyed by the engineer's report, no further proceedings of the drain should be allowed until a true majority of signatures was established.
- 6) That the engineer's duties be more precisely described in the act.

Other findings of the Commission were as follows:

- 1) That municipalities had a discretion as to whether or not to adopt the engineer's report and that therefore they could not escape a nuisance action brought against them, as a result of the construction of a drain.
- 2) Debentures should be issued in \$50 units instead of \$100.
- 3) The Court of Revision should be maintained.
- 4) Only land described in the petition was to be assessed for benefits.
- 5) There should be an appeal from the Court of Revision to the Referee.

- 6) The engineer should be able to consider previous assessments in making a new one.
- 7) An increase in the time allowed for appealing the assessment from five to ten days.
- 8) That the decision of this appeal be given within thirty days.
- 9) Excepting the publication requirements, if a by-law lacked something in substance or in the manner in which it was passed, but no proper application was made to quash it, it would be considered valid.
- 10) Any surplus money raised by the assessment would be given back to the contributors in the proper proportion.
- 11) If too little money was provided, the assessment could be amended by by-law.
- 12) Assessment should be for the benefit, outlet improvement, and causing water to flow upon and injure lands.
- 13) The clauses which previously allowed a County Council to set up a drainage scheme, affecting more than one municipality, should be removed.

With regard to the Ditches and Watercourses Act, much of the discussions centered around the degree of restrictions which should be placed on the size of the ditch. As has been indicated above, at that time an award ditch was restricted to the land of five owners. Various suggestions were made to the Commission, including a one-mile limit, no limit at all until a sufficient outlet, one and a half miles, three miles, and five township lots. There was also considerable debate over the assessment limit of fifty rods. Most people felt such a restriction imposed too great a burden on the area immediately surrounding the drain. Many urged that

this limit be lengthened to 100 or 150 rods, whereas some argued that it be extended as far as there was benefit, or to the boundaries of the watershed. In the end, the Commission recommended that the limit as to the size of the drain be five township lots, and that the limit as to assessable area be 75 rods from the origin and sides of the ditch.

The result of the Commission's report was a much more radical re-structuring of the drainage Statutes than the Commission had contemplated. "The Drainage Trials Act" and The Drainage Provisions of the Municipal Act were repealed and consolidated into a new "Municipal Drainage Act." The new legislation contained an extensive definition section which was intended to clear up certain problems of interpretation. Introduced for the first time, were the concepts of benefit, outlet liability, and injury liability. The sections which had previously given the County Council jurisdiction to extend a drain beyond the limits of the initiating municipality were dropped.³² Under the new act, the engineer merely continued the drain, if he thought such an extension was required, and he assessed the land involved, irrespective of any municipal boundaries. The engineer was now also given the power to take prior assessments into consideration in deciding current assessment. Provisions were added to the Act, which allowed the by-law authorizing construction to be amended if its' original assessment

³² These powers of the County Council to initiate drainage works were "apparently not popular and were hardly utilized." J. J. Newman, OP. CIT., # 31.

provided too little or too much money for the construction of a drain. Procedures were also outlined whereby persons could withdraw their names from the original petition at a council meeting, called to consider the engineer's report. The engineer could make provision in his report for the construction of culverts and bridges, and an appeal from this document lay to the referee. The provisions for a Court of Revision for assessment were maintained and an appeal from the Court of Revision was possible through a County Court Judge, whose decision was final. Upon a petition made in the same fashion as the petition for a Municipal Drain, a ditch constructed under the Ditches and Watercourses Act could be brought under the authority of the Municipal Drainage Act. Interlocutory applications were to be made to the referee and now there was to be no appeal to the Court of Appeal.

With respect to the Ditches and Watercourses Act, the amendments were generally in accordance with the Commission's recommendations, but they did not adhere to them precisely. Every ditch was to go to a sufficient outlet, but not pass through or into more than seven original township lots, or cross any road allowance, unless the council, on petition of two-thirds of the owners of all the lands affected by the ditch, passed a resolution authorizing its' extension. At no time was a ditch to be built that would cost more than \$1,000. Also, only land within 75 rods of the point of commencement of the ditch could be assessed. Furthermore, the lands through which

the ditch did not pass were not liable, except when directly benefitted and then only for that direct benefit. An exception to the 75 rod limit was made for counties east of Frontenac County, where the councils could pass a by-law making it 100 rods. "...I rode down on the train with a member of South Oxford who asked me why that distinction was made...I couldn't tell him unless I thought probably some member down East of Frontenac had a particular case he wanted to cover. He (the member) was proposing to wipe out the distinction."³³ That same year, the 75 rod limit was in fact raised to the present 150 and the exception for counties east of Frontenac County was removed.³⁴

1895-1948

The creation of the Municipal Drainage Act, in 1894, was the most important event in the evolution of the drainage statutes until 1963. During all this time, the fundamental procedures set up under this act remained more or less the same, despite the fact that there were more than 41 amendments to it. In 1901, the section of the act which allowed any action begun in the traditional court structure to be transferred to the referee was repealed, and the new legislation expressly stated that all

³³ Mr. Ure: A.O.L.S. Annual Meeting, 1908, p.76.

³⁴ 8 Edward VII, Ch. 64.

application attacking the validity of a by-law and all applications for damages, or for mandamus, or for an injunction would be made to and heard only by the referee.³⁵

An amendment in 1906 allowed for the appointment of two referees and divided the province into two jurisdictional areas.³⁶ At this time, J. B. Rankin, K. C. of Chatham was the Drainage Referee and he became referee for the western half of the province, while G. F. Henderson, K. C. of Ottawa was appointed referee of the eastern half. Upon Rankin's death in 1909, Henderson became the referee for the entire province.

A further strengthening of the jurisdiction of the referee occurred in 1907, when it was enacted that all applications to quash by-laws, must be made to him and not to the High Court of Justice.³⁷ But in 1909 the trend towards strengthening the office of the referee was abruptly reversed when the provisions giving the referee exclusive jurisdiction were repealed and the language of the present section 73 of the Ontario Drainage Act was introduced. The present section 76 of the Ontario Drainage Act, which had been deleted in 1901, was re-introduced. Whereas the previous sections had said that only the referee was to hear such actions and disputes where they related to drainage matters, the word

³⁵ 1 Edward VII, Ch. 31.

³⁶ 6 Edward VII, Ch. 37.

³⁷ 7 Edward VII, Ch. 42.

"only" was removed from the legislation. In 1920, the referee was empowered to transfer an action begun before him or an application for a mandamus or an injunction, to a County Court Judge.³⁸ In 1933, an amendment to the Municipal Drainage Act held that any owner of land affected by a drainage work could appeal from the engineer's report to the referee, upon the explicit grounds that benefits to be derived from the work were not commensurate with the cost.³⁹

One of the key tensions throughout the development of drainage law in Ontario, has been the conflict between the need for engineering expertise, in order to build a proper drain and the inherent suspicion among many farmers and others that the engineer's professional opinion was unnecessary, too expensive and as prone to errors in judgment as the experienced layman. The Municipal Act and The Municipal Drainage Act specified that the report be provided by a professional engineer or an Ontario Land Surveyor. On the other hand, the Ditches and Watercourses stated that any competent person could be employed for that purpose. In any case, in 1903 the distrust of professional opinion apparently reached a crescendo, when amendments to the Municipal Drainage Act provided for any municipality to

³⁸ 10-11 George V, Ch. 67.

³⁹ 23 George V, Ch. 38.

appoint two residents as drainage viewers.⁴⁰ These drainage viewers were to accompany the engineer or Ontario Land Surveyor in all his duties and to assist him. If in the case of a dispute, one of the drainage viewers and the engineer or the Ontario Land Surveyor could agree, that would be sufficient. The effect of this however, was that if both drainage viewers disagreed with the engineer or land surveyor, the report of the latter was effectively vetoed. But by 1910 all mention of drainage viewers had been removed from the act.

Needless to say, the requirement that the person fulfilling the function of engineer under the Ditches and Watercourses Act need not be a professional engineer or a professional land surveyor did not meet with the approval of the professionals. As Mr. McCubbin, speaking at the meeting of the A.O.L.S. in 1914, said:

"It may be said that this very thing amongst others is one case of bringing the Ditches and Watercourses Act to disrepute: down in south-western Ontario, it is looked on as a cheap and poor thing, and there is not one drain out of twenty constructed under it, that is carried through successfully and gives satisfaction to the owner. Perhaps it may be as well to let everybody have a hand in it, and it may be the means of sooner wiping it off the statutes".
The President: 'Give them enough rope and they will hang themselves. Is that the idea?' Mr. McCubbin: 'That is the idea.'"

⁴⁰ 3 Edward VI , Ch. 23.

The hostility demonstrated by Mr. McCubbin towards the Ditches and Watercourses Act was widely shared, particularly among professional engineers. One reason already indicated was the feeling that the ditch construction under the Act did not meet professional standards but another was the general dissatisfaction with County Court Judge decisions, in respect to the Act. Many felt that there were almost as many views taken of the Act by County Court Judges as there were counties in the province.

Many changes were brought in to the Act throughout this period. In 1899, the definition of "owner" was extended and land used for manufacturing and mining was brought under the Act.⁴¹ An amendment in 1917 applied the Act to deepening, widening, covering, and improving or extending any ditch already or thereafter to be constructed, and also applied it to the construction of a tile drain, under or adjoining an open ditch.⁴² An important amendment in that same year made possible an appeal from the decisions of the County Court Judge to the referee if the referee gave leave. This amendment was a direct result of the dissatisfaction of A.O.L.S. members, with the County Court Judges' decisions and at the annual meeting of 1917, they obtained the agreement of referee Henderson. This

⁴¹ 62 Vic., Ch. 28.

⁴² 7 George V., Ch. 56.

change was then proposed to the government.⁴³

By 1908, construction of new drains under the Municipal Drainage Act far exceeded the amount of construction undertaken under the Ditches and Watercourses Act. One reason for this was the ditches previously built under the Ditches and Watercourses Act were not being built under the Municipal Drainage Act by the simple device of limiting the area described in the petition and then getting a majority of persons to sign. Perhaps this was one reason that in 1910, the cost limitation on the Ditches and Watercourses Act, was raised to \$1,500 from \$1,000 and in 1934 this was raised again to the present \$2,500. Neither of these changes, however, went without opposition. At the A.O.L.S. annual meeting in 1922, a recommendation was brought in for the abolition of the Act, inasmuch as it was felt that it had outlived its' usefulness. The general opinion was that the Act worked in an unsatisfactory manner. It was agreed that the purpose of the Act was to enable one owner to accomplish drainage at a minimum cost, but while engineers from the western half of the province felt it to be useless in their area, land surveyors from

⁴³ The A.O.L.S. meetings were a key forum for the discussion of amendments to the Drainage Act and one particular method for arriving at suggested amendments was the holding of regular conferences, attended by referee Henderson, various senior municipal politicians from Kent, Essex, and Lambton Counties, and local engineers.

the east thought it was still valuable. One of the key problems in the Act at this stage, however, was that money awards were not possible and engineers from the eastern half of the province were regularly breaking the law by making them. No action was taken on the recommendation for the abolition of the act, but at the A.O.L.S. annual meeting in 1938, an outline of the history of the act was given and it was argued that from its' inception it had been the intent of the legislature to restrict the application of the act to the needs of one man requiring drainage for his own land and that at a minimum cost. It was argued that the act gave too much power to one man and the meeting approved a general recommendation that there be no extension of the principle of the act, because it was too autocratic and not sufficiently democratic. Some argued that the limit should never have been increased to \$2,500.

One of the chief characteristics of the period 1894-1948 was the constantly decreasing volume of litigation. Before 1894, the amount of litigation had been prodigious and with the major revisions to the Ditches and Watercourses Act and the introduction of the new Municipal Drainage Act in 1894, there were still a great many cases to test the interpretation and scope of the new legislation. Generally, however, as the century wore on, the amount of litigation decreased even as the amount of construction increased.

Perhaps one of the key figures in this respect was drainage referee G. Henderson, K. C., who was very much a dominant figure in the development of drainage law during his tenure as referee from 1906 to 1934. Henderson, as an experienced drainage lawyer from Ottawa, did not look kindly on voluminous litigation, particularly to the Ontario Court of Appeal: "Of course, the danger as we know, is mainly in the Court of Appeal, because I have never hesitated to say this from the bench and I say it now, that I try to work the Drainage Act out in such a way as to dig drains and not to print Appeal books..."⁴⁴

For approximately 20 years, Henderson made it his practice to attend the annual meetings of the Association of Ontario Land Surveyors and one of his stated purposes in so doing was to attempt to cut down the amount of litigation by discussing hypothetical and actual cases that had arisen. The relationship between the A.O.L.S. and the office of the drainage referee was to say the least friendly during this entire period and there were constant recommendations that a number of representatives of the A.O.L.S. and the drainage referee should get together and suggest amendments to the Act. On several occasions this is precisely what was done. Henderson himself was responsible

⁴⁴ A.O.L.S. Annual Meeting - 1915, p. 99.

for recommending many changes and apparently did much of the drafting during this period. By 1926, Henderson was so ebullient about the result of attending A.O.L.S. association meetings, in that litigation was cut down substantially, that he said:

"The reason why I was so late getting down today was on account of a long drawn out cabinet meeting and I wanted to get a free meal with the Premier. We were discussing at length why it was that some years ago the drainage litigation used to take days and weeks and large amounts of money--gas being even worse--and now for some reason they have both died out. I told the premier and his colleagues that the most difficult task I had to do was endorse a couple of cheques."⁴⁵

By 1946, the amount of litigation had been cut so drastically that consideration was being given to dispensing with the drainage referee altogether. In fact, in 1946, amendments to the Municipal Drainage Act were introduced which empowered the Lieutenant Governor in Council to designate the Ontario Municipal Board to fulfill the functions of the referee.⁴⁶ Speaking in the legislature, the Minister indicated that the referees were paid a salary of over \$3,500 a year and handle only a few cases, and that

"I think perhaps in time we can do away with the referee entirely, but we were asked by the rural municipalities when they met at the Car Sale Hotel-- they asked me if I could put this through so that they might have the option of applying to the Municipal Board, if they were not satisfied with the referee."⁴⁷

⁴⁵ Henderson was elected the first honorary member of the Association of the Ontario Land Surveyors, Feb. 17, 1932.

⁴⁶ 10 George VI, Ch. 61.

⁴⁷

With regard to provincial financing of drainage works, a system for providing provincial grants was introduced for the first time in 1900, in the "Provincial Drainage Aid Act."⁴⁸ It provided that any drainage works to be constructed by embanking, pumping, or other mechanical means in that portion of the trunk channel constituting the outlet of any drainage works under the Municipal Drainage Act, would be eligible for direct provincial assistance if it would be used to,

- a) provide or improve that portion of the trunk channel constituting the outlet of the drainage works,
- b) furnish capacity over intervening highlands to a natural or other outlet, or
- c) to render more flexible the operation of a drainage work by embanking, pumping, or other mechanical means.

The Act was rewritten in 1921, to apply only if the cost exceeded \$10,000.⁴⁹ Instead of the wide provincial discretion as to the extent of the provincial grant which had existed previously, the amount was set at 20% of the cost of the work.

In 1914, the Tile Drainage Act was amended, increasing the total amount a municipality could borrow to \$40,000 from \$10,000 but raising the interest rate to 5 from 4% and

⁴⁸ 63 Vic., Ch. 8.

⁴⁹ 11 George V., Ch. 28.

leaving the total amount an individual could borrow at \$1,000.⁵⁰ In 1923, the Act was further amended to increase the limits on municipal spending to \$200,000 and raise the maximum level of provincial expenditures to \$2,000,000. In 1920, the maximum to be loaned to any one individual was raised to \$2,000 for each 100 acres⁵¹ and in 1928, the provision that the amount to be loaned to any one individual was not to exceed 75% of the total cost of the work was added.⁵² In 1928, the maximum amount of provincial expenditure under the Act, was raised to \$3,000,000.⁵³

In 1916, the total amount of provincial investment in drains under the Municipal Drainage Aid Act, was raised to \$500,000 from \$350,000 and the limit on provincial expenditures under this Act was raised to \$40,000 from \$20,000.⁵⁴ Two years later in 1916, this figure was raised again to \$50,000 and the limit of provincial spending raised to \$500,000.⁵⁵ In 1937, the rate of interest under the Municipal Drainage Aid Act was reduced from 5 to 4%⁵⁶ and this was also done with respect to the Tile Drainage Act.⁵⁷ In

⁵⁰ 4 Geo. V., Ch. 18.

⁵¹ 10-11 Geo. V., p. 26.

⁵² 18 Geo. V., Ch. 21.

⁵³ 19 Geo. V., Ch. 25.

⁵⁴ 6 Geo. V., Ch. 25

⁵⁵ 6 Geo. V., Ch. 23.

⁵⁶ 1 Geo. VI., Ch. 49.

⁵⁷ 1 Geo. VI., Ch. 781

1943, these figures were further reduced to 3%.⁵⁸

One important federal statute affecting drainage law during this period, was the Dominion of Canada Railway Act, which brought all railway companies operating under Dominion charter under the provisions of the provincial drainage law.⁵⁹ It gave the landowners and municipalities the same right to cross railway lands as all other lands, and railway companies were to bear the additional cost occasioned by the construction and operation of the railway.

In 1932, the Interprovincial Drainage Act provided for the situation where a drain begun in one province would be required to enter another.⁶⁰ The Minister of Public Works was authorized to enter into an agreement with an officer of the adjoining province respecting the proportion of the costs to be borne by each.

1948-1962

In 1948, George Perry (Kent West), Byron I. Cathcart (Lambton West), and Ross A. McEwing (Wellington North), were appointed to form a Select Committee of the Legislature on

⁵⁸ 1943-- 7 Geo. VI, Ch. 17 and Ch. 34.

⁵⁹ Ch. 23 amended, 3 Ed. VII, 1903, Ch. 58, Section 197.

⁶⁰ 23 Geo. V., Ch. 52.

Farm Drainage. They were to "inquire into, and consider the Tile Drainage Act, The Ditches and Watercourses Act, and any other related Acts in the light of recent developments in soil conservation and reforestation." Like its predecessor, in 1892, the Committee travelled extensively and made numerous recommendations. Among the highlights of the Committee's recommendations were the following:

with respect to tile drains, the Committee recommended,

- 1) that the maximum amount which could be borrowed by an individual be raised to \$3,000 per 100 acres,
- 2) that there be a subsidy on freight charges on the delivery of tile,
- 3) that specifications for the construction of tile drains be set out in detail in the statutes, and,
- 4) that drains so constructed be inspected and a certificate of fitness required.

The Committee rejected suggestions that the Ditches and Watercourses Act be thrown out entirely, since it was considered useful when employed properly (ie. for small operations). Essentially, the Act was found to be sound. The amendments suggested by the Committee were aimed at closing loopholes and adding a few necessary procedures, but no radical restructuring of the Act was felt necessary. The Committee specifically reject an increase in the \$2,500 limitation "as any increase would tend to take these

projects beyond the original intention of the Act."⁶¹

As for the Municipal Drainage Act, the Committee also thought it was working well but that greater use of it would be forthcoming if,

- 1) farmers were educated as to its complexity,
- 2) the limitation on provincial grants under the provincial Aid to Drainage Act was reduced from \$10,000 to \$5,000, and
- 3) the percentage payable by the province increased to 30% from 20%.

The Committee also disapproved of the Ontario Municipal Board being used instead of a drainage referee. Therefore, it recommended that only a lawyer with considerable drainage experience be utilized as referee or alternatively, that such a lawyer be appointed to The Ontario Municipal Board.

The Committee's greatest contribution was in the area of the relationship between drainage and the problems of conservation and flood control. The Committee acknowledged the fact that proper drainage greatly increased the agricultural production of any parcel of land, but they also recognized the need to hold back water for dry periods. Furthermore, they pointed out that drainage schemes may accentuate flooding, especially during the spring runoff.

Therefore they recommended that "in order to safeguard watersheds from the development of unwise drainage schemes, there should be some overall neutral authority with

⁶¹ p.13

power to review drainage schemes from the standpoint of the whole watershed involved." The Committee thought that Section 24 of the Conservation Authorities Act, as amended in 1947, was sufficient for this purpose. It provided that any construction under the Municipal Drainage Act undertaken in a watershed over which a conservation authority had jurisdiction, required the approval of the conservation authority.⁶² The Committee however, recommended numerous refinements in procedure with respect to this Section, including a hearing for petitioners by the conservation authority and the right of appeal from the decision of the authority to the referee.

Most of the recommendations of the Committee were enacted in the following legislative session 1949⁶³. One recommendation that was not accepted immediately was that the contributions of the province under the Provincial Drainage Aid Act were not raised to 30%. In addition, the Municipal Board retained its appellate function along with the referee and instead of the conservation authorities having the power to approve or disapprove the scheme under The Municipal Drainage Act, they were empowered to appeal an engineer's report to a drainage referee, if they so desired. The same provision exists in the present Ontario Drainage Act, Section 24 of the Conservation Authorities Act, previously referred

⁶² 11 Geo. VI, Ch. 101.

⁶³ 13 Geo. VI, Chs. 28, 63, 77, 105.

to, was repealed.

In 1950, the Provincial Aid to Drainage Act was further amended.⁶⁴ No minimum expenditure was necessary in order to qualify for provincial assistance and a drain constructed under any of the drainage acts would qualify if it was applied to the trunk channel or channels of a work, or where embanking or pumping was necessary. The amount of the provincial grant was raised to one-third where the work was in a county or in the case of a territorial district or provincial county, two-thirds. The Act was rewritten again in 1954 to apply to, instead of, trunk channels, "any work in respect of the channel or drainage work the main purpose of which is to drain agricultural land."⁶⁵ It was not to apply to covered or lateral drains, or drains used for domestic sewage. Where the work exceeded \$5,000, Cabinet approval was required.

1962-1972

In the 1960's a number of amendments were made to The Tile Drainage Act. Essentially these amendments were minor and affected only the amount which a municipality was entitled to borrow, the amount which the provincial government could invest, and the terms of the loan between the municipality and the farmers.

⁶⁴ 14 Geo. VI, Ch. 58.

⁶⁵ 3 Eliz. II, Ch. 74.

All these changes were consolidated into The Tile Drainage Act R.S.O. 1970 Ch. 461 but this Act was repealed in 1971 and replaced by The Tile Drainage Act S.O. 1971, Ch. 37. The new Act was shorter and written in a clearer fashion than the previous one but it did not substantially alter the 1970 legislation. The Act still authorized municipal councils to issue debentures in order to make money available to farmers for the construction of tile drainage. There was still to be an inspector of drainage whose function was to inspect the work and file a completion certificate. However, the Act no longer set a maximum on the amount which a municipality could borrow except that the municipality was not to issue more than one debenture each month but that debenture could combine amounts to be loaned by the municipality with respect to a number of drainage works. Also the amount of each debenture issued was not to exceed the amount of the loans with respect to which the debenture was issued nor 75% of the total cost of the drainage works. The interest rate on the debentures was now to be set from time to time by the cabinet as was the interest rate on any amount on which the municipality was in default. Also there was no longer a limit on the amount which the provisional government could invest in tile debentures. The rate of interest on the loan to the farmer was to be at a rate equal to that set out in the debenture by which the funds were borrowed but the amount loaned by any one farmer was not to exceed the amount applied for nor exceed 75% of the total cost of the work.

As Ontario entered the 1960's, the Province's statutory drainage law was contained in several acts and it was administered by several different Departments. The following excerpt from the debates of the Ontario House, is indicative of the problems which arose out of this situation:

March 15, 1963

Mr. Troy: ...Now, the problem of drainage has always been a serious one in Northern Ontario, and I presume it is in many other sections of this province. I find that the legislation at present in effect is somewhat confusing and it seems to me that the weakness is in the fact that there is a division of authority. Apparently, many of the honourable Minister's that are concerned with this are here, although there are more here today than there were last night, when the Department of the Municipal Affairs was before this House. I understand that when the Department of Agriculture recommends drainage, the Municipal Council becomes involved as well as the Department of Public Works and Treasury Board which finances the project. Finally the Ontario Municipal Board enters the picture and becomes a referee in cases of dispute. It seems to me, that this legislation could be consolidated and the administration of drainage come under one department, which probably should be the Department of Municipal Affairs. Then that Department would be responsible for the approval of any drainage project, the approval of financing the project as well as inspecting the work done. No doubt this department would be the agency which would provide appeals in the case of dispute. To my mind, the consolidation of all drainage legislation under one act would result in the issuance of a coordinated program for drainage.⁶⁶

This confusion was at least partially responsible for the establishment of a Select Committee of the Cabinet composed of the Hon. Mr. Spooner, Mr. McNaughton, Mr. Connell, Mr. Stewart, and Mr. Cass. This Committee was "to

⁶⁶ Debates and Proceedings of Ontario Legislature,
Vd. P. 1808.

bring in recommendations covering the matter of farm drainage and whether it might in all its aspects be administered under one department of government.⁶⁷ The Cabinet Committee appointed an advisory committee which was made up of an engineering expert, Professor R. W. Irwin (Chairman), a land surveyor, Col. S. W. Archibald, and a lawyer, Mr. R. D. Steele, O.C. In a recent interview, Professor R. W. Irwin commented that the advisory committee saw its work as tidying up the province's drainage legislation, rather than as bringing about substantial alterations or embarking on a new approach.

When this Committee started its work, there were six major Provincial Acts which dealt with land drainage, these being,

- 1) Municipal Drainage Act,
- 2) Ditches and Watercourses Act,
- 3) The Interprovincial Drainage Act,
- 4) The Municipal Aid to Drainage Act,
- 5) The Provincial Aid to Drainage Act,
- 6) The Tile Drainage Act.

When the advisory committee was finished its "elaborate exercise with scissors and glue," the Drainage Act had amalgamated and repealed the first five of these and as a result, the province now had only two major drainage statutes, the "Drainage Act" and the "Tile Drainage Act."

⁶⁷ Debates of the Ontario Legislature, Vol. 1 (1962-63)
P. 378.

The petition requirements of The Municipal Drainage Act became section 3 of The Drainage Act of 1962-63 and the procedure to be followed, under the new legislation, upon the submission of such a petition, was virtually identical with that outlined in the earlier statute. The "One man power" of the Ditches and Watercourses Act was incorporated into section 4 of The Drainage Act. But apparently, it was the intention of the drafters of the legislation that section 4 ultimately become obsolete and that all future construction be undertaken under section 2 and 3. As a result, the limitations which had previously existed in the Ditches and Watercourses Act and which had not been revised in thirty years, remained intact. Section 2 of the 1962-3 legislation was completely new and it was merely intended as a reminder that drains could still be constructed by private agreement. The grant provisions of the Drainage Act of 62-63 were basically taken from the Provincial Aid to Drainage Act and the provisions of the Interprovincial Drainage Act were integrated into the statute as well.

The Act was originally administered by the Department of Municipal Affairs and this remained true until 1971-72, when it was placed under the control of the Ministry of Agriculture and Food.⁶⁸ The Drainage Act of 1962-63 has undergone

⁶⁸ S.O. 1972, Ch. 1, sec. 7

seven amendments since it was passed. In 1968, some amendments were made to the procedure whereby grants were awarded.⁶⁹ It was also made clear at that time, that grants were no longer available for work undertaken under Section 51 of the Act and that no grants were available for any land owned by Canada, Ontario or a municipality.⁷⁰ Another amendment also prevented a municipality from appointing an engineer unless thirty days notice was given to the proper authorities. Under the original drainage act of 1962-63, it appears that such notice was unnecessary and a municipality could appoint an engineer upon the receipt of a valid petition. Aside from these amendments, the Drainage Act of 1972 remains essentially the same as it was when it was originally drafted a decade ago.

⁶⁹ S.O. 1968, Ch. 33.

⁷⁰ S.O. 1968, Ch. 33, Sec. 8 and 9

APPENDIX: LIST OF AMFNDMENTS

File

TO THE

DRAINAGE ACTS OF ONTARIO

MUNICIPAL DRAINAGE ACT

| | | | | |
|-----|---------|-------------|--------|----------------|
| 1. | 1859 | (CSUC 1859) | CH. 54 | secs. 278, 279 |
| 2. | 1866 | 29-30 Vic | CH. 51 | secs. 281, 282 |
| 3. | 1868-69 | 32 Vic | CH. 43 | |
| 4. | 1869 | 33 Vic | CH. 26 | sec. 14 |
| 5. | 1871-72 | 35 Vic | CH. 26 | |
| 6. | 1873 | 36 Vic | CH. 39 | |
| 7. | 1873 | 36 Vic | CH. 48 | sec. 447 |
| 8. | 1874 | 37 Vic | CH. 20 | |
| 9. | 1875-76 | 39 Vic | CH. 34 | secs. 5, 6 |
| 10. | 1877 | 40 Vic | CH. 8 | sec. 57 |
| 11. | 1877 | 40 Vic | CH. 26 | |
| 12. | 1879 | 42 Vic | CH. 37 | secs. 27, 28 |
| 13. | 1880 | 43 Vic | CH. 25 | |
| 14. | 1881 | 44 Vic | CH. 24 | |
| 15. | 1882 | 45 Vic | CH. 26 | |
| 16. | 1882-83 | 46 Vic | CH. 18 | sec. 570 |
| 17. | 1885 | 48 Vic | CH. 39 | secs. 25-32 |
| 18. | 1886 | 49 Vic | CH. 37 | secs. 20-31 |
| 19. | 1889 | 52 Vic | CH. 36 | secs. 30-41 |
| 20. | 1890 | 53 Vic | CH. 50 | secs. 616, 35 |
| 21. | 1892 | 55 Vic | CH. 42 | sec. 568 |
| 22. | 1894 | 57 Vic | CH. 56 | |
| 23. | 1895 | 58 Vic | CH. 55 | |
| 24. | 1896 | 59 Vic | CH. 66 | |
| 25. | 1898 | 61 Vic | CH. 13 | |
| 26. | 1898 | 61 Vic | CH. 23 | sec. 21 |
| 27. | 1899 | 62 Vic | CH. 28 | secs. 3-6 |
| 28. | 1900 | 63 Vic | CH. 38 | |
| 29. | 1900 | 63 Vic | CH. 17 | sec. 34 |
| 30. | 1901 | 1 Ed. VII | CH. 29 | |
| 31. | 1902 | 2 Ed. VII | CH. 32 | |
| 32. | 1903 | 3 Ed. VII | CH. 19 | sec. 58 |
| 33. | 1903 | 3 Ed. VII | CH. 22 | |
| 34. | 1904 | 4 Ed. VII | CH. 10 | secs. 50-52 |
| 35. | 1904 | 4 Ed. VII | CH. 11 | sec. 2 (2) |
| 36. | 1906 | 6 Ed. VII | CH. 37 | |
| 37. | 1907 | 7 Ed. VII | CH. 42 | |
| 38. | 1908 | 8 Ed. VII | CH. 52 | |
| 39. | 1909 | 9 Ed. VII | CH. 78 | |
| 40. | 1910 | 10 Ed. VII | CH. 90 | |
| 41. | 1911 | 1 Geo. V | CH. 60 | |
| 42. | 1912 | 2 Geo. V | CH. 17 | sec. 36 |
| 43. | 1913 | 3-4 Geo. V | CH. 48 | |
| 44. | 1914 | 4 Geo. V | CH. 21 | sec. 44 |
| 45. | 1916 | 6 Geo. V. | CH. 43 | |
| 46. | 1918 | 8 Geo. V. | CH. 20 | sec. 41 |

| | | | | | |
|-----|------|----|----------|--------|---------------|
| 47. | 1919 | 9 | Geo. VI | CH. 52 | |
| 48. | 1920 | 10 | Geo. VI | CH. 67 | |
| 49. | 1922 | 12 | Geo. VI | CH. 72 | secs. 296 (4) |
| 50. | 1922 | 12 | Geo. VI | CH. 79 | |
| 51. | 1927 | 17 | Geo. VI | CH. 28 | sec. 18 |
| 52. | 1931 | 21 | Geo. VI | CH. 56 | |
| 53. | 1933 | 23 | Geo. VI | CH. 38 | |
| 54. | 1936 | 26 | Geo. VI | CH. 56 | sec. 10 |
| 55. | 1937 | 1 | Geo. VI | CH. 48 | |
| 56. | 1938 | 2 | Geo. VI | CH. 24 | |
| 57. | 1941 | 5 | Geo. VI | CH. 55 | sec. 22 |
| 58. | 1944 | 8 | Geo. VI | CH. 40 | |
| 59. | 1946 | 10 | Geo. VI | CH. 61 | |
| 60. | 1949 | 13 | Geo. VI | CH. 63 | |
| 61. | 1952 | 1 | Eliz. II | CH. 64 | |
| 62. | 1954 | 3 | Eliz. II | CH. 59 | |
| 63. | 1957 | 6 | Eliz. II | CH. 77 | |

REPEALED 1962-63

DITCHES AND WATERCOURSES ACT

| | | | | |
|-----|------|------------|-----------|--------------|
| 1. | 1835 | 4 WM. IV | CH. 12 | |
| 2. | 1839 | 2 Vic | CH. 18 | |
| 3. | 1845 | 8 Vic | CH. 20 | |
| 4. | 1859 | CSUC 1859 | CH. 57 | |
| 5. | 1868 | 32 Vic | CH. 46 | |
| 6. | 1874 | 38 Vic | CH. 26 | |
| 7. | 1877 | 40 Vic | CH. 8 | secs. 59, 60 |
| 8. | 1878 | 41 Vic | CH. 12 | |
| 9. | 1880 | 43 Vic | CH. 30 | |
| 10. | 1883 | 46 Vic | CH. 27 | |
| 11. | 1884 | 47 Vic | CH. 43 | |
| 12. | 1885 | 48 Vic | CH. 47 | |
| 13. | 1886 | 49 Vic | CH. 44 | |
| 14. | 1887 | 50 Vic | CH. 37 | |
| 15. | 1888 | 51 Vic | CH. 35 | |
| 16. | 1889 | 52 Vic | CH. 49 | |
| 17. | 1890 | 53 Vic | CH. 67-69 | |
| 18. | 1894 | 57 Vic | CH. 55 | |
| 19. | 1895 | 58 Vic | CH. 54 | |
| 20. | 1896 | 59 Vic | CH. 67 | |
| 21. | 1899 | 62 Vic | CH. 28 | |
| 22. | 1901 | 1 Ed. VII | CH. 12 | sec. 22 |
| 23. | 1902 | 2 Ed. VII | CH. 12 | sec. 26 |
| 24. | 1904 | 4 Ed. VII | CH. 10 | sec. 62-63 |
| 25. | 1907 | 7 Ed. VII | CH. 48 | |
| 26. | 1908 | 8 Ed. VII | CH. 64 | |
| 27. | 1911 | 1 Geo. V | CH. 100 | |
| 28. | 1912 | 2 Geo. V | CH. 74 | |
| 29. | 1913 | 3-4 Geo. V | CH. 68 | |
| 30. | 1917 | 7 Geo. V | CH. 56 | |
| 31. | 1918 | 8 Geo. V | CH. 47 | |
| 32. | 1924 | 14 Geo. V | CH. 79 | |
| 33. | 1931 | 21 Geo. V | CH. 67 | |
| 34. | 1935 | 24 Geo. V | CH. 11 | |
| 35. | 1936 | 1 Ed. VIII | CH. 16 | |
| 36. | 1949 | 13 Geo. VI | CH. 18 | |

REPEALED 1962-63

ONTARIO TILE DRAINAGE ACT

| | | | | |
|-----|---------|----------------|---------|----------|
| 1. | 1878 | 41 Vic | CH. 9 | |
| 2. | 1879 | 42 Vic | CH. 8 | |
| 3. | 1880 | 43 Vic | CH. 6 | |
| 4. | 1885 | 48 Vic | CH. 10 | |
| 5. | 1887 | 50 Vic | CH. 6 | |
| 6. | 1895 | 58 Vic | CH. 9 | |
| 7. | 1903 | 3 Ed. VII | CH. 19 | sec. 539 |
| 8. | 1909 | 9 Ed. VII | CH. 22 | |
| 9. | 1913 | 3-4 Geo. V | CH. 17 | |
| 10. | 1914 | 4 Geo. V | CH. 18 | |
| 11. | 1916 | 6 Geo. V | CH. 23 | |
| 12. | 1918 | 8 Geo. V | CH. 20 | sec. 10 |
| 13. | 1920 | 10-11 Geo. V | CH. 26 | |
| 14. | 1923 | 13-14 Geo. V | CH. 14 | |
| 15. | 1928 | 18 Geo. V | CH. 21 | |
| 16. | 1929 | 19 Geo. V | CH. 25 | |
| 17. | 1937 | 1 Geo. VI | CH. 78 | |
| 18. | 1943 | 7 Geo. VI | CH. 34 | |
| 19. | 1949 | 13 Geo. VI | CH. 105 | |
| 20. | 1956 | 4-5 Eliz. II | CH. 89 | |
| 21. | 1958 | 6-7 Eliz. II | CH. 111 | |
| 22. | 1961-62 | 10-11 Eliz. II | CH. 138 | |
| 23. | 1966 | 14-15 Eliz. II | CH. 55 | |
| 24. | 1967 | 15-16 Eliz. II | CH. 102 | |
| 25. | 1968-69 | 17-18 Eliz. II | CH. 129 | |
| 26. | 1970 | 19 Eliz. II | CH. 47 | |
| 27. | 1971 | 20 Eliz. II | CH. 37 | |

ONTARIO DRAINAGE ACT

| | | | |
|----|------|--------|--------|
| 1. | 1869 | 33 Vic | CH. 2 |
| 2. | 1870 | 34 Vic | CH. 22 |
| 3. | 1873 | 36 Vic | CH. 38 |

ONTARIO MUNICIPAL DRAINAGE AID ACT

| | | | | |
|-----|------|-----------|--------|---------|
| 1. | 1871 | 35 Vic | CH. 26 | |
| 2. | 1873 | 36 Vic | CH. 39 | |
| 3. | 1874 | 37 Vic | CH. 20 | |
| 4. | 1875 | 38 Vic | CH. 25 | |
| 5. | 1877 | 40 Vic | CH. 8 | sec. 69 |
| 6. | 1879 | 42 Vic | CH. 7 | |
| 7. | 1881 | 44 Vic | CH. 3 | |
| 8. | 1884 | 47 Vic | CH. 8 | |
| 9. | 1909 | 9 Ed. VII | CH. 21 | |
| 10. | 1915 | 5 Geo. V | CH. 20 | sec. 8 |
| 11. | 1916 | 6 Geo. V | CH. 21 | |
| 12. | 1937 | 1 Geo. VI | CH. 49 | |
| 13. | 1943 | 7 Geo. VI | CH. 17 | |

PROVINCIAL AID TO DRAINAGE ACT

| | | | |
|----|------|------------|--------|
| 1. | 1900 | 63 | CH. 8 |
| 2. | 1911 | 1 Geo. V | CH. 12 |
| 3. | 1921 | 11 Geo. V | CH. 28 |
| 4. | 1933 | 23 Geo. V | CH. 48 |
| 5. | 1949 | 13 Geo. VI | CH. 77 |
| 6. | 1950 | 14 Geo. VI | CH. 58 |
| 7. | 1954 | 3 Eliz. II | CH. 74 |

REPEALED 1962-63

ONTARIO DRAINAGE TRIALS ACT

| | | | |
|----|------|--------|--------|
| 1. | 1891 | 54 Vic | CH. 51 |
| 2. | 1892 | 55 Vic | CH. 57 |

REPEALED 1894

INTER-PROVINCIAL DRAINAGE ACT

| | | | |
|----|------|-----------|--------|
| 1. | 1932 | 22 Geo. V | CH. 12 |
|----|------|-----------|--------|

REPEALED 1962-63

ONTARIO DRAINAGE ACT 1962-63

| | | | |
|----|---------|------|--------------|
| 1. | 1962-63 | S.O. | CH. 39 |
| 2. | 1965 | S.O. | CH. 34 |
| 3. | 1966 | S.O. | CH. 47 |
| 4. | 1968 | S.O. | CH. 33 |
| 5. | 1968-69 | S.O. | CH. 32 |
| 6. | 1970 | S.O. | CH. 130 |
| 7. | 1971-72 | S.O. | CH. 1 sec. 7 |