



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 57

**An Act respecting roads and
amending various legislative
provisions**

Introduction

**Introduced by
Mr Robert Middlemiss
Minister for Transport**

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EXPLANATORY NOTES

This bill has, as its main object, the sharing of the management of the road network between the Ministère des Transports and municipalities. The bill establishes the jurisdiction of the Minister of Transport over the roads determined by the Government, and sets out the powers and obligations of the Minister with regard to the management of those roads and the rules governing his responsibility.

Furthermore, the bill establishes the jurisdiction of municipalities over the road network managed by them and the rules governing the management of municipal roads and municipal responsibility. Provision is made in the bill for the conclusion of agreements between the Minister and municipalities, especially for purpose of maintaining roads belonging to either network.

The bill specifies the powers of the Minister with regard to mining roads, incorporates into the two networks the colonization roads presently open to traffic, and provides for those colonization roads which cannot be incorporated into either network to be alienated.

Lastly, the bill assigns to the Minister the necessary powers for granting subsidies.

Bill 57

An Act respecting roads and amending various legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PRELIMINARY PROVISIONS

1. This Act applies to roads which are under the management of the Minister of Transport.

2. The Government shall determine, by an order published in the *Gazette officielle du Québec*, the roads which shall be under the management of the Minister.

Any other road which is not under the responsibility of the Government or a government department or agency shall be managed in accordance with subdivision 22.2 of Division XI of the Cities and Towns Act (R.S.Q., chapter C-19), or, as the case may be, Chapter 0.1 of Title XIX of the Municipal Code of Québec (R.S.Q., chapter C-27.1).

3. The Government may, by an order published in the *Gazette officielle du Québec*, determine that a road which is under the management of the Minister shall, from the date indicated in the order, be managed by a municipality in accordance with subdivision 22.2 of Division XI of the Cities and Towns Act or, as the case may be, Chapter 0.1 of Title XIX of the Municipal Code of Québec.

The Government may, by an order published in the *Gazette officielle du Québec*, determine that a road which is under the management of a municipality shall, from the date indicated in the order, pass under the management of the Minister.

4. For the purposes of this Act, a road includes its infrastructure and all the works and installations needed for its improvement and management.

5. The provisions of this Act which apply to roads shall also apply to lookouts, rest areas, service areas, control stations and parking zones situated upon the right of way of a road.

6. Roads built or rebuilt by the Government under this Act or the Roads Act (R.S.Q., chapter V-8) are, shall remain or shall become the property of the local municipalities in whose territories they are situated.

However, the Minister may, in respect of a road which is not his property but which is under his management, perform all the acts and exercise all the rights of an owner; he shall have all the necessary powers for such purposes and shall assume all the related obligations.

7. Section 6 does not apply

(1) to autoroutes administered by the Office des autoroutes du Québec before 1 January 1983 and which remain the property of the State;

(2) to a road declared to be an "autoroute" by order of the Government.

8. The Government may, by order, declare that a road is an autoroute.

The road then becomes, without indemnity, the property of the State from the publication of the order in the *Gazette officielle du Québec*.

9. The Government may, by order, establish tolls on the roads it designates.

CHAPTER II

MANAGEMENT OF ROADS

DIVISION I

GENERAL PROVISIONS

10. The Minister shall carry out surveys and works to delimit a course for the construction or alteration of a road. He shall determine the right of way and prepare the plans and specifications of that road.

11. The Minister shall submit to the Government, not later than 30 June each year, a road network development plan.

DIVISION II

ACQUISITION, ALIENATION AND LEASING

12. For the purposes of this Act, the Minister may lease, exchange, or acquire by agreement or by expropriation, any property in favour of the public domain of the State.

He may, in particular, acquire, by agreement or by expropriation, any property needed to give access to properties isolated from the road, consolidate the situation of divided land, allow the removal of constructions or reduce the cost of the right of way of a road.

13. The Minister may, in the manner and on the conditions he considers appropriate, alienate or lease any property no longer required for its intended purpose.

DIVISION III

ROAD WORKS

14. The Minister shall carry out building, rebuilding and maintenance work on roads.

However, he is not bound to maintain sidewalks, traffic lights or other installations that are not the property of the Minister, unless otherwise provided for in an agreement with the municipality concerned.

15. Where there is no agreement or where the Minister does not do so, local municipalities must maintain their works and

installations although they are not bound to clear snow from sidewalks.

16. The Minister shall maintain that part of an infrastructure that acts as a bridge for a municipal road which passes over a road which is under the management of the Minister.

17. The Minister may erect or place snow fences and project snow onto land contiguous to the right of way of a road in such a way as to cause no damage to the land.

18. The Minister may, with the permission of the bordering owner, plant and maintain trees on land contiguous to the right of way of a road.

19. The Minister may, when taking possession of land contiguous to a road, transmit to the owner of the remaining part a written notice ordering him to remove or move a fence contiguous to the right of way over that land, or, where necessary, erect another fence within the given period of time and as specified by the Minister.

The Minister shall reimburse the owner for any expenses incurred for such work.

If the owner does not comply with the notice of the Minister, the latter shall carry out or cause to be carried out the necessary work.

20. The Minister may transmit to the owner of a ditch or watercourse contiguous to the right of way of a road which is liable to cause damage to that road or which is poorly maintained, a written notice ordering him to carry out the work required within the given period of time and as specified by the Minister.

21. The Minister may transmit to the owner of a tree or any other object situated on land contiguous to the right of way of a road, which interferes with traffic by reducing visibility or which is in danger of falling onto the road, a written notice ordering him to carry out remedial work within the given period of time and as specified by the Minister.

22. The Minister may prohibit or limit access to a road at the places he determines.

23. A person wishing to use land that requires access to a road must, before constructing such access, obtain the authorization of the Minister.

Where the Minister authorizes the construction of such access, he shall determine its location and the requirements of its construction.

Construction work for the access shall be at the expense of the owner who shall also assume responsibility for its maintenance.

24. The Minister may transmit to a bordering owner who, in contravention of section 23, has carried out work giving him access to a road, a written notice ordering him to demolish that work within the given period of time and as specified by the Minister.

25. If an owner does not comply with a notice under section 20, 21 or 24, the Minister shall carry out or cause to be carried out the necessary work at the owner's expense.

26. Any work carried out for the building, rebuilding, maintenance or filling in of a ditch which is liable to alter the flow of drainage water from a road must be authorized by the Minister and carried out on the conditions he determines.

27. The Expropriation Division of the Court of Québec has jurisdiction for deciding the location and width of access to a road when the bordering owner contests the location or width determined by the Minister under the second paragraph of section 23.

It also has jurisdiction for deciding a claim for damage caused by work carried out by the Minister in application of this Act, where the damage concerns an immovable or an immovable real right.

CHAPTER III

EXONERATION OF RESPONSIBILITY

28. The Minister is not liable for damage caused through the fault of a builder or contractor to whom building or rebuilding work has been entrusted, for the entire duration of such work.

Neither is he liable for a loss or decrease in business, a depreciation in the value of a property, or other damage or inconvenience caused in particular by the abolition of a level crossing, the building or rebuilding of a road or a traffic detour, except where the detour is necessary for the duration of the work.

29. The Minister is not liable for damage resulting from the absence of a fence between the right of way of a road and contiguous land.

30. The Minister is not liable for damage caused by the state of the roadway to the tires, wheel rims or suspension or exhaust systems of a motor vehicle.

31. The Minister is not liable for damage caused by the presence of an object on the roadway, whether or not the object comes from a motor vehicle or is projected by a motor vehicle.

CHAPTER IV

AGREEMENTS

32. The Minister may enter into an agreement with a local municipality providing for the carrying out, by the municipality, of building, rebuilding or maintenance work on a road at the expense of the Government, or the carrying out, by the Minister and at the expense of the municipality, of work on a road under the management of the municipality.

33. The Minister may enter into an agreement with a local municipality under which he assumes all or part of the maintenance of a complex structure bridge, as determined by government order, that is part of a road under the management of the municipality.

34. A local municipality may enter into an agreement under sections 32 and 33 and, where the agreement so requires, it may carry out work outside its territory.

35. The Minister may enter into an agreement with a railway company concerning the building, rebuilding, abolition or maintenance of a level crossing situated upon the right of way of a road or a viaduct passing over or under a road.

36. The Minister may enter into an agreement with a person supplying telecommunications or power transmission or distribution services concerning the installation and maintenance, upon the right of way of a road, of the equipment and material necessary for supplying such services.

CHAPTER V

PERMITS

37. No person may construct, upon the right of way of a road, a sidewalk, an aqueduct or sewer network or any other work unless he has obtained the authorization of the Minister.

38. No person may encroach upon the right of way of a road or install thereupon telecommunications or power transmission or distribution equipment unless he has obtained the authorization of the Minister.

39. The Minister may transmit a written notice to a person who contravenes either of sections 37 and 38 ordering him to remove, within the given period of time, the work constructed or equipment installed without the Minister's authorization.

If the offender does not comply with the notice of the Minister, the latter may remove the works or equipment and restore the right of way of the road at the expense of the offender.

CHAPTER VI

SCRAPYARDS

40. For the purposes of this chapter, the word "scrapyard" means a place where scrapped objects are deposited, whether or not such objects are intended to be sold or recycled and includes a motor vehicle graveyard.

41. No scrapyard may be situated within a distance of 150 metres of a road.

However, in the case of a motor vehicle graveyard situated along an autoroute or a connecting highway, the distance shall be determined by regulation of the Government.

42. The owner, lessee or occupant of any land used as a scrapyard that is visible from a road must surround it with a fence conforming to the standards prescribed by regulation of the Government.

CHAPTER VII

REGULATORY PROVISIONS

43. The Government may, by regulation,

(1) fix tolls which may vary according to the classification of the road or according to the categories of motor vehicles that it determines or the number of persons carried per motor vehicle;

(2) exempt a category of motor vehicles, certain motor vehicles of a category or the motor vehicles carrying a determined number of persons from the application of the tolls;

(3) establish the minimum distance at which land may be used as a motor vehicle graveyard along an autoroute or connecting road, which may vary from one autoroute to another or from one section to another of an autoroute or connecting road;

(4) prescribe the standards of construction and installation of fences surrounding scrapyards that are visible from a road.

CHAPTER VIII

PENAL PROVISIONS

44. Any owner, lessee or occupant of a scrapyard who contravenes either of sections 41 and 42 is guilty of an offence and liable to a fine of \$300 to \$600.

45. The court which pronounces sentence in relation to an offence under section 41 shall order the scrapped objects forming the subject of the offence removed or destroyed by the offender within a period of eight days from the date of sentence.

If the offender does not comply with the order, the Minister may cause the order to be carried out at the expense of the offender.

CHAPTER IX

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

46. The Government may, by order, declare that a part of an autoroute which is the property of the State is a local network road. Such a road shall then become, without indemnity, the property of the local municipality in whose territory it is situated, from the publication of the order in the *Gazette officielle du Québec*.

47. The Minister of Transport may pursue, after 31 March 1993, the acquisition by agreement or by expropriation of immovable property with a view to the carrying out of work on a road which, on 1 April 1993, becomes the responsibility of a local municipality.

He may transfer any immovable property thus acquired to the local municipality, gratuitously, in order that the work be carried out by the municipality. The costs relating to the transfer shall, however, be borne by the municipality.

48. Except where the Minister decides otherwise, this Act has precedence over any memorandum of agreement or agreement entered into by the Minister of Transport and a local municipality under which the Minister or the municipality undertakes to rebuild, build, or maintain a road.

49. Notwithstanding the provisions of section 33, the Minister of Transport shall remain responsible for complex structure bridges, as determined by government order, until the date fixed in the order.

However, every municipality concerned shall remain responsible for the maintenance of the roadway, sidewalk, railings, drainage and lighting of such a bridge.

50. The Minister of Transport may, at the request of a municipality, offer it technical and administrative support for the purpose of facilitating its taking responsibility, during a transitional period which shall end not later than 1 April 1997, for a bridge not mentioned in an order issued under section 33 or 49.

51. From 1 April 1993, the colonization roads maintained by the Minister of Transport and those maintained by municipalities on the same date shall cease to be colonization roads and shall become the property of the local municipalities in whose territories they are situated, except those situated on land in the public domain which remain the property of the State under the authority of the Minister of Transport.

52. From 1 April 1993, the colonization roads which are not maintained by either the Minister or a municipality shall cease to be colonization roads.

If such roads are merely laid out or projected, or if they are not used, the land set aside for them shall revert by law to the land from which it was detached and shall be the responsibility of the owner of that land.

If such roads are used, they shall remain the property of the State, under the authority of the Minister of Transport, and the provisions of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) relating to roads in the public domain shall apply to them.

53. From 1 April 1993, each municipality shall assume, in respect of the roads under its management, the rights and obligations of the Minister of Transport regarding any level crossing or any viaduct passing over or under those roads.

54. The Minister of Transport may, until 31 March 1994, pursue the management of his program of commercial tourist information signs in respect of roads which become, on 1 April 1993, the responsibility of a municipality.

From 1 April 1994, the municipality shall assume the rights and obligations of the Minister in the administration of that program.

55. The Minister of Transport is responsible for the administration of this Act.

56. The Colonization Roads Act (R.S.Q., chapter C-13) is repealed.

57. Section 466 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by striking out subparagraph 3 of the first paragraph.

58. The said Act is amended by inserting, after section 467.14, the following subdivision:

“§ 22.2.—*Management of municipal roads*

“467.15 This subdivision applies to a road which is the property of a municipality and is not under the management of the Minister of Transport.

For the purposes of this subdivision, a road includes its infrastructure and all the works and installations needed for its improvement and management.

“467.16 Subject to any agreement, each local municipality is responsible for the management of all roads or parts of a road situated in its territory.

It is bound, on the conditions determined by the Minister of Transport, to carry out the inspection of the bridges for whose maintenance it is responsible.

“467.17 Where a road is crossed by the common boundary of the territories of two local municipalities, in such a way that responsibility for the management of the parts of the road situated on either side of the boundary must be assumed by the same municipality in order for the road to be maintained in a good state of repair at that place, the municipalities must enter into an agreement to that end in accordance with the Act governing each municipality.

“467.18 If the municipalities fail to enter into an agreement under section 467.17, either one may request that the Commission municipale du Québec rule on whether responsibility for the management of the parts of the road situated on either side of the common boundary of the municipal territories need be assumed by the same municipality, and, if necessary, decide which of the municipalities shall have that responsibility and prescribe rules for the apportionment of expenses.

The clerk or secretary-treasurer of the municipality making the request must, as soon as possible after the adoption of the resolution setting out the request, forward a certified copy thereof to the other municipality.

“467.19 Where a request under section 467.18 has been brought before the Commission, it may, after inquiry, either rule that there is no need for the responsibility for the management of the parts of the road situated on either side of the common boundary of the municipal territories to be assumed by the same municipality, or rule that uniform management is necessary, decide which municipality shall be responsible and prescribe rules for the apportionment of expenses.

For the purposes of the first paragraph of section 467.16, a decision of the Commission entrusting a municipality with responsibility for the management of a part of a road which is not situated in its territory is deemed to be an agreement. Such a decision retains its effect until the coming into force of an agreement entered into by the municipalities under section 467.17.

“467.20 This subdivision applies to all city or town municipalities, even those not referred to in section 1, and has precedence over any contrary provision of this Act or any other Act applicable to such municipalities.”

59. The said Act is amended by inserting, after section 604, the following subdivision:

“§ 3.—Exoneration of responsibility with respect to roads

“604.1 The municipality is not liable for damage caused by the presence of an object on the roadway, whether or not the object comes from a motor vehicle or is projected by a motor vehicle.

Neither is it liable for damage caused by the state of the roadway to the tires, wheel rims or suspension or exhaust systems of a motor vehicle.

“604.2 The municipality is not liable for damage resulting from the absence of a fence between the right of way of a road and contiguous land.

“604.3 The municipality is not liable for damage caused through the fault of a builder or contractor to whom building, rebuilding or maintenance work has been entrusted, for the entire duration of such work.

Neither is it liable for a loss or reduction in business, a depreciation in the value of a property, or other damage or inconvenience caused in particular by the abolition of level crossings, the building or rebuilding of a road or a traffic detour except where the detour is necessary for the duration of such work.”

60. The Highway Safety Code (R.S.Q., chapter C-24.2) is amended by inserting, after section 417, the following section:

“417.1 In no case may a person driving a road vehicle subject to a toll pass through a tollgate without depositing the sum prescribed by a government regulation made under section 43 of the Act respecting roads (1992, chapter *(insert here the chapter number of this Act in the volume of the statutes of Québec for 1992)*).”

61. Section 509 of the said Code is amended by inserting the figure “417.1,” after the figure “416,” in the third line.

62. The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting, immediately after the heading of Title XIX, the following chapter:

“CHAPTER 0.1

“MANAGEMENT OF MUNICIPAL ROADS

“711.20 This chapter applies to a road which is the property of a municipality and is not under the management of the Minister of Transport.

For the purposes of this chapter, a road includes its infrastructure and all the works and installations needed for its improvement and management.

“711.21 Subject to any agreement, each local municipality is responsible for the management of any road or part of a road situated in its territory.

It is bound, on the conditions determined by the Minister of Transport, to carry out the inspection of the bridges for whose maintenance it is responsible.

“711.22 Where a road is crossed by the common boundary of the territories of two local municipalities, in such a way that responsibility for the management of the parts of the road situated on either side of the boundary must be assumed by the same municipality in order for the road to be maintained in a good state of repair at that place, the municipalities must enter into an agreement to that end in accordance with the Act governing each municipality.

“711.23 If the municipalities fail to enter into an agreement under article 711.22, either one may request that the Commission municipale du Québec rule on whether responsibility for the management of the parts of the road situated on either side of the common boundary of the municipal territories need be assumed by the same municipality, and, if necessary, decide which of the municipalities shall have that responsibility and prescribe rules for the apportionment of expenses.

The clerk or secretary-treasurer of the municipality making the request must, as soon as possible after the adoption of the resolution setting out the request, forward a certified copy thereof to the other municipality.

“711.24 Where a request under article 711.23 has been brought before the Commission, it may, after inquiry, either rule that there is no need for the responsibility for the management of the parts of the road situated on either side of the common boundary of the municipal territories to be assumed by the same municipality, or rule that uniform management is necessary, decide which municipality shall be responsible and prescribe rules for the apportionment of expenses.

For the purposes of the first paragraph of article 711.21, a decision of the Commission entrusting a municipality with responsibility for the management of a part of a road which is not situated in its territory is deemed to be an agreement. Such a decision retains its effect until the coming into force of an agreement entered into by the municipalities under article 711.22.

“711.25 This chapter has precedence over any contrary provision of this Code.”

63. The said Code is amended by inserting, after article 725, the following articles:

“725.1 The municipality is not liable for damage caused by the presence of an object on the roadway, whether or not the object comes from a motor vehicle or is projected by a motor vehicle.

Neither is it liable for damage caused by the state of the roadway to the tires, wheel rims or suspension or exhaust systems of a motor vehicle.

“725.2 The municipality is not liable for damage resulting from the absence of a fence between the right of way of a road and contiguous land.

“725.3 The municipality is not liable for damage caused through the fault of a builder or contractor to whom building, rebuilding or maintenance work has been entrusted, for the entire duration of such work.

Neither is it liable for a loss or reduction in business, a depreciation in the value of a property, or other damage or inconvenience caused in particular by the abolition of level crossings, the building or rebuilding of a road or a traffic detour except where the detour is necessary for the duration of such work.

“725.4 Nothing in articles 725.1 to 725.3 is intended to reduce the scope of the exoneration provided for in the third paragraph of article 724 or in article 725.”

64. For the purposes of the first paragraph of section 467.16 of the Cities and Towns Act, enacted by section 58 of this Act, and the first paragraph of article 711.21 of the Municipal Code of Québec, enacted by section 62 of this Act, a local municipality which, on 31 March 1993, is responsible for the management of a road or part of a road situated outside its territory, otherwise than pursuant to an agreement with the local municipality on whose territory that road or part of road is situated, is deemed to act under such an agreement.

The first paragraph shall cease to apply on 1 April 1994 or on the earlier date on which an agreement entered into by the municipalities concerned, respecting the management of all or part of the road, comes into force.

65. Section 2 of the Act respecting municipal contribution to the construction of roads (R.S.Q., chapter C-66) is repealed.

66. Section 247 of the Mining Act (R.S.Q., chapter M-13.1) is amended by replacing the last sentence by the following sentences:

“He may also, with the authorization of the Government, declare that a mining road is no longer a mining road. A road that is closed, whose location has been changed or that has been declassified may be transferred by the Minister in the manner he deems appropriate.”

67. Section 3 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended

(1) by striking out the words “, in particular the laying, improvement, maintenance and repair of public highways and the construction, maintenance and repair of bridges” in the second, third and fourth lines of paragraph *i*;

(2) by replacing the words “Roads Act (chapter V-8)” in paragraph *j* by the words “Act respecting roads (1992, chapter (*insert here the chapter number of this Act in the volume of the statutes of Québec for 1992*))”.

68. The said Act is amended by inserting, after section 10, the following sections:

“10.1 The Minister may grant, on the conditions he determines, a subsidy to a municipality with a view to the building, rebuilding or maintenance of a municipal road.

“10.2 A subsidy under section 10.1 shall be granted in accordance with a regulation made under the Financial Administration Act (R.S.Q., chapter A-6).”

69. Section 3 of the Act respecting Forillon Park and its surroundings (R.S.Q., chapter P-8) is amended by replacing the words “Roads Act (chapter V-8)” in the third line by the words “Act respecting roads (1992, chapter (*insert here the chapter number of this Act in the volume of the statutes of Québec for 1992*))”.

70. Section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing paragraph 4 by the following paragraph:

“(4) “public road” means a road opened in conformity with section 422 of the Cities and Towns Act (R.S.Q., chapter C-19), a street or road opened pursuant to a municipal by-law, resolution or *procès-verbal* or a highway managed by the Minister of Transport pursuant to the Act respecting roads (1992, chapter (*insert here the chapter number of this Act in the volume of the statutes of Québec for 1992*)) provided that bordering proprietors have a right of access to that highway.”

71. Section 1 of the Roadside Advertising Act (R.S.Q., chapter P-44) is amended by replacing the words “Roads Act (chapter V-8)” in the third line of the first paragraph by the words “Act respecting roads (1992, chapter (*insert here the chapter number of this Act in the volume of the statutes of Québec for 1992*))”.

72. The Public Works Act (R.S.Q., chapter T-15) is repealed.

73. A regulation made under the Roads Act (R.S.Q., chapter V-8), except a regulation fixing tolls, shall remain in force until replaced or repealed by a regulation made under this Act.

74. This Act replaces the Roads Act (R.S.Q., chapter V-8).

75. In any regulation, order, order in council, contract or agreement, a reference to a provision of the Roads Act (R.S.Q., chapter V-8) shall be a reference to the corresponding provision of this Act.

76. This Act comes into force on 1 April 1993. However, the Government may, before that date, make an order under section 2, 3 or 49 in order that it take effect on that date.