Convention of B. C. Municipalities.—(Continued).

best to guess at the meaning of certain of the sections of these Acts, some other Solicitor guesses differently and then the Courts, often at great expense, guess last, and because this last guess is final; it becomes the law. What I am attempting to point out is that all this uncertainty, all these costs, might be avoided by the simple expedient of using precise English in the Statutes and having a clear cut, definite idea of jurisdiction and a similar clear cut definition of procedure run through all the Statutes affecting Municipalities.

We are too much accustomed to think that the whole Statute law regulating municipalities is to be found in the Municipal Act and the Local Improvement Act. But some other Acts are very little less important. Let me show you how some of these other Acts affect municipalities and affect the construction to be given to the Municipal Act.

The Shop Regulations Act applies to certain shops, certain other shops are or can be regulated under the Municipal Act—Why not have these altogether in one Act?

The Milk Act is uncertain and indefinite in the one point which ought to have no uncertainty or indefiniteness. What is the limit, or the boundary of the jurisdiction of the Police Constable, the Sanitary Inspector of the Municipality, and the Provincial Health authorities respectively? They seem to overlap each other to such an extent that often the very thing aimed at preventing is not prevented because each seem to think that the other's jurisdiction might be invaded by any action. Part of the clauses designed to prevent the sale of impure milk are in the Milk Act, some in the Municipal Act, some in the Public Health Act, to the great confusion of the officials and the multiplication of law suits.

The law of highways has through various amendments of recent years, become involved in extraordinary confusion. The Highway Act, the highway clauses of the Land Registry Act and the various clauses of the Municipal Act dealing with highways, the clauses of the Local Improvement Act relating to the expropriation, of lands for highways, the registration of conveyances required, the publications, etc., are absolutely and utterly irreconcilable, and if no amendment is made then some day at enormous expense, some municipality will have to have the Courts find some highway through these Acts.

The Water Act, 1914, deals with Municipalities both as to water for lighting and for irrigation. If it stood alone it forms a fairly complete code, but the water and irrigation sections of the Municipal Act also purport to be complete in themselves and it is only by careful analysis, and the placing of the two Acts together that one can arrive at any definite conclusion as to the powers, jurisdiction and authority of the municipalities, and the amount of supervision and control to be expected on the part of the Government of the Province.

So much for contradictory Acts. There are other Acts which also work contradictions in practice but their effect is less widespread and perhaps less dangerous at the present time.

But there is one Act above all others, the source of annoyance to Solicitors for Municipalities, a source of joy and profit to Solicitors who have some knowledge of municipal law but no municipal connections. It is the Local Improvement Act. This Act, forced upon us in 1913 by a Commission of excellent lawyers with no very intimate municipal experience, was taken up bodily, word for word, from the Ontario Act. Now it may be, and probably is, a good Act for a settled Province, applicable only to Cities and towns there, and where these cities and towns are settled closely and have been for many many years. Where little or none of the lands affected are vacant, where few, if any, of the properties change hands during the lifetime of the debentures; where perhaps the people are close in touch with their municipal authorities, and where speculative local improvements are practically unknown. This Act is doubtless a reasonable working measure: but to take an Act from such a setting and place it here, in a new country, where speculation in real estate is rife, where either unbounded optimism, or blank depression, is the order of the day. Where our titles are not fixed. Where land is worth and can sell for one thousand dollars per front foot one year, and is sold for taxes two years after because no one thinks enough of the value of land to pay the taxes. Where half the properties affected are usually vacant lands. To take such an Act and adopt it here, I say, seems to me to have been the height of folly from any practical standpoint. In its very nature, from its very structure, it is almost impossible for amendment without destroying those portions which are workable, and I think I am not only voicing my own opinion but that of the Municipal Inspector and of every Solicitor, and every Clerk, who has worked at or under this Act, that the whole Act, should be re-drafted and made suitable to the conditions of life peculiar, to British Columbia.

Then the principal Act itself. The Municipal Act needs re-drafting. The Commission of 1913 did not re-draft it, they amended it slightly in certain particulars. In the very nature of such an Act, however, it is always in a more or less liquid state. From the very inception of the Act in the Victoria Incorpation Act of 1860, no session of the Legislature has passed without some amendment being made to it, and this is necessarily true of any Act so closely identified with the daily life of the people. Times change, customs change, manners change, the daily habits of life of the people change from time to time, and the Municipal Act necessarily changes with them. For instance, up to five years ago liquor licenses in restaurants were available for the sale of liquor twenty-four hours per day. A study of the various amendments for the past five years shows the trend of public opinion from year to year until after next year there will be no need of any Liquor License Sections in the Act at all.

But while Amendments are from time to time necessary, the very amendment is often a source of weakness and not of strength. We amend those abuses lying at our door, those which come within the gambit of our own experience, and often the very amendment which eradicates one abuse, creates another.

Amendments sometimes, I had almost said often, are made without a due conception of their bearing on the rest of the Act, and a second and a third become absolutely essential thereby—and sooner or later comes a time when the original scheme of the Act is lost sight of, under the burden of the Amendments, and confusion results. Whatever may be the reason, and it may not all be due to even necessary amendment, I submit that the time has arrived when a re-drafting of the Act, a consolidation of the original with all the amendments should be made and for these and many other reasons:

(A).—The procedure of assessments of taxes, collection of taxes and sales of land for taxes is most curiously involved and perplexing. I venture to assert that acting for an owner I could upset at least fifty per cent. of the sales of land for taxes in the Province, simply because of the obscure wording of many of the sections when read with other sections. For instance, and it is not necessary to multiply instances, section 54, sub-section 165, purports to give the Council power to regulate the mode of assessing and the mode of collection, but section 205 and following sections do not allow any latitude whatever. Section 54, sub-section 166 would allow the same rate to be levied on improvements as on land, if it stood alone, but section 201, says it shall not be more than fifty per cent. Another instance of an amending section casting doubt on the operation of the original. And so on throughout the whole of this phase of the Act. The Collector takes a risk of damage actions far in excess of any salary he receives. It certainly is time this part of the Act was synchronized with the rest of the act.

(B).—The expropriation of lands and the injurious affection of lands, and the compensation of owners and arbitrations therefor, are not in the shape any municipal official, elected or appointed, would have them. By reason partly of the difference in the language of the various Acts, partly because of amendments designed to improve and improving one section thereby casting doubts on the construction of others, the English authorities are not available for guidance and we have very few of our own. The recent decision of the Court of Appeal in Loutet vs. Vancouver has led to doubts as to how far, if at all, the Land Clauses Consolidation Act is applicable. The Local Improvement Act may or may not be applicable to offset the advantage which is claimed by the Municipality as against the damages of the owner. All the way through these sections a solicitor is wandering through haze and

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