

THE CANADIAN
Municipal Journal.

BY
ARTHUR L. WILLSON, B.A.

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TO

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THE
Canadian Municipal Journal:

DEVOTED MORE PARTICULARLY TO THE EXPOSITION OF
MUNICIPAL, SCHOOL AND OTHER LEGISLATIVE ENACT-
MENTS RELATING TO LOCAL MUNICIPALITIES,

Will be published by ARTHUR L. WILLSON, M.A., Monthly, at the
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VOL. I.

JANUARY, 1891.

No. i.

INTRODUCTORY REMARKS.

WHILE Canada justly boasts of her crowded Churches and Cathedrals; her complete System of Education, adapted and graded for Public Schools, High Schools and Colleges, together with her celebrated Universities, displaying an unrivalled climax—it is no less a matter of pride that her Municipal Institutions have proved worthy the admiration of all who have examined the admirable machinery devised and constructed for the management of the local affairs of the country.

Clericals of all denominations have every facility afforded them for such superior education as may enable them to grasp the sentiments contained in Holy Writ and expound and maintain the doctrine of their several denominational tenets.

Teachers and professors in Arts, Law, Medicine, Engineering, etc., have, by a course in our Educational

Institutions, supervised by men of high scholastic attainments, been enabled to occupy and hold the highest positions in their respective professions to which they may aspire; while legal, medical, and scientific journals are continually supplying to the respective professions such information as the latest researches can afford.

On the other hand, the responsibility of conducting the local Municipal affairs of the country is too often entrusted to men who have comparatively no knowledge of Municipal law, or of the practical method of administering the various enactments relating thereto. While, then, our Municipal Institutions are complete, we have no Municipal School of instruction, nor lectures on the subject, by which men, who are otherwise competent to occupy the position of a Municipal Councillor, might become sufficiently versed in the law and practice without adopting the rather humiliating method of obtaining information by being elected as a silent representative in Council for a year or more, by which time he is liable to be supplanted by some aspiring and successful candidate, who will then begin his course of instruction in manner similar to that pursued by his predecessor.

To remedy this defect, it is proposed to issue a journal devoted more especially to Municipal and School matters, and containing such other literature, correspondence, etc., as may be considered advantageous for Municipal Councils and all those who may desire to become acquainted with the management of the local affairs of a Municipality.

The Municipal Act, Assessment Act, Line Fences Act, Ditches and Water Courses Act, Public Schools Act, and other legislative enactments of general interest will be discussed from time to time, and cases cited which may appear to be of the most practical use. Forms of important By-Laws will also be given occasionally. Correspondence is solicited from all portions of the Dominion, to the end that, ultimately, a uniform system of practice may be established and the future requirements of Municipal Councils be more readily obtained.

Private individuals and Companies have their several combinations and mutual and reciprocal agreements, while each Municipal Council stands comparatively alone, and can only obtain the co-operation of sister Corporations by circulating memorials at considerable expense; whereas through the medium of a journal or organ, all matters of interest to Municipal or School Corporations can, without delay, be brought before each subscriber.

ARTHUR L. WILLSON,

Ex-Reeve Town of North Toronto;

Ex-Reeve Township of York.

THE CANADIAN MUNICIPAL JOURNAL.

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ARTHUR L. WILLSON,

33 Richmond Street West,

TORONTO, ONTARIO.

THE MUNICIPAL ACT.

(R. S. O. 1887, Cap. 184.)

1. This Act may be cited as "*The Municipal Act.*"

NOTE.—"Municipal," from Lat. *Municipalis*, a free town or corporation, having its own laws and magistrates, and also the right of Roman citizenship, as of soliciting for all public offices, and, generally, of voting at its comitia—a place of assembling of the government.

"Municipal law is properly expressed to be a rule of civil conduct prescribed by the supreme power in a State."—*Blackstone.*

The title of the Act is technical, and any reference to a word or clause contained in any section or sub-section of the Act should define the line, sub-section or section and title of the Act.

2. Where the words following occur in this Act, or in the schedule thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

(1) "Municipality," shall mean any locality the inhabitants of which are incorporated or are continued, or become so under this Act;

(2) "Local Municipality," shall mean a city, town, township, or incorporated village;

(3) "Council," shall mean the municipal council or provisional municipal council, as the case may be;

(4) "County" shall mean county, union of counties, or united counties, or provisional county, as the case may be;

(5) "Township," shall mean township, union of townships or united townships, as the case may be;

(6) "County Town," shall mean the city, town, or village in which the assizes for the county are held;

(7) "Land," "Lands," "Real Estate," "Real Property," shall, respectively, include lands, tenements and hereditaments, and all rights thereto and interests therein;

(8) "Highway," "Road," or "Bridge," shall mean a public highway, road, or bridge, respectively;

(9) "Electors," shall mean the persons entitled for the time being to vote at any municipal election, or in respect of any by-law, in the municipality, ward, polling subdivision, or police village, as the case may be;

(10) "Reeve," shall include the deputy-reeve or deputy-reeves, where there is a deputy-reeve for the municipality, except in so far as respects the office of a Justice of the Peace;

(11) The words "next day" shall not apply to or include Sunday or statutory holidays. 46 V. c. 18, s. 2,

NOTE.—Where specific meanings are given to any class of words in an Act, it is important that they should be fully understood by the reader in order that an intelligent rendering may be given.

INCORPORATION.

3. The inhabitants of every county, city, town, village, township, union of counties, and union of townships incorporated at the time this Act takes effect, shall continue to be a body corporate, with the municipal boundaries of every such corporation respectively then established. 46 V. c. 18, s. 3.

NOTE.—Distinguish between the *Corporation* and the *Council of the Corporation* (but see note to Sections 5 and 570).

4. The head and members of the council, and the officers, by-laws, contracts, property, assets and liabilities of every municipal corporation, when this Act takes effect, shall be deemed the head and members of the council, and the officers, by-laws, contracts, property, assets and liabilities of such corporation, as continued under and subject to the provisions of this Act. 46 V. c. 18, s. 4.

NOTE.—The fact is too often overlooked that the Council, with its officers, is only the operative part of the Corporation, and that everything pertaining to the business of a Council is an appurtenance to, and a trust to be accounted for, to the inhabitants of the Municipality or District.

5. The name of every body corporate (not being a provisional corporation, continued, or erected under this Act,

shall, be "*The Corporation of the County, City, Town, Village, Township, or United Counties, or United Townships*, (as the case may be), of _____" (naming the same). 46 V. c. 18, s. 5.

NOTE.—Every Council should cause to be printed at the head of all its official documents, "The Corporation of the (City, Town, Village or Township).

6. The inhabitants of every junior county, upon a provisional council being or having been appointed for the county, shall be a body corporate under the name of "*The Provisional Corporation of the County of _____*" (naming it). 46 V. c. 18, s. 6.

NOTE.—"*Provisional County.*" See "Unorganized Territory Act." R. S. O. 1887, Cap. 91.

7. The inhabitants of every county, or union of counties erected by proclamation into an independent county or union of counties, and of every township or union of townships, erected into an independent township or union of townships and of every locality erected into a city, town, or incorporated village, and of every county or township separated from any incorporated union of counties or townships, and of every county or township, or of the counties or townships, if more than one, remaining of the union after the separation, being so erected or separated after this Act takes effect, shall be a body corporate under this Act. 46 V. c. 18, s. 7.

8. The powers of every body corporate under this Act shall be exercised by the council thereof. 46 V. c. 18, s. 8.

NOTE.—See note to section 282, "The powers of the council shall be exercised by by-law when not otherwise authorized or provided for."

NEW CORPORATIONS.

9. When the census returns of an unincorporated village, with its immediate neighborhood, taken under the direction of the council or councils of the county or counties in which the village and its neighborhood are situate, show that the same contain over 750 inhabitants, and when the residences of such inhabitants are sufficiently near to form an incorporated village, then, on petition by not less than 100 resident freeholders and householders of the village and neighborhood, of whom not fewer than one-half shall

be freeholders, the council or councils of the county or counties in which the village and neighborhood are situate shall, by by-law, erect the village and neighborhood into an incorporated village, apart from the township or townships in which the same are situate, by a name, and with boundaries to be respectively declared in the by-law, and shall name in the by-law the place for holding the first election, and the returning officer who is to hold the same. 46 V. c. 18, s. 9.

NOTE—In the case of the Town of West Toronto Junction and the Village of Carleton, the Council of the County of York applied to the Government for its construction of this apparently imperative clause. It was explained that until some definite action is taken towards the formation of an incorporated village, such as the appointment of a census enumerator, the council cannot be compelled to pass a by-law to erect the village into an incorporated village.

In the case of a petition to the Council of the County of York for a by-law *re* the incorporation of Chester and Todmorden villages, the council refused to grant the prayer of the petition (Third Session, 1890), and an application was made before Galt, C.J., for a mandamus to compel the council to pass the by-law, motion dismissed with costs. See sec. 612, s.s. 9,—“A petition for any local improvement requires to be signed by at least *two-thirds* in number of the owners of any real property to be benefited by the improvement, such owners representing at least *one-half* in value of such real property.” It might prove advantageous if such a limitation should be inserted in the foregoing section.

10.—(1) No town or village incorporated after the passing of this Act, the population of which does not exceed 1,000 souls, shall extend over or occupy within the limits of the incorporation an area of more than 500 acres of land.

(2) No town or village already or hereafter incorporated and containing a population exceeding 1,000 souls, shall make any further addition to its limits or area, except in the proportion of not more than 200 acres for each additional 1,000 souls subsequent to the first 1,000.

(3) In the case of towns or villages now incorporated, whenever the area thereof exceeds the proportionate limit above prescribed, to wit, in all cases where the area exceeds the proportion of 500 acres for the first 1,000 souls, and 200 acres for every subsequent additional 1,000, then in such cases the said towns or villages shall not be permitted to make any further addition to their limits until their population has reached such a proportion to their present area.

(4) But in all cases, the persons then actually inhabiting the land about to be included within the limits of a town or village, may, for the purpose of such extension, be held and reckoned as among the inhabitants of such town or village; and the land occupied by streets or public squares may be excluded in estimating the area of such town or village. 46 V. c. 18, s. 10.

NOTE.—Except by special act.

11. In cases where an incorporated village is separated from the township or townships in which it is situate, the provisions of this Act for the disposition of the property, and payment of debts, upon the dissolution of a union of townships, shall be applicable as if the localities separated had been two townships, and the councils of such village and township or townships shall respectively perform the like duties as by such provisions devolve upon the councils of separated townships, the said village being considered as the junior township. 46 V. c. 18, s. 11.

NOTE.—See s. 30.

12.—(1) When the newly incorporated village lies within two or more counties, the councils of the counties shall, by by-law, annex the village to one of the counties; and if within six months after the petitions for the incorporation of the village are presented, the councils do not agree to which county the village shall be annexed, the wardens of the counties shall memorialize the Lieutenant-Governor in council, setting forth the grounds of difference between the councils; and thereupon the Lieutenant-Governor shall, by proclamation, annex the village to one of such counties.

(2) In case the wardens do not, within one month next after the expiration of the six months, memorialize the Lieutenant-Governor in council as aforesaid, then 100 of the freeholders and householders on the census list may petition the Lieutenant-Governor in council to settle the matter, and thereupon the Lieutenant-Governor shall, by

proclamation, annex the incorporated village to one of the counties. 46 V. c. 18, s. 12.

NOTE.—If the county councils fail for six months to annex the village to one of the counties, the Governor in council shall do so by proclamation, (1) Upon memorial of the wardens of said counties within one month thereafter, and (2) In the absence of such memorial, on the application of 100 petitioners F and H on the census list.

13.—(1) In case a locality is, under section 12 of this Act, detached from one county and annexed to another, the council of the county to which the locality is annexed and the council of the village shall agree with the council of the county from which the locality is detached, as to the amount (if any) of the county liabilities which should be borne by the locality so detached and the times of payment thereof.

(2) If the councils do not agree within three months of the separation in respect of the said matter, the same shall be determined by arbitration under this Act; and the amount (if any) so agreed or determined shall become a debt of the county to which the locality is attached, and such locality shall, until the said amount has been paid by the proceeds of such rates, continue subject to all rates which had been, prior to the separation, imposed for the payment of county debts or for the payment of bonuses or aids granted by sections of the county to railways, or for the payment of local improvement debts.

(3) The council of the county or of the village, as the case may require, shall pass such by-laws and take such proceedings as may be necessary for levying the said rates; and shall, unless such council has previously paid the amount to the municipality so liable, pay over the same when collected to the municipality which is liable for the debt on account of which the rates were imposed.

(4) Where the councils do not agree as aforesaid, the Lieutenant-Governor in council may, before proclamation has been made, and upon the petition of a majority of the resident freeholders and householders of the village, and with the assent of at least two of the councils of the townships in which the village is situate, annul the incorporation of the village and restore the same to its former position as an unincorporated village, and the same shall thereupon be reinstated to its former position to the same extent

as if no proceedings for incorporation had ever been taken. 46 V. c. 18, s. 13.

NOTE.—(1) The outgoing village or locality and county to which it is attached shall be liable for the proportion of its former county liabilities. (2) If an agreement is not arrived at in three months, then the matter must be settled by arbitration. (3) The amount determined upon shall become a debt of the county to which the *locality* is attached; and (4) the *locality*, until such debt is paid, shall continue subject to rates imposed for county purposes prior to separation.

14. In case the council of an incorporated village petitions the Lieutenant-Governor to add to the boundaries thereof, the Lieutenant-Governor may, subject to the provisions of section 10 of this Act, by proclamation, add to the village any part of the localities adjacent, which, from the proximity of the streets or buildings therein, or the probable future exigencies of the village, it may seem desirable to add thereto; and in case the territory so added belonged to another county, it shall thenceforward, for all purposes, cease to belong to such other county, and shall belong to the same county as the rest of the village. 46 V. c. 18, s. 14.

NOTE.—The Lieutenant-Governor may, by proclamation, add to the area of a village, town or city. See sec. 22.

15.—(1) The county council of any county or union of counties, upon the application, by petition, of the corporation of any incorporated village or town not withdrawn from the county, and with a population, as ascertained by the last municipal enumeration, not exceeding 2,000, whose outstanding obligations and debts do not exceed double the net amount of the yearly rate then last levied and collected therein, may, in their discretion, by by-law in that behalf, reduce the area of such village or town by excluding from it lands used wholly for farming purposes.

(2) The by-law shall define, by metes and bounds, the new limits intended for such incorporated village or town.

(3) No incorporated village or town shall, by such change of boundaries, be reduced in population below the number of 750 souls.

(4) The municipal privileges and rights of the village or town shall not thereby be diminished, or otherwise interfered with as respects the remaining area thereof. 46 V. c. 18, s. 15.

NOTE.—The county council may, upon petition, *reduce* the area of a village or town.

16.—(1) In case the council of an incorporated village pass a resolution, by a two-thirds vote of the members thereof, declaring that it is expedient that the village should become unincorporated, and the resolution is approved by the electors in the manner required for by-laws creating debts; and in case the council of an adjoining municipality, or of two or more of the adjoining municipalities, pass a resolution or resolutions approving of the territory comprised in the village being annexed to such municipality or municipalities, the Lieutenant-Governor in council may issue a proclamation annulling the incorporation of the village, and annexing the territory included therein to such municipality or municipalities.

(a) The term "electors" in the preceding sub-section shall be held to include all freeholders and leaseholders whose lease extends over a term of not less than five years from the date when the said vote is taken and whose names are entered on the last revised assessment roll of the said municipality.

(2) If the said territory is annexed to one municipality, such municipality shall be liable for the debts of the village, and shall be entitled to its assets, but if the territory is annexed to two or more municipalities the councils of such municipalities shall, before the proclamation issues, agree between themselves, or determine by arbitration, as to the proportion of the debt of the village to be borne by them respectively, and as to the assets, or proportion of the assets, of the said village which the municipalities shall respectively receive, and the municipalities shall respectively be liable for the proportion of indebtedness as determined by the agreement or award.

(3) If the award or agreement, instead of stating the proportion of the debt to be borne, as aforesaid, states the shares so to be borne in sums of money, then the fraction which is formed by taking the sum named as the amount borne by any municipality as the numerator, and the aggregate of the sums named as the amounts to be borne

by the said municipalities as the denominator, shall be the proportion of the entire debt to be borne by such municipality, whether or not the debt is accurately stated in the agreement or award.

(4) It may be part of the arrangement between the village and the municipality or municipalities that the village shall, for a time, be charged with a special rate, or that it shall be relieved of any rate, or part of a rate, imposed upon the rest of the municipality with which the village, or part of it, is to be united.

(5) In case the municipalities proposing to receive parts of the territory comprised in the village are in different counties, the provisions of this section may be acted upon with the assent (declared by resolution) of the councils, and unless such councils have previously agreed, or shall within three months of the issue of a proclamation under this section agree, as to the proportions in which the share of the county debt, which is referable to such village, shall be borne by the several counties, the same shall be determined by arbitration under this Act.

(6) Where part of the village is to be attached to a city or town separated from the county for municipal purposes, such separated city or town shall be deemed a county within the meaning of the next preceding sub-section. 46 V. c. 18, s. 16. 52 Vic. c. 36, s. 2.

NOTE.—An incorporated village may become unincorporated by proclamation, (1) By passing a resolution with a two-thirds vote of the council and approved by the electors, declaring the expediency of such action; (2) by having a resolution passed by adjoining municipality approving of the annexation of such territory; (3) assets and liabilities to be assumed by the municipality to which the village is annexed, or if annexed to two or more municipalities, then as may be agreed upon, or as may be determined by arbitration.

17.—(1) When any unincorporated village or settlement and its immediate neighborhood lie wholly within the limits of a township, and when the residences of its inhabitants are sufficiently near to each other, in the opinion of the council of such township municipality, to render the same desirable, the council of the township in which the

same are situate may, on the petition of a majority of the ratepayers within the area to be set off, one-half of whom shall be resident freeholders, by by-law, set the unincorporated village or settlement and neighborhood apart from the remaining portion of the township in which the same are situate, and with boundaries to be respectively defined and declared in the by-law, for the purposes hereinafter mentioned.

(2) All the powers given to the council of every township by this Act shall remain in force as respects the portion of the township so set apart, and are hereby continued and extended to the council of every township wherein the portion thereof is so set apart, except so far as the same are or may be inconsistent with the enactments of this section.

(3) In addition to the powers given to the council of every township by this Act, the council of every township wherein a portion has been set apart under the provisions of this Act, shall have all the rights and powers conferred on the councils of cities, towns and incorporated villages by this Act, as respects such portions as shall be so set apart, and may pass by-laws which shall apply exclusively and only to that portion of the township so set apart for the following purposes :

(a) To compel all persons (resident or non-resident) liable to statute labor within such prescribed limits to compound for such labor at any sum not exceeding \$1 for each day's labor, and that such sum shall be paid in commutation of such statute labor, and for enforcing the payment of such commutation in money in lieu of such statute labor.

(b) For all the purposes specified in sections 612 to 630, both inclusive, of this Act. 43 V. c. 39, s. 39 (1-3).

(4) Whenever in a township two or more portions thereof shall be so set apart as aforesaid, which shall adjoin, or lie contiguous to each other, the council of the township shall have power to pass a by-law uniting such separate divisions, so previously set apart, into one division, whereupon the council shall have all the powers over, and relating to the united divisions, as if the whole area embraced within the limits of the several divisions so united had originally been set apart under the provisions of this Act in one parcel. 49 V. c. 37, s. 36.

NOTE.—The object of creating an unincorporated village appears to be that all the requirements of the locality may be had through the corporate powers of the township council without involving the expense of a village council and its various officials. By this Act, township councils can pass by-laws to apply exclusively to such villages, with powers equal to councils of cities, towns and villages, embracing local improvements of various kinds relating to highways, bridges, streams, water-courses, macadamizing and grading streets, lighting, or constructing water-works, etc.

AN ACT RESPECTING PUBLIC SCHOOLS.

(R. S. O., 1887, Cap. 225.)

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PRELIMINARY.

1. This Act may be cited as "*The Public Schools Act*," 48 V. c. 49, s. 1.

NOTE.—In referring to any part of the Act, cite the sub-section, section and title of the Act.

2. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

(1) "Teacher" shall include female as well as male teachers.

(2) "County" shall include a union of counties.

(3) "Township" shall include unions of townships made for municipal purposes.

(4) "School site" shall mean such area of land as may be necessary for the school building, teacher's residence, offices and play-grounds connected therewith.

(5) "Owner" shall include a mortgagee, lessee or tenant, or other person entitled to a limited interest, and whose claims may be dealt with by arbitration as herein provided.

(6) "Resident" shall include such persons who, though not actually resident in a school section or division, pay a school rate at least equal to the average school rate paid by the actual residents of such section or division.

(7) "Ratepayer" shall mean an assessed householder, owner or tenant, or any person entered on the assessment roll as a farmer's son, or any person assessed for income. 48 V. c. 49, s. 2.

See note to section 13.

3. Nothing in this Act authorizing the levying or collecting of rates on taxable property for public school purposes shall apply to the supporters of Roman Catholic separate schools. 48 V. c. 49, s. 3.

NOTE.—See sec. No. 271—"Nothing in this Act shall affect Roman Catholic separate schools, unless where such schools are expressly referred to."

4. All public school sections or other public school divisions, together with all elections and appointments to office, all agreements, contracts, assessments, and rate-bills, heretofore duly made in relation to public schools, and existing when this Act comes into force, shall be subject to the provisions of this Act. 48 V. c. 49, s. 4.

5. The term for which each school trustee holds office at the time this Act takes effect, shall continue as if such term had been created by virtue of an election under this Act. 48 V. c. 49, s. 5.

6. All public schools shall be free schools, and every person between the age of five and twenty-one years shall have the right to attend some school. 48 V. c. 49, s. 6.

NOTE.—What about compulsory education ?

7. No person shall require any pupil in any public school to read or study in or from any religious book, or to join any exercise of devotion or religion, objected to by his or her parents or guardians. 48 V. c. 49, s. 7.

8. Pupils shall be allowed to receive such religious instructions as their parents or guardians desire, according to any general regulations provided for the organization, government and discipline of public schools. 48 V. c. 49, s. 8.

NOTE.—Such regulations should be furnished to parents that they may be enabled to give an expression of opinion.

9. The municipal council of each township shall form portions of the township, where no schools have been established, into school sections, each section to be distinguished by a number; provided that no section so formed shall include any territory more than three miles in a direct line from the site of the school-house. This section shall not apply to townships in which there is a township board. 48 V. c. 49, s. 9.

NOTE.—In all cases where a hardship exists an application will lie to the Superintendent of Education.

10. No section shall be formed which contains less than fifty actual resident children, between the ages of five and twenty-one years, unless the area of the section contains more than four square miles. 48 V. c. 49, s. 10.

11. It shall be the duty of every township clerk to prepare, in duplicate, a school map of the township, showing the divisions of the township into school sections and parts of union school sections, to furnish one copy of such map to the county clerk, for the use of the county council, and retain the other in the township clerk's office, for the use of the township corporation. 48 V. c. 49, s. 11.

NOTE.—Difficulties have arisen in many municipalities by the placing of ratepayers in a wrong school section by accident, which have given rise to grievances not easily adjusted by the council. To remedy this, a condensed plan of the school section in a township municipality might be prepared and supplied to ratepayers, which would enable them to check the assessor when making an assessment and thus prevent the possibility of a mistake.

12. For each rural school section there shall be three trustees, each of whom, after the first election of trustees, shall hold office for three years, and until his successor has been elected. 48 V. c. 49, s. 12.

13. The persons qualified to be elected trustees shall be such persons as are actual resident ratepayers within the school section, and of the full age of twenty-one years, and are not disqualified under this Act. 48 V. c. 49, s. 13.

NOTE.—See sub-section 6 of section 2 of this Act, from which it would appear that a *non-resident* who pays a *school rate* equal to the *average school rate* paid by the *actual residents* of the section or division, shall be considered qualified to be elected as a trustee. Said sub-section 6 does not state that the candidate, being a *non-resident* shall pay a *school tax* at least equal to the *average school tax* paid by the *actual residents* of such section; and the school rate being the same in all cases, it would appear that a non-resident not otherwise disqualified is qualified to be a school trustee in the school section within which his property is situate.

14. Every ratepayer of the full age of twenty-one years, who is a public school supporter within the section for which he is such ratepayer, shall be entitled to vote at any election for school trustee, or on any school question whatsoever, at any annual or special meeting in the said section. 48 V. c. 4C, s. 14.

NOTE.—Under sub-section 6 of section 2 of this Act, a non-resident has a right to vote subject to section 21 of this Act.

15. A meeting of the ratepayers of every section shall be held annually on the last Wednesday of December, or if such Wednesday be a holiday, then on the next day following, commencing at the hour of ten o'clock in the forenoon, for the purpose (among other things) of electing a school trustee or trustees. 48 V. c. 49, s. 15.

16. In case, from the want of proper notice or other cause, any first or annual school section meeting, required to be held for the election of trustees, was not held at the proper time, the inspector, or any two ratepayers in the section may call a school meeting, by giving six days' notice, to be posted in at least three of the most public places in the school section; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. 48 V. c. 49, s. 16.

17.—(1) The electors of such school section present at such meeting shall elect one of their own number to preside over its proceedings, and shall also appoint a secretary, who shall record the proceedings of the meeting, and perform such other duties as may be required of him by this Act.

(2) The business of such meeting may be conducted in the following order :

- (a) Receiving the annual report of the trustees, and disposing of the same ;
- (b) Receiving the annual report of the auditor or auditors, and disposing of the same ;
- (c) Electing an auditor for the current year ;
- (d) Miscellaneous business ;
- (e) Electing a trustee or trustees to fill any vacancy or vacancies. 48 V. c. 49, s. 17.

NOTE.—The order of business is not imperative, but it is important that the chairman should be a person well versed in school election matters.

18. The chairman shall preside and submit all motions to the meeting in the manner desired by the majority. In case of an equality of votes, he shall give the casting vote but no other vote. He shall decide all questions of order, subject to an appeal to the meeting. 48 V. c. 49, s. 18.

NOTE.—The chairman cannot exercise his franchise at a school election, but becomes as it were an umpire between the parties, having *only* a casting vote.

19. When a poll is demanded by two electors at the meeting for the election of a trustee, the chairman shall forthwith grant the same, and the secretary shall thereupon immediately proceed to record, as herein directed, the names of all qualified electors who shall present themselves within the time prescribed by this Act, and the secretary shall enter in the poll-book, in separate columns, the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns, write the names of the electors offering to vote at the election, and shall, in the column on which is entered the name of a candidate voted for by a voter, set the figure "1" opposite the voter's name, with the residence of the voter. 48 V. c. 49, s. 19.

NOTE.—The demand must be made by *two* electors.

An ordinary poll-book must be provided in case an election is demanded.

20. In case a poll is demanded upon any public school question by any two electors, the name of each voter shall be similarly placed in separate columns, marked "for" or "against." 48 V. c. 49, s. 20.

NOTE.—A poll-book must also be prepared for voting on "any public school question" when such a poll is demanded by any *two* electors..

21. In case an objection is made to the right of any person to vote at any annual or special meeting, either for trustee or upon any school question, the chairman of the meeting, or other officer presiding, shall require the person whose right of voting is objected to, to make the following declaration or affirmation :

(1) I, *A. B.*, do declare and affirm, that I am an assessed ratepayer (*or farmer's son, as the case may be*) in school section .

(2) That I am of the full age of 21 years.

(3) That I am a supporter of the public school in said school section No. .

(4) That I have the right to vote at this election.

Whereupon the person making such declaration shall be entitled to vote. 48 V. c. 49, s. 21.

NOTE.—The chairman or other officer presiding does not appear to be authorized to take the declaration.

22. The poll at every election of a rural school trustee or trustees or on any school question, shall not close before eleven o'clock in the forenoon, but may close at any time thereafter when a full hour has elapsed without any vote having been polled, and shall not be kept open later than four o'clock in the afternoon of the day on which the election is commenced; and when such poll is closed the chairman and secretary shall count the votes polled for the respective candidates or for the school question submitted, as the case may be, and shall declare the candidate elected, or the school question adopted, for which the highest number of votes was polled, or in case of a tie the chairman shall give the casting vote, as provided in section 18 of this Act. 48 V. c. 49, s. 22; 50 V. c. 39, s. 2.

NOTE.—A full hour must elapse before closing the poll, and so on from *hour to hour* until four o'clock, and if no vote is polled within an hour from the polling of the last vote then the poll can be legally closed; for instance, if no vote has been polled between 1.30 o'clock and 2.30 o'clock, the poll *may* be closed.

23. The secretary of every school meeting at which any person or persons were elected as school trustees shall forthwith notify in writing each of such persons of his election, and every person so notified shall be considered as having accepted such office, unless a notice to the contrary effect has been delivered by him to such secretary within twenty days after the date of such election. 50 V. c. 39, s. 3.

NOTE.—It may be inferred from this section that the person or persons referred to in section 13 need not necessarily be present at the time of the election.

24. Any trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected. 48 V. c. 49, s. 24.

25. Any trustee of a rural school section may resign with the consent, expressed in writing, of his colleagues in office. 48 V. c. 49, s. 25.

26. Any retiring trustee may be re-elected with his own consent, otherwise he shall be exempted from serving for four years next after leaving office. 48 V. c. 49, s. 26.

AN ACT RESPECTING THE ASSESSMENT OF PROPERTY.

.(R. S. O. 1887, Cap. 193.)

1. This Act may be cited as "*The Assessment Act.*" R. S. O., 1877, c. 180, s. 1.

NOTE.—An assessment is a valuation made by authorized persons according to their discretion as opposed to a sum certain or determined by law. It is a valuation of the property of those who are to pay the tax, for the purpose of fixing the proportion which each man shall pay; on which valuation the law imposes a specific sum upon a given amount.—*Blackstone.*

2. Where the words following occur in this Act or the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

- (1) "Gazette" shall mean the *Ontario Gazette*;
- (2) "Township" shall include a union of townships, while such union continues;
- (3) "County Council" shall include provisional county council;
- (4) "Town" and "Village" shall mean respectively incorporated town and village;
- (5) "Ward," unless so expressed, shall not apply to a township ward;
- (6) "Municipality" shall not include a county. R. S. O., 1877, c. 180, s. 2 (1-6).
- (7) "Local Municipality" shall mean and include a city, town, incorporated village or township, as the case may be. 48 V. c. 42, s. 2 (3).
- (8) "Property" shall include both real and personal property, as hereinafter defined. R. S. O., 1877, c. 180, s. 2 (9).
- (9) "Land," "Real Property," and "Real Estate," respec-

tively, shall include all buildings or other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the realty, and all trees or underwood growing upon the land, and land covered with water, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty. R. S. O. 1877, c. 180, s. 2 (7); 43 V. c. 27, s. 8 (1).

(10) "Personal Estate" and "Personal Property" shall include all goods, chattels, interest on mortgages, dividends from bank stock, dividends on shares or stocks of other incorporated companies, money, notes, accounts and debts at their actual value, income and all other property, except land and real estate, and real property as above defined, and except property herein expressly exempted. R. S. O. 1877, c. 180, s. 2 (8); 43 V. c. 27, s. 8 (2).

(16) "Last revised assessment roll" shall mean the last revised assessment roll of a local municipality;

(17) "List of voters" shall mean the alphabetical list referred to in section 3, of *The Voters' Lists Act*. 48 V. c. 42, s. 2 (1, 2, 4-8).

NOTE.—See note to section 2 of *The Municipal Act*.

3. Unoccupied land shall be denominated "Lands of non-residents," unless the owner thereof has a legal domicile or place of business in the local municipality where the same is situate, or gives notice in writing setting forth his full name, place of residence and post-office address, to the clerk of the municipality, on or before the 20th day of April in each year, that he owns such land, describing it, and requires his name to be entered on the assessment roll therefor, which notice may be in the form or to the effect of Schedule A to this Act; and the clerk of the municipality shall, on or before the 25th day of April in each year, make up and deliver to the assessor or assessors a list of the persons requiring their names to be entered on the roll, and the lands owned by them. It shall not be necessary to renew such notice from year to year, but the notice shall stand until revoked, or until the ownership of the property shall be changed. 45 V. c. 28, s. 2.

NOTE.—Unoccupied land must be considered non-resident land: (1) Unless the owner has a legal place of residence; or (2) a place of business within the municipality where the land is situate; (3) or, being

a non-resident, gives notice in writing, setting forth his name, residence and post-office address, to the clerk, on or before the 20th day of April, to the effect that he is owner of such land and requiring his name to be entered on the assessment roll therefor; (4) the clerk shall deliver to the assessors a list of such non-residents so giving notice; (5) the notice shall be sufficient authority for entering the name of such non-resident owner until revoked or the ownership is changed.

Under section 65 of *The Municipal Act* efforts are frequently made in towns, villages and townships to secure the return of extra deputy-reeves to the county council by having the names of owners of unoccupied lands entered on the assessment roll. However laudable these efforts may be, strict attention must be paid to the foregoing requirements.

4.—(1) When the name of any owner of such unoccupied land shall not have been entered upon the assessment roll in respect thereof by the assessor, such owner or his agent shall be entitled to apply to the Court of Revision to have the same so entered, whether the notice in the preceding section mentioned has or has not been given, and the Court may order the name to be entered, notwithstanding such notice has not been given, or has not been given by the time in this Act provided;

(2) Or such owner or his agent shall be entitled, within the time allowed by law for other applications in that behalf, to apply to the Judge to have the name of such owner entered upon the voters' lists, whether such notice has or has not been given; and the Judge may direct that the same be so entered, notwithstanding such notice has not been given, or has not been given by the time in this Act provided. 45 V. c. 28, s. 3.

NOTE.—It is hereby provided that in every case the owner may apply to the Court of Revision to have his name entered as owner, but there is no provision for appeal from the decision of such Court. It is also provided that such owner may apply to the Judge to have his name entered on the voters' list.

5. The real estate of all railway companies shall be considered as lands of residents, although the company has not an office in the municipality; except in cases where a company ceases to exercise its corporate powers, through insolvency or other cause. R. S. O. 1877, c. 180, s. 4.

NOTE.—Railway companies shall, before the first day of February in each year, transmit certain statements to the clerk of each municipality in which their roadway or other real property is situate. (*See sec. 29.*)

6. All municipal, local or direct taxes or rates, shall, where no other express provision has been made in this respect, be levied equally upon the whole ratable property, real and personal, of the municipality or other locality, according to the assessed value of such property, and not upon any one or more kinds of property in particular, or in different proportions. R. S. O. 1877, c. 180, s. 5.

7. All property in this Province shall be liable to taxation, subject to the following exemptions, that is to say:

EXEMPTIONS.

(1) All property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public uses of the Province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust for, or for the use of any tribe or body of Indians, and either unoccupied, or occupied by some person in an official capacity.

(2) Where any property mentioned in the preceding clause is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable.

(3) Every place of worship, and land used in connection therewith, churchyard or burying ground. R. S. O. 1877, c. 180, s. 6 (1-3). *See cap. 175, s. 13.*

(4) The buildings and grounds of and attached to every university, college, high school, or other incorporated seminary of learning, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, or if unoccupied, but not if otherwise occupied.

(5) Every public school house, town or city or township hall, court house, gaol, house of correction, lock-up house

and public hospital, with the land attached thereto, and the personal property belonging to each of them.

(6) Every public road and way or public square.

(7) The property belonging to any county or local municipality, whether occupied for the purposes thereof or unoccupied; but not when occupied by any person as tenant or lessee, or otherwise than as a servant or officer of the corporation for the purposes thereof.

(8) The Provincial Penitentiary, the Central Prison and the Provincial Reformatory, and the land attached thereto.

(9) Every industrial farm, poor house, alms house, orphan asylum, house of industry and lunatic asylum, and every house belonging to a company for the reformation of offenders, and the real and personal property belonging to or connected with the same.

(10) The property of every public library, mechanics' institute and other public, literary or scientific institution, and of every agricultural or horticultural society, if actually occupied by such society and all the lands and buildings of every company formed under the provisions of *The Act Respecting Joint Stock Companies for the Erection of Exhibition Buildings* where the council of the corporation in which such lands and buildings are situated consents to such exemption. R. S. O. 1887, c. 193, s. 7, ss. 10; 51 V. c. 29, s. 2.

(11) The personal property and official income of the Governor-General of the Dominion of Canada, and the official income of the Lieutenant-Governor of this Province. R. S. O. 1877, c. 180, s. 6 (4-11).

(12) The houses and premises of any officers, non-commissioned officers and privates of Her Majesty's regular Army or Navy in actual service, while occupied by them, and not exceeding \$2,000 in value, and the full or half-pay of any one in either of such services; and any pension, salary, gratuity or stipend derived by any person from Her Majesty's Imperial Treasury, and the personal property of any person in such Naval or Military services, on full pay, or otherwise in actual service. 49 V. c. 38, s. 1.

(13) All pensions of \$200 a year and under payable out of the public moneys of the Dominion of Canada, or of this Province.

(14) All grain, cereals, flour, live or dead stock, the produce of the farm or field, in store or warehouse, and at any time owned or held by or in the possession of any person in any municipality, such person not being the producer

thereof, and being so held, owned or possessed solely for the *bona fide* purpose of being conveyed by water or railway for shipment or sale at some other place.

(a) All horses, cattle, sheep and swine which are owned and held by any owner or tenant of any farm, and when such owner or tenant is carrying on the general business of farming or grazing.

(15) The income of a farmer derived from his farm, and the income of merchants, mechanics, or other persons derived from capital liable to assessment.

(16) So much of the personal property of any person as is invested in mortgage upon land, or is due to him on account of the sale of land, the fee or freehold of which is vested in him, or is invested in the debentures of the Dominion of Canada or of this Province, or of any municipal corporation thereof, and such debentures.

(17) The shares held by any person in the capital stock of any incorporated or chartered bank, doing business in this Province; but any interest, dividends or income derived from any such shares held by any person resident in this Province shall be deemed to come within and to be liable to assessment under section 31 of this Act. R. S. O. 1877, c. 180, s. 6 (13-17).

(18) The stock held by any person in any incorporated company, whose personal estate is liable to assessment in this Province. 49 V. c. 38, s. 2.

(19) The stock held by any person in any railroad company, the shares in building societies, and so much of the personal property of any person as is invested in any company incorporated for the purpose of lending money on the security of real estate; but the interest and dividends derived from shares in such building societies, or from investments in such companies as aforesaid, shall be liable to be assessed.

(20) All personal property which is owned out of this Province, except as hereinafter provided.

(21) So much of the personal property of any person as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate, or are unpaid on account of the purchase money therefor.

(22) The net personal property of any person; provided the same is under the \$100 in value. R. S. O. 1877, c. 180, s. 6 (18-21).

(23) The annual income of any person derived from his personal earnings; provided the same does not exceed \$700. 50 V. c. 32, s. 1.

(24) The annual income of any person to the amount of \$400, provided the same does not exceed \$1,000. Any person entered on the roll as a wage-earner shall be entitled to the exemption provided for in this sub-section in respect of earnings or income. R. S. O. 1877, c. 180, s. 6 (22); 43 V. c. 27, s. 4; 49 V. c. 38, s. 6.

(26) Rental or other income derived from real estate, except interest on mortgages.

(27) Household effects of whatever kind, books and wearing apparel. R. S. O. 1877, c. 180, s. 6 (24, 25).

(28) Vessel property of the following description, namely: steamboats, sailing vessels, tow barges and tugs; but the income earned by or derived through, or from any such property shall be liable to be assessed. 49 V. c. 38, s. 3.

NOTE.—See 53 V. c. 55 s. 2.

MISCELLANEOUS.

ANCIENT MODE OF ASSESSING.

Solon distributed all the citizens of Athens into four classes, according to the amount of their property, which he caused to be assessed and entered in a public schedule. The highest class were those whose land yielded an annual income of five hundred measures (medimni) of corn (about 750 bushels), and hence they were called Pentacosimedimni. The second class consisted of those whose income amounted to three hundred measures (about 450 bushels); they were therefore called Triacosimedimni; and also Knights, because they were reckoned able to keep a war-horse. The third class were those whose income amounted to two hundred measures (about 300 bushels); they were called Zeugitæ, or yeomen, because they were able to keep a yoke of oxen. The fourth and most numerous class comprised all whose income was below the last amount. They constituted the free laboring population.

These classes had their respective duties and privileges. The highest honors of the state, that is the offices of the nine Archons and Senate of Areopagus, were reserved for

the first class. They also took the principal military commands. Posts of inferior distinction were filled by the second and third classes, who were bound to military services, the one on horseback, the other as heavy-armed soldiers on foot. Among these three classes—besides direct taxation—there were distributed, according to certain rules, the honorable but expensive duties that bore the name of *Liturgiæ* (public offices). The members of the fourth class were disqualified to hold any office of dignity. They served as light troops in the army, and manned the ships; but were exempt from the expensive duties and all direct taxation.

Solon thus introduced a new feature into the constitution of Athens, viz., a property qualification. His classes were distinctions not of caste, nor of birth, but of wealth only. The scale is stated as if none but landed property were taken into account. This was to be expected in the infancy of a state not yet enriched by commerce. Perhaps, however, as Grote supposes, property of other kinds was intended to be included, since it served as the basis of every man's liability to taxation.

As the state became more democratical, the distinctions between the four classes were gradually abolished, and the highest offices of the republic were thrown open to all. But the principle, according to which they were assessed to the public taxes, was preserved from first to last.

The members of the first three classes were entered in the state schedule as possessed of a certain taxable capital, which was estimated by reference to their income, but in a proportion diminishing according to the scale of such income; and they paid taxes according to the sums for which they were respectively rated in the schedule. The ratable property of the first-class man was calculated at twelve years' purchase of his income; that of the second-class man at ten years' purchase; that of the third-class man at five years' purchase. The *medimnus* then being taken as worth a drachm; the first-class man, whose income was exactly 500 drachms, the minimum qualification of his class, stood rated in the schedule for a capital of 6,000 drachms, or one talent; or, if his income was larger,

for a capital proportionally increased. The second-class man, whose income was exactly 300 drachms, the minimum qualification of his class, stood rated for 3,000 drachms, and so on, in proportion, for any income between 300 and 500 drachms. The third-class man, whose income was exactly 200 drachms, the minimum qualification of his class, stood rated for 1,000 drachms, and so on, in proportion, for any income between 200 and 300 drachms. The members of the fourth class were not taxed, as we have already mentioned.

If, therefore, a property-tax had been levied of one per cent., the poorest man of the first class would have paid, upon 6,000 drachms, 60 drachms; the poorest of the second class, upon 3,000 drachms, 30; the poorest of the third class, upon 1,000 drachms, 10. Thus the mode of assessment established by Solon was, in some measure, like a graduated income tax.

With the advance of wealth and power pecuniary contributions become more frequent; and then there is no doubt that the personal property of Athenians formed a considerable part of their ratable capital. Also, while the Solonian principle of graduation was maintained, the scale of assessment must have been altered, and the number of classes was probably increased.

In the year B.C. 377, in the Archonship of Nausinicus, when the Athenians had joined the alliance of Thebes against Sparta, a new valuation was made of the whole taxable capital of the country, which amounted, as Demosthenes states, in round numbers, to 6,000 talents, and according to Polybius, who perhaps gives the exact estimate, to 5,750 talents. This, it must be understood, was the capital estimated for the purpose of taxation, not the whole capital of the people, which was (as Böckh supposes) five or six times that amount.

At the same time, for the better management of the property-tax, the following method was introduced: From each of the ten Attic tribes were selected 120 of the wealthiest citizens, making a body of 1,200, from whom again were selected the wealthiest 300, 30 from each tribe,

to exercise a general superintendence. To this select body of 300 the State looked for immediate payment of the tax, in case of need. They might be called upon to advance the whole sum required; and then have to be reimbursed by contributions from the rest. To facilitate this, the 1,200 were divided into 20 *Symmoriae*, or Boards, of 60, two for every tribe, whose business it was to collect the taxes from the members of their respective tribes, a certain number of whom were assigned to each Board. The course then was, that the 300 advanced the tax; they obtained contribution from the 900 by means of the Boards; and the Boards exacted contribution from the general body of rate-payers. Every Board had its Chairman, and subordinate officers to collect the rates, summon defaulters, etc.

THE JURORS' ACT.

(R. S. O., 1887.)

The distribution of Jurors is one of the most important functions which are to be exercised by any head or officer of a Municipal body, as the lives and property of Her Majesty's subjects are being continually submitted to them for verdict of "guilty" or "not guilty," "for plaintiff" or "for defendant," and these verdicts are rendered sometimes after listening many days to conflicting evidence and still more conflicting addresses of counsel, calculated to prevent the possibility of giving an intelligent opinion on the merits of the case.

It has been the rule of most selectors of Jurors to select as Grand Jurors the most prominent men of a Municipality, while the balance of those who have been selected by ballot are assigned to the Petit Jurors' list.

It is a matter for earnest consideration whether this system should not be reversed in order to supply the Courts with the most intelligent men which the County can procure to deliberate on the important matters referred to. This would, it is claimed, prevent the many appeals which occur, and save a great amount of costs and expenses.

PUBLIC SCHOOL BOARDS IN CITIES, TOWNS AND INCORPORATED VILLAGES.

98. The annual and other elections of public school trustees, unless otherwise ordered, as provided by section 103 of this Act, shall be subject to the following provisions:—

(1) A meeting of the electors for the nomination of candidates for the office of public school trustee, shall take place at noon on the last Wednesday in the month of December annually, or if a holiday on the day following, at such place as shall from time to time be ordered by resolution of the public school board, and in municipalities divided into wards, in each ward thereof, if the board in its discretion thinks fit.

103.—(1) The board of public school trustees, or the board of education in any city, town, incorporated village or township in which a township board has been established may, by resolution, of which notice shall be given to the clerk of the municipality on or before the first day of October in any year, require the election for the school trustees in such city, town, incorporated village, or township, to be held on the same day, and in the same manner as municipal councillors, or aldermen are elected, as the case may be.

6. Sub-section 1 of section 103 of *The Public Schools Act* is amended by adding thereto the following words:—

“In like manner any board of trustees or any board of education may discontinue the use of the ballot in trustee elections on giving notice to the clerk of the municipality to that effect at the time hereinbefore mentioned, and thereafter elections for the purposes of this Act shall be conducted as provided in section 98.” 53 V. c. 71.

7. Section 103 of *The Public Schools Act* is amended by adding thereto the following sub-section:—

(5) Where any board of trustees or board of education requires elections to be held under this section by ballot, and elections are so held, no change shall be made in the mode of conducting such election for a period of three years, and should the mode of conducting elections by ballot be discontinued at any time, then the provisions of section 98 shall apply for a period of three years at least after such discontinuance. 53 V. c. 71.