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THE MUNICIPAL ACT.

(R. S. O. 1887, cap. 84.)

(CONTINUED.)

NOTE TO SECTION 340.—It will be observed that sub-
section 2 of section 340 (pages 29-30 of JOURNAL)
has been repealed, and s-s. 2 of 53 V. c. 50, s. 9, as
amended by 54 V. c. 42, s. 10 substituted. Under
this section a Council may pass by-laws for con-
tracting debts, etc., within its jurisdiction, subject
to certain restrictions and provisions, which may be
enumerated as follows :—

1. If the by-law relates to the purchase of public works,
it must name a day when the by-law is to take effect,
otherwise it will take effect on the day of the pass-
ing.

2. The whole debt is to be made payable within 20 years, if not contracted for the purposes mentioned in the first six lines of sub-section 2, but if contracted for said purposes then the debt must be paid in 30 years at furthest from the date on which the by-law takes effect. It will be noticed that the words "harbor works or improvements" are by 54 V. c. 42, s. 10 added after the word "railways" in the first line of 53 V. c. 50, s. 9 (2), but these words are not inserted after the word "railways" where it occurs in the eighth line of said sub-section, so that if the debt is contracted for "harbor works or improvements" no provision is made for a limitation in time for the payment of the debt.
3. The amount of principal and interest to be raised annually must be set forth in the by-law, the interest on investments not to be estimated at more than five per cent.
4. The annual sum must be raised by a special rate on the property liable for the payment of the debt.
5. The by-law must recite the particulars mentioned in (a) (b) (c) (d). See sec. 117 Public School Act.

341.—(1) If the by-law is for a work payable by local assessment, it shall recite :

- (a) The amount of the debt which the by-law is intended to create, and, in some brief and general terms, the object for which it is to be created ;
- (b) The total amount, required by this Act to be raised annually by special rate for paying the debt and interest under the by-law ;
- (c) The value of the whole real property ratable under the by-law, as ascertained and finally determined as aforesaid ;
- (d) That the debt is created on the security of the special rate settled by the by-law, and on that security only. 46 V. c. 18, s. 343.

(2) In the matter of by-laws passed, or to be passed for works payable by local assessment, in order to facilitate the negotiation of debentures issued thereunder, and add to their commercial value, the council of any township, city, town, or incorporated village, may declare that the debt to be created on the security of the special rate settled by the by-law is further guaranteed by the municipality at large, anything contained in sub-section (d) of this section to the contrary notwithstanding. 49 V. c. 37, s. 39; 50 V. c. 29, s. 48.

NOTE.—The powers contained in sub-section 2 should seldom be exercised unless the municipality at large is to be benefited to a considerable extent; similar powers are given under 53 V. c. 50, ss. 33, 620 (4, 7); 621, 622, 630a.

342.—(1) In any case of passing a by-law for contracting a debt, by borrowing money *for any purpose*, the municipal council may, in its discretion, make the principal of the debt repayable by annual instalments, during the currency of the period (not exceeding thirty years, if the debt is for gas or water works or railways, and not exceeding twenty years, if the debt is for any other purpose), within which the debt is to be discharged; such instalments to be of such amounts that the aggregate amount payable for principal and interest in any year shall be equal, as nearly as may be, to what is payable for principal and interest during each of the other years of such period; and may issue the debentures of the municipal corporation for the amounts, and payable at the times, corresponding with such instalments, together with interest, annually or semi-annually, as may be set forth and provided in the by-law. 52 V. c. 36, s. 13.

(2) The by-law shall set forth a certain specific sum, to be raised in each year during the currency of the debt, which annual sum shall be sufficient to discharge the several instalments of principal and interest accruing due on such debt, as the said instalments and interest become, respectively, payable according to the terms of the by-law; and in cases within this section it shall not be necessary that any provision be made for a sinking fund. 46 V. c. 18, s. 344; 52 V. c. 36, s. 13.

NOTE.—By section 117 Public Schools Act “Any debenture issued by any municipality for school purposes may be” . . . “for such term of years and for such amount as the council shall see fit, not exceeding thirty years, or the municipal council may in its discretion make the principal and interest of such debt repayable by annual or other instalments in the manner provided in the Municipal Act.”

Under the provisions of this section (342) the debenture debt, incurred for school purposes (if repayable by annual instalments), must be discharged within *20 years*.

343. Every special assessment made, and every special rate imposed and levied, under any of the provisions of this Act, and all sewer rents and charges for work or services done by the corporation, on default of the owners of real estate, under the provisions of any valid by-law of the council of the said corporation, shall form a lien and charge upon the real estate upon, or in respect of which, the same shall have been assessed and rated or charged, and shall be collected in the same manner, and with the like remedies, as ordinary taxes upon real estate are collectable, under the provisions of *The Assessment Act*. 46 V. c. 18, s. 345.

344.—(1) Every by-law (except for drainage, as provided for under section 569 of this Act, or for a work payable entirely by local assessment) for raising, upon the credit of the municipality, any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the municipality in the manner provided for in section 293 and following sections of this Act, except that in counties the county council may raise, by by-law or by-laws, without submitting the same for the assent of the electors of such county or counties, for contracting debts or loans, any sum or sums not exceeding in any one year \$20,000 over and above the sums required for its ordinary expenditure.

(2) Provided always, that where a county and city are united for judicial purposes the council of the county or city may, by by-law or by-laws passed at any meeting of such

council, without submitting the same for the assent of the electors of such county or city, as the case may be, for contracting such debt, raise such sums of money as may be required for erecting, building and furnishing a court house and offices, to be used in connection therewith. and for acquiring such land as may be necessary or convenient for the purposes of such court house and offices. 46 V. c. 18, s. 346.

(8) And provided always, that the council of a town heretofore or hereafter withdrawn from the county, and continuing so withdrawn pursuant to the provisions hereof, or of a city heretofore or hereafter erected, may, by by-law or by-laws passed at any meeting of such council, without submitting the same for the assent of the electors of such town or city as the case may be, raise such sum or sums of money as may be required to liquidate their share of the county debt as awarded or agreed upon pursuant to this Act, and to issue debentures for that purpose at such rates, for such times and upon such terms as they may theretofore have done, or be entitled to do for meeting any other liability of said town or city as the case may be. 49 V. c. 37, s. 7.

345. No such by-law of a county council for contracting any such debt or loan for an amount not exceeding in any one year \$20,000 over and above the sums required for its ordinary expenditure, other than a by-law to raise money for erecting, building and furnishing a court house and offices aforesaid, or for acquiring land as provided in sub-section 2 of the last preceding section, shall be valid, unless the same is passed at a meeting of the council specially called for the purpose of considering the same, and held not less than three months after a copy of the by-law, as the same is ultimately passed, together with a notice of the day appointed for the meeting, has been published in some newspaper issued weekly or oftener within the county (as constituted for judicial purposes) or if there is no such public newspaper, then in a public newspaper published nearest to the county, which said notice may be to the effect following:

The above is a true copy of a proposed by-law, to be taken into consideration by the Municipality of the County (or United Counties) of _____ at _____ in the said County (or United Counties) on the _____ day of _____, at _____, 18____, at the hour of _____ o'clock in _____

the noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

G. H.
Clerk.

46 V. c. 18, s. 347.

346. Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the special rate imposed therefor, provided the repealing by-law recites the facts on which it is founded, and is appointed to take effect on the 31st day of December in the year of its passing, and does not affect any rates due, or penalties incurred before that day, and provided the by-law is first approved by the Lieutenant-Governor in Council. 46 V. c. 18, s. 348.

347. After a debt has been contracted, the council shall not, until the debt and interest has been paid, repeal the by-law under which the debt was contracted, or any by-law for paying the debt or the interest thereon, or for providing therefor a rate or additional rate, or appropriating thereto the surplus income of any work or of any stock or interest therein, or money from any other source; and the council shall not alter a by-law providing any such rate, so as to diminish the amount to be levied under the by-law, except in the cases herein authorized, and shall not apply to any other purpose any money of the corporation which, not having been previously otherwise appropriated by any by-law or resolution, has been directed to be applied to such payment. 46 V. c. 18, s. 349.

348. No officer of the municipality shall neglect or refuse to carry into effect a by-law for paying a debt under color of a by-law illegally attempting to repeal such first mentioned by-law, or to alter the same so as to diminish the amount to be levied under it. 46 V. c. 18, s. 350.

349. Any council may contract a debt to Her Majesty in the purchase of any of the public roads, harbours, bridges, buildings or other public works in Ontario, whether belonging to this Province or to the Dominion of Canada, or of any claim in respect of such works, or of any right to collect tolls on such road or bridge, or for the making such road or bridge wholly or partly free from tolls, and may execute such bonds, deeds, covenants, and other securities to Her

Majesty, as the council may deem fit, for the payment of the price of such public work or claim already sold or transferred, or which may be sold or transferred, or agreed to be sold or transferred to the municipal corporation, and for securing the performance and observance of all or any of the conditions of sale or transfer; and may also pass all necessary by-laws for any of the purposes aforesaid; and all such by-laws, debts, bonds, deeds, covenants and other securities shall be valid, although no special or other annual rate has been settled or imposed, to be levied in each year, as provided by sections 340 to 342 of this Act. 46 V. c 18, s. 351; 49 V. c 37, s. 8.

NOTE.—See sec. 340.

350. The council may, in any by-law to be passed for the creation of such debt, or for the executing of such bonds, deeds, covenants, or other securities as aforesaid, to Her Majesty, or in any other by-law to be passed by the council, settle and impose a special rate per annum, of such amount as the council may deem expedient, in addition to all other rates whatsoever, to be levied in each year upon the assessed ratable property within the municipality, for the payment and discharge of such debt, bonds, deeds, covenants or other securities, or some part thereof, and the by-laws shall be valid, although the rate settled or imposed thereby is less than is required by the sections last mentioned; and the said sections shall, so far as applicable, apply and extend to every such by-law and the moneys raised or to be raised thereby, as fully in every respect as such provisions would extend or apply to any by-law enacted by any council for the creation of any debt as provided in the said sections, or to the moneys raised or to be raised thereby. 46 V. c. 18, s. 352.

REGISTRATION OF BY-LAWS.

351. Every by-law passed by any municipality for contracting any debt, by the issue of debentures for a longer term than one year, and for levying rates for the payment of such debts on the ratable property of the municipality, or any part thereof, shall be registered by the clerk of the municipality, if a county, in the registry office for the county in which the county town is situate, or in case of

local municipalities in the registry office of the registry division in which the local municipality is situate, within two weeks after the final passing thereof. 46 V. c. 18, s. 353.

352. Every such by-law so registered, and the debentures issued thereunder, shall be absolutely valid and binding upon the municipality, according to the terms thereof, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same be made to some Court of competent jurisdiction within three months from the registry thereof, and a certificate under the hand and seal of the clerk of the Court, stating that such action or proceeding has been brought or application made, shall have been registered in said registry office within the period of three months.

(2) If the action or proceeding be dismissed, in whole or in part, then the by-law, or so much thereof as is not the subject of the application, or not quashed upon the application, shall be absolutely valid and binding, according to the terms thereof, on the expiration of three months from the date of the registration of the by-law; upon the dismissal of such action or proceeding, a certificate to that effect may be registered in the said registry office.

(3) Notice of the passing of every by-law to which this and the preceding section refer, and which has not been submitted to the ratepayers, shall immediately after the registration of the by-law be published in some public newspaper, published either within the municipality, or in the county town, or in a public newspaper in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week for three successive weeks.

(4) Every by-law providing for the issue of debentures passed under the provisions of this Act relating to local improvements, where the same has been so registered, and the debentures issued thereunder, and the assessment made upon the real property mentioned therein, notwithstanding any want of substance or form either in the by-law itself, or in the time and manner of passing the same, shall be absolutely valid and binding upon the municipality and upon such real property according to the terms

thereof, and shall not be quashed or set aside on any ground whatever, unless an application or action to quash or set aside the same be made to some court of competent jurisdiction, within one month from the registry thereof.

(5) Where any action or proceeding shall be brought or taken or where an application shall be made to quash or set aside such by-law so registered, a certificate thereof under the hand and seal of the clerk of the court shall be registered in such registry office within five weeks from the date of registering the by-law, and in default thereof the court or judge may refuse to hear, or may dismiss any such action, proceeding, motion or application to quash or set aside the by-law.

(6) Nothing in this section contained shall be taken to make valid a by-law or the debentures issued thereunder where it appears on the face of such by-law that the provisions of sub-sections 2, 3, 4 and 5, of section 340, or of section 342 of this Act, have not been substantially complied with.

NOTE.—Any action to quash or set aside the by-law after registration must be brought within three months from the registry thereof; and by 54 V. c. 42, s. 11 (4) when the by-law has been registered, the debentures issued thereunder, and the assessment made upon the real property mentioned therein, the action must be brought or taken within *one month* from the registry thereof.

353. Nothing in the last preceding two sections contained shall make it obligatory upon any city, town or incorporated village to register any by-laws providing for the issue of debentures, passed under the provisions of this Act relating to local improvements, but the same may be so registered at the option of the municipality. 46 V. c. 18, s. 355.

354. The notice required to be published by section 352 shall be in the form following, or to the like effect :

Notice is hereby given that a by-law was passed by the _____ of _____
of _____ on the _____ day of _____
A.D. 18 _____, providing for the issue of debentures to the amount of \$ _____,
for the purpose of _____ and that such by-law was registered

in the registry office of _____ the county of _____ on
the _____ day of _____ A.D. 18 _____

Any motion to quash or set aside the same, or any part thereof, must be made within three months from the date of registration, and cannot be made thereafter.

Dated the _____ day of _____ 18 _____ Clerk.

46 V. c. 18, s 356.

NOTE.—No form of notice is given under the provisions of sec. 352 (4-5).

355. The by-laws shall be registered in the way and manner provided by *The Debentures Registration Act*, and the registrar shall be paid the sum of \$2 for registration thereof. 46 V. c. 18, s. 357.

356.—(1) The certificate first referred to in section 352 shall be in the form or to the effect following:

In the _____ (name of Court)
This is to certify that in a certain action or proceeding in this Court, entitled _____ the validity of by-law No. _____ of the _____ entitled a by-law has been called in question (if a portion only of the by-law is called in question, state the fact).
Dated,

(Signed), A. B.,
Clerk of

Seal.

(2) The certificate of dismissal of the action or proceeding shall be in the form or to the effect following:

In the _____ (name of Court)
I hereby certify that the action or proceeding in this Court, entitled _____ calling in question the validity of _____ by-law No. _____ of the _____ has been dismissed (or if dismissed in part and granted in part, set out the order made, verbatim).
Dated

(Signed), A. B.,
Clerk of

Seal.

(3) The registrar shall be entitled to the sum of fifty cents for registering either of said certificates. 46 V. c. 18, s. 358.

BY-LAWS RESPECTING YEARLY RATES.

357.—(1) The council of every municipal corporation, and of every provisional corporation, shall assess and levy on the whole ratable property within its jurisdiction, a sufficient sum in each year to pay all valid debts of the

corporation, whether of principal or interest falling due within the year, but no such council shall assess and levy in any one year, more than an aggregate rate of two cents in the dollar on the actual value, exclusive of school rates.

(2) If in a municipality the aggregate amount of the rates necessary for the payment of the current annual expenses of the municipality, and the interest and the principal of the debts contracted by the municipality on the 29th day of March, 1873, exceed the said aggregate rate of two cents in the dollar on the actual value of such ratable property, the council of the municipality shall levy such further rates as may be necessary to discharge obligations up to that date incurred, but shall contract no further debts until the annual rates required to be levied within the municipality are reduced within the aggregate rate aforesaid: but this shall not affect any special provisions to the contrary contained in any special Act now or hereafter in force. 47 V. c. 18, s. 359.

NOTE.—The aggregate yearly rate for general purposes within the year is limited to *two cents in the dollar*.

358. In counties and local municipalities the rates shall be calculated at so much in the dollar upon the actual value of all the real and personal property liable to assessment therein. 46 V. c. 18, s. 360.

NOTE.—It is necessary that the rates shall be calculated at *so much in the dollar*, and not so many cents in the \$100.

359. The council of every county or local municipality shall every year make estimates of all sums which may be required for the lawful purposes of the county or local municipality, for the year in which such sums are required to be levied, each municipality making due allowance for the cost of collection, and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected. 46 V. c. 18, s. 361.

360. The council of every municipality may pass one by-law, or several by-laws, authorizing the levying and collecting of a rate or rates of so much in the dollar upon

the assessed value of the property therein as the council deems sufficient to raise the sums required on such estimates. 46 V. c. 18, s. 362.

361. If the amount collected falls short of the sums required, the council may direct the deficiency to be made up from any unappropriated fund belonging to the municipality. 48 V. c. 18, s. 363.

362. If there is no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them. 46 V. c. 18, s. 364.

363. If the sums collected exceed the estimates, the balance shall form part of the general fund of the municipality, and be at the disposal of the council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess collected on account of such special tax shall be appropriated to the special local object. 46 V. c. 18, s. 365.

364. The taxes or rates imposed or levied for any year shall be considered to have been imposed, and to be due on and from the 1st day of January of the then current year, and end with the 31st day of December thereof, unless otherwise expressly provided for by the enactment or by-law under which the same are directed to be levied. 46 V. c. 18, s. 366.

365.—(1) All debentures issued before the first day of January, 1867, by municipal corporations, under any by-law, and based upon the yearly value of ratable property at the time of passing such by-law, shall hold the order of priority which they occupied on the said 1st day of January, 1867; and each municipal corporation (having so issued debentures) shall levy a rate on the actual real value of the ratable property within the municipality represented sufficient to produce a sum equal to that leviable or produced on the yearly value of such property as established by the assessment roll for the year 1866; and such rates shall be applied solely to the payment of such debentures, or interest on such debentures, according to the terms of the by-law under which they were issued.

(2) In cases where a sinking fund is required to be provided, either by the investment of a specific rate or amount, or on a rate on the increase in value over a certain sum, then such a rate shall be levied as shall at least equal the sum originally intended to be set apart. 46 V. c. 18, s. 367.

366. Every municipal council shall by a two-thirds vote of the members thereof have the power of exempting any manufacturing establishment or any water works or water company in whole or in part, from taxation, for any period not longer than ten years, and to renew this exemption for a further period not exceeding ten years. 47 V. c. 32, s. 8.

[As to granting aid by bonus to manufacturing establishments, see sec. 479 (10)]. 55 V. c. 44, s. 1.

367.—(1) If on account of a sum being on hand from a previous year, or a sum being on hand which has been derived from the work, or from the investment of the sinking fund, or on account of the increased value of property liable to assessment, it is found to be unnecessary to levy the full rate imposed by the by-law in order to raise the instalment of the sinking fund and interest required to be raised for any year, or to raise such instalments for any future years of the then unexpired time which the debentures have to run, the council may pass a by-law reducing the rate for such year or for any such future years, so that no more money may be collected than the amount required. 50 V. c. 29, s. 16.

(2) No such by-law shall be passed unless, having regard to the time the debentures have to run, a proper proportion of sinking fund and interest has been levied, according to the intention of the original by-law. 46 V. c. 18, s. 369 (2).

368. No by-law passed under the preceding section shall be valid unless, after it is passed, it is approved by the Lieutenant-Governor in Council; and the facts which authorise the passing of such by-law shall, on its submission for approval, be verified in the manner provided by section 290 of this Act. 46 V. c. 18, s. 370.

ANTICIPATORY APPROPRIATIONS.

369. In case any council desires to make an anticipatory appropriation for the next ensuing year, in lieu of the special rate for such year, in respect of any debt, the council may do so, by by-law, in the manner and subject to the provisions and restrictions following :

1. The council may carry to the credit of the sinking fund account of the debt, as much as may be necessary for the purpose aforesaid ;

(a) Of any money at the credit of the special rate account of the debt beyond the interest on such debt for the year following that in which the anticipatory appropriation is made ;

(b) And of any money raised for the purpose aforesaid by additional rate or otherwise ;

(c) And of any money derived from any temporary investment of the sinking fund ;

(d) And of any surplus money derived from any corporation work or any share or interest therein ;

(e) And of any unappropriated money in the treasury ;

Such moneys respectively not having been otherwise appropriated.

2. The by-law making the appropriations shall distinguish the several sources of the amount, and the portions thereof to be respectively applied for the interest and for the sinking fund appropriation of the debt for such next ensuing year.

3. In case the moneys so retained at the credit of the special rate account, and so appropriated to the sinking fund account, from all or any of the sources above mentioned, are sufficient to meet the sinking fund appropriation and interest for the next ensuing year, the council may then pass a by-law directing that the original rate for such next ensuing year be not levied. 46 V. c. 18, s. 371.

370.—(1) The by-law shall not be valid unless it recites—

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- (a) The original amount of the debt, and in brief and general terms, the object for which the debt was created ;
 - (b) The amount, if any, already paid of the debt ;
 - (c) The annual amount of the sinking fund appropriation required in respect of such debt ;
 - (d) The total amount, then on hand, of the sinking fund appropriations, in respect to the debt, distinguishing the amount thereof in cash in the treasury from the amount temporarily invested ;
 - (e) The amount required to meet the interest of the debt for the year next after the making of such anticipatory appropriation ; and
 - (f) That the council has retained at the credit of the special rate account of the debt a sum sufficient to meet the next year's interest (naming the amount of it), and that the council has carried to the credit of the sinking fund account a sum sufficient to meet the sinking fund appropriation (naming the amount of it) for such year.
- (2) No such by-law shall be valid unless approved by the Lieutenant-Governor in Council. 46 V. c. 18, s.372.

371. After the dissolution of any municipal union, the senior municipality may make an anticipatory appropriation for the relief of the junior municipality, in respect of any debt secured by the by-law, in the same manner as the senior municipality might do on its own behalf. 46 V. c. 18, s. 373.

RESPECTING FINANCE.

372. The council of every municipal corporation shall keep in its books two separate accounts, one for the special rate, and one for the sinking fund or for instalments of principal of every debt, to be both distinguished from all other accounts in the books by some prefix designating the purpose for which the debt was contracted, and shall keep the said accounts, with any others that are necessary, so as to exhibit, at all times, the state of every debt, and the amount of moneys raised, obtained and appropriated for payment thereof. 46 V. c. 18, s. 374.

373. If, after paying the interest of a debt and appropriating the necessary sum to the sinking fund of such debt, or in payment of any instalment of principal, for any financial year, there is a surplus at the credit of the special rate account of such debt, such surplus shall so remain, and may be applied, if necessary, towards the next year's interest; but if such surplus exceeds the amount of the next year's interest, the excess shall be carried to the credit of the sinking fund account, or in payment of principal of such debt.

(2) Provided always that any moneys levied and collected for the purpose of a sinking fund, shall not in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other Act.

(3) In the event of the council of any municipality diverting any of said moneys for such current or any other expenditure, save as aforesaid, the members who vote for the diverting of said moneys shall be personally liable for the amount so diverted, and said amount may be recovered in any court of competent jurisdiction; and the members who may have voted for the same, shall be disqualified for holding any municipal office for the period of two years. 46 V. c. 18, s. 375. 54 V. c. 42, s. 12.

374. The Lieutenant-Governor in Council may, by order, direct that any such part of the produce of the special rate levied, and at the credit of the sinking fund account or of the special rate account as aforesaid, instead of being so invested as hereinafter provided, shall from

time to time, as the same accrues, be applied to the payment or redemption, at such value as the said council can agree for, or of any part of such debt or of any of the debentures representing or constituting such debt, or any part of it, though not then payable, to be selected as provided in such order, and the municipal council shall thereupon apply, and continue to apply, such part of the produce of the special rate at the credit of the sinking fund, or special rate accounts, as directed by such order. 46 V. c. 18, s. 376.

375.—(1) If any part of the produce of the special rate levied in respect of any debt, and at the credit of the sinking fund account, or of the special rate account thereof, cannot be immediately applied towards paying the debt, by reason of no part thereof being yet payable, the council shall, from time to time, invest the same in government securities, municipal debentures, or in first mortgages on real estate held and used for farming purposes, and being the first lien on such real estate, or in local improvement debentures of the municipality, or in such other manner as the Lieutenant-Governor in Council may by general or special order direct, or in any other debentures of the municipality which may be approved of by the Lieutenant-Governor in Council by such order; and from time to time, as such securities mature, may invest in other like securities; no sum so invested in mortgages shall exceed two-thirds of the value of the real estate on which it is secured according to the last revised and corrected assessment roll at the time it is invested.

(2) The council of such municipality may regulate, by by-law, the manner in which such investments shall be made.

(3) It shall not be necessary that any local improvement or other debentures of the municipality referred to in this section shall have been disposed of by the council, but the council may apply the sinking fund to an amount equal to the amount of such debentures for the purpose to which the proceeds of such debentures may be properly applicable, and shall hold the debentures as an investment on account of the sinking fund, and deal with the same accordingly. 47 V. c. 32, s. 9.

376. Any council may direct, by by-law, that any surplus moneys in the hands of the treasurer, and not speci-

ally appropriated to any other purpose, shall be credited to the sinking fund account of any debenture debt of the municipality, and the council may invest such sinking fund account in any of the securities named in, and according to the provisions of, the preceding section. 46 V. c. 18, s. 378.

377. Every such council may appropriate to the payment of any debt the surplus income derived from any public or corporation work, or from any share or interest therein, after paying the annual expenses thereof, or any unappropriated money in the treasury, or any money raised by additional rate; and any money so appropriated shall be carried to the credit of the sinking fund of the debt, or in payment of any instalment accruing due. 46 V. c. 18, s. 379.

378.—(1) A municipal corporation having surplus moneys derived from "The Ontario Municipalities Fund," or from any other source, may, by by-law, set such surplus apart for educational purposes, and invest the same, as well as any other moneys held by such municipal corporation for, or by it lawfully appropriated to, educational purposes, in public securities of the Dominion, municipal debentures, or in first mortgages on real estate held and used for farming purposes, and being the first lien on such real estate, and from time to time, as such securities mature, may invest in other like securities, or in the securities already authorized by law, as may be directed by such by-law, or by other by-laws passed for that purpose.

(2) No sum so invested shall exceed two-thirds of the value of the real estate on which it is secured, according to the last revised and corrected assessment roll, at the time it is so invested. 46 V. c. 18, s. 380.

379. Any municipal corporation having surplus moneys set apart for educational purposes, may, by by-law, invest the same in a loan or loans, to any board of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and may be set forth in such by-law: or may by by-law grant any portion of such moneys, or other general funds, by way of gift to aid poor school sections within the municipality. 46 V. c. 18, s. 381.

380. No member of a municipal corporation, shall take part in, or in any way be a party to, the investment of such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than is authorized by this Act, or by any other law in that behalf made and provided, and such person so doing shall be held personally liable for any loss sustained by the corporation. 46 V. c. 18, s. 382.

381. The treasurer of any municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, remains unpaid by the municipality, transmit to the Treasurer of Ontario, on or before the 15th day of January in every year, a return certified on the oath of the treasurer before some Justice of the Peace, containing the amount of taxable property in the municipality according to the then last assessment roll or rolls; a true account of all the debts and liabilities of the municipality, for every purpose, for the then last year; and such further information and particulars, with regard to the liabilities and resources of the municipality, as the Lieutenant-Governor in Council may from time to time require, under a penalty, in case of neglect or refusal to transmit the return, account, information of particulars, of \$100, to be recovered, with costs, as a debt due to the Crown. 46 V. c. 18, s. 383.

382. Every council shall, on or before the 31st day of January in each year, under a penalty of \$20 in case of default, to be paid to the Treasurer of Ontario, transmit to the Lieutenant-Governor through the Minister of Agriculture, an account, in such form as may be prescribed from time to time by the Lieutenant-Governor in Council, of the several debts of the corporation, as they stood on the 31st day of December preceding, specifying in regard to every debt of which a balance remained due at that day:

1. The original amount of the debt;
2. The date when it was contracted;
3. The days fixed for its payment;
4. The interest to be paid therefor;
5. The rate provided for the redemption of the debt and interest;

6. The proceeds of such rate for the year ending on such 31st day of December ;

7. The portion (if any) of the debt redeemed or paid during such year ;

8. The amount of interest (if any) unpaid on such last mentioned day ; and

9. The balance still due of the principal of the debt. 46 V. c. 18, s. 384. 53 V. c. 12, s. 1 ; c. 50, s. 10.

COMMISSION OF INQUIRY INTO FINANCES.

383. In case one-third of the members of any council, or thirty duly qualified electors of the municipality, petition for a commission to issue under the Great Seal, to inquire into the financial affairs of the corporation, and things connected therewith, and if sufficient cause is shown, the Lieutenant-Governor in Council may issue a commission accordingly, and the commissioner or the commissioners, or such one or more of them as the commission empowers to act, shall have the same power to summon witnesses, enforce their attendance, and compel them to produce documents and to give evidence, as any Court has in civil cases. 46 V. c. 18, s. 385.

384. The expenses to be allowed for executing the commission shall be determined and certified by the Treasurer of Ontario, and shall thenceforth become a debt due to the commissioner or commissioners by the corporation, and shall be payable within three months after demand thereof made by the commissioner or by any one of the commissioners, at the office of the treasurer of the corporation. 46 V. c. 18, s. 386.

NOTE.—See sec. 477, Investigation by County Judge.

ARBITRATIONS.

385. The appointment of all arbitrators shall be in writing under the hands of the appointers, or in case of a corporation, under the corporate seal, and authenticated in like manner as a by-law. 46 V. c. 18, s. 387.

386. The arbitrators on behalf of a municipal corporation shall be appointed by the council thereof, or by the head thereof, if authorized by a by-law of the council. 46 V. c. 18, s. 388.

387. In cases where arbitration is directed by this Act, either party may appoint an arbitrator, and give notice thereof in writing to the other party, calling upon such party to appoint an arbitrator on behalf of the party to whom such notice is given. A notice to a corporation shall be given to the head of the corporation. 46 V. c. 18, s. 389.

388. The two arbitrators appointed by or for the parties shall, within seven days from the appointment of the lastly named of the two arbitrators appoint, in writing, a third arbitrator. 46 V. c. 18, s. 390.

389. In cases where more than two municipalities are interested, each of them shall appoint an arbitrator, and in such case, if there is an equality of arbitrators, the arbitrators so appointed shall appoint another arbitrator, or in default, at the expiration of twenty-one days after such arbitrators have been appointed, the Lieutenant-Governor in Council may, on the application of any one of the municipalities interested, appoint such arbitrator. 46 V. c. 18, s. 391.

390. In case of an arbitration between municipal corporations, if for twenty-one days, or in case the arbitration is respecting drainage works, then, if for twenty days after having received such notice, the party notified omits to appoint an arbitrator; or if, for seven days after the second arbitrator has been appointed, the two arbitrators omit to appoint a third arbitrator, then, in case the arbitration is between townships or between a township and a town or an incorporated village, the Judge of the County Court of the county within which the townships, town or incorporated village are or any of them is situate, may, or in case the arbitration is between other municipalities, the Lieutenant-Governor in Council may appoint an arbitrator for the party or arbitrators in default, or a third arbitrator, as the case may require. 46 V. c. 18, s. 392; 52 V. c. 36, s. 14.

391. In case of an arbitration between a municipal corporation and the owners or occupiers of, or other persons interested in, real property entered upon, taken or used by the corporation in the exercise of any of its powers, or injuriously affected thereby, if, after the passing of the by-law, any person interested in the property appoints, and

gives due notice to the head of the council of his appointment of, an arbitrator to determine the compensation to which such person is entitled, the head of the council shall, if authorized by by-law, within seven days appoint a second arbitrator, and give notice thereof to the other party, and shall express clearly in the notice what powers the council intends to exercise with respect to the property, describing it. 46 V. c. 18, s. 393.

392. In any such arbitration, if after service upon the the owner or occupier of or any person interested in the property of a copy of the by-law (certified to be a true copy under the hand of the clerk of the council) together with a notice in writing of the appointment of an arbitrator on behalf of the corporation, such owner, occupier or person interested does not within twenty-one days appoint an arbitrator on his behalf and give notice thereof to the said council, the corporation may (except in the case provided for in section 393) apply to the Judge of the County Court of the county in which the municipality lies to appoint an arbitrator on behalf of such owner, occupier or person interested in the property as provided in section 394.

393. In case there are several persons having distinct interests in property in respect of which the corporation is desirous of exercising the powers referred to in section 391 under a by-law in that behalf passed, whether such persons are all interested in the same piece of property, or some or one in a part thereof, and some or one in another part thereof, and in case the by-law or any subsequent by-law provides that the claims of all should, in the opinion of the council, be disposed of by one award, such persons shall have twenty-one (instead of seven) days to agree upon, and give notice of, an arbitrator jointly appointed in their behalf before the County Court Judge shall have power to name an arbitrator for them. 46 V. c. 18, s. 395.

394. If such owner, occupier or person so interested, or the head of such council, whether from want of authority in that behalf, or otherwise, omits to name an arbitrator within seven days after receiving notice to do so, or if the persons having distinct interests as aforesaid omit to name an arbitrator within twenty-one days after receiving notice to do so, or if the two arbitrators do not within seven days from the appointment of the lastly named of the two arbitrators agree on a third arbitrator, or if any of the

arbitrators refuse or neglect to act, the Judge of the County Court of the county in which the property is situated, on the application of either party, shall nominate as an arbitrator a fit person, resident without the limits of the municipality in which the property in question is situated, to act for the party failing to appoint, or as such third arbitrator, or in the stead of the arbitrator refusing or neglecting to act, and such arbitrators shall forthwith proceed to hear and determine the matters referred to them. 46 V. c. 18, s. 396.

395. In any of the cases herein provided for the arbitrators shall make their award within one month after the appointment of the third arbitrator. 46 V. c. 18, s. 397.

396.—(1) No member, officer or person in the employment of any corporation which is concerned or interested in any arbitration, nor any person so interested, shall be appointed or act as an arbitrator in any case of arbitration under this Act. 46 V. c. 18, s. 398.

(2) Nothing in this section contained shall prevent the appointment of or disqualify as an arbitrator any person by reason merely that such person is a ratepayer of or within any municipality concerned or interested in the arbitration unless the arbitration relates to drainage under the provisions of this Act, or *The Ontario Drainage Act*. 48 V. c. 39, s. 9.

397. Every arbitrator before proceeding to try the matter of the arbitration shall take and subscribe the following oath (or, in case of those who by law affirm, make and subscribe the following affirmation) before any Justice of the Peace :

"I (A.B.) do swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge. So help me God.

46 V. c. 18, s. 399.

398. The arbitrators shall, within twenty days after the appointment of the third arbitrator, meet at such place as they may agree upon, to hear and determine the matter in dispute, with power to adjourn from time to time, and shall make their award in writing, and, if the arbitration

is respecting drainage works, in triplicate, which shall be binding on all parties, and one copy thereof shall be filed with the clerk of each of the municipalities interested, and one shall, in case the arbitration is respecting drainage works as aforesaid, be filed with the registrar for the registry division in which the lands affected are situate. 46 V. c. 18, s. 400.

399. The arbitrators shall have power to award the payment by any of the parties to the other of the costs of the arbitration, or of any portion thereof, and may either direct the payment of a fixed sum, or that the costs should be taxed on either the scale of the High Court, or of the County Courts, in which case the costs shall be taxed by the officer, in the county, of the proper Court, without any further order, and the amount shall be payable one week after taxation. Revision by the principal officer at Toronto may be had upon one week's notice and an appeal to a Judge in the usual manner. 46 V. c. 18, s. 401.

400. In case of a difference between the arbitrators, the decision of the majority of them shall be conclusive. 46 V. c. 18, s. 402.

401. In case of an award under this Act, which does not require adoption by the council, or in case of an award to which a municipal corporation is a party, and which is to be made in pursuance of a submission containing an agreement that this section of this Act should apply thereto, the arbitrator or arbitrators shall take, and immediately after the making of the award shall file, with the clerk of the council, for the inspection of all persons interested, full notes of the oral evidence given on the reference, and also all documentary evidence or a copy thereof; and in case they proceed partly on a view, or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof, sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto. 46 V. c. 18, s. 403.

(2) The said arbitrator, or arbitrators, shall also at the same time file with the said clerk a certificate of each of the said arbitrators, showing the number of hours actually occupied by him, or them, in the said arbitration, and verifying in detail the number of hours so occupied at each

sitting of the said arbitrator or arbitrators with the date of each such sitting, and the fees charged by said arbitrators in respect of such sitting.

NOTE.—The personal knowledge or skill possessed by the arbitrators might be estimated by themselves as of greater value or importance than the oral evidence submitted, hence the provision that a statement of any such knowledge or skill upon which any opinion or conclusion has been based is to be added in writing, in order that the Court may determine the importance to be attached thereto.

402. In case the award relates to property to be entered upon, taken or used as mentioned in section 391, and in case the by-law did not authorize or profess to authorize any entry or use to be made of the property before an award has been made, except for the purpose of survey, or in case the by-law did give or profess to give such authority, but the arbitrators find that such authority had not been acted upon, the award shall not be binding on the corporation unless it is adopted by by-law, within three months after the making of the award; and if the same is not so adopted, the original by-law shall be deemed to be repealed, and the property shall stand as if no such by-law had been made, and the corporation shall pay the costs of the arbitration. 46 V. c. 18, s. 404; 53 V. c. 50, s. 12.

403.—(1) An award not binding upon the council until adoption, as mentioned in the last preceding section, shall, if adopted, be subject to the jurisdiction of the Court, and to review on the merits, at the instance of the person whose property is affected or taken, in the same manner as is provided by the next following section of this Act, in respect of any award not requiring adoption, and the provisions of sections 401 and 404 shall hereafter extend to every such award.

(2) The award may be moved against within one month (excluding vacations) next after the adoption thereof. 47 V. c. 32, s. 10 (1-2).

404. Every award made under this Act shall be in writing under the hands of all or two of the arbitrators, and shall be subject to the jurisdiction of the High Court,

as if made on a submission by a bond containing an agreement for making the submission a rule or order of such Court; and in the cases provided for by section 401, the Court shall consider not only the legality of the award but the merits as they appear from the proceedings so filed as aforesaid, and may call for additional evidence, to be taken in any manner the Court directs, and may, either without taking such evidence or after taking such evidence, set aside the award, or remit the matters referred, or any of them, from time to time, to the consideration and determination of the same arbitrators, or to any other persons whom the Court may appoint, as prescribed in *The Act respecting Arbitrations and References*, and fix the time within which such further or new award shall be made, or the Court may itself increase or diminish the amount awarded or otherwise modify the award, as the justice of the case may seem to require. 46 V. c. 18, s. 405.

NOTE.—For the Act respecting Arbitrations and References see R. S. O. c. 53.

DEBENTURES AND OTHER INSTRUMENTS.

405. All debentures and other instruments duly authorized to be executed on behalf of a municipal corporation shall, unless otherwise especially authorized or provided, be sealed with the seal of the corporation, and be signed by the head thereof, or by some other person authorized by by-law to sign the same, otherwise the same shall not be valid, and it shall be the duty of the treasurer of the municipality to see that the money collected under the by-law is properly applied to the payment of the interest and principal of the debentures. 46 V. c. 18, s. 406.

406. Debentures issued in aid of any railway, or for any bonus, signed or endorsed and countersigned as directed by the by-law, shall be valid and binding on the corporation without the corporate seal thereto, or the observance of any other form with regard to the debenture than such as may be directed in the by-law. 46 V. c. 18, s. 407.

107. Debentures issued under the authority of any by-law promulgated under this Act, or any former Municipal Act, shall be valid and binding upon the corporation, notwithstanding any insufficiency in form or otherwise of such by-law, or in the authority of the corporation in respect thereof; Provided that the by-law has received the assent of the electors where necessary, and no successful application has been made to quash the same within the time limited in the notice of promulgation. 46 V. c. 18, s. 408.

108. Where debentures were issued prior to the first day of February, 1883, by any municipality under a by-law passed by such municipality, and the interest on such debentures, and the principal of such thereof (if any) as shall have fallen due, has been paid for the period of two years or more, by the municipality, the by-law and the debentures issued thereunder, or such thereof as may yet be unpaid, shall be valid and binding upon the corporation, and shall not be quashed or set aside on any ground whatever. 46 V. c. 18, s. 409. *See sec. 352.*

109. Every debenture issued under section 612 of this Act, or under the provisions of any other Act, relating to the issue of debentures for local improvement purposes, shall bear on its face the words "Local Improvement Debenture," and shall contain a reference by date and number to the by-law under which it is issued:

Provided always, that (in order to obviate a difficulty which has been found to prevail in negotiating such local improvement debentures, in consequence of many of the same having to be issued for small and broken amounts), councils may, from time to time after the passage of the several by-laws covering the several amounts required for particular local improvements as therein specified, and without in any way affecting the liens on the lands therein named and to be improved thereby, further pass a collective or cumulative by-law consolidating such several amounts, and issue the required debentures in a general consecutive issue under such consolidated by-law, apportioning, nevertheless, the amount raised thereby, and crediting each service with the amount previously estimated and named for the same under the individual by-law passed in the first instance;

And for the purpose of more readily carrying this proviso into effect, councils desiring to avail themselves of the

same shall insert a clause in such individual by-laws, intimating that the amount of debentures to be issued thereunder is subject to consolidation, and in such case it shall be sufficient to state in said individual by-laws that the said amount of debentures to be issued thereunder shall be issued at so many years from the date of issue of the same without defining a specific date; and provided further that no consolidated debentures shall be issued covering any debentures which may have been issued or sold under any original by-law. 46 V. c. 18, s. 410.

410. Debentures to be issued by any municipal council may contain a provision in the following words :

" This debenture or any interest therein, shall not, after a certificate of ownership has been endorsed thereon by the Treasurer of this Municipal corporation, be transferable, except by entry by the Treasurer or his deputy in the Debenture Registry Book of the said Corporation at the Town (or Village) of _____, or to the like effect.

46 V. c. 18, s. 411.

411. The treasurer of every municipality issuing any debentures containing the provision in the last section mentioned, shall open and keep a debenture registry book, in which he shall enter a copy of all certificates of ownership of debentures, which he may give, and also every subsequent transfer of such debenture; such entry shall not be made except upon the written authority of the person last entered in such book as the owner of such debenture, or of his executors or administrators, or of his or their lawful attorney, which authority shall be retained by the treasurer and duly filed. 46 V. c. 18, s. 412.

412. After the certificate of ownership has been endorsed as aforesaid, the debentures shall only be transferable by entry, by the treasurer of the municipality or his deputy, in such debenture registry book, from time to time, as transfers of such debentures are authorized by the then owner thereof, or his lawful attorney. 46 V. c. 18, s. 413.

413. The council of every municipality may authorize its head, with the treasurer thereof, under the seal of the corporation, to borrow from any person or bank such sums as may be required to meet the then current expenditure of the corporation, until such time as the taxes levied therefor can be collected, and the council shall, by by-law.

regulate the amounts to be so borrowed, and the promissory note or notes, covenant, or agreement to be given in security therefor. 46 V. c. 18, 414.

414. No council shall, unless specially authorized so to do, make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than \$100; and any bond, bill, note, debenture or other undertaking issued in contravention of this section shall be void. 46 V. c. 18, s. 415.

NOTE.—In order readily to negotiate debentures, the formalities required in a by-law creating a debt must be complied with; the various restrictions and provisions mentioned in relation to each specific case must be observed (see note to s. 340); when a by-law requires the assent of electors, publication is required, then voting on by electors and final passing (if approved); afterwards, promulgation and registration (for registration see ss. 351-356, also R. S. O. c. 186). In the execution of the debentures by the head of the corporation, the corporate seal should always be attached, although by sec. 406 this form is dispensed with in case of aid or bonus to railways (see also s. 634). The treasurer is required to see to the application of the moneys collected under the by-law. By sec. 259 the duty of the treasurer is to “safely keep all moneys belonging to the corporation,” and “pay out the same to such persons and in such manner as the laws of the province and the *lawful* by-laws or resolutions of the council direct.” A treasurer would not be justified in misapplying any moneys raised for special purposes although instructed so to do by by-law of the council.

The present method of borrowing money for the various purposes mentioned in the Act is both complicated and expensive. By the use of by-laws, notices and debentures, according to forms authorized and provided by the Act, objections as to the

validity of a by-law or a debenture would cease (see s. 570, where form of by-law is provided, in case of drainage). For purposes of publication also, a *summary* of the by-law should be sufficient, as a reference to the original can always be had at the clerk's office.

ADMINISTRATION OF JUSTICE, ETC.

415. The head of every council, and the reeve of every town, township, and incorporated village, shall, *ex officio*, be Justices of the Peace for the whole county, or union of counties, in which their respective municipalities lie, and aldermen in cities shall be Justices of the Peace for such cities. 46 V. c. 18, s. 416.

416. The mayor of a town or city where there is no Police Magistrate, shall have jurisdiction, in addition to his other powers, to try and determine all prosecutions for offences against the by-laws of the town or city, and for penalties for refusing to accept office therein or to make the necessary declarations of qualifications and office. 46 V. c. 18, s. 417.

NOTE—See R. S. O., 1887, cap. 72.

417. No warden, mayor, reeve or alderman, after taking the oaths or making the declarations as such, shall be required to have any property qualification, or to take any further oath to enable him to act as a Justice of the Peace. 46 V. c. 18, s. 418.

418. Every Justice of the Peace for a county shall have jurisdiction in all cases arising under any by-law of any municipality in the county, where there is no Police Magistrate. 46 V. c. 18, s. 419.

419. In case any offence is committed against a by-law of a council, for the prosecution of which offence no other provision is made, any Justice of the Peace having jurisdiction in the locality where the offender resides, or where the offence was committed, whether the Justice is a member of the council or not, may try and determine any prosecution for the offence. 46 V. c. 18, s. 420.

419a. A magistrate is not disqualified to act as a magistrate where in case of a conviction the fine or penalty or part thereof goes to a municipality in which the magistrate is a ratepayer. 55 V. c. 43, s. 24.

420. Every fine and penalty imposed by or under the authority of this Act may, unless where other provision is specially made therefor, be recovered and enforced with costs, by summary conviction, before any Justice of the Peace for the county or the municipality in which the offence was committed; and in default of payment the offender may be committed to the common gaol, house of correction, or lock-up house of the county or municipality, there to be imprisoned for any time, in the discretion of the convicting Justice, not exceeding (unless where other provision is specially made) thirty days, and with or without hard labour, unless such fine and penalty, and costs, including the costs of the committal, are sooner paid. 46 V. c. 18, s. 421.

421. The Justice or other authority before whom a prosecution is had for an offence against a municipal by-law, may convict the offender on the oath or affirmation of any credible witness, and shall award the whole or such part of the penalty or punishment imposed by the by-law as he thinks fit, with the costs of prosecution, and may by warrant, under the hand and seal of the Justice or other authority, or in case two or more Justices act together therein, then under the hand and seal of one of them, cause any such pecuniary penalty and costs, or costs only, if not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender. 46 V. c. 18, s. 422.

422. In case of there being no distress found out of which the penalty can be levied, the Justice may commit the offender to the common gaol, house of correction, or nearest lock-up house, for the term, or some part thereof, specified in the by-law. 46 V. c. 18, s. 423.

423. Unless otherwise provided, when the pecuniary penalty has been levied under this Act, one moiety thereof shall go to the informer or prosecutor, and the other moiety to the municipal corporation, unless the prosecution is brought in the name of the corporation, in which case the whole of the pecuniary penalty shall be paid to the corporation. 46 V. c. 18, s. 424.

423a. All by-laws authorized under the provisions of this Act, which have been, or which may hereafter be enacted and which have imposed or may impose fines and penalties and the recovery thereof with costs by summary conviction, and which in default of payment authorize the commitment of the offender to the common gaol, house of correction or lock-up house of the county or municipality, unless such fine and costs, including the costs of the committal and conveyance to the common gaol, house of correction or lock-up house, are sooner paid, are hereby declared to be good and valid, notwithstanding that such conviction, amongst other things, directs the imprisonment of the accused during the period for which by law he might be imprisoned, unless such costs of committal and conveyance to the common gaol, house of correction or lock-up house are sooner paid, and such conviction shall not by reason only that such direction, includes the costs of such conveyance and committal be impeached, quashed or set aside, and it is hereby declared that section 420 of this Act did and does apply to such by-laws heretofore passed and shall apply to any such by-laws hereafter to be passed. But this section shall not affect the costs of any application heretofore made to quash a conviction under any by-law heretofore passed.

2. The words "including the cost of committal" where they appear in the said section 420 include and mean and have always meant the cost of conveyance and committal to prison. This section shall come into force on the passing of this Act.

424. Upon the hearing of any information or complaint exhibited or made under this Act, the person giving or making the information or complaint shall be a competent witness, notwithstanding such person may be entitled to part of the pecuniary penalty on the conviction of the offender, and the defendant, and the wife or husband of such persons opposing or defending, shall also be competent witnesses; and all the said persons shall be compellable to give evidence on the hearing. 46 Vic. c.18, s. 425.

425. In any prosecution, action or proceeding in any civil matter to which a municipal corporation is a party, no ratepayer, member, officer or servant of the corporation shall, on account of his being such, be incompetent as a witness; but they, and every of them, shall be liable to

challenge as a juror, except where the corporation, the party to the prosecution, action or proceeding, is a county. 46 V. c. 18, s. 426.

426. In prosecuting under any by-law, or for the breach of any by-law, witnesses may be compelled to attend and give evidence in the same manner, and by the same process, as witnesses are compelled to attend and give evidence on summary proceedings before Justices of the Peace in cases tried summarily, under the statutes now in force, or which may be hereafter enacted. 46 V. c. 18, s. 427.

427. It shall not be necessary in any conviction made under any by-law of any municipal corporation, to set out the information, appearance or non-appearance of the defendant, or the evidence or by-law under which the conviction is made, but all such convictions may be in the form following:

PROVINCE OF ONTARIO, } BE IT REMEMBERED
 County of , } that on the day of A.D.
 To Wit. } at , in the County of
 , A. B. is convicted before the undersigned, one of Her Majesty's Justices of the Peace in and for the said County, for that the said A. B. (*stating the offence, and time and place, and when and where committed*), contrary to a certain by-law of the Municipality of the of , in the said County of , passed on the day of , A.D. , and intituled (*reciting the title of by-law*); and I adjudge the said A. B., for his said offence, to forfeit and pay the sum of , to be paid and applied according to law, and also to pay to C. D., the complainant, the sum of , for his costs in this behalf. And if the said several sums are not paid forthwith (or on or before the day of *as the case may be*), I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, I adjudge the said A. B. to be imprisoned in the Common Gaol of the said County of (*or, in the public Lock-up at*) for the space of days, unless the said several sums, and all costs and charges of conveying the said A. B. to such Gaol (*or Lock-up*), are sooner paid.

Given under my hand and seal, the day and year first above written at , in the said County.

(L.S.)

J. M.,
 J.P.

46 V. c. 18, s 428.

428. Any writ of execution against a municipal corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following:

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer, or leave such copy at the office or dwelling-house of that officer, with a statement in writing of the sheriff's fees, and of the amount required to satisfy the execution, including in such amount the interest calculated to some day, as near as is convenient to the day of the service ;

2. In case the amount, with interest thereon from the day mentioned in the statement, is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of the corporation, and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the same as the sheriff deems sufficient to cover the interest, his own fees, and the collector's percentage, up to the time when the rate will probably be available ;

3. The sheriff shall thereupon issue a precept or precepts, under his hand and seal of office, directed to the collector or respective collectors of the corporation, and shall annex to every precept the roll of such rate, and shall by the precept, after reciting the writ, and that the corporation had neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector or collectors, within their respective jurisdictions, to levy such rate at the time and in the manner by law required in respect of the general annual rates ;

4. In case at the time for levying the annual rates next after the receipt of such precept, the collectors have a general rate roll delivered to them for such year, they shall add a column thereto, headed "*Execution rate in A. B. vs. The Township*" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time they are required to make the returns of the general annual rate, return to the sheriff the precept with the amount levied thereon, after deducting their percentage ;

5. The sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after

receiving the same, to the treasurer, for the general purposes of the corporation. 46 V. c. 18, s. 429.

429. The clerk, assessors and collectors of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act, with respect to such executions, be deemed to be officers of the Court out of which the writ issued, and as such shall be amenable to the Court, and may be proceeded against by attachment, mandamus or otherwise, in order to compel them to perform the duties hereby imposed upon them. 46 V. c. 18, s. 430.

430. The council of any municipality, upon any claim being made or action brought for damages for alleged negligence on the part of the municipality, may tender, or pay into court, as the case may be, such amount as they may consider proper compensation for the damage sustained, and in the event of the non-acceptance by the claimant of such tender or the amount paid into court, and the action being proceeded with, and a verdict being obtained for no greater amount than the amount so tendered or paid into court, the costs of suit shall be awarded to the defendants, and set off against any verdict which shall have been obtained against them. 46 V. c. 18, s. 431. *See sec. 399.*

431. In case a member of the council of any municipality, either in his own name or in the name of another, and either alone or jointly with another, enters into a contract of any kind, or makes a purchase or sale in which the corporation is a party interested, the contract, purchase or sale shall be held void in any action thereon against the corporation. 46 V. c. 18, s. 432.

432. The council of every town and city shall establish therein a police office; and the Police Magistrate, or in his absence, or where there is no Police Magistrate, the mayor of the town or city, shall attend at such police office daily or at such times and for such periods as may be necessary for the disposal of the business brought before him as a Justice of the Peace; but any Justice of the Peace having

jurisdiction in a town or city may, at the request of the mayor thereof, act in his stead at the police office. 46 V. c. 18, s. 433 (1).

433. The clerk of the council of every city or town, or such other person as the council of the city or town appoints for that purpose, shall be the clerk of the police office thereof, and perform the same duties & receive the same emoluments as clerks of Justices of the Peace; and in case the said clerk is paid by a fixed salary, the emoluments shall be paid by him to the municipality, and form part of its funds, and such clerk shall be the officer of and under the Police Magistrate. 46 V. c. 18, s 434.

AN ACT RESPECTING THE ASSESSMENT
OF PROPERTY.

(R. S. O. 1887, with amendments, 1888, 1889, 1890, 1891,
1892.)

(CONTINUED.)

To remove doubt it is hereby enacted that no sale of lands for taxes or for rates under a drainage by-law shall invalidate or in any way affect the collection of a rate assessed against or imposed or charged upon such lands prior to the date of the sale, but which shall accrue or become due and payable after the rates or taxes in respect of which the sale is had become due and payable or after the sale.

181. If the land is not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale as aforesaid, then, on the demand of the purchaser, or his assigns, or other legal representative, at any time afterwards, and on payment of \$1, the treasurer shall prepare and execute with the warden, and deliver to him or them, a deed in duplicate of the land sold, in which deed any number of lots may be included at the request of the purchaser or any assignee of the purchaser. R. S. O. 1877, c. 180, s. 148.

182. The words "treasurer" and "warden" in the preceding section shall mean the persons who at the time of the execution of the deed in such section mentioned hold the said offices. R. S. O. 1877, c. 180, s. 149.

183. The deed shall be in the form, or to the same effect as in Schedule **K** to this Act, and shall state the date and cause of the sale, and the price, and shall describe

the land according to the provisions of section 178 of this Act, and shall have the effect of vesting the land in the purchaser or his heirs and assigns or other legal representatives in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation." R. S. O. 1877, c. 180, s. 150.

184.—(1) The deed shall be registered in the registry office of the registry division in which the lands are situate, within eighteen months after the sale, otherwise the parties claiming under the sale shall not be deemed to have preserved their priority as against a purchaser in good faith who has registered his deed prior to the registration of the deed from the warden and treasurer. See Cap. 114, s. 78.

(2) The registrar or deputy registrar upon production of the duplicate deed, shall enter the same in the registry book, and give a certificate of such entry and registration in accordance with *The Registry Act*. R. S. O. 1877, c. 180 s. 151.

185. As respects land sold for taxes before the first day of January, 1851, on the receipt by the registrar of the proper county or place, of a certificate of the sale to the purchaser under the hand and seal of office of the Sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851; and the mode of such registry shall be the entering on record a transcript of such deed or conveyance. R. S. O. 1877, c. 180, s. 152.

186. As respects land sold for taxes since the 1st day of January, 1851, and prior to the 1st of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed,

containing the particulars in the last section mentioned; and such certificate for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof; and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate, without further proof; and the registrar shall for the registry and certificate thereof, be entitled to seventy cents and no more. R. S. O. 1877, c. 180, s. 153.

187. The treasurer shall enter in a book, which the county council shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all copies of collectors' rolls and other documents relating to non-resident lands be by him kept among the records of the county. R. S. O. 1877, c. 180, s. 154.

188. If any tax in respect of any lands sold by the treasurer, in pursuance of and under the authority of the Assessment Act of 1869, or of chapter 180 of the Revised Statutes of Ontario, 1877, or of this Act, has been due for the third year or more years preceding the sale thereof, and the same is not redeemed in one year after the said sale, such sale and the official deed to the purchaser of any such lands (provided the sale be openly and fairly conducted) shall be final and binding upon the former owners of the said lands, and upon all persons claiming by, through or under them—it being intended by this Act that all owners of land shall be required to pay the arrears of taxes due thereon within the period of three years, or redeem the same within one year after the treasurer's sale thereof. R. S. O. 1877, c. 180, s. 155.

189. Whenever lands are sold for arrears of taxes, and the treasurer has given a deed for the same, such deed shall be to all intents and purposes valid and binding, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction by some person interested in the land so sold within two years from the time of sale. R. S. O. 1877, c. 180, s. 156.

190. In all cases where lands have been validly sold for taxes, the conveyance by the treasurer who made the sale,

or his successors in office, shall not be invalid by reason of the statute under the authority whereof the sale was made having been repealed at and before the time of such conveyance, or by reason of the treasurer who made the sale having gone out of office. R. S. O. 1877, c. 180, s. 157.

191. In all cases where lands are sold for arrears of taxes, whether such sale is or is not valid, then so far as regards rights of entry adverse to any *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 9 of *The Act respecting the Law and Transfer of Property* shall not apply, to the end and intent that in such cases the right or title of persons claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII, and chaptered 9, be revived, and the same are and shall continue to be revived. R. S. O. 1877, c. 180, s. 158.

192.—(1) In all cases (not being within any of the exceptions and provisions of sub-section 2 to this section), where lands having been legally liable to be assessed for taxes, are sold as for arrears of taxes, and such sale or the conveyance consequent thereon is invalid by reason of uncertain and insufficient designation or description of the lands assessed, sold or conveyed, and the right or title of the tax purchaser is not valid, and the tax purchaser has entered on the lands so liable to assessment or any part thereof, and has improved the same, then in case an action for the recovery of the lands is brought against such tax purchaser and he is liable to be ejected by reason of the invalidity of such sale or conveyance, the Judge before whom the action is tried shall direct the jury to assess, or shall himself (if the case be tried without a jury), assess damages for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid in respect of the lands since the sale by the tax purchaser and interest thereon, and of any loss to be sustained in consequence of any improvements made before the commencement of the action by the defendant, and all persons through or under whom he claims, less all just allowances for the net value of any timber sold off the lands, and all other just allowances to the plaintiff, and shall assess the value of the land to be recovered.

(2) If a verdict is found for the plaintiff, no writ of possession shall issue until the plaintiff has paid into Court for the defendant the amount of such damages; or, if the defendant desires to retain the land, he may retain it, on paying into Court, on or before the fourth day of the ensuing sittings, or on or before any subsequent day to be appointed by the Court, the value of the land as assessed at the trial; after which payment, no writ of possession shall issue, but the plaintiff on filing in Court for the defendant a sufficient release and conveyance to the defendant, of his right and title to the land in question, shall be entitled to the money so paid in.

(3) This section shall not apply in the following cases:

- (a) If the taxes for non-payment whereof the lands were sold have been fully paid before the sale;
- (b) If, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to redemption of the lands;
- (c) Where on the ground of fraud or evil practice by the purchaser at such sale, a Court would grant equitable relief. R. S. O. 1877, c. 180, s. 159.

193—(1) In any of the cases named in the preceding section wherein the plaintiff is not tenant in fee simple, or fee tail, the payment into Court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the High Court and the plaintiff and all parties entitled to and interested in the said lands, as against the purchaser at such sale for taxes, on filing in the High Court, a sufficient release and conveyance to the defendant of their respective rights and interests to the land, shall be entitled to the money so paid in such proportions and shares as to the High Court, regarding the interests of the various parties, seems proper.

(2) In any of such cases wherein the defendant is not tenant in fee simple or fee tail, then the payment of damages into Court to be made as aforesaid by the plaintiff shall be into the High Court. R. S. O. 1877, c. 180, s. 160.

194.—(1) If the defendant does not pay into Court, the value of the land assessed as aforesaid, on or before the fourth day of the said sittings, or on or before such subsequent day as may be appointed by the Court, then any other person interested in the land under the sale or conveyances for taxes may, before the end of the said sittings, or before the expiry of ninety days from any subsequent day to be appointed by the Court for payment by the defendant, pay into Court the said value of the lands; and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

(2) The defendant, or other person so paying in shall be entitled as against all others interested in the lands under the sale or conveyance for taxes, to a lien on the lands for such amount as exceeds the proportionate value of his interest in the lands, enforceable in such manner and in such shares and proportions as to the High Court, regarding the interests of the various parties, and on hearing the parties, seems fit. R. S. O. 1877, c. 180, s. 161.

195. In case the defendant or any other person interested, pays into Court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in, on filing in Court a sufficient release and conveyance to the party so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such party, to secure his lien as aforesaid. R. S. O. 1877, c. 180, s. 162.

196. If the said value of the lands is not paid into Court as above provided, then the amount of the damages paid into the High Court shall be paid out to the various persons, who, if the sale for taxes were valid would be entitled to the lands, in such shares and proportions as to the High Court, regarding the interests of the various parties, seems fit. R. S. O. 1877, c. 180, s. 163.

197.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named on the writ, of the amount claimed, and that on payment of such amount, the defendant or

person in possession would surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay into court a sum mentioned in the said notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if the jury, or the Judge, if there be no jury, before whom the action is tried, assess damages for the defendant as provided in the next preceding five sections, and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or obtain damages, the judge before whom the action is tried, shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict had been rendered for the defendant.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the Judge or Jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the said land), that the value of the land is greater than the amount mentioned in the said notice, or that he has omitted to pay into Court the amount mentioned in the said notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land mentioned in such notice, then in such case the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; and upon the trial of any cause after such notice, no evidence shall be required to be produced in proof of the title of the plaintiff. R. S. O. 1877, c. 180, s. 164.

198. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for the purchase money paid at such sale, and interest thereon at the rate of ten per centum per annum, and for the amount of all taxes paid by him or them since such sale and the interest thereon at the rate aforesaid, to be enforced against the lands in such proportions as regards the various owners, and in such manner as the High Court thinks proper. R. S. O. 1877, c. 180, s. 165.

199. No valid contract entered into between any tax purchaser and original owner, in regard to any lands sold or assumed to have been sold for arrears of taxes, as to purchase, lease, or otherwise, shall be annulled or interfered with by this Act, but such contract shall remain in force, and all consequences thereof, as to admission of title or otherwise, as if this Act had not been passed. R. S. O. 1877, c. 180, s. 166.

200. Nothing in the next preceding ten sections of this Act contained shall affect the right or title of the owner of any lands sold as for arrears of taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the same have since the sale been in the occupation of such owner, or of those claiming through or under him. R. S. O. 1877, c. 180, s. 167.

201. Nothing in the next preceding eleven sections of this Act contained shall prejudice the right or title which any purchaser at any sale for taxes, or any one claiming through or under him, has heretofore acquired or hereafter acquires under any other statute. R. S. O. 1877, c. 180, s. 168.

202. In the construction of the next preceding twelve sections of this Act, occupation by a tenant shall be deemed the occupation of the reversioner; and the words "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sales of lands for taxes in arrear, and shall include and extend to all persons claiming through or under him; and the words "original owner" shall include and extend to any person who, at the time of such sale, was legally interested in or entitled to the land sold, or assumed to be sold, and all persons claiming through or under him. R. S. O. 1877, c. 180, s. 169.

NOTE.—It is important that treasurers, clerks, assessors and collectors should carefully perform the several duties assigned to them respectively, as the omission so to do might invalidate a sale for arrears of taxes.

203. Every local municipal council, in paying over any school or local rate, or its share of any county rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the municipality, any deficiency, arising from the non-payment of the tax, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, the taxes on personal property other than for county rates. R. S. O. 1877, c. 180, s. 175.

204. In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities; and for such purposes the municipal officers of cities and towns shall perform the same duties as the like officers in other municipalities; and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively. R. S. O. 1877, c. 180, s. 185. *See sec. 141.*

205. The treasurer of every county, city and town shall keep a triplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the party making payment one of such receipts, and shall deliver to the county, city or town clerk the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the clerk at least every three months; and the county, city or town clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the party making payment; the lot on which payment is made; the amount paid; the date of payment, and the number of the receipt; and the auditors shall examine and audit such books and accounts at least once in every twelve months. R. S. O. 1877, c. 180, s. 186.

206. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situate in the newly incorporated town, and transmit the same to the treasurer of the town, who, after receipt of the said list, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes, and for enforcement of the same

by sale; but in such list the county treasurer shall not include any lot then advertised for sale for taxes. 44 V. c. 25, s. 11.

207. In cases where a new local municipality is formed partly from two or more municipalities situate in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town; and for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached, shall immediately upon the formation thereof, make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality is situate, or of the town (as the case may be); and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. 44 V. c. 25, s. 7.

208. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, shall have power, respectively, to take for the collection of such arrears of taxes all the proceedings which treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrears for taxes, and in case the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if such new municipality had not been formed. 44 V. c. 25, s. 8.

209. Where a municipality or part of a municipality has been or may be hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged, of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within

such territory returned as in arrear for taxes and not advertised; and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens under this Act can take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyance of lands previously sold shall be made in like manner. 44 V. c. 25, s. 9.

210.—(1) The council may, by by-law, direct that all the moneys received by the county treasurer, on account of taxes on non-resident lands, shall be paid at stated periods to the several local municipalities to which such taxes were due, or that they shall constitute a distinct and separate fund to be called the “Non-Resident Land Fund” of the country.

(2) In the absence of such by-law, the county treasurer shall pay over to the local treasurer all such moneys when so collected. R. S. O. 1877, c. 180, s. 170.

211. The treasurer shall, when such fund has been created, open an account for each local municipality with the said fund. R. S. O. 1877, c. 180, s. 171.

212. If a union of counties is about to be dissolved, all the taxes on non-residents' land imposed by by-laws of the provisional council of the junior county, shall be returned to and collected by the treasurer of the united counties, and not by the provisional treasurer; and the treasurer of the united counties shall open an account forthwith for the junior county with the non-resident land fund. R. S. O. 1877, c. 180, s. 172, *part*.

213. In cases where a new county has been or shall be formed in whole or in part from two or more municipalities situate in different counties the collection of non-resident taxes due at the time of formation in respect of lands situate in the new county which have not been advertised for sale shall be made by the treasurer of the new county and for the purpose of enabling him to make such collection, the treasurers of the other counties formerly having

jurisdiction over the respective portions of territory included in the new county shall make out lists of the non-resident taxes then due in their respective portions, and transmit the same to the treasurer of the new county. 44 V. c. 25, s. 10.

214. All sums which may at any time be paid to a municipality out of the non-resident land fund of the county, shall form part of the general funds of such municipality. R. S. O. 1877, c. 180, s. 176.

215. The council of the county may from time to time, by by-law, authorize the warden to issue, under the corporate seal, upon the credit of the non-resident land fund, debentures payable not later than eight years after the date thereof and for sums not less than \$100 each, so that the whole of the debentures at any time issued and unpaid do not exceed two-thirds of all arrears then due and accruing upon the lands in the county, together with such other sums as may be in the treasurer's hands, or otherwise invested to the credit of the said fund; and all debentures issued by the county shall be in the exclusive custody of the treasurer, who shall be responsible for their safety until their proceeds are deposited with him. R. S. O. 1877, c. 180, s. 177.

216. Such debentures shall be negotiated by the warden and treasurer of the county, and the proceeds shall be paid into the said fund, and the interest on the said debentures, and the principal when due, shall be payable out of such fund: but the purchaser of any such debentures shall not be bound to see to the application of the purchase money, or be held responsible for the non-application thereof. R. S. O. 1877, c. 180, s. 178.

217. If at any time there is not in the non-resident land fund, where such fund has been created, money sufficient to pay the interest upon a debenture or to redeem the same when due, such interest or debenture shall be payable out of the general county funds, and the payment thereof may be enforced in the same manner as is by law provided in the case of other county debentures. R. S. O. 1877, c. 180, s. 179.

218. The council of the county may from time to time pass by-laws apportioning the surplus moneys in the non-

resident land fund amongst the municipalities ratably, according to the moneys received and arrears due on account of the non-resident lands in each municipality; but such apportionment shall always be so limited that the debentures unpaid shall never exceed two-thirds of the whole amount to the credit of the fund. R. S. O. 1877, c. 180, s. 180.

219. The treasurer shall not be entitled to receive from the person paying taxes any percentage thereon, but may receive from the fund such percentage upon all moneys in his hands, or such fixed salary in lieu thereof as the county council by by-law may direct. R. S. O. 1877, c. 180, s. 181.

220. The county treasurer shall prepare and submit to the county council, at its first session in January in each year, a report, certified by the auditors, of the state of the non-resident land fund. R. S. O. 1877, c. 180, s. 182.

221.—(1) The report shall contain an account of all the moneys received and expended during the year ending on the 31st day of December next preceding, distinguishing the sums received on account of, and paid to, the several municipalities, and received and paid on account of interest or debentures negotiated or redeemed, and the sums invested and the balance in hand; a list of all debentures then unpaid, with the dates at which they will become due; and a statement of all the arrears then due, distinguishing those due in every municipality; and the amount due on lands then advertised for sale, or which by law may be advertised, during the ensuing year. R. S. O. 1877, c. 180, s. 183.

(2) The warden shall cause a copy of the report to be transmitted to the Provincial Secretary for the information of the Lieutenant-Governor. R. S. O. 1877, c. 180, s. 184.

222. The treasurer of the county shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. R. S. O. 1877, c. 180, s. 174.

223. Every treasurer and collector, before entering on the duties of his office, shall enter into a bond to the corporation.—11

ration of the municipality for the faithful performance of his duties. R. S. O. 1877, c. 180, s. 187.

224. Such bond shall be given by the officer and two or more sufficient sureties, in such sum and in such manner as the council of the municipality by any by-law in that behalf requires and shall conform to all the provisions of such by-law. R. S. O. 1877, c. 180, s. 188.

225. If any treasurer, assessor, clerk, or other officer refuses or neglects to perform any duty required of him by this Act, he shall, upon conviction thereof before any Court of competent jurisdiction in the county in which he is treasurer, assessor, clerk or other officer, forfeit to Her Majesty such sum as the Court may order and adjudge, not exceeding \$100. R. S. O. 1877, c. 180, s. 189.

226. If any assessor neglects or omits to perform his duties, the other assessor, or other assessors (if there be more than one for the same locality), or one of such assessors, shall, until a new appointment, perform the duties, and shall certify upon his or their assessment roll the name of the delinquent assessor, and also, if he or they know it, the cause of the delinquency; and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties; and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. R. S. O. 1877, c. 180, s. 190.

227. If any clerk, treasurer, assessor or collector, acting under this Act, makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts therein the name of any person who should not be entered, or fraudulently omits the name of any person who should be entered, or wilfully omits any duty required of him by this Act, he shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the court. R. S. O. 1877, c. 180, s. 191.

228. Proof, to the satisfaction of the jury, that any real property was assessed by the assessor at an actual

value greater or less than its true actual value by thirty per centum thereof, shall be *prima facie* evidence that the assessment was unjust or fraudulent. R. S. O. 1877, c. 180, s. 192.

229. An assessor convicted of having made any unjust or fraudulent assessment, shall be sentenced to the greatest punishment, both by fine and imprisonment, allowed by this Act. R. S. O. 1877, c. 180, s. 193.

230. With reference to *The Jurors' Act*, if any assessor of any township, village or ward, except in the cases provided for by sections 52 and 54 of this Act, neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll, on or before the 1st day of September of the year for which he is assessor, every such assessor so offending shall forfeit for every such offence the sum of \$200, one moiety thereof to the use of the municipality and the other moiety, with costs, to such person as may sue for the same in any Court of competent jurisdiction; but nothing herein contained shall be construed to relieve any assessor from the obligation of returning his assessment roll at the period required elsewhere by this Act and from the penalties incurred by him by not returning the same accordingly. R. S. O. 1877, c. 180, s. 194. See also Cap. 52, s. 171 (3).

231. If a collector refuses or neglects to pay to the proper treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the sheriff of the county or city (as the case may be), commanding him to levy of the goods, chattels, lands, and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. R. S. O. 1877, c. 180, s. 195.

232. The treasurer shall immediately deliver the warrant to the sheriff of the county, as the case may require. R. S. O. 1877, c. 180, s. 196.

233. The sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of Courts of Record. R. S. O. 1877, c. 180, s. 197.

234. If a sheriff neglects or refuses to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the High Court, or to a Judge thereof, for an order nisi a summons calling on the sheriff to answer the matter of the affidavit. R. S. O. 1877, c. 180, s. 198.

235. The order nisi or summons shall be returnable at such time as the Court or Judge directs. R. S. O. 1877, c. 180, s. 199.

236. Upon the return of the order nisi or summons, the Court or a Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matters of application. R. S. O. 1877, c. 180, s. 200.

237. If the Court or Judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the Court or Judge shall order the proper officer of the Court to issue a writ of *feri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town (as the case may be) for which the collector is in default. R. S. O. 1877, c. 180, s. 210.

238. The writ shall direct the coroner to levy of the goods and chattels of the sheriff, the sum which the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution; and the writ shall bear date on the day of its issue, and shall be returnable forthwith on its being executed; and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. R. S. O. 1877, c. 180, s. 202.

239. If a sheriff wilfully omits to perform any duty required of him by this Act, and no other penalty is hereby imposed for the omission, he shall be liable to a penalty of \$200, to be recovered from him in any Court of competent jurisdiction at the suit of the treasurer of the county, city or town. R. S. O. 1877, c. 180, s. 203.

240. All money assessed, levied and collected for the purpose of being paid to the Treasurer of the Province, or to any other public officer, for the public uses of the Province, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by and accounted for and paid over, to the same persons in the same manner, and at the same time as taxes imposed on the same property for county, city or town purposes, and shall be deemed and taken to be moneys collected for the county, city or town, so far as to charge every collector, or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of moneys assessed, levied and collected for the use of the county, city or town. R. S. O. 1877, c. 180, s. 204.

241. All moneys collected for county purposes, or for any of the purposes mentioned in the preceding section, shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. R. S. O. 1877, c. 180, s. 205.

242. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, that he will account for and pay over all moneys collected or received by him, shall apply to all moneys collected or received for county purposes, or for any of the purposes mentioned in section 240. R. S. O. 1877, c. 180, s. 206.

243. The treasurer of every township, town or village shall, within fourteen days after the time appointed for the final settlement of the collectors' rolls, pay over to the treasurer of the county all moneys which were assessed and by law required to be levied and collected in the

municipality for county purposes, or for any of the purposes mentioned in section 240 of this Act. R. S. O. 1877, c. 180, s. 207.

244. If default be made in such payment, the county treasurer may retain or stop a like amount out of any moneys which would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or where the same has been in arrear for the space of three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount so due with interest and costs from the municipality in default. R. S. O. 1877, c. 180, s. 208.

245. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs in the same manner as is provided by *The Municipal Act* in case of writs of execution. R. S. O. 1877, c. 180, s. 209.

246. The county, city or town treasurer shall be accountable and responsible to the Crown for all moneys collected for any of the purposes mentioned in section 240 of this Act, and shall pay over such moneys to the treasurer of the Province. R. S. O. 1877, c. 180, s. 210.

247. Every county, city and town shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the treasurer of the county, city or town, in virtue of his office, shall be by him duly paid over and accounted for according to law. R. S. O. 1877, c. 180, s. 211.

248. The treasurer and his sureties shall be responsible and accountable for such moneys in like manner to the county, city or town; and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands belonging to the county, city or town shall be taken to apply to all such moneys as are mentioned in section 240, and may be enforced against the treasurer or his sureties in case of default on his part. R. S. O. 1877, c. 180, s. 212.

249. The bond of the treasurer and his sureties shall apply to school moneys, and all public moneys of the Province; and in case of any default, Her Majesty may

enforce the responsibility of the county, city or town by stopping a like amount out of any public money which would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. R. S. O. 1877, c. 180, s. 213.

250. Any person aggrieved by the default of the treasurer, may recover from the corporation of the county, city or town, the amount due or payable to such person as money had and received to his use. R. S. O. 1887, c. 180, s. 214.

251. If any person wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, he shall, on conviction thereof in a summary way before any Justice of the Peace having jurisdiction in the county, city or town, be liable to a fine of \$20, and, in default of payment, or for want of sufficient distress, to imprisonment not exceeding twenty days. R. S. O. 1877, c. 180, s. 215.

252. The fines and forfeitures authorized to be summarily imposed by this Act, shall, when not otherwise provided, be levied and collected by distress and sale of the offender's goods and chattels, under authority of a warrant of distress to be issued by a Justice of the Peace of the county, city or town; and, in default of sufficient distress, the offender shall be committed to the common gaol of the county, and be there kept at hard labour for a period not exceeding one month. R. S. O. 1877, c. 180, s. 216.

253. When not otherwise provided all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. R. S. O. 1877, c. 180, s. 217.

Until other provision is made in this behalf, all proceedings for and in respect of the collection of taxes on lands in Muskoka and Parry Sound shall continue as hitherto and as if the said districts still formed part of the counties of Simcoe and Victoria respectively, anything in *The Act respecting Muskoka and Parry Sound*, to the contrary notwithstanding. 51 V. c. 30, s. 12.

Article (f) of sub-section 2 of section 2 of *The Franchise Assessment Act of 1889* is amended by adding

thereto the words following: "and the initials "F" or "T" and the initials "M F" where the party assessed has the necessary qualification shall be added in the proper column."

No person attainted or convicted of any treason or felony, or convicted of any infamous crime, unless he has obtained a free pardon or served the term of imprisonment or paid the penalty imposed under the sentence, and no person who is under outlawry shall be qualified to act as assessor or collector.

Land purchased from the Crown, and which has been mortgaged to the Crown to secure the repayment of the purchase money or some part thereof, or which is subject to any claim of the Crown for unpaid purchase money, shall be assessed, and shall be declared to have been liable to be assessed to the extent of the interest of the owner for the time being of the equity of the redemption therein, or of the purchaser (as the case may be), and this section shall apply to lands purchased from the Crown whether as represented by the Government of Canada, or as represented by the Government of this Province, and nothing herein contained shall be construed to derogate from or in any wise affect the interest of the Crown in such lands; provided that not more than six years' past arrears of taxes shall be collectable hereunder and that no sale for non-payment of taxes which has taken place heretofore shall be rendered valid by this Act, but the taxes to the extent of six years if not satisfied shall be a charge on the land and payment thereof shall be enforced by sale as in other cases.

If the treasurer of a county, city or town, sells any interest in the land of which the Crown, whether as represented by the Government of Canada or the Government of the Province of Ontario, is or was the mortgagee, or has any claim thereto on account of unpaid purchase money, he shall only sell the interest therein of the owner of the equity of redemption for the time being or the purchaser, as the case may be, and it shall be so distinctly expressed in the conveyance to be made by the treasurer and warden or mayor, and (whether so expressed or not), such conveyance shall in no wise affect the rights of the Crown in the said lands under the mortgage or otherwise, and such conveyance shall give the purchaser the same rights only in respect of the land as the owner of the equity of redemption or purchaser from the Crown enjoyed. 55 V. c. 50. ss. 25-29.

SCHEDULE A.

(Section 3.)

FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO BE ASSESSED THEREFOR.

To the Clerk of the Municipality of

Take notice, that I (or we) own the land hereunder mentioned, and require to be assessed, and have my name (or our names) entered on the Assessment Roll of the Municipality of _____ (or Ward of the Municipality of _____) therefor.

That my (or our) full name (or names), place of residence and Post Office address, are as follows:

A. B., of the Township of York, shoemaker, Weston Post Office (as the case may be). Description of land (here give such description as will readily lead to the identification of the land).

Dated the _____ day of _____, 18 ____ C. D.

Witness, G. H.

R. S. O. 1877, c. 180, Sched. A.

For Schedule B, see page 2156, R. S. O.

SCHEDULE C.

(Section 64, sub-section 14.)

FORM OF DECLARATION BY PARTY COMPLAINING IN PERSON OF OVERCHARGE ON PERSONAL PROPERTY:

I, A. B. (set out name in full, with place of residence, business, trade, profession, or calling), do solemnly declare that the true value of all the personal property assessable against me (or as the case may be), as trustee, guardian or executor, etc., without deducting any debts due by me in respect thereof, is _____ [In case debts are owed in respect of such property; add: that I am indebted on account of such personal property in the sum of _____]; and that the true amount for which I am liable to be rated and assessed in respect of personal property, other than income, is _____

R. S. O. 1877, c. 180, Sched. C.

SCHEDULE D.

(Section 64, sub-section 14.)

FORM OF DECLARATION OF PARTY COMPLAINING IN PERSON OF OVERCHARGE ON ACCOUNT OF TAXABLE INCOME :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling), do solemnly declare that my gross income, derived from all sources not exempt by law from taxation, is

R. S. O. 1877, c. 180, *Sched D.*

SCHEDULE E.

(Section 64, sub-section 14.)

FORM OF DECLARATION OF PARTY COMPLAINING OF OVERCHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE INCOME :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling), do solemnly declare that the true value of my personal property, other than income is

[if there are debts, add : that I am indebted on account of such personal property in the sum of ;] that my gross income derived from all sources, not exempt by law from taxation, is ; and that the full amount for which I am by law justly assessable, in respect to both personal property and income, is

R. S. O. 1877, c. 180, *Sched. E.*

SCHEDULE F.

(Section 64, sub-section 14.)

FORM OF DECLARATION BY AGENT OF A PARTY COMPLAINING OF OVERCHARGE ON PERSONAL PROPERTY :

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling) agent for *C. D.* (set out name in full with place of residence and calling of person assessed), do solemnly declare that the true value of all the

personal property assessable against the said *C. D.* (or, as the case may be), as trustee, guardian, or executor, etc., is *[In case there are debts in regard to the property, add: The said C. D. is indebted on account of such personal property in the sum of _____ and that the true amount for which the said C. D. is liable to be rated and assessed in respect of personal property other than income is _____; and that I have the means of knowing, and do know, the extent and value of the said personal C. D.'s property and debts in respect thereof.*

A. B.

R. S. O. 1877, c. 180, *Sched. F.*

SCHEDULE G.

(Section 64, sub-section 1A.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF OVERCHARGE ON TAXABLE INCOME:

I, *A. B.* (set out name in full, and place of residence, business, trade, profession or calling), agent for *C. D.* (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the gross income of the said *C. D.*, derived from all sources not exempt from taxation by law, is _____; and that I have the means of knowing, and do know, the income of the said *C. D.*

R. S. O. 1877, c. 180, *Sched. G.*

SCHEDULE H.

(Schedule 64, sub-section 1A.)

FORM OF DECLARATION BY AGENT OF PARTY COMPLAINING OF AN OVERCHARGE IN RESPECT OF PERSONAL PROPERTY AND TAXABLE INCOME:

I, *A. B.* (set out name in full, with place of residence, business, trade, profession or calling), agent for *C. D.* (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the true value of the

personal property of the said *C. D.*, other than income, is ; that the gross income of the said *C. D.*, derived from all sources not exempt by law from taxation, is and that the full amount for which the said *C. D.* is justly assessable, in respect of both personal property and income, is

[*If there are debts on account of the property, add: That the said C. D. is indebted on account of such personal property in the sum of ; and that I have the means of knowing, and do know, the truth of the matters hereinbefore declared.*

R. S. O. 1877, c. 180, *Sched. I*.

SCHEDULE K.

(*Section 183.*)

FORM OF TAX DEED.

To all to whom these presents shall come :

We, _____, of the _____ of _____, Esquire, Warden (or Mayor), and _____ of the _____ of _____ Esquire, Treasurer of the County (or City or Town) of _____, Send Greeting :

WHEREAS by virtue of a warrant under the hand of the Warden (or Mayor) and seal of the said County (or City or Town) bearing date the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, commanding the Treasurer of the said County (or City or Town) to levy upon the land hereinafter mentioned, for the arrears of taxes due thereon, with his costs, the Treasurer of the said County (or City or Town) did, on the _____ day of _____ 18 _____, sell by public auction to _____, of the _____ of _____, in the County of _____, that certain parcel or tract of land and premises hereinafter mentioned, at and for the price and sum of _____ of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon upon to the day of _____, in the year of our Lord one thousand eight hundred and _____, together with costs :

Now know ye, that we, the said _____ and _____, as Warden (or Mayor), and Treasurer of the said County

(or City or Town), in pursuance of such sale, and of *The Assessment Act*, and for the consideration aforesaid, do hereby grant, bargain and sell unto the said
his heirs and assigns, all that certain parcel or tract of land and premises containing , being composed of
(describe the land so that the same may be readily identified).

In witness whereof, we, the said Warden (or Mayor) and Treasurer of the said County (or City or Town), have hereunto set our hands and affixed the seal of the said County (or City or Town), this day of in the year of our Lord one thousand eight hundred and ; and the Clerk of the County (or City or Town) Council has countersigned.

A. B., Warden (or Mayor). [Corporate Seal.]

C. D., Treasurer.

Countersigned,

E. F., Clerk.

R. S. O. 1877, c. 180, *Sched. K.*

AN ACT CONSOLIDATING AND REVISING
THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

LEGISLATIVE AND COUNTY GRANT.

122.—(1) All sums of money voted by the Legislative Assembly for the support of public and separate schools shall be apportioned annually on or before the first day of May by the Minister of Education to the several counties townships, cities, towns and incorporated villages, according to the population in each as compared with the whole population of Ontario, as shewn by the last annual returns received from the clerks of the respective counties, cities and towns separated from a county, of which apportionment due notice shall be given to the clerks of the municipalities concerned. R. S. O. c. 225, s. 136.

(2) The money so apportioned shall be payable by the Provincial Treasurer on or before the first day of July in every year to the treasurer of every county, city, town and village in such way as the Lieutenant-Governor may from time to time direct. R. S. O. c. 225, s. 137.

(3) The county council shall cause to be levied yearly upon the several townships of the county, such sums of money for public school purposes as shall be at least equal (clear of all charges of collection) to the amount of school money apportioned by the Minister of Education to the several townships of the said county for the year, such sums to be payable to the township treasurer on or before the fourteenth day of December in each year. R. S. O. c. 225, s. 141. *Part.*

NOTE.—As by R. S. O. 1887, c. 227, ss. 8, 11, 40, 62, each Separate School is entitled to receive its proportion of the Legislative grant, unconditionally, the “sums of money” to be levied yearly by the County Councils *must be paid by the public school supporters of the several townships of the county in order to secure the amount of the Legislative grant.* (3). R. S. O. c. 224, s. 4 (12). (But see the Assessment Act, s. 84). By R. S. O. c. 30, the moneys arising from the sales of Clergy Reserves are required to be paid into the hands of the Provincial Treasurer, and form a fund called The Ontario Municipalities’ Fund. Sec. 3 provided that the amount of the Municipal Fund, remaining unexpended and unappropriated under the foregoing provisions on the thirty-first day of December in each year, shall be added to the amount voted by the Legislature for the support of Public and Separate Schools for the succeeding year, and shall by the Minister of Education be included in the distribution of the Legislative grant to the several municipalities as provided by The Public Schools Act. As the amount of the Legislative grants has been *decreasing*, annually, since the above Act was passed, the municipalities do not appear to derive much benefit from the sale of Clergy Reserve lands.

123.—(1) The county inspector shall half-yearly, unless otherwise directed by the Minister of Education distribute among the school sections and divisions of each township under his jurisdiction their respective portions of the public school grant voted by the Legislative Assembly or raised by county rate according to the average attendance of pupils at each public school as compared with the whole average number of pupils attending the public schools of every such township, and all such sums shall be payable by the township treasurer to the order of the secretary or secretary-treasurer of the board of trustees on the inspector’s order. Notice of the amount payable to each school section shall be given by the inspector to the sec-

retary or secretary-treasurer of the section. R. S. O. c. 225, s. 143. (*Amended*).

(2) The county inspector shall apportion any sum voted by the Legislative Assembly for improving the fifth form of public schools as may be directed by the regulations of the Education Department. (*New*).

TREASURERS OF SCHOOL MONEYS.

124.—(1) For all school purposes in townships the township treasurer shall be considered sub-treasurers of the county treasurer: provided always that the county council may by by-law constitute the county treasurer, the sub-treasurer for such municipalities within the county as may be deemed expedient. R. S. O. c. 225, s. 141. *Part*.

(2) Every sub-treasurer shall be subject to the same responsibilities and obligations in respect to the accounting for school moneys, and the payment of lawful orders for such moneys given by any county inspector as are imposed by this Act upon every county treasurer, in respect to the paying and accounting for school moneys. R. S. O. c. 225, s. 150.

125. The treasurer and his sureties shall be responsible and accountable for school moneys to the county, city or town, and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands, belonging to the county, city or town, shall be taken to apply to all public school moneys, and may be enforced against the treasurer or his sureties, in case of default on his part. R. S. O. c. 225, s. 146.

126. The bond of the treasurer and his sureties shall apply to school moneys, and all public moneys of the Province, and in case of any default, Her Majesty may enforce the responsibility of the county, city or town, either by stopping a like amount out of any public moneys payable to the county, city, or town, or to the treasurer thereof, or by action against the corporation. R. S. O. c. 225, s. 147.

127. Any person aggrieved by the default of the municipal treasurer may recover from the corporation of any

city, county or town, the amount due or payable to such person as money had and received to his use. R. S. O. c. 225, s. 148.

128. Any collector appointed by a board of trustees for the collection of school fees, or any treasurer or secretary-treasurer having the custody of school moneys, shall discharge similar duties and be subject to similar obligations and penalties and have similar powers as the like officers in the municipality. R. S. O. c. 265, 114—1a.

129. The clerk of every county shall make a return to the Minister of Education showing the population of each minor municipality within the county, and the clerk of every city and of every town separated from a county shall make a return showing the population of such city or town, as shewn by their respective assessment rolls for the previous year, said returns to be made on or before the first day of April in each year. R. S. O. c. 225, s. 140.

130.—(1) Trustees shall not be liable to any prosecution, or the payment of any damages, for acting under any by-law of a municipal council before it has been quashed.

(2) In case a by-law, order or resolution of a municipal council is illegal, in whole or in part, and in case anything has been done under it, which by reason of the illegality gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring such action has been given to the corporation.

(3) Every such action shall be brought against the municipal corporation alone, and not against any person acting under the by-law, order or resolution. R. S. O. c. 225, s. 149.

DUTIES OF TEACHERS.

131. It shall be the duty of every teacher of a public school:—

1. To teach diligently and faithfully all the subjects required to be taught in the school, according to the terms of his engagement with the trustees, and according to the provisions of this Act and the regulations of the Education Department; R. S. O. c. 225, s. 153,—1.

2. To keep in the prescribed form the general, daily, class, or other registers of the school, and to record therein the attendance, promotion or removal of the pupils of the school; R. S. O. c. 225, s. 153,—2. (*Amended*).

3. To maintain proper order and discipline in his school, according to the prescribed regulations; R. S. O. c. 225, s. 153,—3. *Part*.

4. To keep a visitors' book (which the trustees shall provide) and enter therein the visits made to his school; R. S. O. c. 225, s. 153,—4. *Part*.

5. To give the trustees and visitors access at all times, when desired by them, to the registers and visitors' book appertaining to the school;

NOTE.—For *visitors*, see s. 184.

6. To deliver up any school register, visitors' book, school house key, or other school property in his possession, on the demand or order of the majority of the corporation employing him;

7. To hold during each term a public examination of his school, of which he shall give due notice to the trustees of the school, to any school visitors who reside in the school section and through the pupils to their parents or guardians;

8. To furnish to the Minister of Education, or to the school inspector, from the trustees report or otherwise, any information which it may be in his power to give respecting anything connected with the operations of his school or in any wise affecting its interests or character;

9. To prepare, so far as the school registers supply the information, such reports of the corporation employing him as are required by the Education Department; R. S. O. c. 225, s. 153,—5, 6, 8, 9, 10.

10. To notify the trustees, and in case of their neglect, to notify the local board of health when the closets or out-houses belonging to the school are dangerous to the health of the pupils; (*New*).

11. To notify the medical health officer of the municipality, or where there is none to notify the local board of health whenever he has reason to believe that any pupil

attending school is affected with or exposed to small-pox, cholera, scarlatina, diphtheria, whooping-cough, measles, mumps, glanders, or other contagious disease, and to prevent the attendance of all pupils so exposed, or suspected of being exposed, until furnished with the written statement of the health officer, or of the local board of health, or of a physician, that such contagious diseases did not exist, or that all danger from exposure to any of them had passed away. R. S. O. c. 225, s. 153,—11.

AGREEMENTS.

132. All agreements between trustees and teachers shall be in writing, signed by the parties thereto, and sealed with the corporate seal of the trustees. R. S. O. c. 225, s. 151.

133. Any teacher who enters into an agreement with the trustees of any public school, and who wilfully neglects or refuses to carry out such agreement shall, on the complaint of such school trustees, be liable to the suspension of his certificate by the inspector under whose jurisdiction he may be for the time being. R. S. O. c. 225, s. 165.

134. No person engaged to teach a public school shall be deemed a qualified teacher who does not at the time of his engaging with the trustees, and during the whole period of such engagement, hold a legal certificate of qualification. R. S. O. c. 225, s. 152.

135. Every teacher who serves under an agreement with a board of trustees for three months or over shall be entitled to be paid his salary for the authorized holidays occurring during the period of such service in the proportion which the number of days during which he has taught in the calendar year, bears to the whole number of teaching days in such year. R. S. O. c. 225, s. 154. (*Amended*).

136. Every teacher shall be entitled to his salary during sickness, certified by a physician, for a period not exceeding four weeks for the entire year; this period may be increased at the pleasure of the trustees. R. S. O. c. 225, s. 157.

137. If at the expiration of a teacher's agreement with a board of trustees his salary has not been paid in full such salary shall continue to run at the rate mentioned in such

agreement until paid, provided always that an action shall be commenced within three months after such salary is due and payable by the trustees. R. S. O. c. 225, s. 158.

138. All matters of difference between trustees and teachers, in regard to salary or other remuneration shall be brought before the Division Court of the district, where the cause of action arose, subject to appeal, as provided by this Act. R. S. O. c. 225, s. 155.

139. In pursuance of a judgment or decision given by a County Judge in a Division Court, under the authority of this Act, and not appealed from, execution may issue from time to time to recover what may be due of the amount which the Judge may have decided the plaintiff entitled to, in like manner as on a judgment recorded in a Division Court for a debt, together with all fees and expenses incidental to the issuing thereof and levy thereunder. R. S. O. c. 225, s. 156.

NOTE.—No provision is made for levying a rate to satisfy the execution, as in the case of municipal corporations. (Municipal Act, ss. 428, 429).

CERTIFICATES.

140. Every certificate to teach a public school shall be ranked as of the first, second, or third class, and shall be issued only to such persons as furnish satisfactory proof of good moral character, (a) are at least eighteen years of age, (b) are natural born or naturalized subjects of Her Majesty, (c) and pass the examinations prescribed by the Education Department. R. S. O. c. 225, s. 159.

141. Certificates of the first and second class shall be granted by the Minister of Education on the report of examiners appointed by the Education Department, and shall be valid during good conduct in the Province; certificates of the third class shall be granted by the county board of examiners, and shall be valid in the Province for a period of three years. Every third class certificate shall have the signature of at least one public school inspector. R. S. O. c. 225, ss. 160, 161.

142. District certificates shall be valid only in the districts following, namely: Rainy River, Thunder Bay, Nipissing, Algoma, Parry Sound, Muskoka, Haliburton, and the counties of Victoria, Peterborough and Hastings, and all counties lying east thereof. In the districts aforesaid the board of examiners for granting such certificates shall consist of the inspector, the District Judge and Stipendiary Magistrate; and in the counties aforesaid of the county board of examiners. R. S. O. c. 225, s. 162. (*Amended*).

143.—(1) All teachers' certificates granted before the fifteenth day of February, in the year 1871, shall remain in force on the terms and conditions of the Act under which they were granted; and upon their ceasing to be valid, as provided by law, other than by the confirmation of their suspension, they may be renewed from time to time under the regulations of the Education Department.

(2) Every first-class certificate issued under any Act of this Province by a county board, before the fifteenth day of February, 1871, and valid in any city or county on the 24th day of March, 1874, shall be valid in the Province during the good conduct of the holder thereof.

(3) Every second-class certificate issued before such time, and under like authority, and valid in any city or county, on the 24th day of March, 1874, shall, when such teacher has taught for a period of not less than ten years in Ontario, continue to be valid during good conduct in such city or county. R. S. O. c. 225, s. 163 (2), (3), (4).

144.—(1) The inspector may suspend the certificate of any teacher under his jurisdiction for inefficiency, misconduct, or a violation of this Act, or of the regulations of the Education Department. In every case of suspension, he shall notify in writing the trustees concerned, and the teacher, of the reasons for such suspension. R. S. O. c. 225, s. 164.

(2) If the certificate so suspended was issued by the Chief Superintendent or Council of Public Instruction, or by the Education Department or Minister of Education, the inspector shall forthwith report to the Minister of Education, and such suspension shall continue until the case is decided by the Minister. R. S. O. c. 225, s. 166.

(3) If the certificate was granted by a county board of examiners, the inspector shall forthwith call a meeting of such county board of examiners for the consideration of such suspension, of which due notice shall be given to the teacher concerned, and the decision of such board shall be final. R. S. O. c. 225, s. 167.

COUNTY BOARDS OF EXAMINERS.

145.—(1) The municipal council of each county shall appoint a board of examiners, consisting of the inspector or inspectors having jurisdiction within the county, or any part thereof, and not more than two other persons holding first-class certificates of qualification for the purpose of examining candidates for teachers' third-class certificates and for such other purposes as may be prescribed by this Act. The Board shall hold at least one examination each year. A majority of the board shall form a quorum. R. S. O. c. 225, s. 168. (*Amended*).

(2) Where deemed necessary from the general use of the French or German language, the county council may appoint additional examiners, not exceeding two, for the purpose of conducting the examination of candidates for a teachers' certificate in either of the languages aforesaid. R. S. O. c. 225, s. 169.

(3) The treasurer of the county shall, on the requisition of the chairman of the board, pay all the incidental expenses of the examination of third-class teachers. He shall also, on a like requisition, pay each member of the board the sum of \$4 per diem and travelling expenses while engaged as examiner. R. S. O. c. 225, s. 170. (*Amended*).

(4) Every member of a county board of examiners while engaged in conducting an investigation affecting the standing of any teacher within the jurisdiction of the board shall be paid the sum of \$4 per diem and travelling expenses by the treasurer of the county. (*New*).

(5) After the passing of this Act no person shall be appointed a member of a county board of examiners who is not actually engaged in teaching, and who has not had at least three years' experience as a teacher in a public or separate school. (*New*).

MODEL SCHOOLS.

146.—(1) The board of examiners of every county shall, subject to the regulations of the Education Department, set apart at least one public school in each county as a county model school for the training of teachers for third-class certificates.

(2) Where more model schools than one have been established in any county and where the teachers in training for the two preceding years at such school have not exceeded twenty-five, the county board of examiners may, with the approval of the Education Department discontinue one or more of such schools, but not so as to reduce the number below that required by this Act.

(3) The municipal council of each county shall pay to the treasurer of each public school within the county to which a county model school is attached, an amount at least equal to the sum voted by the Legislative Assembly for each county model school, but the amount to be provided by the county council shall not be less than the sum of \$150 annually and the council may, if it sees fit, provide a larger amount of aid. R. S. O. c. 225, s. 173. (*Amended*).

TEACHERS' INSTITUTES.

147.—(1) The teachers of one or more inspectoral districts may organize themselves into a Teachers' Institute for the purpose of receiving instruction in methods of teaching and for discussing educational matters subject to the regulations of the Education Department. (*New*).

(2) The Minister of Education may apportion out of any moneys voted by the Legislative Assembly for that purpose the sum of \$25 to each teachers' Institute organized and conducted according to the regulations of the Education Department and the municipal council of each county or city shall pay annually to the order of the president of each teachers' institute within the county or city a sum at least equal to the amount so apportioned by the Minister of Education. R. S. O. c. 225, s. 174.

LEAVING EXAMINATIONS.

148. There shall be an annual leaving examination, in the public schools on such subjects, and according to such regulations as may be prescribed by the Education Department. (*New*).

THE AGRICULTURE AND ARTS ACT,
RESPECTING THE VETERINARY
COLLEGE.

THE COUNCIL OF THE ASSOCIATION.

19. The Council of the Agriculture and Arts Association shall be composed of thirteen members, elected as hereinafter provided. 49 V. c. 11, s. 19.

20. Ontario shall be divided into thirteen Agricultural Divisions, designated by numbers, and comprising the Electoral Districts, and each Division shall be represented by one member in the Council of the Association. 49 V. c. 11, s. 20.

21.—(1) Four (or five, as the case may be) members of the Council shall retire annually, in the order in which the members have been elected for the respective Divisions, each seat being vacated every third year; and the Secretary of the Association shall send a list of the names of the retiring members to the Secretary of every Electoral District Society on or before the 1st day of September in every year.

(2) The retiring members (who are eligible for re-election) may continue to exercise all their functions until their successors have been duly elected. 49 V. c. 11, s. 21.

22. The nomination of a candidate or candidates to represent an Agricultural Division in the Council shall be made in writing by ten or more members of some Electoral District Society in such Division, and forwarded to the Commissioner of Agriculture on or before the 15th day of December preceding the election; and the Commissioner

shall, on or before the 26th day of December next ensuing, mail to the Secretaries of the several District Societies in such Division the names of all persons so nominated. 49 V. c. 11, s. 22.

23.—(1) The members of the District Societies in each Division shall, at their several annual meetings provided by section 39 of this Act, elect from the persons nominated therefor one to represent their Division in the Council, each District Society having one vote, and the person receiving the largest number of votes of such District Societies shall be the member of the Council to represent the Division.

(2) In case the vote for such member results in a tie, then the District Society amongst those Societies voting for one or other of the persons in respect of whom the tie occurs which has the largest number of members, as appears by the report for the last calendar year, shall have the casting vote.

(3) Vacancies in the Council through death, resignation, or otherwise, shall be filled by the Commissioner. 49 V. c. 11, s. 23.

24.—(1) The first meeting of the Council, after the election of members in every year, shall be called by the Secretary some time during the month of February or of March; and at such meeting the members present shall elect from among themselves a President and Vice-President.

(2) The Council shall also appoint a Secretary and a Treasurer (neither of whom shall be members thereof), and may pay them reasonable salaries for their services.

(3) The regular meetings of the Council shall be held pursuant to adjournment, or be called by the Secretary at the instance of the President, or in his absence of the Vice-President, or upon the written request of any three members; and at least seven days' notice of the meetings shall be given to each member.

(4) In the absence of the President or Vice-President from any meeting, the Council may appoint a chairman *pro tempore*, and seven members shall be a quorum. 49 V. c. 11, s. 24.

25. The Council may grant to the members thereof an allowance not exceeding \$4 per day for the days on which they are actually in attendance at the meetings of the Council, and an allowance not exceeding four cents a mile for the distance necessarily travelled by the members in going to and returning from the meetings. 49 V. c. 11, s. 25.

POWERS AND DUTIES OF THE COUNCIL.

26. The Council shall continue to be a body corporate, and may acquire and hold land and personal property for the purposes of the Association, and may sell, mortgage, lease, or otherwise dispose of the same; and all property, real or personal, heretofore vested in or held by the Agriculture and Arts Association shall continue to be vested in the Association, and under the control of the Council thereof. 49 V. c. 11, s. 26.

27. The Council shall have full power to act for and on behalf of the Association; and all grants of money, subscriptions or other funds made or appropriated to or for the use of the Association (except money collected by or granted to any local committee for any special objects), shall be received by and expended under the direction of the Council. 49 V. c. 11, s. 27.

28. It shall be the duty of the Council to take measures for the promotion of Agriculture and the useful Arts in the Province in any or all of the following ways, namely:

1. By holding agricultural meetings and shows of stock, implements, farm and horticultural products, machinery, manufactures and other works of art, either by themselves or under joint management with other Associations, whether the other Associations are incorporated under this Act or otherwise.

2. By aiding exhibition associations in accomplishing the same objects, by the granting of medals, prizes or other awards of merit.

3. By offering prizes for the best-managed farms, farm buildings, dairies, gardens, orchards, or vineyards.

4. By holding or aiding ploughing matches, and by the testing of agricultural implements and machinery.

5. By encouraging the planting of trees and the study of forestry.

6. By introducing and testing new varieties of grain, seeds, vegetables, or other agricultural productions.

7. By introducing or aiding in the introduction of new and improved breeds of animals, either from other countries or provinces, or from one part of the Province into another.

8. By offering premiums for reports on the breeding, rearing and feeding of animals, the management of the dairy, the production of wool, the improvement of agriculture and agricultural machinery and implements, the growth of timber, the adaptability of particular localities for particular branches of agriculture, the erection of farm buildings, fencing, draining, and other subjects relating to agriculture or the useful arts.

9. By causing, or aiding in causing, lectures to be delivered on such subjects and at such places as may be deemed in the interest of agriculture.

10. By keeping registers of pure bred stock, either by themselves or conjointly with other Associations, or bodies corporate.

11. And generally by adopting every means in their power to promote improvement in agriculture and the useful arts in the Province. 49 V. c. 11, s. 28.

29. The Council shall keep a record of their transactions, and may from time to time publish, in such manner and form as to secure the widest circulation among the Agricultural Societies, and among farmers generally, all such reports, essays, lectures, and other useful information as the Council may procure and adjudge suitable for publication. 49 V. c. 11, s. 29.

30. On or before the 1st day of February in every year the Council shall transmit to the Department a report for the preceding calendar year, wherein shall be embraced a record of their transactions, a detailed financial statement verified by the Auditors, a list of all persons to whom prizes have been awarded, either for exhibits at the Provincial Fair or for other objects, such information as they

have obtained of progress made during the year in the several departments of the Fair as compared with previous years, and generally such means as have been used and measures taken by the Council under section 28 of this Act to promote improvement in agriculture and the useful arts. 49 V. c. 11, s. 30.

31. The corporation of a city or town may enter into an agreement with the Council, binding such corporation to erect buildings necessary for holding the annual exhibition of the Association; and in consideration thereof the Council may select such corporation as the one within whose territorial limits their exhibition shall be held; but in the event of such corporation failing to enter into a binding agreement as aforesaid on or before the first day of May in the year for holding such exhibition, the Council may change the place for holding the same, or may dispense with an exhibition for that year. 49 V. c. 11, s. 31.

32. The Council shall, on or before the 15th day of December in each year, submit for the approval of the Lieutenant-Governor in Council an estimate of the sums required for the purposes of the Association for the ensuing year, giving in detail in such estimate as far as possible the particular object or objects to which the money is to be applied and the amount required for each. 49 V. c. 11, s. 32.

33. The Council shall, on or before the first day of October in each year fix the date at which the next annual exhibition shall be held. 49 V. c. 11, s. 33.

THE VETERINARY COLLEGE.

34—(1) The Council may establish a veterinary College for the instruction of pupils, by competent and approved teachers, in the science and practice of the veterinary art, and may pass by-laws and adopt measures for the examination of pupils in Anatomy, Physiology, Materia Medica, Therapeutics, Chemistry, and as to the breeding of domesticated animals; and upon proof, to the satisfaction of the Council, that such pupils possess the requisite qualifications, may grant diplomas certifying that they are competent to practise as Veterinary Surgeons.

(2) Veterinary practitioners holding such diplomas shall be entitled to professional fees in attending any Court of Law as witnesses in such cases as relate to the profession; and no person who does not possess a diploma or proper certificate from some duly authorized Veterinary College, within or without this Province, shall append to his name the term Veterinary Surgeon, or an abbreviation thereof.

(3) Any person who wilfully and falsely pretends to be, or who wilfully and falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead people to infer that he is, or is recognised by law as, a Veterinary Surgeon, within the meaning of the foregoing sub-sections of this section, or that he possesses a diploma or proper certificate from some duly authorized Veterinary College within or without the Province, shall, upon summary conviction before a Justice of the Peace, pay a penalty not exceeding \$100, and not less than \$25.

(4) All prosecutions under this section may be brought and heard before and by any Justice of the Peace having jurisdiction in the locality where the offence is alleged to have been committed, and the Justice shall have power to award payment of costs in addition to the penalty; and, in case the penalty and costs awarded by him are not upon conviction forthwith paid, to commit the offender to the common gaol, there to be imprisoned for any term not exceeding three months, unless the penalty and costs are sooner paid.

(5) All penalties recovered under this section shall be paid to the convicting Justice, and be paid by him to the Treasurer of the Agriculture and Arts Association, and shall thereupon form part of the funds of the said Association, and be accounted for as such.

(6) Any person convicted under this section who gives notice of appeal against the decision of the convicting Justice shall, before being released from custody, give to the said Justice satisfactory security for the amount of the penalty and costs of conviction and appeal.

(7) The Council or any person may be prosecutor or complainant under this section, and every prosecution thereunder shall be commenced within one year from the date of the alleged offence. 49 V. c. 11, s. 34.

53 VICTORIA, CHAPTER 65.

An Act to make further provisions for preventing the spread of Contagious Diseases among Horses.

[Assented to 7th April, 1890.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

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

“Veterinarian” means a veterinary surgeon duly registered by the Council of the Agriculture and Arts Association of Ontario.

“Veterinary Inspector” means any veterinarian specially appointed by the Government of Ontario.

“Inspector” means any inspector appointed by the Government of Ontario or by a municipality.

“Place” means and includes any public highway, street, road, lane, alley, way, or other communication, any public place or square, also any common, field, stable, shed, or any and all premises where any disease under this Act is found to exist or to have existed.

“Horse” means a stallion or mare.

“Disease” means equine syphilis or other malignant venereal disease.

2. Where it appears to any person that any horse is affected with disease such person shall at once notify the Minister of Agriculture by transmitting to him a declaration made before a justice of the peace, commissioner, or notary public, that he has reason to believe that such horse is affected with disease, and shall also notify any other person known to such person to have jurisdiction in the matter. Any person who maliciously and without reasonable and probable cause gives the notice mentioned in this section, shall be liable to a penalty of not less than \$25 nor more than \$50.

3. Where the owner or other person having charge of a horse has reason to suspect the existence of disease in said horse, he shall at once take all reasonable precaution to prevent the spread of disease to other horses until it has been determined by a veterinary inspector that the horse is free from disease.

4. Where it appears to any inspector under this Act that any horse is affected with disease, he shall at once notify the owner or other person in charge of such horse, and shall also at once report the matter to the Department of Agriculture.

5. Where it appears to any inspector appointed under this Act that a horse is affected with disease, he shall cause the same to be safely kept where it will not be brought into contact with, or be in danger of transmitting the disease to other horses.

6. The Minister of Agriculture may from time to time appoint an inspector or inspectors under this Act. Veterinary inspectors appointed under this Act shall perform their duties within the limits of the district assigned to them under this Act. They may further, when so directed by the Minister, carry out any order or regulation made under this Act, in any other part of the Province than that for which they are specially appointed.

7. Any inspector under this Act shall have power to enter in or upon any premises in the performance of any duty laid upon him by this Act, or any regulation made under the provisions of this Act, and may call upon any constable or other person to aid him, under penalty hereinafter mentioned for default in so doing, in executing any action taken under this Act, or any regulation made under this Act.

8. Wherever it shall appear proper, the Minister of Agriculture may direct any veterinary or other inspector under this Act, to examine into any alleged outbreak of the said disease; to cause such scientific investigations to be made with a view to determining the nature and source of the outbreak as under the circumstances are deemed necessary, and to take (in case the investigation shows reasonable grounds for so doing) such measures for its suppression or limitation as are laid upon him by this Act, or by any regulations made under the provisions of this Act.

9.— (1) The council of any county, city, or town separated from a county for municipal purposes, may, by by-law, make provision for the inspection and examination by competent veterinarians of all horses, or may limit the operation of such by-law to stallions alone intended for breeding purposes during any year, in such county, city, or town; the examination being for the purpose of ascertaining whether such horses or stallions are free from disease. The said council may also prescribe such regulations as may seem desirable in connection with the examination, and also direct how the expenses of the examination shall be paid.

(2) Where no by-law has been passed by any county under the preceding sub-section, the council of any township or incorporated village situate in such county may pass a by-law for the purposes mentioned in such sub-section; Provided that if the county council shall afterwards pass such by-law, the by-law in force in any township or village in said county shall become inoperative.

10. The Lieutenant-Governor in Council may from time to time make such regulations under this Act as may seem necessary for the carrying out of its provisions.

11. The certificate of a veterinary inspector to the effect that an animal is affected with disease, shall for the purposes of this Act, be *prima facie* evidence in all courts of justice and elsewhere of the matter certified.

12. Every penalty imposed by this Act shall be recoverable with costs, before any justice of the peace, having jurisdiction, or any magistrate having the powers of two justices of the peace under *The Act respecting Summary Convictions before Justices of the Peace*.

13. For the purpose of proceeding under this Act, every offence against it shall be deemed to have been committed, and every cause of complaint under this Act shall be deemed to have arisen, either in the place where the same actually was committed or arose, or in any place in which the person charged or complained against happens to be.

14. Every person who refuses to admit any inspector acting under this Act, or under regulations or orders made in conformity with this Act, to any common, field, stable or other premises within his district where such inspector has reasonable ground to believe that any horse affected with disease, or other matter or thing exposed to such infection, is to be found, shall for every such offence incur a penalty not exceeding \$50.

15. Every person who obstructs or impedes an inspector or other officer acting in execution of the provisions of this Act, or of any order of, or regulation made by the Lieutenant-Governor in Council, or the Minister of Agriculture thereunder, and every person who aids and assists him therein, shall for each offence incur a penalty not exceeding \$100, and the inspector or other officer may apprehend the offender and take him forthwith before a justice of the peace to be dealt with according to the law; but no person so apprehended shall be detained in custody, without the order of a justice, longer than twenty-four hours.

16. Any person who exposes for sale or sells any horse which he has reasonable grounds for suspecting is affected with disease or which has been pronounced by any veterinary inspector as diseased and unfit for breeding purposes, shall be liable to a penalty of not less than \$100 nor more than \$500 for the first offence and to the same fine and also imprisonment for a period of not less than two months for any second or subsequent offence.

17. Any person violating any of the provisions contained in this Act, respecting which no express penalty is provided herein, shall be guilty of an offence under this Act, and shall on conviction forfeit and pay a sum not exceeding \$100 for each offence.

54 VICTORIA, CHAPTER 53.

An Act to Encourage the Breeding of Trotting
Horses.

[Assented to 4th May, 1891.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. No person shall enter or cause to be entered for competition for any purse, prize, premium, stake, or sweepstake, offered or given by any agricultural or other society, or association where the contest is to be decided by speed, any horse, colt or filly, under a false or assumed name or pedigree, or in a class different to which such horse, colt or filly, properly belongs by the rules of the society or association in which such contest is to take place.

2. The name of a horse, colt or filly, for the purpose of entry for such competition in any contest of speed shall not be changed, after having once been entered in any such contest, except as provided by the code of rules of the society or association under which the contest is conducted.

3. The class to which a horse, colt or filly, properly belongs, for the purpose of entry in any such contest of speed shall be determined by the public performance of such horse, colt or filly in some former, if any, contest or trial of speed, as provided by the rules of the society or association, under which the proposed contest is to be conducted.

4. Any person violating any of the provisions contained in this Act, shall be guilty of an offence thereunder and

shall, on conviction before any justice of the peace, under a prosecution to be commenced within two years from the commission of the offence, forfeit and pay a sum not less than \$50 nor more than \$200 for each offence, together with costs, and in case of non-payment shall be liable to imprisonment for a term not exceeding six months.

NOTE.—Prof. A. Smith, F.R.V.C.S., Principal of the Ontario Veterinary College, Toronto, has kindly consented to review the foregoing Acts relating to the veterinary profession, for a subsequent issue of the JOURNAL.

MISCELLANEOUS.

NOTE—(Continued from page 103.)

Practical knowledge, added to a fairly well-balanced or educated mind, is a much superior recommendation in a candidate for any official position than a property qualification, however large, without the brain power. In order to obtain such practical experience, it is essential that a man should occupy the position to which he has been elected or appointed for at least two or three years, when his competency may fairly be criticised. Under the Municipal Act members of councils are obliged to seek re-election from year to year, and frequently a municipality, through some local prejudice or popular notion, loses the services of some of its comparatively untried men, who have given evidence during a limited term of service, that they would become superior representatives in local council, or in the advisement of legislative matters.

It may be contended, that an extended term might induce corrupt practices, but the same objection would apply to members of the Legislative Assembly or House of Commons. The Municipal Act provides such good and sufficient safeguards against wrong-doing in councils, or among subordinate officials, that malfeasance or other misconduct can be readily detected and punished and the right of retaining office cancelled and determined.

Under the Public Schools Act, the system of electing trustees for a longer term than one year, has been adopted; and while it has, without doubt, given satisfaction, an election of all the trustees for an extended term, would meet with still greater approval.

There appears to be no valid reason, why municipal councillors should not be elected for a longer term, when more efficient management of public affairs might reasonably be expected, and a considerable saving in time and election expenses would be effected.

(To be continued.)

ORATION BY THE HON. T. D'ARCY MCGEE,
ON THE
UNION OF THE PROVINCES.

Delivered at Cookshire, County of Compton, Dec. 22nd, 1864.

At the start I cannot but congratulate the people of all the Provinces on the fortunate conjunction of circumstances which makes this the best possible time for a searching examination and a thorough overhauling of our political system. When I was in the Eastern Provinces last summer—when the Conferences were still a thing to come—I appealed on behalf of the project to the press and the public there, that it should not be prejudged, and I must say I think a very great degree of forbearance and good feeling was manifested in this respect. But I should be sorry, speaking for myself, now that the stage of intelligent discussion has been reached, now that we have got something before us to discuss, that such a vast scheme should pass, if that were possible, *sub silentio*. So far from deprecating discussion now, I should welcome it, for there could not be, there never can be, a more propitious time for such a discussion than the present. (Cheers.) Under the mild sway of a Sovereign, whose reign is coincident with responsible government in these colonies—a Sovereign whose personal virtues have rendered monarchical principles respectable even to those who prefer abstractedly the republican system—with peace and prosperity at present within our own borders—we are called on to consider what further constitutional safeguards we need to carry us on for the future in the same path of peaceable progression.

And never, surely, gentlemen, did the wide field of American public life present so busy and so instructive a

prospect to the thoughtful observer as in this same good year of grace, 1864. Overlooking all minor details, what do we find—the one prevailing and all but universal characteristic of American politics in those days? Is it not that “Union,” is at this moment throughout the entire new world the *mot d’ordre* of States and statesmen? If we look to the far South, we perceive a Congress of Central American States endeavoring to recover their lost unity; if we draw down to Mexico, we perceive her new Emperor endeavoring to establish his throne upon the basis of union; if we come farther north, we find eleven States battling for a new Union, and twenty-five on the other side battling to restore the old Union. (Cheers.) The New World has evidently had new lights, and all its states and statesmen have at last discovered that liberty without unity is like rain in the desert, or rain upon granite—it produces nothing, it sustains nothing, it profiteth nothing. (Cheers.) From the bitter experience of the past, the Confederate States have seen the wisdom, among other things, of giving their ministers seats in Congress, and extending the tenure of executive office fifty per cent. beyond the old United States period; from bitter experience, also, the most enlightened, and what we may consider the most patriotic among the Mexicans, desiring to establish the inviolability of their executive as the foundation of all stable government, have not hesitated to import, not “a little British Prince,” but an Austrian Archduke, a descendant of their ancient kings, as a tonic to their shattered constitution. Now, gentlemen, all this American experience, Northern, Southern and Central, is as accessible to us as to the electors of Mr. LINCOLN or Mr. DAVIS, or the subjects of Emperor MAXIMILLIAN: it lies before us, an open volume, and invites us to well read, mark and digest its contents. (Cheers.) It was with a view to contribute my mite at the present stage of the discussion, that I accepted Mr. POPE’S kind invitation, and am now here to offer you as clear a view as I can put into words, of the process of reasoning and observation by which those who composed the late

Conference arrived at the decisions at which they have arrived, in relation to the constitution and powers of the General and Local Governments in the future Confederation. (Hear, hear.) You have probably all read in the newspapers what purported to be the text—and it was very near the text—of the conclusions arrived at. You have no doubt all read Mr. BROWN's explanations at Toronto, and Mr. GALT's further explanations at Sherbrooke; you have probably also seen two other expressions of opinion, on the general question, in the journals of the day, one from the Honorable Mr. DORION, who is opposed to all union, except some sort of Federation of the Canadas; another from the Honorable Mr. HILLYARD CAMERON, who would much prefer a legislative to a federative union. I don't say that if it could be had by common consent, I would not be prepared to agree with Mr. CAMERON; but a legislative union under our circumstances, was simply out of the question. We might as well ask for the moon, and keep asking until we could get it. (Laughter.) It was a question between some form of federative union or no union at all; and I am not at all prepared to say with Mr. DORION, and never was, that the greater union is not the most desirable, if conditions can be settled satisfactorily to all parties. (Cheers.) It seems to me—and in saying so I intend no shadow of disrespect to the honorable member for Hochelaga—that the man who can seriously maintain that union is not strength, that five or six comparatively small communities, owning a common allegiance, existing side by side on the same continent, in the presence of much larger communities owning another allegiance, would not be stronger and safer united than separate, that such a one puts himself out of the pale of all rational argument.

I will take as an instance of the irrationality of such an argument—the particular question, the great test question remaining between Canada and England: the question of defence. (Hear, hear.) The future General Government has reserved to itself, saving the sovereignty of England, the control of our militia and military expenditure. Every

one can see that a war with England and the United States would be largely a naval war, and such a naval war as the ocean has never before seen—(hear, hear)—a war that would interest and stir the heart of England even beyond the pitch that made her staid merchants astonish LLOYD'S in 1813, with "three times three cheers," when they heard that the "Shannon" had fought and captured, and carried the "Chesapeake" a prize into Halifax harbour. (Cheers.) Suppose, then, in the event of an invasion of our soil, either in Upper Canada or Lower Canada—suppose that a flotilla was needed on the St. Lawrence, or on Lake Ontario; that England could spare us the gunboats, but not the skilled seamen; would it be no advantage to Canada to have the 50,000 Atlantic sailors of the Lower Provinces to call upon for their contingent to such a service? No doubt the empire could call on them now, but unless it restored the press-gang it could not make them come. But if by our union we gave that valuable class of men the feeling of common country; if by the intercourse and commerce which must follow on our union, that feeling grew to the strength of identity, we would have enough help of that description—drawn from what my colleague, Honorable Mr. CARTIER calls the maritime element—for the asking. (Cheers.) The Imperial power, having conceded to all the North American colonies responsible government, can only secure their co-operation, even in military measures, through those several separate governments. (Hear, hear.) Every one can see at a glance how much the Imperial power, and we ourselves, would gain in any emergency—if there were but two governments instead of six to be consulted—how much in promptitude, in decision, in time, in unanimity, and in effectiveness. I need not enlarge, I am sure, on so self-evident a proposition as this; the man that will not see it, will not, that is all I need add on that score. (Laughter) It has, indeed, been asserted by the sceptics in our work that all our theories of a closer commercial intercourse are chimerical; and yet, oddly enough, these are the same people who

think a commercial union would "secure all the benefits" of this chimerical prospect. (Laughter.) Well, I will not meet assertion by assertion, but I will answer a conjecture by a fact. At the very time the member for Hochelaga was issuing his rather inconsistent declaration against a political union as among other reasons, wholly unprofitable in a commercial point of view—and in favor of a commercial union as all that was to be desired in itself,—at that moment, the first steamship, laden with breadstuffs, direct from Montreal to Newfoundland, was dropping down the St. Lawrence, as a result of the partial and brief intercourse, brought about between the two communities, through our Conference at Quebec! That is a fact not very important in itself, perhaps, but very indicative of the possible usefulness of Union in a commercial point of view! (Cheers.) I may mention another fact: while we were lying in Charlottetown harbor last September, our attention was called to the arrival of a fine ocean-going steamship—one of a regular line between Boston and Prince Edward Island. The Boston people find the trade of that rich little island worth cultivating, and they do it; they know where there is produce and where there is a market, and they establish a line of steamers to run there; yet I am sure they sell nothing to the islanders which we, at third the distance, could not just as well supply them with from Quebec or Montreal. (Cheers) I repeat, however, I will not argue so plain a point as that with provinces like ours, union is strength, is reputation, is credit, is security. I will just give one other illustration on this last head, and then I will drop the topic where it is: the security for peace which a large political organization has over a small one, lies not only in its greater interests and disposable force, but in this other consideration, that the aggressor must risk or lose the benefit of much larger transactions, in attacking a larger than in assailing a smaller, state. If, for example, in our system of defence—in addition to all the Imperial Government could do for us,—if we could, by our joint representative action, be sure

to shut up the River St. John upon the people of Maine—to exclude from the gulf the fishermen of Massachusetts—to withhold from the hearths and furnaces of New England the coal of Cape Breton—no man can question but that we would wield several additional means of defence, not now at the command of Canada. And so with the Lower Provinces; if their statesmen could wield our forces and our resources in addition to their own, does any sane man pretend that would not be an immense gain to them? (Hear, hear.) I may be told again the Imperial Government can do all this for us, if they will; I repeat that the Imperial Government alone can neither do any of these things so promptly, so fully, nor with so little trespass on our responsible governments, as a united legislature could, through an united public force, with the aid of a Federal treasury. I really, gentlemen, ought to beg your pardon—and I do so—for dwelling so long on the truism that union is, in our case, strength; but as the first proposition to which we all agreed at the first Conference, I thought I would give some explanation why we had unanimously arrived at that result. (Cheers.)

Another objector opposes our project because Colonial Union is inconsistent with Imperial connexion. Well, to that we might answer that we are quite willing to leave it to the statesmen of the empire themselves to decide that point. If England does not find it so, I think we may safely assume it is not so. And, in point of fact, the Imperial Government several years ago decided the question when they passed the New Zealand Constitutional Act, establishing six or seven local governments, under one general government, in that colony. (Cheers.) Still another objector contends that the complement of Federalism is Republicanism, because most of the States with which we are familiar as Federal States, are also Republics. But this objection is by no means unanswerable. It is true Switzerland is a Republic in the sense of having no hereditary head, but the United Netherlands, when a Confederacy, were not a Republic in that sense; it is true the United States

and Mexico, and the Argentine Federations were all republican in basis and theory; but it is also true that the German Confederation is, and has always been, predominantly monarchical. There might be half as many varieties of federal governments as there are states or provinces in the world; there may be aristocratic federations—like the Venetian,—or monarchical, like the German—or democratic, like the United States; the only definition which really covers the whole species of governments of this description is, the political union of states of dissimilar size and resources, to secure external protection and internal tranquility. (Cheers.) These are the two main objects of all confederacies of states, on whatever principles governed, locally or unitedly; federalism is a political co-partnership, which may be, and has been formed by Monarchists, Aristocrats, and Democrats, Pagans and Christians, under the most various circumstances, and in all periods of human history. (Cheers.) There may be almost as many varieties of confederation as of companies, in private and social life; we say, with propriety too, the company at the hotel, or the company who own the hotel, but the organization of each is widely different. Our Federation will be British; it will be of the fourth class of Lord COKE's division, *de mutui auxilli*—for mutual aid. The only element in it not British is the sectional equality provided for in the Upper House, a principle which is known to be alike applicable to the democratic confederation next us, and the monarchical confederation of Germany. (Hear, hear.)

One more objection which comes from an opposite quarter to the last, is that our plan is too stringently conservative. Well, gentlemen, I can but say to that—if it be so—that it is a good fault, which we may safely leave to the popular elements of our state of society to correct in time. It was remarked long ago by Lord BOLINGBROKE, and a greater than BOLINGBROKE has called it “a profound remark”—that it is easier to graft anything of a republic on a monarchy, than anything of monarchy on a republic. It is always easy in our society to extend democratic influence

and democratic authority; but it is not always possible, it is very seldom possible, ever to get anything back that is once yielded up to democracy. (Hear, hear.) If, therefore, our plan should seem at first sight somewhat too conservative—I repeat my own opinion, that it is a good fault, and the remedy may safely be left to time. So much for what lawyers call the “general issue.”

You will probably like me to define, gentlemen, that particular adaptation of the federal system, which has lately found such high favor in the eyes of our leading colonial politicians. Well, this definition has been, I think, pretty accurately given in the published text,—or what professes to be the text,—of the results arrived at at Quebec. Don't be alarmed; I am not going to read you the whole seventy and odd propositions. (Laughter.) It is, perhaps, sufficient for my purpose to give you, both by contrast and comparison, a broad, general view of what is, and what is not included in this constitutional charter. In the first place, I may say, gentlemen, to take the most familiar comparison, that we proceeded in almost an inverse ratio to the course taken in the United States, at the formation of their constitution. We began by dutifully acknowledging the sovereignty of the Crown, as they did by boldly declaring their total separation from their foreign Sovereign. Unlike our neighbors we have had no questions of sovereignty to raise. (Hear, hear.) We have been saved from all embarrassment on the subject of sovereignty, by simply recognizing it as it already exists, in the Queen of Great Britain and Ireland. There, for us, the sovereign power of peace and war, life and death, receiving and sending ambassadors, still resides, so long as Her Majesty and her descendants retain the allegiance of the people of these Provinces. (Cheers.) No doubt some inconvenience may arise from the habitual personal absence of the Sovereign; but even this difficulty—now that the Atlantic is an eight day ferry, is not insuperable. Next, we made the general, the supreme

Government and the local derivative; while the Americans did just the reverse. (Cheers.)

As to the merits and consequences of this fundamental difference, I shall only say this, that merely to differ from another, and a sometime-established system, is, of course, no merit in itself; but yet, if we are to be a distinct people from our republican neighbors, we can only be so and remain so, by the assertion of distinct principles of government,—a far better boundary than the River St. Lawrence, or the ASHBURTON line. (Cheers.) But suppose their fundamental politics to be right, would we then, for the sake of distinction, erect a falsehood at the North, to enable us to contend against a truth at the South? Would we establish monarchy merely out of a spirit of antagonism? No! gentlemen, God forbid! I of course hold, not only that our plan of Government is politic in itself, but also, that it is better than the American. I am prepared to maintain this at all times—against all comers: for if I had not myself faith in our work, I should scorn to inculcate its obligations on the public. (Cheers.) We build, as I said the other day at Montreal, on the old foundations—though the result of our deliberations is popularly called “the new constitution.” I deny that the principles on which we proceeded, are novel or untried principles. These principles all exist, and for ages have existed in the British Constitution. Some of the contrivances and adaptations of principles are new—but the Royal authority, Ministerial responsibility, a nominative Upper House, the full and free representation of the Commons, and the independence of the Judges, are not inventions of our making. (Cheers.) We offer you no political patent medicine warranted to cure everything, nor do we pretend that our work is a perfect work; but if we cannot make it perfect, we have at least left it capable of revision, by the concurrence of the parties to the present settlement, and the same supreme authority from which we seek the original sanction of our plan. (Cheers.) Still it is to be hoped that the necessity for any revision will seldom occur, for I am quite sure the people

of these provinces will never wish to have it said of their constitution, what the French bookseller of the last century said so wittily, on being asked for the French Constitution—that he did not deal in periodical publications. (Cheers and laughter.) We build on the old foundations, and I trust I may say, in the spirit of the ancient founders, as well. The matrix of the monarchical form of Government is humility, self-denial, obedience, and holy fear. I know these are not nineteenth century virtues—(laughter)—neither are they plants indigenous to the soil of the New World. Because it is a new world, as yet undisciplined, pride and self-assertion, and pretension, are more common, than the great family of humble virtues, whose names I have named. Pure democracy is very like pride—it is the “good-as-you” feeling carried into politics. (Laughter.) It asserts an unreal equality between youth and age, subject and magistrate, the weak and the strong, the vicious and the virtuous. But the same virtues which feed and nourish filial affection, and conjugal peace in private life, are essential to uphold civil authority; and these are the virtues on which the monarchical form of Government alone can be maintained.

There was a time when such a doctrine as this, which I am now inculcating here, in Compton, could hardly get a patient hearing in any part of North America; but that time is fortunately past away: it is possible in our days, even for republican writers to admit the merits of the monarchical system, without being hooted into silence, as the elder ADAMS was when he published in Philadelphia, towards the end of the last century, his eloquent *Discourses on Davila*. His grandson and editor, the present able Minister at the Court of St. James, tells us how the printer was intimidated from proceeding with the publication, and that it was the great cause of his ancestor's life-long unpopularity; and for what? Because he maintained, with BURKE, WASHINGTON, BOSSUET, and SHAKESPEARE, the divine origin of society, as against the theory of its human origin, upheld by JEFFERSON, PAINE, ROUSSEAU, and JOHN LOCKE.

JOHN ADAMS could be President of the United States, but he could not get a printer to publish a general treatise on government which admitted the merits of monarchy—which contended that there was “a natural aristocracy at Boston as well as at Madrid”—and the intolerant outcry then raised against him for the *Discourses of Davila* pursued him to the grave. (Hear.) Another American, of even higher mental mark than President ADAMS—perhaps the very first intellect of all the authors of the American system—was on the same ground equally suspected, and equally abused; ALEXANDER HAMILTON, in his original plan of the American Constitution, offended in the same way as ADAMS by advocating “a solid and coercive union” with “complete sovereignty in Congress”—and we all know how, down almost to yesterday, his memory was branded as that of an enemy of the country he did so much to bring into existence. No wonder political science has been at a standstill for fifty years on this continent, when no man, however high his position, dared raise a negative to the prevailing democratic theories, without permission of the clamorous majority for the time being. (Cheers.) At last—and almost simultaneously the negative has been raised at the extremes of North America—Mexico and Canada—and we, at least here, we have no fear that our printers will be bullied into silence like the printer of President ADAMS. (Cheers.) We have not conceived our system in a spirit of antagonism to our next neighbors; we will still have enough in common with them constitutionally to obviate any very zealous propagandism on either part; but we will also have enough left of our ancestral system to distinguish permanently our people from their people—our institutions from their institutions—and our history (when we shall have a history) from their history. (Cheers.)

I have referred, Mr. Chairman and gentlemen, to the assertion of somewhat similar principles to our own now being made in Mexico. It would be strange if Canada should reach, by deliberation and forethought, the same results which Mexico has grasped at out of the miserable

depths of her long anarchy. (Cheers.) We are not yet informed whether the new Emperor designs to consolidate his provinces, or to leave them their local organizations; but this I know, that with all the immense natural advantages of Mexico, I should, for my part, rather take my chance for the permanent establishment of a free monarchy in the North than in Mexico. (Cheers.) We have already solved for ourselves one great problem—the legal relation of Church and State—which is still before the rulers of Mexico. If we have but half the population, we have three times the number of men of pure European race that Mexico has; and while I own that I wish every success to the Mexican Empire, under the auspices of France, I have, I confess, still stronger hopes for the successful establishment of the free kingdom of Canada, under the auspices of Great Britain. (Cheers.)

“ For fiery, fierce and fickle is the South ;
But loving, dark and tender is the North.”

—(Cheers.)

We have also solved—so far as the late Conferences could do so, for these provinces—the relation of the Crown to the people,—the sphere of the prerogative, and the sphere of the suffrage. We have preserved every British principle now in use among us, and we have recovered one or two that were well nigh lost; we have been especially careful not to trench on the prerogative of the Crown, as to the powers, rank, or income of its future representative on this continent; as to the dignity of the office, or the style and title of the future kingdom or viceroyalty, or by whatever other name it may be Her Majesty's pleasure to designate hereafter her dominions on this continent. (Cheers.) Next to the United States, we have the most extended suffrage in the New World; some think quite too far extended; but in our state of society, I do not see how that is to be avoided, in the selection at least, of the tax-imposing House of Parliament. We have, besides, restored to the Crown one of its essential attributes when, as the fountain of honor, we leave to the Sovereign the confirmation of the

second, the smaller and more Conservative Chamber; and we preserve for the Crown its other great attribute,—as the fountain of justice, by retaining its right to appoint the Judges,—of course upon the advice of the Constitutional Councillors of the Queen in this country, who are in turn responsible to Parliament and the people for their advice and appointments. (Cheers.) We have provided also, in our new arrangements, that the tenure of all offices, shall be good behavior, in contradistinction to the “spoils principle” of our next neighbors. In all these respects we have built on the old foundations, in the spirit of the old wisdom—and we have faith, therefore, that our work will stand. (Loud cheers.)

Naturally, gentlemen, we cannot expect that our course will be all plain sailing. We shall have our difficulties, as all states have had; and this brings me to refer to the powers remaining in the possession of the local legislatures. The difference of language between the majority of Lower Canada, and the majority of the whole union is a difficulty; but it is a difficulty which almost every other nation has had and has solved: in Belgium they have at least two languages, in Switzerland they have three chief languages—German, French, and Italian; the Federal form of Government, the compromise between great states and small, seems peculiarly adapted to conciliate difficulties of this description, and to keep politically together men of different origins and languages. (Hear, hear.) I confess, I have less anxiety on this score than I have on another—the proper protection of the minority in origin and religion in Upper and Lower Canada respectively. (Hear, hear.) On this point there is no doubt a good deal of natural anxiety felt in the Townships, as there is among my own constituents in Montreal, and I have no doubt you would like me to enlarge upon it as the point most immediately interesting to yourselves.

I am, as you are, interested in the due protection of the rights of the minority, not only as an English-speaking

member in Lower Canada, but as interested naturally and reasonably for my co-religionists, who form the minority in Upper Canada. (Hear, hear.) I am persuaded as regards both minorities, that they can have abundant guarantees, sacred beyond the reach of sectarian or sectional domination—for all their rights, civil and religious. (Hear, hear and cheers.) If we had failed to secure every possible constitutional guarantee for our minorities, east and west, I am sure the gentleman who may be considered your special representative at the Conference—(Hon. Mr. GALT)—and I am equally sure, that I myself, could have been no party, to the conclusions of the late Conference. (Loud cheers.) But we both believed—and all our Canadian colleagues went with us in this belief—that in securing the power of disallowance, under circumstances which might warrant it to the General Government, in giving the appointment of Judges and Local Governors to the General Government, and in expressly providing in the Constitution for the educational rights of the minority, we had taken every guarantee, legislative, judicial and educational, against the oppression of a sectional minority by the sectional majority. (Cheers.) You will have for your guarantee the Queen's name,—which I think the case of Ottawa has shown is not without power in Canada; you will have the subordination of the local to the general authority, provided in the constitutional charter itself, and you will have, besides, the great material guarantee, that in the General Government you will be two-thirds of the whole told by language, and a clear majority counted by creed; and if with these odds you cannot protect your own interests, it will be the first time you ever failed to do so. (Cheers.) The Protestant minority in Lower Canada and the Catholic minority in Upper Canada may depend upon it the General Government will never see them oppressed—even if there were any disposition to oppress them—which I hope there is not in Upper Canada; which I am pretty sure there is not in Lower Canada. (Cheers.) No General Government could stand for a single session under the new arrangements

without Catholic as well as Protestant support; in fact, one great good to be expected from the larger interest, with which that Government will have to deal will be, that local prejudices, and all other prejudices, will fall more and more into contempt, while our statesmen will rise more and more superior to such low and pitiful politics. (Loud cheers.) What would be the effect of any set of men, in any subdivision of the Union, attempting for example, the religious ascendancy of any race or creed? Why, the direct effect would be to condemn themselves and their principles to insignificance in the General Government. Neither you here, nor the Catholic minority in Upper Canada will owe your local rights and liberties to the forbearance or good will of the neighboring majority; neither of you will tolerate being tolerated; but all your special institutions, religious and educational, as well as all your general and common franchises and rights, will be secured under the broad seal of the empire, which the strong arm of the General Government will suffer no bigot to break, and no province to lay its finger on, should any one be foolish enough to attempt it. (Cheers.)

This is the frame of government we have to offer you, and to this system, when fully understood, I am certain you will give a cheerful and a hearty adherence. (Cheers.) We offer the good people of these colonies jointly a system of government which will secure to them ample means of preserving external and internal peace; we offer to them the common profits of a trade, which was represented in 1863, by imports and exports, to the gross value of 137,000,000 of dollars, and by a sea-going and lake tonnage of 12,000,000 of tons! We offer to each other special advantages in detail. The Maritime Provinces give us a right of way and free outports for five months out of every year; we give them what they need, direct connexion with the great producing regions of the North-west all the year round. This connexion, if they do not get through Canada, they must ultimately get through the United States; and one reason why I, in season. and perhaps, out of season,

have continued an advocate for an Intercolonial Railway was, that the first and closest and most lasting connection of those Lower Provinces, with the continental trade system, might be established by, and through, and in union with, Canada. (Cheers.) I do not pretend that mere railway connexion will make trade between us and them, but I am quite sure we can have no considerable intercourse, no exchanges or accounts *pro* or *con* without such a connexion both for postal and travelling purposes. I rejoice, moreover, that we, men of insular origin, are about to recover one of our lost senses—the sense that comprehends the sea—(Cheers)—that we are not now about to subside into a character so foreign to all our antecedents, that of a mere inland people. The Union of the Provinces restores us to the ocean, takes us back to the Atlantic, and launches us once more on the modern Mediterranean, the true central sea of the western world. (Cheers.) But it is not for its material advantages, by which we may enrich each other, nor its joint political action, by which we may protect each other, that the Union is only to be valued; it is because it will give, as it only can give, a distinct historical existence to British America. If it should be fortunately safely established and wisely upheld, mankind will find here, standing side by side, on this half-cleared continent, the British and American forms of free government; here we shall have the means of comparison and contrast in the greatest affairs; here we shall have principles tested to their last results, and maxims inspected and systems gauged, and schools of thought, as well as rules of state, reformed and revised, founded and refounded. (Cheers.) All that wholesome stimulus of variety which was wanting to the intellect of Rome under the first emperors, will be abundantly supplied out of our own circumstances and those of our neighbours, so that no CROERO need ever, by personal considerations, enter into indefensible inconsistencies, and no TAORITUS be forced to disguise his virtuous indignation at public corruption, under the thin veil of an outlandish allegory. (Cheers.) I may be sanguine for the future of

this country,—but if it be an error of judgment to expect great things of young countries, as of young people who are richly endowed by nature, and generously nurtured, then it is an error I never hope to amend. (Cheers.) And here let me say, that it is for the young men of all the provinces we who labor to bring about the Confederation are especially working; it is to give them a country wide enough and diversified enough to content them all, that we labor; it is to erect a standard worthy to engage their affections and ambition; it is to frame a system which shall blend the best principles with the best manners, which shall infuse the spirit of honor into the pursuit of politics, that we have striven—and who can be more interested for our success than the young men of the Provinces, who are to carry on the country into another century? (Cheers.)

We in our time, hope to do our duty; not only in “lengthening the cords and strengthening the stakes” of our constitutional system, with a view to that future, but in guarding jealousy in the perilous present, the honour and integrity of this province. I may say to you here, on the Eastern frontier, that the Government of the day are fully informed of all the machinations that have been set on foot, within and without our borders, to drive, or attempt, or trick Canada, out of that straightforward neutrality commanded by the Queen’s Proclamation four years ago. So far, we have been enabled to maintain that neutrality in the letter, as well as in the spirit, and I trust we may be equally successful in doing so, so long as it may be required. (Cheers) I am well convinced there is no Canadian who would wish his Government to make any base compliance—to overdo or overstrain any legal obligation—in order to buy for us the inestimable boon of peace; but I am equally convinced, and you will agree with me I feel confident, that all that can be done by way of prevention, however onerous or costly it may be to us a province, ought to be done to maintain friendly relations with our neighbors, so far as they will enable us to do so. The rest depends on them,—on the fairness of their statesmen

and their military authorities; but come what may in the future, at all events we must see that Canada does its duty, and its whole duty, cheerfully, fully, and fearlessly. (Cheers)

Mr. Chairman and gentlemen, I beg your forgiveness for the great length to which these remarks have detained you. But our general plan having already found its way to the public, I was anxious to show our countrymen, here and at home, in a plain, popular way, the processes of reasoning and the guiding principles by which we arrived at the results at which we have arrived. I should blush for myself, and grieve for my colleagues, if we were any of us capable of picking up our principles in a panic, without inquiry or reflection, or examination. (Cheers.) I need hardly assure you, gentlemen, that nothing was done or said at Quebec or Charlottetown without full deliberation, and very hard work. It would be invidious to name names in connection with what was regarded by all engaged as a confidential discussion; but while I cheerfully recognize in our countrymen of the Lower Provinces the noble qualities they exhibited throughout the whole of these transactions, I must say, I was proud of Canada's part in them also. (Cheers.) I was proud of the self-control, the ability, the acquirements, and the disinterested unanimity of our colleagues, from Upper as well as from Lower Canada. (Cheers.) And, now, gentlemen, that the architects have completed their plan, it is for you to say shall the building be put up? It is for you and for your representatives in Parliament,—for my friend Mr. Pope and the other Township members—for the people of the Maritime Provinces and their representatives to say, whether this great work is to be carried, with all due diligence, to its completion. If the design should seem to you as wise and fit as it seems to us, then fling all misgivings far behind you and go ahead! Let no local prejudice impede, let no personal ambition obstruct the great work. Why! the very Aborigines of the land might have instructed the sceptics among ourselves that union was strength. What was it gave at

one time the balance of power on this soil to "the Six Nations,"—so that England, France and Holland all sought the alliance of the red-skinned statesmen of Onondago? What was it made the names of BRANT, and PONTIAC, and TECUMSETH so formidable in their day? Because they too had conceived the idea—an immense stride for the savage intellect to make—that union was strength. (Cheers.) Let the personalities and partizanship of our times stand abashed in the presence of those forest-born Federalists, who rose superior to all mere tribal prejudices in endeavoring to save a whole people. (Loud cheers.) And now, my friends of the County of Compton, once more receive my grateful thanks; have no fears for the rights of the minority, but be watchful as you ought to be, and as I am sure your worthy member (who is always at his post when your interests are at stake) will be. (Cheers.) The Parliament of Canada is, as you are aware, called by His Excellency for despatch of business at Quebec, on the 19th of January; it is an early call; and I am sure you all feel it will be an important session. I am, I do assure you, persuaded in my inmost mind, that these are the days of destiny for British America; that our opportunity to determine our own future, under the favor of Divine Providence, is upon us; that there is a tide in the affairs of nations, as well as of men, and that we are now at the flood of that tide. (Loud cheers.) Whether the men who have this great duty in charge may be found equal to the task, remains to be proved by their votes; but for my part, I am hopeful for the early and mutually advantageous union of all the provinces; for the early and firm establishment of our monarchical Confederation on this continent. (Loud cheers—amid which the hon. gentleman resumed his seat.)

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