The Municipal Miscellany.

VOL. I. ARNPRIOR, ONTARIO, MAY, 1891. No. 5.

The Municipal Miscellany, devoted to the dissemination of useful information relating to Municipal and other local Institutions, published monthly, at $1 per annum; six copies for $5. Address all communications to G. E. NEILSON, publisher Municipal Miscellany, Arnprior, Ont.

Calendar for June, '91.

20. Statute Labor to be commenced not earlier in unincorporated townships; in other townships to be performed at any time required by pathmaster.

30. Last day for completion of duties of court of revision, except where assessment taken between 1st July and 30th Sept.
Last day for payment of license moneys by Inspector to Provincial Treasurer and municipal treasurer.
Semi-annual returns by Public School trustees to Inspectors.
Semi-annual reports of Separate Schools to Education Department.
Protestant Separate School trustees to return to County Inspector names and attendance during preceding six months.
Last day for establishing or discontinuing High Schools by County Councils.
Assessors to settle basis of taxation in union school sections.

QUESTION DRAWER.

In the case of a property occupied by a doctor, lawyer, veterinary surgeon, or as a printing office, shoe shop, or in any such manner, where the tenant does not make his dwelling but only his place of work, and occupies it in his work every working day of the year, is it lawful to assess such property to the owner or to the tenant who occupies it? And if at the request of the owner the court of revision should change the form of assessment in such cases from being assessed in the tenants' names to an assessment in the owner's name contrary to the will of the assessor, would such council leave themselves liable or would they be complying with the law in doing so? Please reply in your May number. G. A. S., Lucan.

In the cases mentioned the assessor properly assessed the tenants (conjointly with the owner) in the proportions belonging to or occupied by each tenant respectively, and the court of revision could not legally strike out the names of the tenants, unless in the meantime the premises became vacant, in which case it could be assessed in the name of the owner alone if he appealed to have the name of the tenant struck out. The law contemplates that all occupiers of property shall be taxable parties, no matter as to any private agreement between owner and tenant as to which of them is to pay the taxes. If the court of revision made a change in the assessment contrary to law, an appeal would lie to the judge, and the members of the court would most likely have to pay the costs of such appeal.

Where it has been discovered that some lots belonging to school section No. 3 were rated in adjoining school section No. 1, can trustees of No. 3 claim the amounts levied on those lots, although they (the trustees) have received from the township treasurer the full amount of their levy? G. S.

We do not think the trustees can claim from the township council any more than the amount of their requisition. As to the persons wrongly assessed they would have a claim on the council for a rebate, provided the proportion of school taxes paid by them was more than it should have been through an error.

Would it be legal for a councillor to go bondsman for a collector? Would it not disqualify him as councillor? A. L.

It would be legal so far as the bond is concerned, but it would disqualify the bondsman from acting as a councillor.

In a union school section formed of parts of two municipalities (in different townships, of course), say we assess real estate on land at $2 per acre; our neighbor at say $1 per acre. Each half or part of the union pays share according to valuation, to school purposes. How is the rate struck so that those in one municipality do not pay an unequal proportion to those of the other? A. L.

Section 91 of the Public Schools Act provides that once in every three years the assessors of the municipalities in which a union school section is situated, shall, after they have completed their respective assessments and before the first day of July, meet and determine what proportion of the annual requisition made by the trustees for schoo purposes shall be levied upon and collected from the taxablel property of the respective municipalities out of which the union school section is formed, and in the event of the assessors disagreeing the inspector in whose district the union school section is situated shall name a third party, and the decision of a majority shall be final and remain for three years. It is well-known that there are considerable differences in the method of valuations by different assessors. Some not placing more than half the actual values on properties, while others will place them at two-thirds, or as the case may be; therefore, while their different methods make no particular differences for township purposes, it would make quite a difference as to the county rate and in a school rate where united with a school section in another municipality. The law does not require any change to be made in the assessment rolls in order to equalize these differences for school purposes, but provides that the assessors shall meet and consider how much of an undervaluation one municipality or school section has as compared with the other, and they are equalized in valuations so as to bear a just proportion to one another. Having done this, and supposing that the total property in the school section of one municipality amounts to $10,000 and in the other it is $20,000, the assessors would report that the proportion to be paid by the former of school moneys would be one-third and of the latter two-thirds. Then if the trustees required $600 altogether, they would notify the clerk in the first named municipality that they required one-third of that sum to be levied on that portion of the section, and the other clerk would have to place a levy of $400 on the section in his municipality. Of course this would not alter the assessment rolls as returned, but the school section that was undervalued would have a higher rate on the $ placed on the collector's roll in order to make up their proportion.

I see that the 7th April is the date for clerk to transmit to the reeve list of lands in arrears for taxes for past year. Our collector has absconded and the roll has not been

returned; therefore, I cannot make returns. How shall I proceed, or what am I to do? Will the Council be unable to further collect the taxes remaining unpaid? Can I afterwards transmit list, being after date? Could council appoint a collector to collect the balance now, and same collector collect this year's taxes? The law says collector shall be appointed from year to year. This collection would all be within the year. A. L.

On the 7th April a return from the *local treasurer* to the *county treasurer* of lands in arrears is required. The clerk has no return to make at that date. If the collector has not made a return of the roll to the treasurer, of course the latter would be unable to comply with the law until such a return is made to him, but "better late than never" is a good rule in any case. If the collector has absconded his sureties would be liable for the taxes uncollected. If the roll is forthcoming, probably the sureties could make some arrangement to collect the balance due on it, but as to the best method of proceeding we would require more full particulars before forming an opinion. No doubt as soon as the council became aware of the default of the collector, they would consult a solicitor, and be guided by his instructions. This is what should be done in such a case.

Are streets in villages not incorporated, but which have been properly surveyed and registered, to be treated the same as government allowance for road? When such streets are occupied by private parties, how should council proceed to open said streets? On page 2 of last issue you speak of passing by-law to open road allowance when in possession of private party by reason of another road being used in lieu thereof, which is very clear; but to open Government road allowance where no other road is used in lieu, would council need to pass by-law at all, or what steps would be necessary? How should council proceed to close up or divert a road through private property which has been used as a public highway for a number of years?

G. A. A., Sutherland's Corners.

It would, we think, be necessary to pass a by-law to open the streets spoken of to the public, if they have not been so used already. It certainly would appear from sub-section 24 of section 489, and sub-sections 17, 27, 28 and other sub-sections of section 496 of the Municipal Act to require by-laws to prevent obstructions such as fences, etc., and then if the terms of the by-law are not complied with an indictment for nuisance would follow. We cannot find any law giving councils such a summary method as tearing down a fence would be. We have seen it done, however, thus throwing the onus of an action against the corporation on the individual, and it worked satisfactorily in so far that no action was brought. The definition given in the Municipal Act to the word "highway" is a public highway, but one that has never been used even though surveyed and laid down as a road allowance can hardly be called a public highway, and our opinion is that it would require a by-law of the council to give them possession and to open it for public use. It is necessary to pass a by-law to close up a travelled road on which work has been done or money expended or which has been in general use by the public, and the latter by-law must be advertised before being passed and must afterwards obtain the assent of the county council. See section 546 and sub-sections for procedure.

Piles of logs and lumber have been placed on the public road allowance, and the owner was notified by the path-master to remove the same within a reasonable time. The time expires and the owner neglects and refuses to remove them. What is the legal course for the pathmaster to pursue in the matter? Would he be justified in selling the stuff, or in removing it at the cost of the owner and holding the lumber in security until the cost be paid? A. McL.

The editor regrets that he is unable to reply to his correspondent's enquiry as explicitly as he could wish. Not finding any decisions bearing directly on the point, and not having any experience in such a matter he will be very glad if some of his readers would give what information they can. To an ordinary reader the question would seem but a simple one, and one that any person might answer off hand, but as a matter of fact the question involves some nice legal points, and only those who have gone through the "ordeal" can instruct as to the proper course to pursue. We incline to the opinion that a by-law would first be necessary in order to give the council a legal possession of the road allowance and to prohibit obstruction, and the next step would be to notify the owner, giving him a reasonable time to remove the obstructions, and then if not complied with that the owner be indicted before the grand jury of the Quarter Sessions. The obstruction is in the nature of a public nuisance, and as such could not be dealt with summarily before a magistrate. We may be wrong, and hope we are, as if our view is correct it is a very roundabout and expensive method of rectifying what should be but a simple matter.

Our assessor has assessed church buildings and land with other assessments, also parsonages and land?

1. Have such church building and lands the right to be so assessed subject to all the county, township and school rates usually imposed? My opinion is that they are only to be rated for some improvement in the immediate vicinity of such property, by which said property is benefitted, and not for ordinary purposes. See Vic. 53, chap. 55, sec. 1, act 1890.

2. The assessor assesses the father as Freeholder and the sons also as F., including them in brackets; should those sons be designated by F. or by F. S. when they are the sons of farmers? By farmers' sons being assessed as joint owners we lose so much statute labor more than if they were marked as farmers' sons. Again, lawyers and merchants have their sons marked F. on roll; is that the proper marking?

3. Suppose the assessment is not handed in to clerk until say 10th May, no resolution of council fixing any date different to statutes, would the term for appeal be also extended? C. P.

1. We agree with our correspondent's interpretation. In fact it is clearly stated that the assessments of land on which a place of worship is erected and land used in connection with a place of worship are to be assessed for local improvements, and no authority has been given to assess them for other purposes. 2. The assessor, if he has reason to believe that the farmer's son is not a joint owner or that the others are not freeholders, is highly culpable in assessing them as such. An official should only carry out the laws; he has no authority to make laws to suit the wishes of any body. Members of Parliament are elected for the purpose of making laws. 3. Yes. If roll not returned until 10th May the time for appeal would be fourteen days from 10th May instead of count-

ing from 30th April. The date for holding first meeting of court of revision would also have to be extended.

1. Can a member of a Council qualify on personal property? 2. Can a voter qualify on personal property? 3. Is it necessary for a person to be assessed for $100 real property in order to have a vote at elections in Algoma? 4. Are householders who are not assessed for anything except as householders entitled to vote at municipal elections in Algoma? A. R.

1. No. $200 freehold or $400 as householder is qualification as councillor. 2. No. 3. No. Voters in Algoma must be on the assessment roll as resident freeholders or householders, but the law does not state the amount they are to be assessed at. 4. Yes. An assessor would hardly assess any person as a householder or freeholder without some valuation, and the evident intention of the Act is to give all *bona fide* settlers in the new districts a right to vote, but not such persons as might be imported merely for voting purposes.

CORRESPONDENCE.

The following letter was intended for the editor's private perusal only, but we deem it of too much interest to deprive our readers of its contents. W. McD. will, we trust, pardon us if we have taken too much liberty in that respect. We assure him that his criticism is accepted in the kindly spirit in which it is given. We want all our readers to understand, as stated in the first number of the MISCELLANY, that our object is to enable all clerks and local officials an opportunity to freely exchange opinions on the somewhat intricate laws they have to do with, as in this way many doubts may be cleared up. There are none among our readers more desirous to learn than the editor, and therefore we welcome contributions that may be for the general good from any quarter :—

In the last two numbers of the MISCELLANY in your explanation of the law, I see what I think are errors. I write you to call your attention to the same, to state wherein I differ with you, and to say how we understand the law around here. Although I differ with you I wish such difference to be a friendly one, and trust that you will receive it as such.

You say the assessment roll requires to be returned on or before the 30th day of April; that the last day for receiving appeals is the 14th of May, and the soonest the court of revision can sit is May 25th. Section 49 of the Assessment Act says that the assessor shall complete his roll on or before the 30th day of April, but section 50 says the roll is to be delivered to the clerk on or before the 1st day of May, so that the return day is May 1st. Then, allowing 14 days after the return day for notices of appeal to be given, makes the last day for filing such notices the 15th day of May; then, allowing 10 days as per section 60, makes the 26th of May the earliest date for holding the court of revision.

Re Ditches and Watercourses, March number. I read the law that any one interested can call the first meeting in Form B. The first meeting is generally but a matter of form, for they seldom agree. If no satisfactory agreement is come to at first meeting, then some one or more of the interested parties must notify the township clerk in Form C. Then the clerk sends a copy of the requisition he receives to the engineer, requesting him to name a time when he will attend to examine the premises in dispute, hear the parties, etc. The engineer then notifies the clerk of the date or time when he will attend, after which the clerk notifies each one of the interested parties of the time when the engineer will attend. The engineer goes on and makes his inspection and survey, and files his plan and award with the clerk within 30 days. The clerk then notifies each party interested that the plan and award have been filed, and 15 days are allowed for appeal to be made by any of the interested parties. I don't think any one of the parties can call the engineer. In the case referred to in the question submitted to you, the parties and the engineer seem to have gone astray after the first meeting.

I notice also that you number the pages of your journal 1 to 8 on each issue. It would have been better had you begun with number one and continued on consecutively to the end of the volume, thus preparing an index for reference.

I hope you will not be annoyed at my criticism, but bear in mind that it is from one who wishes you success.

W. McD., Rockton.

In regard to the dates of return of the assessment roll referred to above, our correspondent has overlooked the amendment made in 1889 to section 50, which changed the words "on or before the 1st day of May" to "on or before the thirtieth day of April," and therefore the dates at which appeals could be made and court of revision held as given in the April number are correct.

"E. P.'s" question on page 4 of the March number reads: "Had the person who called (by requisition) for engineer a right to so call, he not being the one who called the first meeting?" We answered "Yes." We took it for granted that the regular form of requisition to the clerk (Form C) and the latter's notice to engineer had been complied with, especially as the question contained in parenthesis the words "by requisition," and therefore we did not enter into details of procedure, which had we done, would have been similar to those of "W. McD."

In reference to the continuous numbering of the pages of the MISCELLANY, we can readily see that the suggestion of W. McD. is a good one. Two or three of our correspondents have suggested certain changes in form of the paper. For instance, one of our readers says he would prefer the MISCELLANY to be 8 vo. as more easily filed, bound and for reference. Another correspondent recommended a broad sheet, and to contain more general reading matter, and thought that by devoting a portion of space to advertisements the difference in cost would be made up. We are rather pleased than otherwise to receive suggestions from our readers, as it betokens an interest in the success of the paper, and all such suggestions will receive due consideration before entering upon a second volume. When we commenced the publication we had no subscribers or assurances of a circulation; in fact, one or two in whose judgment we had considerable confidence and to whom we broached the matter, while admitting the need of some such journal, rather dampened our ardor on the score of support. We therefore deemed it unwise at the start to undertake more than we were disposed to risk of our personal means in order to carry it on for the year, and finding that about $400 would do so on its present basis we undertook the venture, and thus far have no reason to complain of the reception accorded us. No doubt there are many others among our officials better qualified to undertake the publication of such a journal, and we will not be averse to making

a change in that respect should satisfactory arrangements be made before the end of the present year. In the meantime subscribers may rest assured that the publication will be continued, their interests fully guarded, and nothing left undone in our power to make the MISCELLANY worthy of their patronage.

In our township we have an ex-assessor named James McKenne who assessed this township for fifteen years, and during all that time there was never one appeal against the assessment. G. A. ARMETT, Clerk of Euphemia.

Accept my thanks for your kindness in sending me four numbers of the MUNICIPAL MISCELLANY. I thought when I received the first number that it would be useless for me, a thirty-seven year incumbent of the office of township clerk, to subscribe for it, but each succeeding number convinced me more and more that its advent to the much burdened township clerk was a true friend and yokefellow to help him surmount the increasing and ever-changing difficulties of his mazy road. Enclosed I send one dollar for one year's subscription. A. McL., Riceville.

The space taken up this month with a copy of the amendments just made to the Municipal Act prevents us from referring to some other matters of interest, but which will keep until the next issue.

* * *

We are pleased to know that not a few township councils have seen their way clear to accept our offer of six annual copies of the MISCELLANY for $5, thus better furnishing, we trust, the councillors and clerk with proper requirements to carry on the work of the people. The last of such lists to hand is from Mr. C. Palling, the genial clerk of the township of Innisfil in the county of Simcoe. Innisfil is a populous and wealthy township, second only to the banner township of Nottawasaga in that county.

THE MUNICIPAL AMENDMENT ACT.

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

1. Section 9 of *The Municipal Act* is amended by inserting therein the words "of the age of twenty-one years and over" immediately after the word "neighborhood" in the 8th line thereof.

2. Section 9 of the said Act is further amended by adding thereto the following sub-section:—

(2) In case the territory sought to be incorporated, or any part thereof lies within one mile of the limits of a city having a population of 100,000 and upwards, the petition shall be signed by not less than two-thirds of the freeholders and householders, of the age twenty-one years and over, whose names appear on the last revised assessment roll, and who have been resident within the territory sought to be incorporated for at least four months immediately prior to the signing of said petition, within the district sought to be incorporated, and of whom not fewer than one-half shall be freeholders.

(3) If the district sought to be incorporated, or any part thereof has been laid out in lots on a registered plan, each petitioner shall state the number of the lot on said plan owned or occupied by him, and shall further set out whether he is a freeholder or householder.

(4) No by-law shall be passed under this section unless the petition therefor shall have been lodged with the clerk of the county at least one month before the meeting of the the council at which the same is to be considered, nor unless public notice shall have, within two months previous to the meeting of the council at which the same shall be considered, been published at least once a week for two successive weeks in some newspaper at or nearest to the locality sought to be incorporated and such notice shall set forth a description of the area intended to be embraced in the village.

3. Section 132 of the said Act is amended by striking out all the words after the word "copy" in the fourth line thereof and subsisting therefor the following "either printed or written, or partly printed and partly written, certified to be a correct list of voters for the ward of polling sub-division under section 128 and following sections, together with a blank poll book according to the form of schedule C to this Act, and also a copy of the proper defaulter's list for the polling sub-division certified by the treasurer or collector pursuant to section 119 of this Act."

4. Section 136 of the said Act is amended by inserting the words "poll book" after the word "list" at the end of sixth line thereof.

5. Sub-section 2 of section 143 of the said Act is repealed and the following substituted therefor:

2. He shall record or cause to be recorded by the poll clerk in the proper columns of the poll book the name, qualification, residence and legal addition of such person.

6. Where the words "voters' list" appear in sub-sections 3, 4 and 5 of section 143, sections 145, 148 and sub-section 2 of section 149 of the said Act the same is struck out and the words "poll book" substituted therefor.

7. Sub-section 6 of section 143 of the said Act is repealed and the following substituted therefor:

(6) Where the proper entries respecting the person so claiming to vote have been made in the poll book in the manner prescribed, the deputy returning officer shall before signing his name or initials on the back of the ballot paper place or cause to be placed a check or mark opposite to the name of the voter in the certified voters' list to indicate that the name of such person has been entered in the poll book and the person allowed to vote.

8. Section 210 of the said Act is repealed and the following substituted therefor:—

210.—(1) Every person, who directly or indirectly, by himself or any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens infliction by hims lf, or by or through any other person of any injury damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting at any municipal election, or on account of such person having voted or refrained from voting thereat, or who by abduction, duress, or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter either to give or to refrain from giving his vote at any municipal election, shall be deemed to have committed the offence of undue influence, and shall incur a penalty of $100, and shall be disqualified from voting at any municipal election or upon a by-law for the next succeeding two years.

(2) Every person who at any municipal election applies for a ballot paper in the name of some other person, whether the name be that of a person living or dead, or of a fictitious person, or who having already voted at any such election improperly applies at the same election for a ballot paper in his own name, or who advises or abets, counsels or procures any other person so to do, shall be deemed to have committed the offence of personation, and shall incur a penalty of $200, and in default of the payment of the penalty and costs, the offender shall be imprisoned in the

common goal for a period of sixty days, unless the penalty and costs be sooner paid.

9. Section 214 of the said Act is amended by striking out the words and figures "sections 209 and 210," in the second line and inserting in lieu thereof "section 209."

10. Sub-section 2 of section 340 of *The Municipal Act* as amended by *The Municipal Amendment Act, 1890,* is hereby amended by adding after the word "railways" in the first line, the words "harbor works or improvements."

11. Section 352 of *The Municipal Act* is amended by adding thereto the following sub-sections:—

(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 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.

12. Section 373 of the said Act is hereby amended by adding the following sub-section:

(2) Provided always that any money 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 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.

13. Section 436 of the said Act as amended by *The Municipal Amendment Act,* 1888, and *The Municipal Amendment Act, 1889,* is further amended by adding thereto the following sub-section:—

(5) The board of commissioners of police in any city, and the council of any town, may regulate or prohibit the playing of bands and of musicial instruments on any street, highway, park or public place in the city, but this shall not apply to any military band attached to any regular corps of the militia of Canada when on duty under the command of its regular officers.

14. Sub-section 16 of section 479 of *The Municipal Act* is amended by inserting in the fourth line thereof after the words "leading thereto" the words "and the construction and width of stairways in churches, theatres, halls, or other places used for public worship, public meetings or places of amusement, and in factories, warehouses, hotels, boarding and lodging houses."

15. Sub-section 20 to section 479 of the said Act is repealed and the following substituted therefor:

(20) For causing any tree, shrub or sapling, growing or planted on any public place, square, highway, street, lane, alley or other communication under its control, to be removed, if when such removal is deemed necessary for any purpose of public improvement; but any owner of adjoining property shall be entitled to ten days' notice of the intention of the council to remove such tree, shrub or sapling, and shall be entitled to be recompensed for his trouble in planting and protecting the same. No owner of adjoining property nor any pathmaster or other public officer, nor any other person, shall remove or cut down or injure such tree, shrub or sapling, on pretence of improving the public place, square, highway, street, road, lane, alley or other communication or otherwise, without the express permission of the municipal council having the control of the public place, square, highway, street, road, lane, alley or other communication; and any council may expend money in planting and preserving shade and ornamental trees upon any public place, square, highway, street, road, lane, alley or other communication within the municipality, and may grant sums of money to any person or association of persons to be expended for the same purposes.

16.—(1) Section 483 of the said Act is amended by adding thereto the following words "and such claim shall be made within one year from the date when the alleged damages were sustained or became known to the claimant, or in case of a continuance of damage, then within one year from the time when the cause of action arose or became known to the claimant."

(2) This section shall not apply to real property taken or used by the corporation.

17. Clause *(b)* of sub-section 1 of section 489 of the said Act is amended by inserting the word "township" after the word "any" in the third line thereof.

18. Section 489 of the said Act is amended by inserting therein the following as sub-section 16*a*.

16*a*. For inspecting and regulating the construction and erection of hoists, scaffoldings and other constructions used in the erecting, repairing, altering or improving buildings, chimneys, or other structures; and for making all necessary regulations for the protection and safety of workmen and other persons employed thereon, and for appointing inspectors of scaffolding.

19. Section 495 of *The Municipal Act* is amended by adding thereto the following sub-sections:—

(13) For establishing schools for the training and education of artisans, mechanics and workingmen in such subjects as may promote a knowledge of mechanical and manufacturing arts, and for acquiring such real property as may be requisite for such schools; and for erecting and maintaining suitable buildings thereon; and for improving and repairing such school buildings, and for disposing of such property when no longer required.

(a) The councils of any municipality establishing such schools may appoint boards of trustees or managers to conduct the schools, giving them such authority or power for the management of the same, as the councils may deem expedient.

(14) For making grants in aid of such schools as may be deemed expedient.

20. Clause *a* of sub-section 31 of section 496 of the said Act is repealed and the following substituted therefor:

(*a*) Every by-law changing the name of a street in a city or town, shall state the reason for the change, and shall not be finally passed until the same has been approved by the County Judge.

21. Sub-section 39 of section 496 of the said Act is amended by inserting the words, "electric light" before the word "telegraph" in the first line thereof.

22. Section 504 of the said Act is amended by inserting therein the following as sub-section 5*a*.

5*a*. For granting money to aid and assist in the construction of public bathing houses within the municipality, to borrow money for such purposes, and to issue debentures to secure the re-payment thereof.

23. Section 504 of the said Act as amended by *The*

Municipal Amendment Act, 1890, is further amended by adding thereto the following sub-section :—

(16) In addition to the powers given and contained in sub-section 14 of this section any city or town operating or proposing or intending to build or operate a street railway within its own limits may also pass by-laws for building, equipping, maintaining and operating any extension of any such street railway in any adjoining municipality with the consent of such adjoining municipality by by-law, and subject to and upon such terms as the Lieutenant-Governor in Council may approve, upon the same terms and subject to the same conditions and provisions of law as any street railway company may build, maintain or operate any street railway under *The Street Railway Act* or any amendments thereof; and such city or town building, constructing, owning or managing a street railway extending beyond its territorial limits and authorized as aforesaid and with the consent aforesaid shall not be held to be illegally expending money, merely because it is expended upon or in connection with such portion of said street railway as may extend beyond its territorial limits.

24. Sub-section 4 of section 531 of *The Municipal Act* is amended by adding the words "or near to" after the word "in" in the third line thereof; and the said section 531 is further amended by stricking out the words "provided nevertheless" in said sub-section 4 thereof, and all words subsequent thereto, and by adding the following sub-sections :—

(5) The municipal corporation shall be entitled to such remedy over in the same action, if the other corporation or person shall be made a party to the action, and if it shall be established in the action as against the other corporation or person, that the damages were sustained by reason of an obstruction, excavation or opening as aforesaid ; placed, made, left or maintained by the other corporation or person, and the municipal corporation may in such action have the other corporation or person added as a party defendant or third party for the purposes hereof, if the same is not already a defendant in the action jointly with the municipal corporation, and the other corporation or person may defend such action as well against the plaintiff's claim as against the claim of the municipal corporation to a remedy over, and the court or judge upon the trial of the action may order costs to be paid by or to any of the parties thereto, or in respect of any claim set up therein as in other cases.

(6) If such other corporation or person be not a party defendant to such action, or be not added as a party defendant or third party, or if the municipal corporation shall pay the claim for such damages before any action is brought to recover the same, or before any recovery of damages or costs against the municipal corporation such municipal corporation shall have a remedyover, by action against any other corporation or person for such damages and costs as have be sustained by reason of any obstruction, excavation or opening placed, made, left or maintained by the other corporation or person, provided always that such other corporation or person shall be deemed to admit the validity of the judgment, if any, obtainedr against such municipal corporation in cases only where a notice has been served on such other corporation or person pursuant to the provisions of rule 329 of the consolidated rules made under the authority of *The Judicature Act*, or where such other corporation or person has admitted, or is estopped from denying the validity of such judgment, and where no such notice has been served, and there has been no such admission or estoppel, and the other corporation or person has not been made a party defendant or third party to the action against such municipal corporation, or where such damages have been paid without action, or without recovery of judgment against the municipal corporation, the liability of the municipal corporation for such damages, and the fact that the damages were sustained by reason of an obstruction, excavation or opening placed, made, left or maintained by the other corporation or person, shall be established in the action against such other corporation or person, shall be established in the action against such other corporation or person in order to entitle the municipal corporation to recover in such action.

25. Section 550 of *The Municipal Act* is hereby amended by adding thereto as sub-section (7*a*) the following :—

(7*a*) For purchasing and holding by itself or jointly with any other municipality such land containing stone or gravel beds within its own or any adjoining municipality as may be necessary to procure stone or gravel therefrom for for the purpose of constructing, maintaining or repairing any streets, roads or highways owned by such municipality, and sell and convey the same wherever the object for which the same was purchased shall no longer exist.

26. Sub-section 4 of section 616 of the said Act, as amended and consolidated by section 38 of *The Municipal Amendment Act, 1890*, is amended by striking out the words and figures "section 623 of this Act" in the 12th line of the said sub-section and inserting in lieu thereof the words and figures "sub-section 4 of section 618 of this Act."

27. Sub-section 3 of section 620 of *The Municipal Act*, as amended and consolidated by section 38 of *The Municipal Act, 1890*, is repealed and the following substituted as amendment therefor :—

(3) In case the council of such municipality is about to construct, renew or alter the character of a pavement on any street, highway or public place, or portion thereof, as a local improvement, the council may, before putting down such pavement, put in all necessary private drain connections, from any existing drain or sewer upon such street or portion thereof to the street line on each side of the drain or sewer, and also all necessary water mains, and may assess and levy the cost thereof, and of any alterations of service pipes and stop-cocks, necessitated thereby against the particular properties benefited thereby as part of the cost of the said local improvement pursuant to the provisions of section 612 of this Act.

28. Sub-section 7 of section 620 of *The Municipal Act*, as amended and consolidated by section 38 of *The Municipal Amendment Act, 1890*, is amended by striking out the word "answerable" where it occurs in the second and eighth lines of said section and inserting in lieu thereof the word "assessable."

29. Section 629 of *The Municipal Act* is amended by inserting in sub-section 2 after the words "frontage thereof" the words "or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full council."

30. Sub section 2 of section 630 of the said Act is amended by adding after the word "works" in the seventh line of said sub-section, the words : "fire engine and appliances."

31. Section 630 of the said Act is further amended by adding thereto the following sub-sections :—

(4) The council of a Township may also by the same or any subsequent by-law, direct in any case where a fire engine and appliances for the purpose of fire protection have been or are about to be purchased, that at the then next ensuing, and at each subsequent municipal election for the municipality, three trustees, with the powers and for the purposes hereinafter mentioned, be elected for the same periods of time and in the same manner as municipal councillors are elected, provided, however, that no person shall have a vote at said election of said trustees unless he or she be the owner of real property defined by a by-law of the said municipality as real estate to be benefited and charged with the cost of the purchase of such fire engine and appliances, and has the same qualifications as are required by this Act to enable owners of real estate to vote at municipal elections.

(5) The said trustees shall have the care, control and management of said fire engine and appliances.

32. Section 24 of The Municipal Amendment Act, 1888, is amended by inserting in the 16th line thereof after the word "works," the words "or to pay the expense of any extensions or improvements thereof already made or completed wholly or in part," and by substituting for the words "proposed extensions are" in the 24th line of said section, the words "said extensions are or were."

33. Section 42 of the Municipal Amendment Act, 1890, is amended by inserting the words "or town" immediately after the word "city" wherever the latter appears in said section.

34. Section 42 of The Municipal Amendment Act, 1890, is further amended by substituting for the words "section 612" in the first line the words "sections 612 to 623 inclusive."

35. Where local improvements benefiting real property have heretofore or shall hereafter be made under the provisions of the local improvement clauses of this Act the costs whereof, in whole or in part, have been charged upon or against the real property, the petitioning for or procuring to be made, or the making of any such local improvements, or the charging the costs thereof upon or against the real property, or the fact that they are a charge upon or against such real property, shall not be deemed to be a breach of the covenant by a vendor or person agreeing to sell that he has done no act to encumber the real property, except to the extent that the annual or other payments in respect of such charge are in arrear, and unpaid, but this shall not affect or apply to any case already adjudicated upon or now pending in litigation.

36.—(1) The majority in number of the persons shewn by the last revised assessment roll to be the owners of the real property comprised in any portion of a township, city, town or incorporated village to be defined in the petition hereinafter referred to, and who represent at least one-half in value according to such assessment roll of such property, may petition the council to aid any street railway company by granting money or debentures by way of bonus or gift or by way of loan to such company to assist in the construction of the railway to, through or partly through or near to such portion, and may in such petition define the manner and amount of the aid desired.

(2) Upon receipt of such petition, the council after the assent of a majority of the ratepayers within such portion of the municipality, who are entitled to vote thereon, has been obtained, in the manner provided by *The Municipal Act*, may pass the by-law for the granting of such aid in accordance with the petition and for raising the amount petitioned for in the portion of the municipality mentioned in the petition, by the issue of debentures of the municipality, and for the delivery of the debentures or the application of the amount to be raised thereby, as may be expressed in the by-law, and for the assessing and levying upon all the ratable real property lying within the portion of the municipality defined in the by-law an annual special rate for the repayment of the said debentures within twenty years, with the interest thereon payable yearly or half-yearly, which debentures the council, reeves and other officers of the municipality are hereby authorized to execute and issue.

(3) The principal and interest of such debentures may be made repayable by annual instalments, as provided for by section 342 of The Municipal Act, or a sinking fund may be provided for by the by-law.

(4) In any and every case in which street railways lines are built by different duly incorporated street railway companies in the same or adjoining municipalities along different routes to the same terminal point, then in case an agreement cannot be arrived at between two such companies providing for the exchange and transfer of tickets for a continuous trip over both such lines or portion thereof, the matters in difference in respect thereof shall be referred to arbitration under the provisions of The Municipal Act.

37. The council of any city may include in the annual estimates a sum to be expended in the reception and entertainment of distinguished guests, and any travelling expenses necessarily incurred in and about the business of the corporation, which sum shall, in the case of cities having a population of 100,000 or over, be not more than $5,000; in the case of other cities having a population of 20,000 and over, not more than $1,000, and in the case of other cities, not more than $500 in any year.

38. In case all the owners of the property or lots abutting according to the original survey by the Crown on the road, street or public way hereinafter mentioned to be benefited thereby, in any part of any township, petition the council for the macademizing, gravelling, planking or otherwise improving by approved material, and draining any road, street or public way (describing it), or building a bridge in connection therewith, the council may procure an engineer or provincial land surveyor to make an examination of the said road, street or public way so proposed to be improved, and may procure plans and estimates to be made of the said work by such engineer or surveyor of the real property, municipalities and corporations to be benefitted by such work, or the owners or occupants of which real property may or can use the same, stating as nearly as may be in the opinion of such engineer or surveyor the proportion of benefit to be derived therefrom by every road and lot or portion of lot, and of any railway or street railway, or municipality or corporation; and if the council is of opinion that the proposed work or a portion thereof would be desirable, the council may pass by-laws:

1. For providing for the proposed work or a portion thereof being done, as the case may be.

2. For borrowing, on the credit of the municipality, the funds necessary for the work, although the same extends beyond the limits of the municipality (subject, in that case to be reimbursed as hereinafter mentioned), and for issuing the debentures of the municipality to the requisite amount, including the costs of arbitration, if any, in sums of not less than $100 each, and payable within twenty years or less from date, with interest at the rate of not less than four per cent. per annum.

39. The several provisions of The Municipal Act from section 569 to section 611, both inclusive, and the amendments thereto, not inconsistent with the last preceding section and in aid thereof, shall, *mutatis mutandis*, be applicable, as far as possible, to the making and improvement of the said road, street or public way, and the drainage and other work connected therewith, in manner hereinbefore provided, as if the said several sections related to roads and the improvement thereof, so as to make the said clauses efficient for the construction of roads in substantially the same way as drains are now constructed.

40. Any real property specially assessed by any council for any local improvement or work under the two last preceding sections of this Act may be exempted by the council, in whole or in part, from any general rate or assessment for the like purpose.

41. Any owner of real property to be benefited by the construction of any work or improvement, the cost of which is payable by local special assessment under sections 612 to 623 of The Municipal Act, as amended and consolidated by section 38 of The Municipal Amendment Act, 1890, may, notwithstanding that his name does not appear on the last revised asessment roll of the municipality, petition for or against such local improvement upon satisfying the clerk of the municipality by a statutory declaration or otherwise that he is the owner of the property instead of the person assessed therefor upon such last revised assessment roll,

42. Every person who is required to lodge with the registrar a plan or map of any survey or sub-division of land in any city or town shall at the same time deposit with said registrar a duplicate of such plan or map, and the registrar shall endorse thereon a certificate, showing the number of such plan or map and the date when the duplicate original thereof was filed with him, and the same shall be delivered by the registrar to the treasurer or assessment commissioner of the municipality, upon request, and without any fee being chargeable in respect thereof. The provisions of section 88 of The Registry Act shall not apply to any plan or map, a duplicate of which has been deposited as required by this section; but, in case of neglect or refusal to comply with the provisions hereof, the penalty mentioned in the said section shall become payable.

43. This Act shall be read with and shall form part of The Municipal Act, and shall come into force on the first day of July, 1891; except as to section 36, which shall come into force upon the passing hereof.

REPORT OF COMMISSION ON MUNICIPAL INSTITUTIONS.

(EXTRACTS CONTINUED.)

After the passing of the Act of 1774, grants of land under the feudal tenure of the French were issued to the settlers in all parts of Canada. Section 43 of the Constitutional Act provided that "all lands which shall be hereafter granted within the Province of Upper Canada shall be granted in free and common soccage," and that in every case in which lands were thereafter granted in Lower Canada and where the grantee so desired those lands also should be granted in free and common soccage, but subject to such alterations with respect to the nature and consequence of such tenure as may be established by any law passed by the Provincial Legislature. It also provided that persons holding land in Upper Canada by virtue of any certificate of occupation derived under the authority of the Governor and Council of the Province of Quebec may surrender the same and obtain a grant in free and common soccage.

This was really the introduction of representative institutions in Canada.

On July 24th, 1788, Lord Dorchester (Sir Guy Carleton), then Governor-General by authority of an ordinance made in the 27th year of the reign of George III., and of another ordinance made in 1788, had issued a proclamation dividing what was afterwards Upper Canada into four districts named Lunenburg, Mecklenburg, Nassau and Hesse.

On July 16th, 1792, Lieut.-Governor Simcoe, under and by authority of the Constitutional Act, issued a proclamation dividing Upper Canada into 19 counties, viz: Glengarry, Stormont, Dundas, Grenville, Leeds, Frontenac, Ontario, Addington, Lennox, Prince Edward, Hastings, Northumberland, Durham, York (to consist of two ridings), Lincoln (divided into four ridings), Norfolk, Suffolk, Essex and Kent. For the purposes of representation Glengarry was divided into two ridings, each of which was to elect a representative. Stormont, Dundas and Grenville were to elect one representative each; Leeds and Frontenac together were to elect one member. Ontario and Addington together were to elect one member. The county of Prince Edward and the district of Adolphustown (in Lennox), were together to elect one representative. The remainder of Lennox and the counties of Hastings and Northumberland together were to elect one member. Durham, York and the first riding of Lincoln together were to have one representative. The second and third riding of Lincoln were each to elect one representative. The fourth riding of Lincoln and the county of Norfolk were to elect one representative. The county of Suffolk and the county of Essex together were to elect one member, and the county of Kent was to elect two representatives. The minimum number of sixteen representatives were thus distributed apparently according to population as nearly as may be.

The first Parliament of Upper Canada was summoned to meet at Newark (afterwards Niagara), which Governor Simcoe had selected as the seat of Government.

It would be difficult to overestimate the importance of its work as a legislature. Its very first act was to repeal that part of the Imperial Act 14 George III., which related to civil rights. Its Act, 32 George., cap 1, declared that the authority of such laws of Canada and every part thereof as formed a rule of decision in all matters of controversy relative to property and civil rights "shall be annulled, made void, and abolished throughout this Province, and that the said laws, nor any part thereof, as such, shall be of any force or authority within the said Province, nor binding upon any of the inhabitants thereof." It further declared and enacted that "from and after the passing of this Act in all matters of controversy relative to property and civil rights resort shall be had to the laws of England as the rule for the decision of the same." The Act provided that the ordinances of Quebec should not be held to be repealed or varied otherwise than as they are necessarily varied by the provisions herein mentioned;" that all matters relative to testimony and legal proof in the several courts of law and equity be regulated by the rules of evidence established in England, and that nothing in this Act contained shall vary or interfere, or be held to vary or interfere, with any of the subsisting provisions respecting ecclesiastical rights or dues within this Province, or with the forms of proceeding in civil actions, or the jurisdiction of the courts already established, or to introduce any of the laws of England respecting the maintenance of the poor or respecting bankrupts.

Its second Act (32 Geo. III., cap. 2), established trial by jury. It provided that "from and after the first day of December, in this present year of our Lord one thousand seven hundred and ninety-two, all and every issue, and issues of fact which shall be joined in any action, real, personal or mixed, and brought in any of His Majesty's courts of justice within the Province aforesaid shall be tried and determined by the unanimous verdict of twelve jurors duly sworn for the trial of such issue or issues, which jurors shall be summoned and taken conformably to the law and custom of England."

Chapter 3 was an Act to establish the Winchester measure and a standard for other weights and measures throughout the Province; Chapter 4 an Act to abolish summary proceedings of the Court of Common Pleas in actions under ten pounds sterling, the reason assigned for this being that "the introduction of trial by jury had materially altered the constitution of that court." Powers were conferred on the Courts of Quarter Sessions of which we had previously heard nothing. Chapter 5 empowered "the magistrates in each and every district of the Province in Quarter Sessions assembled to make such orders and regulations for the prevention of accidental fires within the same as to them shall seem meet and necessary; and to appoint firemen or other officers for the prevention of accidental fires, or for the purpose of extinguishing the same when such may happen; and to make such orders and regulations as to them may seem fit or necessary in any town or towns, or other place or places within each district within this Province where there may be forty storehouses and dwelling houses within the space of half a mile square."

To be Continued.

Printed for the Publisher by JOHN A MACDONALD Aforesaid.