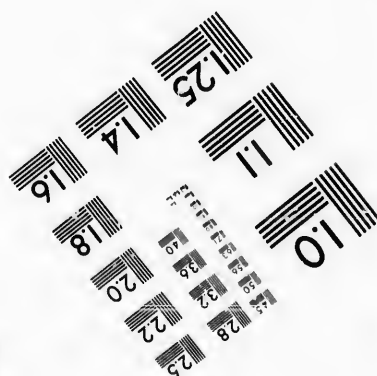
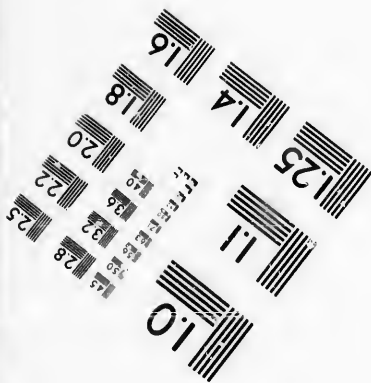
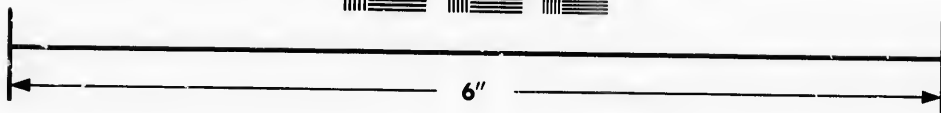
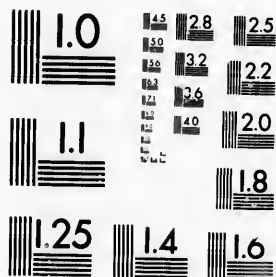


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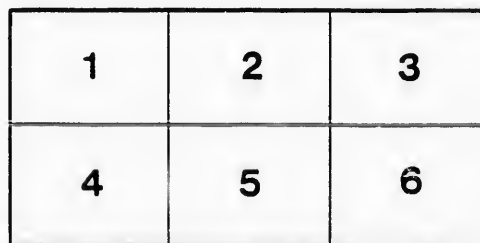
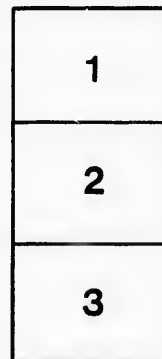
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BY-LAWS

London Township Council

—WITH—

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ACTS OF PARLIAMENT

Passed by the Ontario Legislature

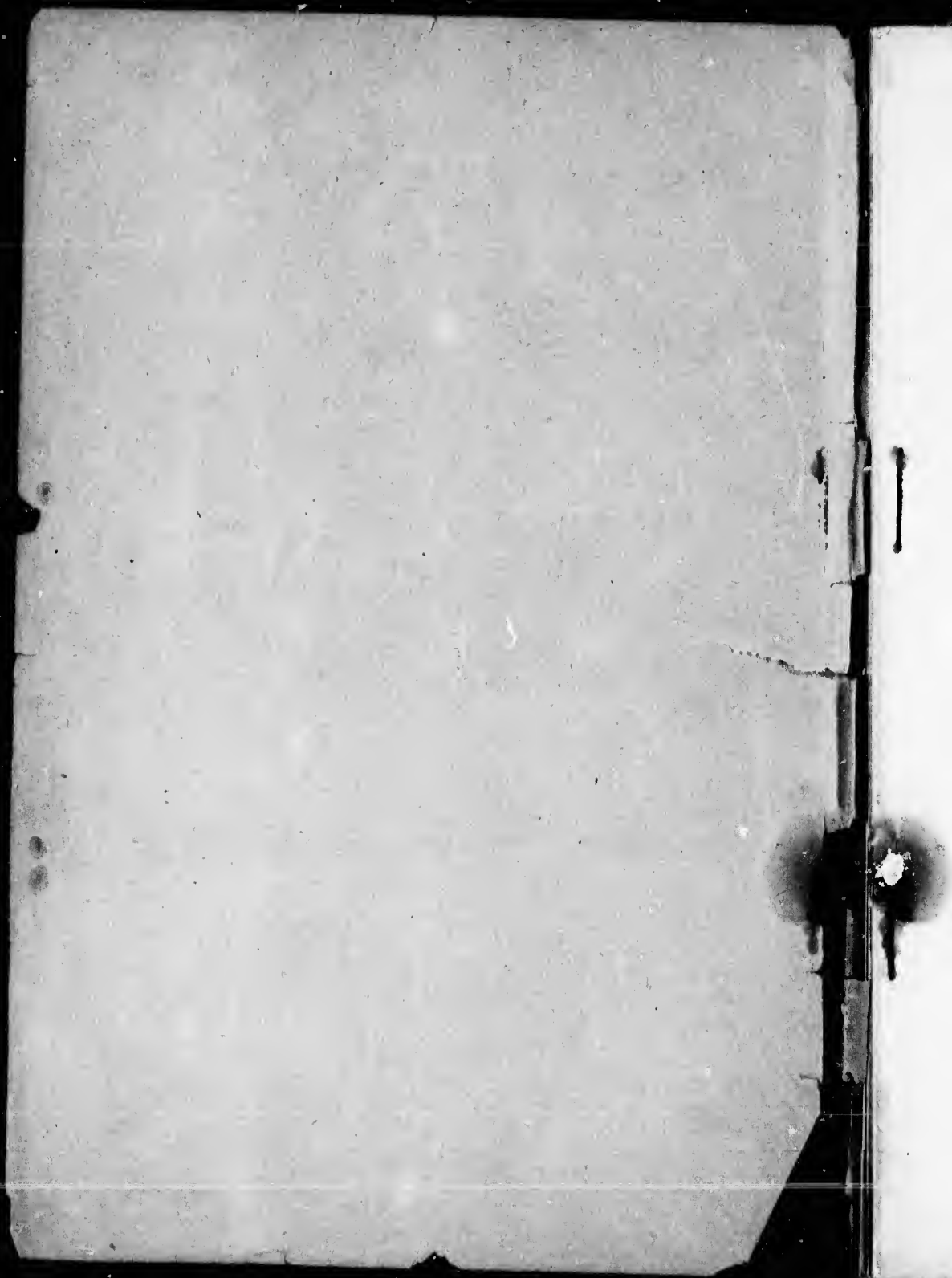
RELATING TO

NOXIOUS WEEDS;
LINE FENCES; DITCHES AND WATERCOURSES; AND
PUBLIC HEALTH.

Book
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LONDON PRINTING AND LITHO. CO.

May, 1893.



BY-LAWS

London Township Council

—WITH—

ACTS OF PARLIAMENT

Passed by the Ontario Legislature

RELATING TO

LINE FENCES; DITCHES AND WATERCOURSES; AND
PUBLIC HEALTH.

LONDON PRINTING AND LITHO. CO.

May, 1893.

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BY-LAW 341,

of the Municipal Council of the Corporation of the Township of London, passed March 20th, 1893.

To regulate the time and manner of performing Statute Labor in the Township of London;

Whereas, it is necessary and expedient that the time and manner of performing statute labor in the said Township be regulated by By-law.

Be it therefore enacted by the Municipal Council of the said Township of London under and by virtue of the Consolidated Municipal Act, 1892 :—

1st. That all By-laws and parts of By-laws inconsistent with this By-law be, and the same are hereby repealed.

2nd. That from and after the passing of this By-law, it shall be the duty of each and every Roadmaster duly appointed in said Township to attend at the time and place appointed by the Township Clerk thereof, sign before him the necessary declaration of office and receive the statute labor list for his division, which list shall entitle each Roadmaster to call out and compel each party whose name is thereon written to perform the number of days' labor for which he or she is entered on such list, or to pay the commutation money in lieu thereof, in manner hereinafter mentioned.

3rd. That the statute labor shall be performed in every instance before the 10th day of July in each year.

4th. That each and every Roadmaster in the said township shall return to the Township Clerk or some member of the Township Council on or before the 15th day of August in each year the road list received by him from the township clerk which list shall have entered upon it, by the Roadmaster opposite the name of each party marked thereon who has performed his or her statute labor, the number of days performed, opposite the names of those who have commuted, the amount of commutation money received and how expended, and opposite the names of those who have neither performed their statute labor nor commuted therefor, the number of days not so performed or commuted for and shall certify to such return as being correct before the Township Clerk, a member of the Township Council or one of her Majesty's Justices of the Peace in and for the County of Middlesex.

5th. That every person liable for the performance of statute labor in the said Township shall furnish such carts, waggons, plois, picks, axes, spades, shovels, and teams, as may be required by the Roadmaster for the proper performance of the labor and such person shall not be entitled to any allowance except for the use of horses or oxen for which he shall be allowed at the rate of three days for each double team and driver and two days for each horse and waggon, or horse and cart and driver. No Roadmaster shall have the power to compel any person, not the owner thereof, to furnish a team, waggon, cart, scraper, or plough for the performance of statute labor in the said township.

6th. That every male inhabitant of the Township between the ages of twenty-one and sixty years, who is not otherwise assessed to any amount, and who is not exempt by law from performing statute labor, shall be liable to one day's statute labor on the roads and highways of the Township.

7th. That any person who commutes his statute labor, shall pay the commutation money at the rate of seventy-five cents per day to the Roadmaster of the division in which the property of said person may be, or in case the person be not assessed, to the Roadmaster of the division in which the said person resides within six days after demand; and such demand shall be made personally by such Roadmaster, at the time at which he warns out the persons in his division to perform their amount of statute labor.

8th. That any person liable to perform statute labor under section 6, of this By-law, and who has not commuted the same as aforesaid, shall perform the said statute labor when required so to do by the Roadmaster appointed for the purpose, and in case of wilful neglect or refusal to perform such labor after six day's notice requiring him to do the same, shall incur a penalty of Five Dollars, and upon summary conviction of such wilful neglect or refusal, before one of the Justices of the Peace aforesaid, such Justice shall order the said penalty, together with the costs of prosecution and distress, to be levied by distress of the offender's goods and chattels, and in case there should be no sufficient distress, such Justice may commit such offender to the Common Jail of the County of Middlesex, there to be put to hard labor for any time not exceeding ten days, unless such penalty and costs and the costs of the warrant of commitment and of conveying the said offender to jail are sooner paid, and all sums and penalties, other than costs, recovered under this section, shall be paid to the Treasurer of the Township and form part of the statute labor fund thereof.

9th. That where a resident owner, tenant or occupant who has been entered upon the assessment roll, after notice or demand, makes default in performing his statute labor, or in payment of commutation for the same, the overseer of the highways in whose division he is

placed, shall return him as a defaulter to the Clerk of the Municipality before the fifteenth day of August, and the clerk shall in that case enter the commutation for statute labor against his name in the Collector's roll, and the same shall be collected by the Collector. .

10th. That all Roadmasters in the Township who have been appointed and taken the declaration of office shall perform all the duties of said office until their successors have been duly appointed and taken the declaration of office.

11th. That every Roadmaster in said Township shall, on or before the 15th day of July next, cause all fences and other obstructions whatever to be removed from the public highway in his division, and shall keep, or cause to be kept open, all ditches and water courses thereon.

12th. That where any highway passes through a wood, it shall be the duty of the Roadmaster of the division to give the owner or proprietor of such wood notice in writing, requiring him to cut down all trees or timber therein, unless such as are reserved by the owner for ornament or shelter, for a space not exceeding twenty-five feet from the outside of the highway, within thirty days after having received such notice, and if such owner or proprietor neglects to cut down such trees or timber as required, it shall be the duty of the Roadmaster to cut and remove, or cause to be cut and removed, such trees or timber, either by statute labor, or to sell the same to defray the expenses, or to use it for the purposes of the road.

13th. That it shall be lawful for any Roadmaster to enter into any enclosed field adjoining any road under his jurisdiction, and to cut, dig or open any drain or ditch therein, without doing damage to growing crops, the more effectually to drain such roads, provided that no such drain or ditch shall be opened through any garden or orchard without the consent of the owner.

14th. That in case of death, absence or inability from sickness, of other unavoidable cause, any vacancy should occur in the office of Roadmaster, it shall be lawful for the member of the Council representing that part of the Township in which such vacancy occurs to nominate a proper person to the vacant office, who shall have all the power and authority which belonged to the Roadmaster who last preceded him in office until the next meeting of the Township Council, when he shall be confirmed in such office of Roadmaster under the corporate seal of the Township.

15th. That each Roadmaster shall expend the statute labor on the most defective portions of the highways within his division.

16th. That each and every Roadmaster shall insert in the list furnished him by the Township Clerk the name or names of any person or persons whom he may have discovered to be liable to perform statute labor since the said list was delivered to him as aforesaid, placing opposite each such name added thereto, the day's statute labor required by section six of this by-law to be performed.

17th. That any Roadmaster neglecting or refusing to comply with the requirements of this By-law, after having been duly notified of his appointment by the Township Clerk, shall, upon sufficient proof thereof before the Reeve of the Township, or one of Her Majesty's Justices of the Peace, aforesaid, be fined, in a sum not exceeding twenty dollars, nor less than five dollars.

18th. That all statute labor to be performed for land assessed in this Municipality, shall be performed in the division in which such land is situated, and all statute labor to be performed by persons not assessed as aforesaid, shall be performed in the division in which such persons reside.

19th. That all persons furnishing teams for hauling gravel in any road division in the said Township, shall come provided for such purpose with good substantial gravel boxes, each of which shall contain at least twenty-six cubic feet.

20th. That any Roadmaster, or other person authorized by the Council of the said Township of London, may enter upon any farm or lot of land therein, and search for and take away such timber, gravel, stone, or other material or materials as may be necessary for making and keeping in repair any road or highway in the said Township, and the right of entry upon such lands, as well as the price or damage to be paid to any person for such material, shall, if not agreed upon by the parties concerned, be settled by arbitration in the manner prescribed by law.

JAMES GRANT,
Clerk.

JOHN ABRAY,
Reeve.

BY-LAW 342,

of the Municipal Council of the Corporation of the Township of London, passed March 20th, 1893.

To prevent persons from hauling timber, dead animals, or other nuisances into the highways of the Township of London.

Whereas, it is necessary and expedient to prevent persons from hauling timber, dead animals, or other nuisances into the highways of the said Township;

Be it therefore enacted by the Municipal Council of the Corporation of the Township of London, under and by virtue of the consolidated Municipal Act, 1892 :—

1st. That all By-laws and parts of By-laws inconsistent with this By-law be, and the same are hereby repealed.

2nd. That from and after the passing of this By-law, it shall not be lawful for any person or persons to haul, or caused to be hauled, any timber, cord-wood, dead animals, or other nuisance into the highways of the Township of London.

3rd. That any person or persons acting contrary to the provisions of this By-law, may be prosecuted before any one or more of Her Majesty's Justices of the Peace in and for the County of Middlesex, and, upon the oath of one or more responsible witnesses, may be fined a sum of not less than one dollar nor more than twenty dollars, together with the costs of prosecution, to be levied by distress of the offender's goods and chattels, and, in case there be no sufficient distress, such Justice may commit such offender to the Common Jail of the said County, there to be kept at hard labor for any term not exceeding ten days, unless such fine and costs be sooner paid.

4th. That all penalties recovered under this By-law (other than costs) shall be paid to the Treasurer of the said Township of London.

JAMES GRANT,
Clerk.

JOHN ABRAY,
Reeve.

BY-LAW 343,

of the Municipal Council of the Corporation of the Township of London, passed March 20th, 1893.

To define and describe what shall be lawful fences in the Township of London.

Be it enacted by the Municipal Council of the Township of London, under and by virtue of the consolidated Municipal Act, 1892 :—

That from and after the passing of this By-law, the following shall be lawful fences in the Township of London :—

Board fences, supported by posts at every eight feet or less, are to be four and one-half feet in height, having for two feet of said height from the ground no greater space between the boards than five inches, above that height to have no greater space between them than eight inches.

Post and rail fences to be of the same height, and for two feet of said height from the ground, to have no greater space between the rails than five inches, above that height to have no greater space between the rails than eight inches.

Worm fences to be laid with worm not less than two feet six inches from the centre to the corners of the fence with good substantial rails, and carried up properly to the height of four feet six inches with no greater space between the rails, for two feet of said height from the ground than five inches, above that height to have no greater space between the rails than eight inches.

Wire fences, with wires supported by posts at every twelve feet or less, are to be four feet six inches in height, with no greater space between the wires for the first two feet from the ground than six inches, above that height to have no greater space than one foot, and to have a board or scantling on top of the fence, or under the first wire from the top, and any other protection from injury to persons or animals that may be required.

JAMES GRANT,
Clerk.

JOHN ABRAY,
Recvee.

BY-LAW 344,

of the Municipal Council of the Corporation of the Township of London, passed March 20th, 1893.

To prevent the obstruction of streams, creeks and water courses within the Township of London.

Whereas, it is necessary and expedient to prevent the obstruction of streams, creeks and water courses in the said Township by trees, timber, brushwood or other materials, and to provide for clearing away and removing such obstructions at the expense of the offenders or otherwise, and to levy the amount of such expense in the same manner as taxes are levied on the party or parties refusing or neglecting to remove such obstructions ;

Be it therefore enacted by the Municipal Council of the Corporation of the Township of London, under and by virtue of the Consolidated Municipal Act, 1892.

1st. That from and after the passing of this By-law no person or persons shall obstruct or cause to be obstructed by trees, brushwood, timber or other materials, or permit such obstruction to remain in (on his or their place) any stream, creek or watercourse running through his or their land, but shall clear and remove, or cause to be cleared and removed from time to time, such obstructions as aforesaid.

2nd. That if any person or persons, through whose lands such creek, stream or watercourse runs, should refuse or neglect to remove such obstructions as the law directs, then the Council of the Township may cause such obstructions to be removed, and the expenses incurred shall be paid from the Township funds to the party so removing such obstructions.

3rd. That the amount of the expenses incurred under the preceding section of this By-law, and paid from the Township funds to the party so removing such obstruction or obstructions, shall be placed on the Collector's Roll by the Township Clerk, and added to the ordinary taxes of the party or parties who so refused or neglected to remove such obstruction or obstructions, and collected by the Collector of the ward or division for the year in which such expenses were incurred.

JAMES GRANT,

Clerk.

JOHN ABRAY,

Reeve.

BY-LAW 345,

of the Municipal Council of the Corporation of the Township of London, passed March 20th, 1893.

To prohibit animals from running at large, to provide for the impounding of animals, and to make regulations respecting matters concerning the impounding of animals in the said Township of London.

Be it enacted by the Municipal Council of the Corporation of the Township of London, under and by virtue of the Consolidated Municipal Act, 1892.

1st. That all By-laws and parts of By-laws inconsistent with this By-law be, and the same are hereby repealed.

2nd. That from and after the passing of this By-law it shall be unlawful for any animal to run at large on the public highways of the said Township.

3rd. That every Poundkeeper in said Township shall provide himself with sufficient yards and enclosures for the safe-keeping of all such animals as shall be his duty to impound.

4th. The owner or occupant of any land shall be responsible for any damage or damages caused by any animal or animals under his charge and keeping, as though such animal or animals were his own property, and the owner of any animal or animals running at large in the said Township shall be liable for any damages done by such animal or animals while so running at large, although the fence enclosing the premises on which such damage was done was not a lawful fence according to the By-law of the said Township defining lawful fences.

5th. The Poundkeeper shall impound any horse, mare, gelding, bull, ox, cow, sheep, goat, pig, or other animal, goose or other poultry, distrained for unlawfully running at large, or for trespassing and doing damage, delivered to him for that purpose by any person resident within the Township, who has distrained the same, or if the owner of any poultry refuses or neglects to prevent the same from trespassing or from doing damage after a notice in writing has been served upon him of their trespass, then the owner of such poultry may be brought before any Justice of the Peace and fined such sum as such Justice may direct, such fine not to exceed Five Dollars.

6th. When the common pound of the Municipality or any of them in which an animal or animals have been impounded is not secure, the Poundkeeper may confine the animal or animals in any enclosed, secure place within the limits of the Township.

7th. The owner of any animal impounded shall at any time be entitled to his animal on demand made, therefor, without payment of any poundage fees, on giving satisfactory security to the Poundkeeper for all costs, damages, and poundage fees that may be established against him, but the person distraining and impounding the animal shall at the time of such impounding deposit poundage fees, if such be demanded, and within twenty-four hours thereafter deliver to the Poundkeeper duplicate statements in writing of his demands against the owner for damages (if any), not exceeding twenty dollars, done by such animal, exclusive of such poundage fees, and shall also give a written agreement (with a surety, if required by the Poundkeeper), in the form following, or in words to the same effect:—

“ I (or we, as the case may be), do hereby agree that I (or we) will pay to the owner of the (describing the animal) by me (A. B.) this day impounded, all costs to which the said owner may be put, in case the distress by me the said A. B. proves to be illegal, or in case the claim for damages now put in by me the said A. B. fails to be established.

8th. In case an animal be impounded, notices for the sale thereof shall be given by the Poundkeeper within forty-eight hours afterwards, but no single sheep, pig or poultry shall be sold till after four clear days, nor any horse or other animal (or animals collectively) of the value of at least \$25, till after twenty clear days from the time of impounding the same.

9th. The notices of sale shall be written or printed, and shall be affixed and continued for three clear successive days in three public places in the Municipality, and in case the animal impounded be a horse or other animal or animals, collectively, of the value of at least \$25, the notices of sale shall be inserted at least twice in one of the weekly papers published in the City of London, if possible, within five days from the time at which such horse or other animal or animals were impounded, if not sooner redeemed, and such notices and advertisements shall specify the time and place at which the animal or animals will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law (if any), the amount of the damage (if any) claimed or decided to have been committed by the animal or animals to the property of the person who distrained it or them, together with the lawful fees and charges of the Poundkeeper, and also of the fence-viewers (if any), and the expenses of the animal's keeping.

10th. Every Poundkeeper shall daily furnish the animals impounded with good and sufficient food, water and shelter, during the whole time they continue impounded or confined.

11th. Every Poundkeeper who furnishes any animal or animals impounded with food water or shelter may recover the value thereof, and also a reasonable allowance for his time, trouble, and attendance in the premises, from the owner of the animal or animals.

12th. The value and allowance as aforesaid, may be recovered with costs by summary proceedings before any Justice of the Peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties, or forfeitures, for the breach of any By-law of the Municipality may by law be recovered and enforced by a single Justice of the Peace, and the Justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering so far as applicable to the tariff of Poundkeeper's fees and charges established by the By-laws of the Municipality.

13th. The Poundkeeper may, instead of such summary proceedings enforce the remuneration to which he is entitled in manner herein-after mentioned.

14th. In case it be by affidavit proved before one of the Justices aforesaid to his satisfaction that all the proper notices had been duly affixed and published in the manner and for the respective times hereinbefore prescribed, then if the owner or some one for him does not within the time specified in the notices, or before the sale of the animal or animals, replevy or redeem the same in manner aforesaid, the Poundkeeper of the Pound in which the animal or animals were impounded, may publicly sell the animal or animals to the highest bidder at the time and place mentioned in the aforesaid notices, and after deducting the penalty and the damages (if any), and his lawful fees and charges, shall return the surplus (if any), to the original owner of the animal or animals, or if not claimed by him within three months after the sale, shall pay such surplus to the Treasurer of the Township for the use of the Municipality.

15th. If the owner of the animal or animals within forty-eight hours after the posting of the notices as provided for in the 8th and 9th Sections of this By-law disputes the amount of the damages claimed, the amount shall be decided by the majority of three Fence viewers of the Municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages and the third by the Poundkeeper.

16th. Such Fence viewers, or any two of them, shall within twenty-four hours after notice of their appointment as aforesaid, view the fence and ground upon which the animal or animals were found

doing damage, and determine whether the fence was a lawful one according to the By-law in that behalf, at the time of the trespass, and if it was a lawful fence, then they shall appraise the damages committed, and within twenty-four hours after having made the view, shall deliver to the Poundkeeper a written statement, signed by at least two of them, of their appraisement, and of their lawful fees and charges.

17th. If the Fence viewers decide that the fence was not a lawful one at the time of the trespass, they shall certify the same in writing under their hands and shall deliver such certificate together with a statement of their lawful fees to the Poundkeeper, who shall upon payment of all lawful fees and charges deliver such animal or animals to the owners if claimed before the sale thereof, but if not claimed, or if such fees and charges be not paid, the Poundkeeper after due notice as required by this By-law, shall sell the animal or animals in the manner hereinbefore mentioned at the time and place appointed in the notices.

18th. Any Fence-viewer neglecting his duty as arbitrator, as aforesaid, shall incur a penalty of two dollars, to be recovered for the use of the Municipality by summary proceedings before a Justice of the Peace, upon the complaint of the party aggrieved, or the Treasurer of the Municipality.

19th. In case any Poundkeeper who impounds any animal, as aforesaid, refuses or neglects to find, provide and supply the animal with good and sufficient food, water and shelter, as aforesaid, he shall for every day during which he so refuses or neglects, forfeit a sum of not less than one dollar nor more than four dollars.

20th. Every fine and penalty imposed by this By-law may be recovered and enforced with costs by summary conviction under the Summary Convictions Act, before any Justice of the Peace having jurisdiction in the Municipality, and in default of payment the offender may be committed to the Common Jail of the County of Middlesex, there to be imprisoned for any time in the discretion of the convicting and committing Justice, not exceeding fourteen days, unless such fine, penalty and costs, including the costs of committal, and of conveying the offender to the said Jail be sooner paid.

21st. The following fees for impounding animals shall be paid to Poundkeepers in the Township of London, that is to say, for each Stallion, of the age of one year and upwards, the sum of one dollar; for each Bull, of the age of one year and upwards, seventy-five cents; for each Boar, of the age of six months and upwards, seventy-five cents; for each Ram, of the age of four months and upwards, forty cents; for each Mare or Gelding, fifty cents; for each head of neat

cattle, twenty-five cents; for each Sheep, five cents; for each Pig, ten cents; for each Goose or other poultry, five cents. And for feeding and attending animals impounded, every Poundkeeper impounding any animal in the Township, shall be entitled to make the following charges, and no more, that is to say: For feeding and attending any horse of whatever description, thirty cents per day; for each head of neat cattle, twenty cents per day; for sheep, ten cents each per day; for swine, ten cents each per day; for geese or other poultry, five cents each per day, and for advertising by notices publicly affixed in the Township, as aforesaid, every Poundkeeper shall be entitled to the sum of fifty cents, and for selling each horse, or head of neat cattle, forty cents, and for selling each head of sheep, swine or poultry, fifteen cents, and for advertising in any weekly paper published in the City of London, the actual cost for each insertion.

JAMES GRANT,
Clerk.

JOHN ABRAY,
Reeve.



A
W. B. Smith

BY-LAW 346,

*of the Municipal Council of the Corporation of the Township
of London, passed March 20th, 1893.*

Whereas, it is necessary for the suppression of Vice, Intemperance, Immorality, Sabbath-breaking, and other immoral or indecent acts, that they be prohibited within the Municipality of the Township of London;

Be it, therefore, enacted by the Municipal Council of the said Township of London, under and by virtue of the Consolidated Municipal Act, 1892:—

1st. That any person or persons in the said Township of London selling or giving any intoxicating drink to a child, or apprentice, or servant, being a minor, without the consent of his or her parent, master, or legal protector, shall for each such offence upon conviction thereof forfeit and pay a fine of not less than one dollar nor more than twenty dollars, with costs of prosecution.

2nd. That any person or persons who shall expose or post up indecent placards, writings, or pictures, or write indecent or obscene words, or make indecent pictures, figures, or drawings on walls or fences in any highway or street, or in any other public place in the said Township, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than five dollars, with costs of prosecution.

3rd. That any person or persons who shall be found in a state of intoxication, or be guilty of profane swearing, or of using obscene, blasphemous, or grossly insulting language, or who shall be guilty of other immorality or indecency in the said Township, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than five dollars, with costs of prosecution.

4th. That any person or persons keeping a gambling house or other place in the said Township in which gambling is carried on, or allowed, or who are found guilty of gambling, or playing at cards, dice, or any other game of chance for money, or other valuable consideration whatever, at such gambling house or place, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than twenty dollars with costs of prosecution, and any one or more of Her Majesty's Justices of the Peace having jurisdiction in the said Township, are hereby authorized on information to order any

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BRAY,

Reeve.

Peace officer to seize and destroy Faro banks, Rouge-et-noir, Roulette tables and other devices for gambling found in such gambling house or place.

5th. That any person or persons found guilty of vagrancy or going from place to place in the said Township without any visible means of support, and who can not give a satisfactory account of themselves, or who shall be found drunk or disorderly in any street, highway, or public place, in the said Municipality, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than five dollars, with costs of prosecution.

6th. That any person or persons found guilty of indecent public exposure of the person, or other indecent exhibition, or who shall be found guilty of any act which openly outrages decency, or is injurious to public morals in the said Township, shall for each such offence forfeit and pay a fine of not less than one dollar, nor more than twenty dollars, with costs of prosecution.

7th. That any person or persons who shall be found guilty of bathing or washing the person in any public place in the said Township, whereby the public exposure of their person may be obnoxious to public morals, or outrage decency, shall for each such offence forfeit and pay a fine of not less than one dollar, nor more than five dollars, with costs of prosecution.

8th. That any person cutting down or otherwise damaging or destroying any tree or shrub planted or preserved for shade or ornament upon any highway or street in said Township, except by the authority of the Council thereof, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than twenty dollars, with costs of prosecution.

9th. That any person or persons who keep a disorderly house or house of ill-fame in the said Municipality, or who shall aid or abet in keeping the same by his, her or their attendance at such place for indecent, immoral or wanton purposes, or to the annoyance of the public, shall for each such offence forfeit and pay a fine of not less than one dollar nor more than twenty dollars, with costs of prosecution.

10th. That all complaints for contravention of the provisions of this By-law shall be summarily disposed of by any one or more of her Her Majesty's Justices of the Peace having jurisdiction in the said Township, on the evidence of one competent witness, and in default of any fine and costs imposed by this By-law, or for want of goods and chattels to distrain for such fine and costs, the offender or offenders may be committed to the Common Jail of the County of Middlesex for any term not exceeding twenty days.

JAMES GRANT,
Clerk.

JOHN ABRAY,
Reeve.

EXTRACTS

*From "An Act to make further provisions respecting the
Public Health."*

SCHEDULE A.

Section 113.

BY-LAW IN FORCE IN EVERY MUNICIPALITY TILL ALTERED BY THE
MUNICIPAL COUNCIL.

1. It shall be the duty of the Medical Health Officer to assist and advise the Board and its officers, in matters relating to public health, and to superintend, under the direction of the Board, the enforcement and observance, within this municipality, of Health By-laws or Regulations, and of Public Health Acts, and of any other Sanitary Laws, and, if thought advisable by the Board of School Trustees, to act as Medical Inspector of Schools, as well as advisory officer in matters pertaining to school hygiene, and to perform such other duties and lawful acts for the preservation of the public health, as may, in his opinion, be necessary, or as may be required by the Board of Health. He shall also present to this Board, before the fifteenth day of November in each year, a full report upon the sanitary condition of the district.

2. The Sanitary Inspector, besides performing the duties hereafter indicated by this By-law as belonging specially to him, shall assist the Medical Health Officer, and perform such other duties as may from time to time be assigned to him by the Board of Health or its Chairman.

3. The Chairman of the Board of Health shall, before the first day of December in each year, present to the Municipal Council or Municipal Councils, comprised within this district, a report containing a detailed statement of the work of the Board during the year, and the report of the sanitary condition of the Municipality, as rendered to the Board by the Medical Health Officer. A copy of each such report shall be transmitted by the Secretary to the Secretary of the Provincial Board of Health.

4. No person shall within this municipality suffer the accumulation upon his premises, or deposit, or permit the deposit, upon any lot belonging to him, of anything which may endanger the public health, or deposit upon, on, or into, any street, square, lane, by-way, wharf, dock, slip, lake, pond, bank, harbor, river, stream, sewer, or water, any manure, or other refuse, or vegetable or animal matter, or other filth.

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5. It shall be the duty of the Sanitary Inspector, to keep a vigilant supervision over all streets, lanes, by-ways, lots, or premises, upon which any such accumulation as aforesaid may be found, and at once to notify the parties who own or occupy such lots or premises, or who either personally or through their employees, have deposited such manure, refuse, matter, dirt, or filth, in any street, lane, or by-way, to cleanse the same, and to remove what is found thereon; such parties shall forthwith remove the same, and if the same be not removed within twenty four hours after such notification, the Inspector may prosecute the parties so offending, and he may also cause the same to be removed at the expense of the person or persons so offending. He shall also inspect at intervals, as directed by the Board of Health, all premises occupied by persons residing within its jurisdiction, and shall report to the Board each and every case of violation of any of the provisions of this By-law, or of any other regulations for the preservation of the public health, and shall also report every case of refusal to permit him to make such inspection.

6. Whenever it shall appear to the Board, or to any of its officers, that it is necessary for the preservation of the public health, or for the abatement of anything dangerous to the public health, or whenever they or he shall have received a notice signed by one or more inhabitant householders of this municipality, stating the condition of any building in the municipality to be so filthy as to be dangerous to the public health, or that upon any premises in the municipality there is any foul or offensive ditch, gutter, drain, privy, cesspool, ashpit, or cellar, kept or constructed so as to be dangerous or injurious to the public health, or that upon any such premises an accumulation of dung, manure, offal, filth, refuse, stagnant water, or other matter, or thing, is kept so as to be dangerous or injurious as aforesaid, it shall be the duty of the Sanitary Inspector to enter such buildings or premises for the purpose of examining the same, and, if necessary, he shall order the removal of such matter or thing as aforesaid. If the occupant, or proprietor, or his lawful agent or representative, having charge or control of such premises, after having had twenty-four hours notice from any such officer of the Board of Health to remove or abate such matter or thing as aforesaid, shall neglect or refuse to remove or abate the same, he shall be subject to the penalties imposed under section 18 of this by-law.

7. If the Board is satisfied upon due examination, that a cellar, room, tenement, or building within its jurisdiction, occupied as a dwelling-place, has become by reason of the number of occupants, want of cleanliness, the existence therein of a contagious or infectious disease, or other cause, unfit for such purpose, or that it has become a nuisance, or in any way dangerous to the health of the occupants, or of the public, they may issue a notice in writing to such occupants, or any of

them, requiring the said premises to be put in proper sanitary condition, or if they see fit, requiring the occupants to quit the premises within such time as the Board may deem reasonable. If the persons so notified, or any of them neglect or refuse to comply with the terms of the notice, every person so offending shall be liable to the penalties imposed by section 18 of this by-law, and the Board may cause the premises to be properly cleansed at the expense of the owners or occupants, or may remove the occupants forcibly and close up the premises, and the same shall not again be occupied as a dwellingplace until put into proper sanitary condition.

8. No proprietor or tenant of any shop, house or outhouse, shall, nor shall any butcher or other person, use any such house, shop or outhouse at any time as a slaughter-house or for the purpose of slaughtering any animals therein, unless such shop, house or outhouse be distant not less than 200 yards from any dwelling-house and distant not less than seventy yards from any public street.

9. All slaughter-houses within this municipality shall be subject to regular inspection under the direction of the Board of Health; and no person shall keep any slaughter-house unless the permission in writing of the Board for the keeping of such slaughter-house has been first obtained, and remains unrevoked. Such permission shall be granted after approval of such premises upon inspection, subject to the condition that the said houses shall be so kept as not to impair the health of persons residing in their vicinity, and upon such condition being broken the said permission may be revoked by the Board; and all animals to be slaughtered, and all fresh meat exposed for sale in this municipality shall be subject to like inspection.

10. All milch cows and cow byres and all dairies or other places in which milk is sold or kept for general use, and all cheese factories and creameries shall be subject to regular inspection under the direction of the said Board; and the proprietors shall be required to obtain permission in writing from the Board, to keep such dairy or other place in which milk is sold or kept as aforesaid, or to keep a cheese factory or creamery, and the same shall not be kept by anyone without such permission, which shall be granted after approval of such premises upon inspection, subject to the condition that all such places as aforesaid are so kept and conducted that the milk shall not contain any matter or thing liable to produce disease either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, or any other generally recognized cause, and upon such condition being broken the said permission may be revoked by the Board.

11. No persons shall offer for sale as food within this municipality any diseased animal, or any meat, fish, fruit, vegetables, milk, or other

article of food which, by reason of disease, adulteration, impurity, or any other cause shall be unfit for use.

12. It shall be the duty of the owner of every house within this municipality to provide for the occupants of the same a sufficient supply of wholesome drinking water; and in case the occupant or occupants of any such house is or are not satisfied with the wholesomeness or sufficiency of such supply, he or they may apply to the Board of Health to determine as to the same; and if the supply be sufficient and wholesome, then the expenses incident to such determination shall be paid by the said occupant or occupants, and if not, then they shall be paid by the owner; and in either case the said charges shall be recoverable in the same manner as municipal taxes.

13. All wells in this municipality which are in use, whether such wells are public or private, shall be cleaned out before the 1st day of July in each year, and in case the Board of Health certifies that any well should be filled up, such wells shall be forthwith filled up by the owner of the premises.

14. The following code of rules and regulations for the disposal of sewage and refuse shall constitute a part of this By-law, and any person or persons violating or neglecting any of the said rules and regulations shall be liable to the fines and penalties imposed by section 18 of this By-law.

RULE 1.—No privy, vault, cesspool or reservoir into which a privy, water-closet, stable or sink is drained, shall be established until the details of such establishment shall have been submitted to and obtained the approval in writing of the Medical Health Officer, who shall, from time to time, determine with the approbation of the Board, the method of disposal of excreta, sewage and other refuse, to be adopted within the district.

RULE 2.—Earth privies or earth closets without a vault below the surface of the ground do not come within Rule 1, but sufficient dry earth, wood-ashes or coal-ashes to absorb all the fluid parts of the deposit must be thrown upon the contents of such earth privies and closets daily, the contents when removed from the closet must be placed in a shed or box with rain-proof cover, and removed from the premises at least once a year, on or before fifteenth day of May.

RULE 3.—If the exigencies or circumstances of the municipality require that privy-vaults, cesspools or reservoirs shall be allowed in accordance with Rule 1, they shall be cleaned out at least once a year, on or before the fifteenth day of May, and from the fifteenth day of May to the first day of November in each year they shall be thoroughly disinfected by adding to the contents of the vault, cesspool or reservoir, once a month, not less than two pounds of sulphate of copper, dissolved in two pailfuls of water, or other suitable disinfectant.

RULE 4.—Within the limits of this municipality no night-soil or contents of any cesspool shall be removed unless previously deodorized as above, and during its transportation the material shall be covered with a layer of fresh earth, except the removal shall have been by some "Odorless Exeavating Process."

RULE 5.—All putrid and decaying animal or vegetable matter must be removed from all cellars, buildings, out-buildings and yards on or before the fifteenth day of May in each year.

RULE 6.—Every householder and every hotel and restaurant-keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning the same or by placing it in a proper covered receptacle for swill and house offal, the contents of which shall, between the fifteenth day of May and the first day of November, be regularly removed as often as twice a week.

RULE 7.—Between the fifteenth day of May and the first day of November, no hog shall be kept within the limits of this municipality, except in pens seventy feet from any house, with floors kept free from standing water and regularly cleansed and disinfected.

RULE 8.—The keeper of every livery or other stable shall keep his stable and stable-yard clean, and shall not permit, between the fifteenth day of May and the first day of November, more than two waggon-loads of manure to accumulate in or near the same at any one time, except by permission of the Board of Health.

15. The following regulations regarding the construction of houses, shall be in foree within this municipality :—

RULE 1.—No house shall be built in or upon any site, the soil of which has been made up of any refuse, unless such soil shall have been removed from such site, and the site disinfected ; or unless the said soil shall have been covered with a layer of charcoal, covered by a layer of concrete at least six inches thick, and of such additional thickness as may be requisite under the circumstances to prevent the escape of gases into such proposed house.

RULE 2.—The drain of every house which may be connected with a sewer or cesspool shall be ventilated by means of a pipe extending upward from the highest point of the main soil or waste-pipe, and also by a pipe carried upward from the drain outside the walls of the house. These pipes shall be of the same dimensions as the said main soil or waste-pipe, and shall be constructed of the same material or of stout galvanized iron, and no trap shall intervene between the said ventilating pipes. In case a trap shall intervene between the sewer or cess-pool, and the ventilating pipes already described, then a four-inch ventilating pipe of the same material, as above described,

shall be carried from a point between such trap and the sewer. All such ventilating pipes shall be carried above the roof of the said house, and shall open above at points sufficiently remote from every window, door, sky-light, chimney or other opening leading into any house. No pipe carrying air or gas from any drain or soil-pipe shall be connected with any chimney in a dwelling-house, unless the same be a furnace chimney used exclusively for the purpose of *ventilating such soil-pipe or drain*.

RULE 3.—Every house-drain shall be constructed of vitrified earthenware or iron pipe; and every soil and waste pipe, of iron pipe rendered impervious to gas or liquids, the joints thereof being run with lead and caulked, or of lead pipe weighing at least six pounds to the square foot; and the waste pipe from every closet, sink, tub, wash-basin, safe or other service shall have as near as may be to the point of junction with such service a trap so constructed, vented and furnished, that it shall at no time allow of the passage of gas into such house. All joints shall be so constructed as to prevent gas escaping through them.

RULE 4.—The construction of any closet or other convenience which shall allow of the escape into the house of air or gas which has been confined in any part of it or from the drain or soil pipe, is hereby prohibited.

RULE 5.—No refrigerator waste shall be allowed to connect with any drain.

RULE 6.—No pipe supplying water directly to a water-closet or urinal, shall be connected with the pipe supplying water for drinking purposes.

16. Every person who erects, or causes to be erected, any building shall, within two weeks of the completion thereof, deposit in the Registry Office of the Registry Division in which the building is situated, plans of the drainage and plumbing of the same as executed; and in the case of any alteration of any such plumbing or drainage, it shall be the duty of the owner of the house, within two weeks of the making of the alteration, to deposit in the same manner the plan and record of any such alteration; if such alteration is made by a tenant, it shall be the duty of the tenant or lessee to deposit or cause to be deposited the plan and record of such alteration.

17. The following rules for preventing the spread of infectious and contagious diseases shall constitute a part of this By-law:—

RULE 1.—The Medical Health Officer [or Secretary of the Local Board of Health] shall provide each medical practitioner, practising within this municipality, with blank forms on which to report to the

said Medical Health Officer [or Secretary] any case of diphtheria, small-pox, scarlet fever, cholera, typhoid fever, measles, whooping-cough or other disease dangerous to the public health; and, also, with other blank forms on which to report death or recovery from any such disease.

RULE 2.—All such forms shall be so printed, gummed and folded that they may be readily sealed, without the use of any envelope, so as to keep them from perusal until opened by the Medical Health Officer [or Secretary].

RULE 3.—Said blanks shall be in accordance with the following forms :—

Report of Infectious Disease.

- Christian name and surname of patient :
- Age of patient :
- Locality (giving street, number of house or lot), where patient is :
- Name of disease :
- Name of school attended by children from that house :
- Measures employed for isolation and disinfection :
- (Signature of physician) :

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Report of Death or Recovery from Infectious Disease.

- Christian name and surname of patient :
- Locality (giving street, number of house or lot), where patient is :
- Name of disease :
- How long sick :
- Whether dead or recovered.
- Means of disinfection employed, and when employed :
- (Signature of physician) :

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RULE 4.—The Medical Health Officer [or Secretary], within six hours after he shall have received a notice of the existence of scarlet fever, diphtheria, small-pox, cholera, or whooping-cough, in any house, shall affix or caused to be affixed by the head of the household, or by some other person, near the entrance of such house a card at least nine inches wide and twelve inches long, stating that such disease exists in the said house, and stating the penalty for removal of such card without the permission of the Medical Health Officer or Board of Health.

RULE 5.—No person shall remove such card without the permission of the Board of Health or one of its officers.

RULE 6.—No animal affected with an infectious or contagious disease shall be brought or kept within this municipality, except by permission of the Board of Health.

18. Any person who violates sections 4, 6, 7, 9 or 11 of this By-law, or Rule 1 of section 15, or Rule 5 or 6 of section 17, shall be liable for every such offence to a penalty of not less than \$5 nor more than \$50 in the discretion of the convicting Justices or Magistrate, besides costs, which may also be inflicted if the committing Justices or Magistrate see fit to impose the same. Any person who violates any other provision of this By-law shall be liable for every such offence to a penalty not exceeding \$20, in the discretion of the convicting Justices or Magistrate, besides costs, which may also be inflicted if the convicting Justices or Magistrate see fit to impose the same. Every such penalty may be recovered by any person before any two Justices or a Police Magistrate having jurisdiction in the municipality, and shall be levied by distress and sale of the goods and chattels of the offender, with the costs of such distress and sale, by warrant under the hands and seals of the Justices, or the hand and seal of the Police Magistrate, before whom the same are recovered, or under the hands and seals of any other two Justices having jurisdiction in the Municipality, and in default of sufficient distress the said Justices or Magistrate may commit the offender to the Common Jail or to any lock-up or House of Correction in the said municipality for any time not exceeding fourteen days, with or without hard labor, unless the amount imposed be sooner paid.

SCHEDULE B.

By-law Number 227, intituled "A By-law respecting the Public Health By-law."

Whereas it is expedient to amend or repeal some of the provisions of the By-law appended to the Public Health Act, 1884, so far as the same are in force in this municipality;

Be it therefore enacted by the Municipal Council of the Township of London.

1. Section 8 is hereby repealed.
2. Section 13 is hereby amended by substituting the "first day of July of every fifth year" for "the first day of July in each year."
3. Rule 7 of section 14 is hereby amended by inserting the words "in a pen" after the word "kept" in the second line; the words "or any public highway" after the word "house" in the third line; and striking out the words "and disinfected" at the end of the said rule:
4. Rules 1 and 8 of section 14 are hereby repealed.

5. Sections 15 and 16 are hereby repealed.

6. Rule 4 of section 17 is hereby amended by striking out the words "or Secretary" in the first line, and the words "or whooping-cough" in the third line thereof.

7. Section 18 is hereby amended by striking out the words "or Rule 1 of section 15" in the first and second lines thereof.

8. This By-law shall go into force forthwith.

The foregoing By-law was passed in open Council this 30th day of June, A. D. 1884.

JAMES GRANT,
Clerk.

PETER ELSON,
Reeve.



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BY-LAW 335,

Intituled "A By-law respecting the Public Health By-law."

Whereas it is expedient to amend some of the provisions of the By-law appended to "The Public Health Act," so far as the same are in force in this municipality;

Be it therefore enacted by the Municipal Council of the Corporation of the Township of London as follows:—

1. That section 9 of the said By-law is hereby amended by striking out of the same the words following, "and remains unrevoked. Such permission shall be granted after approval of such premises upon inspection, subject to the condition that the said houses shall be so kept as not to impair the health of the persons residing in their vicinity and, upon such condition being broken, the said permission may be revoked by the Board."

2. That Rule 7 of section 14 of the said By-law is hereby repealed and the following substituted therefor:—

"RULE 7. Between the fifteenth day of May and the first day of November no hog shall be kept in a pen within the limits of this municipality, except in pens seventy feet from any dwelling house (other than a dwelling house owned or occupied by the person or persons, firm or corporation keeping the hogs, or owned or occupied by the servants or workpeople of such persons, firm or corporation) or any public highway, with floors kept free from standing water and regularly cleansed."

3. This By-law shall go into force forthwith.

Passed in Open Council this 26th day of November, in the year of our Lord One Thousand Eight Hundred and Ninety-two.

JAMES GRANT,

Clerk.

JOHN ABRAY,

Reeve.

An Act respecting Line Fences.

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

1. This Act may be cited as "*The Line Fences Act.*" R. S. O. 1877, c. 198, s. 1.

2.—(1) In this Act the expression "occupied lands" shall not include so much of a lot, parcel or farm as is unenclosed, although a part of such lot, parcel or farm is enclosed and in actual use and occupation. 41 V. c. 10, s. 1.

(2) Where, within the meaning of section 4 of this Act, there is any dispute between owners or occupants of lands situate in different municipalities, the following words or expressions in this Act shall have the meaning hereinafter expressed, namely:

1. The phrase "Fence-viewers" shall mean two fence-viewers of the municipality in which is situate the land of the owner or occupant notified under sub-section 1 of section 4 of this Act, and one fence-viewer of the municipality in which is situate the land of the party or person giving the notice; except that in case of a disagreement having occurred within the meaning of sub-section 4 of section 4, the said phrase "Fence-viewers" shall mean fence-viewers from either or both municipalities.

2. The expression "in which the lands are situate" and the expression "in which the land lies," shall respectively mean in which are situate the lands of the owner or occupant so notified under sub-section 1 of section 4. 47 V. c. 42, s. 1.

3. Owners of occupied adjoining lands shall make, keep up, and repair a just proportion of the fence which marks the boundary between them, or if there is no fence they shall so make, keep up, and repair the same proportion which is to mark such boundary; and owners of unoccupied lands which adjoin occupied lands shall, upon their being occupied, be liable to the duty of keeping up and repairing such proportion, and in that respect shall be in the same position as if their land had been occupied at the time of the original fencing, and shall be liable to the compulsory proceedings hereinafter mentioned. R. S. O. 1877, c. 198, s. 2.

4. In case of dispute between owners respecting such proportion, the following proceedings shall be adopted :

1. Either owner may notify (Form 1) the other owner or the occupant of the land of the owner so to be notified, that he will, not less than one week from the service of such notice, cause three fence-viewers of the locality to arbitrate in the premises.

2. The owners so notifying shall also notify (Form 2) the fence-viewers, not less than one week before their services are required.

3. The notices in both cases shall be in writing, signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and may be served by leaving the same at the place of abode of such owner or occupant, with some grown-up person residing thereat; or in case of the lands being untenanted, by leaving the notice with any agent of such owner.

4. The owners notified may, within the week, object to any or all of the fence-viewers notified, and in case of disagreement, the Judge hereinafter mentioned shall name the fence-viewers who are to arbitrate. R. S. O. 1877, c. 198, s. 3.

5. An occupant, not the owner of land notified in the manner above mentioned, shall immediately notify the owner; and if he neglects so to do, shall be liable for all damage caused to the owner by such neglect. R. S. O. 1877, c. 198, s. 4.

6. The fence-viewers shall examine the premises, and if required by either party they shall hear evidence, and are authorized to examine the parties and their witnesses on oath, and any one of them may administer an oath or affirmation for the purpose as in Courts of law. R. S. O. 1877, c. 198, s. 5.

7.—(1) The fence-viewers shall make an award (Form 3) in writing signed by any two of them, respecting the matters so in dispute; which award shall specify the locality, quantity, description, and the lowest price of the fence it orders to be made, and the time within which the work shall be done, and shall state by which of the said parties the costs of the proceedings shall be paid, or in what proportion the same shall be paid to the parties.

(2) In making the award, the fence-viewers shall regard the nature of the fences in use in the locality, the pecuniary circumstances of the persons between whom they arbitrate, and generally, the suitability of the fence ordered to the wants of each party.

(3) Where, from the formation of the ground, by reason of streams or other causes, it is found impossible to locate the fence upon the line between the parties, it shall be lawful for the fence-viewers to

locate the said fence either wholly or partially on the land of either of the said parties, where to them it seems to be most convenient; but such location shall not in any way affect the title to the land.

(4) If necessary, the fence-viewers may employ a provincial land surveyor, and have the locality described by metes and bounds. R. S. O. 1877, c. 198, s. 6.

8. The award shall be deposited in the office of the clerk of the council of the municipality in which the lands are situate, and shall be an official document, and may be given in evidence in any legal proceeding by certified copy, as are other official documents; and notice of its being made shall be given to all parties interested. R. S. O. 1877, c. 198, s. 7.

9. The award may be enforced as follows: The person desiring to enforce it shall serve upon the owner or occupant of the adjoining lands a notice in writing, requiring him to obey the award, and if the award is not obeyed within one month after service of the notice, the person so desiring to enforce it may do the work which the award directs, and may immediately recover its value and the costs from the owner by action in any Division Court having jurisdiction in the locality; but the Judge of the Division Court may on application of either party, extend the time for making the fence to such time as he may think just. R. S. O. 1877, c. 198, s. 8.

10. —(1) The award shall constitute a lien and charge upon the lands respecting which it is made, when it is registered in the registry office of the registry division in which the lands are.

(2) Such registration may be in duplicate or by copy, proved by affidavit of a witness to the original, or otherwise, as in the case of any deed which is within the meaning of *The Registry Act*. R. S. O. 1877, c. 198, s. 9.

11. (1) The fence-viewers shall be entitled to receive \$2 each for every day's work under this Act: Provincial land surveyors and witnesses shall be entitled to the same compensation as if they were subpoenaed in any Division Court. R. S. O. 1877, c. 198, s. 10.

(2) The municipality may at the expiration of the time for appeal, or after appeal, as the case may be, pay to the fence-viewers their fees, and shall, unless the same be forthwith repaid by the person awarded or adjudged to pay the same place the amount upon the collector's roll as a charge against the person awarded or adjudged to pay the same, and the same shall thereafter be placed upon the collector's roll and may be collected as ordinary municipal taxes. 52 V. c. 48, s. 1.

12. Any person dissatisfied with the award made, may appeal therefrom to the Judge of the County Court of the county in which

the lands are situate, and the proceedings on the appeal shall be as follows:

1. The appellant shall serve upon the fence-viewers, and all parties interested, a notice in writing of his intention to appeal, within one week from the time he has been notified of the award, which notice may be served as other notices mentioned in this Act.

2. The appellant shall also deliver a copy of the notice to the clerk of the Division Court of the division in which the land lies, and the clerk shall immediately notify the Judge of such appeal, whereupon the Judge shall appoint a time for the hearing thereof, and, if he thinks fit, order such sum of money to be paid by the appellant to the said clerk as will be a sufficient indemnity against costs of the appeal.

3. The Judge shall order the time and place for the hearing of the appeal, and communicate the same to the clerk, who shall notify the fence-viewers and all parties interested, in the manner hereinbefore provided for the service of other notices under this Act.

4. The Judge shall hear and determine the appeal, and set aside, alter, or affirm the award, correcting any error therein, and he may examine parties and witnesses on oath, and, if he so pleases, may inspect the premises; and may order payment of costs by either party, and fix the amount of such costs.

5. His decision shall be final; and the award, as so altered or confirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

6. The practice and proceedings on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the Division Court. R. S. O. 1877, c. 198, s. 11.

13. Any agreement in writing (Form 4) between owners respecting such line fence may be filed or registered and enforced as if it was an award of fence-viewers. R. S. O. 1877, c. 198, s. 12.

14. (1) The owner of the whole or part of a division or line fence which forms part of the fence enclosing the occupied or improved land of another person, shall not take down or remove any part of such fence—

(a) Without giving at least six months previous notice of his intention to the owner or occupier of such adjacent enclosure;

(b) Nor unless such last mentioned owner or occupier after demand made upon him in writing by the owner of such fence, refuses to pay therefor the sum determined as provided in section 7 of this Act;

(c) Nor if such owner or occupier will pay to the owner of such fence or of any part thereof, such sums as the fence-viewers may award to be paid therefor under section 7 of this Act.

(2) The provisions of this Act relating to the mode of determining disputes between the owner of occupied adjoining lands, the manner of enforcing awards and appeals therefrom, and the schedules of forms attached hereto, and all other provisions of this Act, so far as applicable, shall apply to proceedings under this section. R. S. O. 1877, c. 198, s. 13.

15.—(1) If any tree is thrown down, by accident or otherwise, across a line or division fence, or in any way in and upon the property adjoining that upon which such tree stood, thereby causing damage to the crop upon such property or to such fence, it shall be the duty of the proprietor or occupant of the premises on which such tree theretofore stood, to remove the same forthwith, and also forthwith to repair the fence, and otherwise to make good any damage caused by the falling of such tree.

(2) On his neglect or refusal so to do for forty-eight hours after notice in writing to remove same, the injured party may remove the same, or cause the same to be removed, in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain such tree to remunerate him for such removal, and may also recover any further amount of damages beyond the value of such tree, from the party liable to pay it under this Act.

(3) For the purposes of such removal the owner of such tree may enter into and upon such adjoining premises for the removal of the same without being a trespasser, avoiding any unnecessary spoil or waste in so doing.

(4) All disputes arising between parties relative to this section, and for the collection and recovery of all or any sums of money becoming due thereunder, shall be adjusted by three fence-viewers of the municipality, two of whom shall agree. R. S. O. 1877, c. 198, s. 14.

16. The forms in the schedule hereto are to guide the parties, being varied according to circumstances. R. S. O. 1877, c. 198, s. 15.

SCHEDULE OF FORMS.

FORM 1.

(Section 4.)

NOTICE TO OPPOSITE PARTY.

Take notice, that Mr. _____, Mr. _____, and Mr. _____, three, fence-viewers of this locality, will attend on the _____ day of _____

18 , at the hour of , to view and arbitrate upon the line fence in dispute between our properties, being lots (or parts of lots) *One* and *Two* in the concession of the township of , in the county of

Dated this day of , 18 .

A. B.,
Owner of Lot 1.

To C. D.,
Owner of Lot 2.

R. S. O. 1877, c. 198, *Sched.* Form 1.

FORM 2.

(Section 4.)

NOTICE TO FENCE-VIEWERS.

Take notice, that I require you to attend at on the day of , A. D. 18 , at o'clock, A. M., to view and arbitrate on the line fence between my property and that of Mr. being lots (or parts of lots) Nos. *One* and *Two* in the concession of the township of , in the county of

Dated this day of , 18 .

A. B.
Owner of Lot 1.

R. S. O. c. 198, *Sched.* Form 2.

FORM 3.

(Section 7.)

AWARD.

We, the fence-viewers of (*name of the locality*), having been nominated to view and arbitrate upon the line fence between of (*name and description of owner who notified*) and (*name and description of owner notified*), which fence is to be made and maintained between (*describe properties*), and having examined the premises and duly acted according to *The Line Fences Act*, do award as follows:— That part of the said line which commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by the said and that part thereof which commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by the said . The fence shall be of the following description (*state the kind of fence, height, material, etc.*) and shall cost at least per rod. The work shall be commenced within days, and completed within days from this date, and the costs shall be paid by

(state by whom paid; if by both, in what proportion).

Dated this day of , 18 .

(Signatures of Fence-viewers.)

R. S. O. 1877, c. 198, Sched. Form 3.

FORM 4.

(Section 13.)

AGREEMENT.

We, and , owners respectively of lots (or parts of lots) *One and Two* in the concession of the township of , in the county of , do agree that the line fence which divides our said properties shall be made and maintained by us as follows: (follow the same form as aforesaid.)

Dated this day of 18 .

(Signatures of Parties.)

R. S. O. 1877, c. 198, Sched. Form 4.

An Act to amend the Line Fences Act.

[Assented to 23rd March, 1889.]

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

1.—Section 11 of *The Line Fences Act* is amended by adding the following subsection thereto:

(2) The municipality may at the expiration of the time for appeal, or after appeal, as the case may be, pay to the fence-viewers their fees, and shall, unless the same be forthwith repaid by the person awarded or adjudged to pay the same place the amount upon the collector's roll as a charge against the person awarded or adjudged to pay the same, and the same shall thereafter be placed upon the collector's roll and may be collected as ordinary municipal taxes.

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An Act Respecting Ditches and Watercourses.

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

1.—This Act may be cited as "*The Ditches or Watercourses Act.*" 46 V. c. 27, s. 1.

2.—(1) Every municipal council shall name and appoint by by-law an engineer to carry out the provisions of this Act, and such engineer shall be and continue an officer of such corporation until his appointment is repealed by by-law and another engineer appointed in his stead, who shall have authority as well to take as to continue any proceeding already commenced under this Act.

(2) The word "engineer" in this Act shall mean civil engineer, land surveyor, or such person as any municipality may deem competent to perform the duties required under this Act. 46 V. c. 27, ss. 4, 21.

3. This Act shall not affect the Acts relating to municipal or government drainage. 46 V. c. 27, s. 2.

4.—(1) In case of owners of lands, (*b*) whether immediately adjoining or not, which would be benefitted by making a ditch or drain, or by deepening or widening a ditch or drain already made in a natural watercourse, or by making, deepening or widening a ditch or drain for the purpose of taking off surplus water or in order to enable the owners or occupiers thereof the better to cultivate or use the same, such several owners shall open and make, deepen or widen a just and fair proportion of such ditch or drain according to their several interests in the construction of the same; and such ditches or drains shall be kept and maintained so opened, deepened or widened by the said owners respectively, and their successors in such ownership, in such proportions as they have been so opened, deepened or widened, unless in consequence of altered circumstances the engineer hereinafter named otherwise directs which he is hereby empowered to do upon application of any party interested in the same form and manner as is hereinafter prescribed in respect of the original opening, deepening or widening; and in case the engineer finds no good reason for such application all costs caused thereby shall be borne by the applicant, and shall be collected as in this Act provided. 46 V. c. 27, s. 3.

(2) Every such ditch or drain shall be continued to a proper outlet, so that no lands, unless with the consent of the owner thereof, will be

overflowed or flooded through or by the construction of any such ditch or drain, and it shall be lawful to construct such ditch or drain through one or any number of lots until the proper outlet is reached. 47 V. c. 43, s. 1.

(3) Such consent shall be in writing, and signed by the party consenting, and shall be filed with the clerk of the municipality, with the award, and may be recited or referred to therein.

(4) If after a ditch or drain has been constructed under the provisions of this Act, and in case any owner whose duty it is to maintain and keep in repair any portion of such ditch or drain neglects to keep such portion in a proper state of repair, any one of the owners who is liable for maintaining and keeping in repair any portion of such ditch or drain may in writing notify the owner who neglects to keep his portion of such ditch or drain in a proper state of repair, to have the same put in such repair, and to have the same completed within thirty days from the receipt of such notice.

(5) The owner who serves the notice may, if the work has not been performed at the expiry of the thirty days, make application to the council of the municipality to have the repairs carried out and completed.

(6) The council shall when such application is made, order an examination of such portion of the ditch or drain as is complained of, to be made by the engineer of the municipality or by some other person to be appointed by the council, and who may be called the "Inspector of drains and ditches." The inspection shall be made not later than twelve days from the time of the ordering the same, and the engineer or inspector as the case may be, shall within twelve days after making the inspection, file with the clerk of the municipality a certificate, stating whether the complaint is well founded or not, and wherein the ditch or drain requires repairing.

(7) If the engineer or inspector (as the case may be) certifies that the complaint is well founded, then in such case the council shall order him to proceed and let the work as provided in section 15, for re-letting work, unless the owner has himself in the meantime completed such repairs in accordance with the report or certificate of the engineer or inspector. The provisions of sections 16 and 18 shall apply as to inspection and payment of engineer's or inspector's fees and costs of work, and the council may by by-law fix the remuneration of the inspector during the time he may be engaged in the performance of any duties under this Act. A member of the council shall not be appointed inspector.

(8) If the engineer or inspector decides that the complaint is not well founded, then in such case the party making the complaint shall

any such ditch drain through attached. 47 V. pay the fees of the engineer or inspector, as the case may be, and if not paid by him they shall be paid and charged as provided in section 18.

(9) Any owner or party interested under proceedings taken under or by virtue of the preceding six sub-sections shall have the right of appeal as provided by this Act, where the amount involved exceeds the sum of \$20. 50 V. c. 37, s. 1.

5. In case of dispute between owners respecting such proportions, any owner shall, before filing with the clerk of the municipality the requisition provided for in section 6 of this Act (Form C or to the like effect), serve upon the other owners or occupants of the lands to be affected a notice in writing signed by him (Form B or to the like effect), naming a day, hour and place convenient to the ditch or drain at which the parties are to meet, and, if possible, agree upon the respective portions of the ditch or drain to be made, deepened or widened by each of them, the notice to be served not less than twelve clear days before time of meeting; and in case at the meeting an agreement shall be come to between the parties, the agreement shall be reduced to writing (Form A or to the like effect), and shall be signed by all the parties, and shall, within four clear days from the signing thereof, be filed with the clerk of the municipality in which the land requiring the ditch or drain is situate, and the agreement may be enforced in like manner as an award of the engineer as hereinafter provided. 46 V. c. 27, s. 5; 50 V. c. 37, s. 2.

6. In case the parties at the meeting shall not agree, any owner may file with the clerk of the municipality in which the lands requiring such ditch or drain are situated a requisition (Form C or to the like effect) shortly describing the ditch or drain to be made, deepened or widened, and naming the lands which will be affected thereby, and the owners respectively, and requesting that the engineer appointed by the municipality for the purpose be asked to appoint a day in which he will attend at the place named in the requisition, which shall not be less than ten nor more than sixteen clear days from the day on which he received a copy of said requisition, and shall also at least four clear days before the time appointed serve upon all the persons named in such requisition a notice (Form D or to the like effect) requiring their attendance at the said time and place: Provided, nevertheless, that when it shall be necessary in order to obtain an outlet, that the drain or ditch shall pass through or partly through the lands of more than five owners (the owner first mentioned in this section being one) the requisition shall not be filed, unless:

- (a) Such owner shall first obtain the assent, in writing, thereto of (including himself) a majority of the owners affected or interested; or,

- (b) Unless a resolution of the council of the municipality, in which the greater portion of the work is to be done, approving of the scheme or proposed work, shall be first passed after those interested have been heard or have had an opportunity to be heard by the council upon notice to that end;
- (c) When the engineer shall under section 8 of this Act require other parties whom he deems interested to be notified, he shall not assess or bring in without his or their assent more than one additional interested person when the majority of those so notified and interested are opposed to being so brought in or assessed;
- (d) Unless the assent (by resolution) of the said municipal council approving of the proposed extension to the lands of other interested parties shall be first passed after a hearing or notice as hereinbefore provided. 46 V. c. 27, s. 6; 50 V. c. 37, s. 3; 52 V. c. 49, s. 1.

7. An occupant not the owner of land, notified in the manner provided by this Act, shall immediately notify the owner thereof, and shall, if he neglects to do so, be liable for all damages suffered by such owner by reason of such neglect. 46 V. c. 27, s. 7.

8.—(1) The clerk shall after receiving the requisition, forthwith notify the engineer by registered letter, enclosing a copy of the requisition; and on receipt of the same, the engineer shall notify the clerk, in writing, naming a time at which he will attend; and, on receipt of this notice, the clerk shall file the same with the requisition, and shall forthwith send a copy of the notice of the engineer by registered letter to the owner making the requisition, and the engineer shall attend at the time named in said notice, shall examine the premises, and, if he deem proper, or if requested by any of the parties, shall hear evidence, and is hereby authorized to examine the parties and their witnesses on oath, and may administer an oath or affirmation as in Courts of Justice, and if he shall find the making, deepening, or widening of the ditch or drain necessary, he shall, within thirty days after the day of meeting named in the requisition, make his award in writing (Form E or to the like effect) specifying clearly the locality, description and course of the ditch or drain, point of commencement and termination of same, the portion of the ditch or drain to be done by the respective parties, and the time within which the work is to be done, the amount of his fees and other charges and by whom to be paid; and he shall have power to adjourn the examination and may require the notification and attendance of other parties whom he deems interested in the ditch or drain, such other parties to have at least four clear days notice of time and place of attendance. 46 V. c. 27, s. 8; 50 V. c. 37, s. 4; 52 V. c. 49, s. 2 (1).

(2) In no case shall the engineer include or assess the lands lying more than fifty rods above the point of commencement of the ditch or drain upon the lands mentioned in the notice (Form B) provided for by section 5 of this Act, nor the lands on either side of the ditch or drain which lie more than fifty rods from the drain, and only so much within such fifty rods as having due regard to the nature of the locality and of the soil and the lay of the land and its distance back from the ditch or drain as will be benefited by the ditch or drain, and then only according to and in proportion to the benefit which it will receive by such construction. 50 V. c. 37, s. 5.

(3) The engineer may by his award direct that any portion of such ditch or drain may be constructed as a covered drain, and shall determine the size and capacity of the proposed covered portion, and the nature and quality of the material to be used therein, but no such direction shall be given by the engineer, if the covering of such portion of the ditch or drain would impede or delay the free flow of the water which the ditch or drain is intended to carry off. 51 V. c. 35, s. 1.

9.—(1) If it appears to the engineer that the owner or occupier of any tract of land is not sufficiently interested in the opening up of the ditch or drain to make him liable to perform any part thereof, and at the same time that it is necessary for the other parties that the ditch or drain should be continued across the tract, he may award the same to be done at the expense of the other parties, and after the award the other parties may open the ditch or drain across the tract at their own expense without being trespassers, but causing no unnecessary damage and replacing any fences opened or removed by them. 46 V. c. 27, s. 9.

(2) If it appears to the engineer that rock-cutting is required to be done, the engineer may get the rock cut or blasted by giving the contract out to public competition by tender or otherwise, instead of requiring each person benefited to do his share of the work. The engineer shall, by his award, determine the sum which shall be paid by each of the persons benefited, which sum, unless forthwith paid, shall be added to the collector's roll, together with seven per cent. added thereto, and the same shall thereupon become a charge against the land of the parties so liable, and shall be collected in the same manner as other municipal taxes. 50 V. c. 37, s. 6.

10. The engineer shall, within thirty days from the day appointed by him as named in section 8 of this Act, make and file his award, and any plan or profile of said work with the clerk of the municipality named in section 6 of this Act, and the award, plan and profile shall be official documents, and may be given in evidence in any legal proceedings by certified copies as are other official documents, and the clerk of the municipality shall forthwith, upon the filing of the award, notify each of the persons affected thereby by registered letter or

personal service of the filing of the same; and the clerk shall keep a book in which he shall record the names of the parties to whom he has sent the notice, the address to which the same was sent, and the date upon which the same was deposited in the post office or personally served. 46 V. c. 27, s. 10; 48 V. c. 47, s. 1; 50 V. c. 37, s. 8.

11. Any person dissatisfied with the award and affected thereby may, within fifteen clear days from the filing thereof, appeal therefrom to the Judge of the County Court of the county in which the lands, in respect to which the proceedings are initiated, are situate, and the proceedings on the appeal shall be as follows: 46 V. c. 27, s. 11 (1); 48 V. c. 47, s. 2.

1. The appellant shall serve upon the clerk of the municipality with whom the award is filed a notice in writing of his intention to appeal therefrom, shortly setting forth the grounds of appeal. 46 V. c. 27, s. 11 (1).

2. The clerk of said municipality shall, after the expiration of the time for appeal, forward by registered letter or deliver a copy of the notice or notices of appeal, if there be more than one appeal, and a certified copy of the award, to the clerk of the Division Court of the division in which the land of the owner filing the requisition as provided in section 6 of this Act is situate and the Division Court clerk shall immediately notify the Judge of the appeal, whereupon the Judge shall appoint a time for the hearing thereof, and, if he think fit, order such sum of money to be paid by the appellant or appellants to the said clerk as will be a sufficient indemnity against costs of the appeal. 46 V. c. 27, s. 11 (2); 49 V. c. 44, s. 2.

3. The Judge shall order the time and place for hearing of appeals, and communicate the same to the clerk of the Division Court, who shall notify the engineer and all parties interested, in the manner herein provided for the service of other notices under this Act. 46 V. c. 27, s. 11 (3).

(a) The place for hearing such appeals shall be in the division of the Division Court, in which the lands, in respect to which the original proceedings are initiated, are situated.

4. The Judge shall hear and determine the appeal or appeals, and set aside, alter or affirm the award, correcting any error therein, and he may examine parties and witnesses on oath and, if he so pleases, inspect the premises, requiring the attendance with him of the engineer, and may order payment of costs by the parties, or any of them, and fix the amount of such costs. 46 V. c. 27, s. 11 (4).

(b) 51 V. c. 35, sec. 2, which repealed sub-sec. (a) of this sub-sec. also contains the following provision: "This provision shall apply to appeals now pending, as well as to those that may be entered hereafter, and in case of pending appeals they shall be transferred to the proper Division Court, and shall not lapse or be otherwise affected by the repeal of said sub-section (a)."

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5. It shall be the duty of the Judge to hear and determine the appeal within one month after receiving notice thereof as provided by this section, but his neglect or omission so to do shall not render invalid the hearing or determining of the appeal after the lapse of that time; provided always that the Judge may, if in his opinion it will be more convenient for the parties concerned, fix as the time and place for hearing the appeal a sitting of the Division Court of the division in which the land of the person giving the notice of appeal is situate, notwithstanding the time so fixed may be more than one month after the receiving of the notice, and the appeal may be heard either before or after the regular sitting of the Court. 48 V. c. 47, s. 3; 49 V. c. 44, s. 1.

6. The award as so altered or confirmed shall be certified by the clerk of the Division Court to the clerk of the municipality, together with the costs, if any, allowed and by whom to be paid, and the award shall be enforced as the award of the engineer, and the time for the completion of the work thereunder shall be computed from the date of such judgment in appeal. 46 V. c. 27, s. 11 (5).

12. The clerk of the Division Court receiving the notice of appeal may issue under the seal of the Court, subpoenas to witnesses, and the bailiff may serve the same; which subpoenas shall be in the form, as nearly as may be, of those used in Division Courts; and non-attendance or disobedience to a subpoena may be punished in the same manner as in a case in a Division Court. 49 V. c. 44, s. 3.

13. It shall be the duty of the municipality, through the treasurer thereof, to pay the contractor for the work as soon as done to the satisfaction and upon the certificate of the engineer, pending the subsequent collection thereof as aforesaid. 50 V. c. 37, s. 7.

14. The municipality shall, at the expiration of the time for appeal or after appeal, as the case may be, pay to the engineer his fees, and also pay to the person declared to be entitled to the same, any fees or costs awarded or adjudged to him and shall, unless the same be forthwith repaid by the person awarded or adjudged to pay the same, place the amount upon the collector's roll as a charge against the lands of the person awarded or adjudged to pay the same, and the same shall thereupon become a charge upon such lands, and shall be collected as ordinary municipal taxes. 46 V. c. 27, s. 12.

15.—(1) The engineer shall, at the expiration of the time limited by the award for the completion of the work, inspect the ditch or drain, if required in writing so to do by any of the parties interested, (c) and if he finds the work or any portion thereof not completed in accordance with the award, he may let the same, in sections, as apportioned in the award, to the lowest bidder therefor, taking such security for the

performance thereof within the time to be limited, as he may deem necessary, but no such letting shall take place till after four clear days' notice in writing of the intended letting has been posted in at least three conspicuous places in the neighbourhood of the work, and notice thereof is sent by registered letter to such parties interested in said award as are non-resident in said municipality; but if the engineer is satisfied of the *bona fides* of the person doing the work, and there is good reason for the non-completion thereof, he may, in his discretion, extend such time. 46 V. c. 27, s. 13.

(2) The engineer may let the work, by the award directed to be done a second time or oftener if it becomes necessary in order to secure its performance and completion. 52 V. c. 49, s. 3.

16. The engineer shall upon receipt of notice in writing of the final completion of the work mentioned in the preceding section inspect the same within one week thereafter, and, if approved of and accepted by him, certify in writing the fact to the clerk of the municipality, giving a separate certificate for each portion or section of work let and completed (Form F or to the like effect), and stating the name in each certificate of the person who did the work, as well as the amount he is entitled to receive therefor, and also such extra fees as the engineer is entitled to, by reason of such letting and subsequent inspection, and by whom the same are to be paid. 46 V. c. 27, s. 14.

17. Any engineer who wilfully neglects to make the inspection required by either of the preceding two sections for thirty days after he has received the written notice mentioned therein, shall be liable to a fine of not less than \$5 nor more than \$10, to be recovered with costs on complaint made before one of Her Majesty's Justices of the Peace having jurisdiction in the matter, and in default of payment the same shall be recoverable by distress, and every such fine shall be paid over to the treasurer of the municipality in which the offence arose. 49 V. c. 44, s. 4.

18.—(1) The council shall, at their meeting next after the filing of the certificate or certificates mentioned in section 16, pay to the engineer his additional fees therein mentioned and forthwith thereafter may pay to any person the amount which, according to such certificate, he is entitled to receive for any work mentioned in section 16, and thereafter the council shall, unless the amount or amounts named in the certificate or certificates, including such additional fees, is forthwith paid by the respective parties declared in the certificate or certificates to be liable to pay the same, cause the amount or amounts and fees to be added to the collector's roll, together with seven per cent. added thereto, and the same shall thereupon become a charge against the lands of the party or parties so liable, and shall be collected in the same manner as other municipal taxes, and when collected shall be paid over to any person entitled thereto. 47 V. c. 43, s. 2; 50 V. c. 37, s. 9.

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(2) To remove doubts and to prevent delays and avoid expense it is declared that no action, suit or proceeding shall lie or be had for a mandamus or other order of the High Court to enforce or compel the performance or completion of the work by the award or certificate of the engineer apportioned or directed to be done against the person by the award or certificate directed to do the work, but the performance of the work shall be secured and the payment therefor enforced and collected in the manner provided for by this Act. This section shall not apply to or affect pending suits, actions or proceedings. 52 V. c. 49, s. 4.

19.—(1) Notices under the provisions of this Act shall be served personally, or by leaving the same at the place of abode of the owner or occupant, with a grown-up person residing thereat, and in case of non-residents, then upon the agent of the owner, or by registered letter addressed to the owner at the post office nearest to his last known place of abode. 46 V. c. 27, s. 16.

(2) A "non-resident" within the meaning of this section shall include a person who does not reside within the municipality in which the lands which he owns are situate and in respect of which proceedings are taken or to be taken under the provisions of this Act; and where the place of abode of a non-resident is not known notices under the provisions of this Act requiring to be served on such non-resident may be served in such manner as the Judge of the County Court may direct. 48 V. c. 47, s. 4.

20. Every municipal corporation shall have and exercise all the rights and privileges of this Act, and may be made parties to the agreement or award, and shall be considered as owner of the highway for the purposes of this Act, and shall in all respects be in the same position as an individual owner. 46 V. c. 27, s. 17.

21.—(1) In any case where an open ditch or drain has been or may be constructed under the provisions of this Act, any person through whose lands such ditch or drain has been opened, may, with the consent of the engineer of the municipality, convert so much of such ditch or drain as runs through the lands of such person into a covered drain.

(2) The engineer, before giving his consent, shall examine the portion of the ditch or drain which is proposed to be covered, and shall determine the size and capacity of the proposed covered portion of the drain or ditch, and the nature and quality of material to be used therein, but no such consent shall be given by the engineer if the covering of such portion of the ditch or drain would impede or delay the free flow of the water which the ditch or drain is intended to carry off. 50 V. c. 37, s. 10.

22. The engineer shall file with the clerk of the municipality (if such consent be given) an award setting forth the particulars in accordance with the provisions of this Act, and the award shall be subject to appeal. 50 V. c. 37, s. 11.

23. The person making the application for the covering of the ditch or drain, may notify the engineer to inspect the ditch or drain in the first place, and shall also notify the owners interested whose lands are situate above his own of the time when the engineer will examine the drain, and shall also notify the engineer when the work is completed, and it shall not be necessary for such person to take the proceedings provided in sections 5 and 6 of this Act, and such person shall be liable for the fees and expenses of the engineer, and if not paid by such person to the engineer, the fees and expenses shall be collected, as provided for in this Act. 50 V. c. 37, s. 12.

24. Such person (and the subsequent owners) shall maintain and keep the covered portion of the drain of such sufficient size and capacity as not to impede or delay the free flow of the water above the covered portion or brought thereto by said drain; and any damages occasioned by the neglect or failure to so maintain and keep such portion of the size and capacity aforesaid shall be payable by the owner of the land upon which the insufficient or imperfect portion of the drain is situate. 50 V. c. 37, s. 13.

25. In case any person during or after the construction of the ditch or drain herein provided for, desires to avail himself of such ditch or drain for the purpose of draining other lands than those contemplated by the original proceedings, he may avail himself of the provisions of this Act, as if he were or had been a party to such original proceedings; but no person shall make use of the ditch or drain constructed under the provisions of this Act, unless under agreement or award pursuant to its provisions as to the use of lands of others, as to the enlargement, if such be necessary, of the original ditch or drain so as to contain additional water therein, and as to the time for the completion of such enlargement. 46 V. c. 27, s. 18; 48 V. c. 47, s. 5.

26. Notwithstanding any of the lands through which the drain is required, are situate in a municipality adjoining the one in which the original proceedings were commenced, the engineer shall have full power and authority to continue the ditch or drain in and through so much of the lands in the adjoining municipality as may be found necessary, and all proceedings authorized under the provisions of this Act are to be had, taken, and carried on in the municipality where commenced; but in such case the clerk of the municipality shall forward to the clerk of the adjoining municipality a certified copy of the award, as made, confirmed, or altered, and shall

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also forward to him a certified copy of every certificate of the engineer which affects or relates to the lands in the adjoining municipality, and to the owners thereof; and the municipal council shall, unless the amounts are forthwith paid by the parties declared by the certificate liable to pay the same, have and take all proceedings for the collection of the sums so certified to be paid, as though all the proceedings had been taken and carried on in the adjoining municipality. 46 V. c. 27, s. 19.

[26a.]—(1) In any case where a drain or ditch has been made and constructed, or where a creek or watercourse has been deepened, widened or extended, or where an under-drain has been made under the provisions of [this Act] or any previous Act respecting ditches and watercourses, or may hereafter be so made and constructed, and when any such drain, ditch or under-drain, creek or water-course does not carry off the water it was originally designed to carry off, any one of the owners interested in the original construction of such ditch, drain or under-drain, or in the deepening, widening or extending of any such creek or watercourse, or who may have acquired the ownership of the lands, the owner of which at the time of the making and construction of such works was liable for the cost of the same, may take proceedings for the reconsideration of the award or agreement as the case may be, and in order to do so, such owner shall take the same proceedings and in the same form and manner as is done in respect to the original opening and making of such aforementioned work, except as hereinafter provided.

(2) Before any of the aforesaid proceedings are taken, such owner shall upon notice in writing to all parties interested make an application to the council of the municipality in which the lands are situate; upon hearing the complaint of said owner, the council, if satisfied that such owner has reasonable grounds for complaint, may order the engineer to make an examination of such ditch, drain, under-drain, creek or water-course, and to make a report to the head of the council, not later than thirty days from such meeting of council.

(3) If the report of the engineer certifies that the complaint is well founded the applicant may go on and take proceedings, as provided in sub-section 1 of this section, and the costs incurred shall be apportioned under the award; if the engineer reports that there is no cause of complaint, then the applicant shall pay the whole cost incurred, and if not forthwith paid by him, it shall be entered in the collector's roll in accordance with sections 14 and 18 of [this Act.]

(4) No proceedings shall be taken under the provisions of this section before the expiration of three years after the completion of such work in the first instance. 52 V. c. 49, s. 5.

[26 b.] In order to remove all doubts as to the maintaining and keeping in repair of any ditch or drain, whether covered or open, or of any creek or water-course that has been deepened or widened, under the provisions of *The Ditches and Water-courses Act*, before the year 1883, it is hereby declared that the cost of maintaining and keeping in repair any such ditch or drain, whether covered or open, or of any such creek or watercourse shall be borne by the respective owners, in such proportion as is provided in the original or any amending award; and the manner of enforcing such repairing and maintaining shall be as set forth in sub-sections 4, 5, 6, 7, 8 and 9 of section 4 of [this Act.] 52 V. c. 49, s. 6.

27. The fees to which the engineer shall be titled under this Act shall be such as shall be fixed by by-law or resolution of the council, and in case no such fees are fixed by the council the same shall be his legally authorized fees for similar work, or such less amount as may be agreed upon, and the fees to witnesses and for the service of papers authorized by the Division Court clerk shall be the same as those allowed to witnesses, and for similar services in the Division Court. 46 V. c. 27, s. 20.

[27 (a)] In all cases when in this Act any particular number of days expressed to be "clear days" is prescribed the same shall be exclusive of both the first and last day. 52 V. c. 49, s. 7.

28. This Act shall apply to deepening or widening a ditch or drain. 50 V. c. 37, s. 15.

FORM A.

(Section 5.)

Township of _____
Whereas it is found necessary that a ditch or drain should be made (deepened, or widened) on lot No. _____ in the _____ concession of the township of _____ and it is necessary to continue the same through lot number _____ in the _____ concession of the township of _____ (if more than one lot describe them).

Therefore we _____ owners of the land hereinafter described, do agree each with the other as follows:—

That I, _____ owner of _____ (describe lot) agree that I will make (deepen or widen) and maintain that part of such ditch or drain commencing at stake number one planted (describing the locality of said stake) and thence to stake number two, and that said portion of said ditch or drain shall be (describing the depth and width) and I _____ owner of (giving the name of each person, the land owned by him, the portion of work assigned, its depth,

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width, etc.), and each of us agrees to have our said respective portions completed on or before the day of _____ A. D. 18

Dated _____
Witness.

(Signed by the parties)

46 V. c. 27, Form A.

FORM B.

(Sections 5, 8.)

To _____ Township of _____

Sir,—As the owner of lot number _____ in the _____ concession of the township of _____ I require to construct a ditch or drain through said lot, and find it necessary to continue the same through your land, being lot number _____ in the _____ concession of the township of _____ under *The Ditches and Watercourses Act* and request that you will attend at _____ on the day of _____ 18 _____ at the hour of _____ o'clock, in the _____ noon, with the object of agreeing, if possible, upon the respective portion of such ditch or drain to be made, deepened or widened by the several parties interested.

Dated this _____ day of _____ 18 _____

Yours, etc.

46 V. c. 27, Form B.

FORM C.

(Sections 5, 6.)

To _____ Clerk of the Municipality of the _____ of _____

Sir,—As the owner of lot number _____ in the _____ concession of the township of _____ I require to construct a ditch or drain through the said lot and it will be necessary to continue the ditch or drain through the following lands on lot number _____ in the _____ concession of the township of _____ owned by lot number _____ in the _____ concession of the township of _____ owned by lot number _____ in the _____ concession of the township of _____ owned by _____ (describe each lot through which the ditch or drain must be continued, and the name of the owner of each parcel), and having failed to agree upon the respective portions to be made by each, I request that the engineer appointed by the municipality be asked to appoint a day on which he will attend at the locality of the said proposed ditch or drain, and examine the premises, hear the parties and their witnesses and make his award under the provisions of *The Ditches and Watercourses Act*.

Dated _____

(Signed by Party or Parties.)

46 V. c. 27, Form C. ; 52 V. c. 49, s. 2 (2).

FORM D.
(Section 6.)

To

Take notice that the engineer appointed by the municipality for the purpose will attend at lot number in the concession of on the day of A.D. 18 at the hour of o'clock in the noon, to examine the site of the proposed ditch or drain and make his award therein; and you as the owner of (*describe the lot*) which may be affected thereby, are requested to attend (with any witnesses you may desire to have heard) at said time and place.

Dated

Yours, &c.,
46 V. c. 27, Form D.

FORM E.
(Section 8.)

I the engineer appointed by the municipality of the township of in the county of under the provisions of *The Ditches and Watercourses Act*, having by the requisition of owner (or owners) of lot number in the concession of the township of filed with the clerk of the said municipality, representing that he (or they) required a ditch or drain on said lot, and that it would be necessary to continue the ditch or drain through the following lands on lot number in the concession of the township of owned by etc., did attend at the time and place named in said notice, and having examined the locality of said ditch or drain, and heard the parties and their witnesses (*if any*), find and award as follows:

That lot number in the concession of the township of would be benefited by, and requires a ditch or drain (*or the deepening or widening of a ditch or drain, if already made*), to enable the proper cultivation or use of the said land, and I find that said ditch or drain will require to be extended across the land of being lot number in the concession of and across the land of being lot number in the concession of the township of (*and so on, giving the name of each owner and lot to termination of said ditch or drain*), and I award the making of said ditch or drain (*or the deepening or widening as the case may be*), as follows:—.....shall commence at stake number one planted (*describe with reasonable certainty where planted*), and shall open up and maintain a ditch or drain (*describe width and depth*), to stake number two planted (*describe where planted, distance and direction from first stake*), and said portion shall be made and com-

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pleted within (name time within which to be completed). That shall commence at stake number two, above described, and shall open up and maintain a ditch or drain (describe width and depth) to stake number three planted (describe where planted, distance and direction from stake number two) and said portion shall be made and completed within (name time, etc) That shall, etc., (and so on to the termination of said ditch or drain).

That my costs attendant upon the examination, and making of this award are and shall be borne and paid as follows, (give the name of the persons to be charged therewith, and the portion to be borne by each).

Dated this _____ day of _____ A. D. 18 _____

Witness

} (Signature of Engineer.)
}

46 V. c. 27, Form E.

FORM F.

(Section 16.)

To Clerk of the township of _____ has completed certain work which I hereby certify that _____ day of _____ A. D. 18 _____, one under my award dated the _____ was ordered and adjudged to perform, and which the said _____ having failed to do was by me subsequently let to the said _____ for the sum of _____ and the said _____ is entitled to be paid the said amount.

I further certify that my additional fees are _____ and that said amount and said fees are chargeable on (describe property to be charged therewith) and shall unless forthwith paid be added to the Collectors' Roll (with interest) as provided in section 18 of The Ditches and Watercourses Act.

Dated this _____ day of _____ A. D. 18 _____

Engineer for
46 V. c. 27, Form F.

The Ditches and Watercourses Amendment Act, 1889.

[Assented to 23rd March, 1889.]

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

1. Section 6 of *The Ditches and Watercourses Act* is amended by striking out the words "time and" in the ninth line;" by striking out the words "six nor more than twelve clear days from the time of filing the same" in the tenth and eleventh lines and substituting therefor the words "ten nor more than sixteen clear days from the day on which he received a copy of said requisition; and by striking out the word "therein" in the twelfth line of the said section.

2.—(1) Sub-section 1 of section 8 of the said Act is amended by striking out all the words down to the word "shall" in the fourth line, and by substituting therefor the words "The clerk shall, after receiving the requisition, forthwith notify the engineer by registered letter, enclosing a copy of the requisition; and, on receipt of the same, the engineer shall notify the clerk, in writing, naming a time at which he will attend; and, on receipt of this notice, the clerk shall file the same with the requisition, and shall forthwith send a copy of the notice of the engineer by registered letter to the owner making the requisition, and the engineer shall attend at the time named in said notice."

(2) Form C of the said Act is amended by striking out all the words after the word "each" in the tenth line and substituting therefor the words "I request that the engineer appointed by the municipality be asked to appoint a day on which he will attend at the locality of the said proposed ditch or drain, and examine the premises, hear the parties and their witnesses and make his award under the provisions of *The Ditches and Watercourses Act*."

3. Section 15 of the said Act is amended by adding thereto the following sub-section.—

(2) The engineer may let the work, by the award directed to be done, a second time or oftener if it becomes necessary in order to secure its performance and completion.

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4. Section 18 of the said Act is amended by adding thereto the following sub section:—

(2) To remove doubts and to prevent delays and avoid expense it is declared that no action, suit or proceeding shall lie or be had for a mandamus or other order of the High Court to enforce or compel the performance or completion of the work by the award or certificate of the engineer apportioned or directed to be done against the person by the award or certificate directed to do the work, but the performance of the work shall be secured and the payment therefor enforced and collected in the manner provided for by this Act. This section shall not apply to or affect pending suits, actions or proceedings.

5.—(1) In any case where a drain or ditch has been made and constructed, or where a creek or watercourse has been deepened, widened or extended, or where an under-drain has been made under the provisions of *The Ditches and Watercourses Act* or any previous Act respecting ditches and watercourses, or may hereafter be so made and constructed, and when any such drain, ditch or under-drain, creek or watercourse does not carry off the water it was originally designed to carry off, any one of the owners interested in the original construction of such ditch, drain or under-drain, or in the deepening, widening or extending of any such creek or watercourse, or who may have acquired the ownership of the lands, the owner of which at the time of the making and construction of such works was liable for the cost of the same, may take proceedings for the reconsideration of the award or agreement as the case may be, and in order to do so, such owner shall take the same proceedings and in the same form and manner as is done in respect to the original opening and making of such aforementioned work, except as hereinafter provided.

(2) Before any of the aforesaid proceedings are taken, such owner shall upon notice in writing to all parties interested make an application to the council of the municipality in which the lands are situate; upon hearing the complaint of said owner, the council, if satisfied that such owner has reasonable grounds for complaint, may order the engineer to make an examination of such ditch, drain, under-drain, creek or watercourse, and to make a report to the head of the council, not later than thirty days from such meeting of council.

(3) If the report of the engineer certifies that the complaint is well founded the applicant may go on and take proceedings, as provided in sub-section 1 of this section, and the costs incurred shall be apportioned under the award; if the engineer reports that there is no cause of complaint, then the applicant shall pay the whole cost incurred, and if not forthwith paid by him, it shall be entered in the collector's roll in accordance with sections 14 and 18 of *The Ditches and Watercourses Act*.

(4) No proceeding shall be taken under the provisions of this section before the expiration of three years after the completion of such work in the first instance.

6. In order to remove all doubts as to the maintaining and keeping in repair of any ditch or drain, whether covered or open, or of any creek or watercourse that has been deepened or widened, under the provisions of *The Ditches and Watercourses Act* before the year 1883, it is hereby declared that the cost of maintaining and keeping in repair any such ditch or drain, whether covered or open, or of any such creek or watercourse shall be borne by the respective owners, in such proportion as is provided in the original or any amending award; and the manner of enforcing such repairing and maintaining shall be as set forth in sub-sections 4, 5, 6, 7, 8 and 9, of section 4 of *The Ditches and Watercourses Act*.

7. In all cases when in this Act any particular number of days expressed to be "clear days" is prescribed the same shall be exclusive of both the first and last day.

8. This Act shall be read with and form part of *The Act respecting Ditches and Watercourses*.

An Act respecting the expenses of County Court Judges under The Ditches and Watercourses Act and the Line Fences Act.

[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. A county court judge shall be entitled to be paid the actual expenses incurred by him in case he inspects the premises in respect of which appeals are made to him under *The Ditches and Watercourses Act* or *The Lines Fences Act*.

2. He shall in the order setting aside, altering or affirming the award, fix the amount of such expenses and the person by whom the same shall be paid.

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3. The judge shall be paid the amount so fixed by him by the municipality in the same manner as the engineer's fees are paid in respect of *The Ditches and Watercourses Act*, and as the fence-viewer's fees are paid in respect of *The Line Fences Act*, and such municipality shall collect the same as provided in the said Acts respectively.

An Act to amend The Ditches and Watercourses Act.

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. Section 11 of *The Ditches and Watercourses Act* is amended by inserting the following as subsection (2a).

(2a) The appellant may have the lands and premises inspected by another engineer, who for such purpose may enter upon such lands and premises.

An Act to amend The Ditches and Watercourses Act as applied to Railways.

[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. Every railway company owning or operating a railway in the Province of Ontario shall for the purposes of this Act be considered an owner of lands under the provisions of *The Ditches and Watercourses Act*.

2. All notices which require to be served upon any such railway company under the provisions of this Act, shall be served upon the

manager; and any duties that such manager performs, or causes to be performed by any engineer, assistant engineer, or any person acting under his instructions, shall be deemed to be performed by the railway company.

3.—(1) Every existing ditch, drain, creek, or watercourse, situate on the property of any such railway company, and running along or under the railway, may be deepened, widened or extended, and any existing bridge or culvert in the roadbed of such railway may also be deepened or widened, or a new bridge or culvert may be constructed, when it is found and reported upon by the engineer of the municipality, or agreed and reported upon as hereinafter provided, that such ditch, drain, creek or watercourse, or the widening, deepening or construction of any such bridge or culvert is necessary as an outlet for any creek or watercourse, or any ditch or drain that has been or may be constructed under the provisions of the said Act or of any previous Act, and that such can be done without detriment to the safety of the railway.

(2) The ditch or drain which may be constructed through the lands of the railway may be either covered or open as the said engineer may report.

(3) The aforementioned work shall be done in such a manner as not to injure the bridges, culverts, or road-beds of the railway or in any way to interfere with the traffic thereof.

(4) In any case when any such ditch or drain will require to be carried through any cutting of the railway, the consent of the railway company shall be first obtained.

4. The said engineer when he reports that any ditch, drain, creek or watercourse, running along or under any railway, is required to be used for the purposes aforesaid, and also, that any bridge or culvert is required to be enlarged by the deepening or widening of the same, or that a new bridge or culvert is required, shall file with such report a plan or profile of such drain, creek, or watercourse, and also a plan or profile of the enlargement of any bridge or culvert, but only to shew the extent, depth and width of the required enlargement of such bridge or culvert, or of any new bridge or culvert (as the case may be) together with a statement of the estimated cost of the work to be done upon the lands of the railway, including the cost of any excavation required to be made in enlarging or constructing any bridge or culvert; and such report shall be filed with the clerk of the municipality within the time specified in section 10 of the said Act.

5.—(1) When so found and reported, the clerk of the municipality shall within six days after the filing of the report, send to the manager of the railway company, by registered letter a copy of so much of the

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report as relates to the work upon the lands of the railway company, together with a copy of the plan or profile of said work with a statement of the estimated cost of such work as made by the said engineer.

(2) The manager of the railway or some one acting in his behalf, shall within fifteen days after receiving such report forward to the clerk of the municipality, by registered letter, a notice stating whether he approves or disapproves of said report; if he approves of said report his letter of approval shall be filed in the clerk's office with the report of the engineer, and said report shall be binding upon all parties concerned, and who are liable for the performance of the work, or the cost of the same, upon the lands of the railway company, and shall not be subject to appeal except as herein-after provided.

(3) If the manager of the railway company objects to the said report in whole or in part, he shall in such notice state his objections, and shall also fix a day not later than twenty nor earlier than fifteen days from the mailing of such notice, upon which the engineer of the railway, or some one acting on his behalf, shall meet the engineer of the municipality at the place where the work is proposed to be done for the purpose of arriving at an amicable agreement as to the work objected to by the manager of the railway or the cost thereof.

(4) The clerk of the municipality shall within four days after receiving such notice, notify the engineer of the municipality, if the manager of the railway has approved of his report, and if he has not approved of said report, he shall notify said engineer to attend at the place of the proposed work upon the day fixed by the manager of the railway.

(5) If the engineer of the railway company and the engineer of the municipality agree upon any portion or the whole of said work which may have been objected to by the manager of the railway, then such report shall be amended as may be agreed upon, and shall be in duplicate and signed by both engineers, one copy to be retained by the engineer of the railway, and one to be filed with the clerk of the municipality within ten days after arriving at such agreement; and said report shall be binding upon all parties concerned as set forth in sub-section 2 of this section.

(6) If the engineer of the railway company and the engineer of the municipality fail to agree upon the matters in dispute, as mentioned in sub-section 3 of this section, then in such case said matters of dispute shall be referred to the decision of an engineer to be appointed by the Commissioner of Public Works of the Province of Ontario, whose report and decision shall be final and binding upon all parties interested, and not subject to appeal as far as the work upon the lands of the railway is affected, except as hereinafter provided.

(7) When said disagreement takes place the engineer of the municipality or of the railway company shall within four days thereafter, by registered letter, request the said Commissioner to appoint an engineer as provided for in the previous sub-section, and shall in such letter give the name and post office address of the railway engineer, and also his own post office address, and state the locality where the proposed work is to be done.

(8) The Commissioner of Public Works shall within six days after receiving said request appoint a competent engineer to settle the matters in dispute; the engineer so appointed shall within six days after his appointment, notify by registered letter, the engineer of the railway company, and also the engineer of the municipality of the day on which he will attend at the place of the proposed work, which day shall not be earlier than ten, nor later than twenty days from the date of such notification, and said engineers shall attend at the time and place named in such notice, and shall give all necessary information to the engineer appointed by the Commissioner of Public Works, and said engineer shall carefully enquire and examine into all the objections made, and differences of opinion existing between the engineer of the railway company and the engineer of the municipality in reference to said proposed work upon the lands of the railway company and the cost thereof.

(9) The said engineer shall within ten days after such meeting, make out a report in duplicate, one to be sent by registered letter to the engineer of the railway company, and one copy to be sent by registered letter to the engineer of the municipality, which copy shall be filed with the clerk of the municipality, and such report shall be final and binding as set forth in sub-section 6 of this section.

(10) The engineer of the municipality in making his award (which shall be made when a final agreement has been concluded as set forth in the next sub-section) shall in respect of the work to be performed upon the lands of the railway company, apportion such work and the estimated cost of the same upon the several owners interested in the construction of such work in proportion to the benefit to be derived.

(11) The engineer of the municipality shall within 30 days from the date of approval by the manager of the railway, as provided in sub-section 2 of this section, or in the event of the refusal of such approval, then from the date of agreement if made by the engineers as provided for in sub-section 5 of this section, or in the event of the engineers failing to agree, then from the date of the report as made by the engineer as provided for in sub-section 6 of this section, make his award and file the same with the clerk of the municipality, and

said award shall embrace the lands of the owners, which may be liable for the construction of any such ditch or drain, or the widening or deepening of any creek or watercourse, or for the enlarging or construction of any bridge or culvert.

(12) Any interested owner may appeal against the award of said engineer in the same manner and form as is provided in *The Ditches and Watercourses Act*, and the amendments thereto, but such appeal shall as in respect to the work upon the lands of the railway company, be confined to his right of being made liable for any portion of such work, and the proportion or cost of the same, but such appeal shall not affect the railway company.

6.—(1) The clerk of the municipality shall within four days after expiration of the time for appeal if no appeal has been made, or if an appeal has been made, within four days after the final decision upon such appeal, send to the manager of the railway company by registered letter, a notice stating the place and day upon which the work will be commenced and proceeded with, which day shall not be sooner than twenty, nor later than thirty days from the day of notice, and in such letter of notice he shall ask the manager of the railway which of the following modes of doing the work he will select on behalf of the railway company :

- (a) First, the railway company to do the work by their own employees for such amount as may have been finally agreed upon and made part of the report and award ; or
- (b) Second, that the work may be performed by the party or parties who are liable for the cost of performance of said work, and done under the supervision of the railway engineer, or some one acting in his behalf, and subject to the provisions of section 3.

(2) The manager of the railway, or some one acting in his behalf, shall within ten days after receiving the said notice, notify the clerk of the municipality, by registered letter, which of the said modes of doing the work he will select on behalf of the railway company, and if he selects to do the work under the provisions of clause (b) of the preceding sub-section, upon the receipt of such notice the clerk of the municipality shall forthwith notify the parties who are liable to perform the work, of the day that has been fixed for the commencement of the said work, by the manager of the railway.

(3) If the work is completed under the provisions of clauses (a) or (b) of sub-section (1) of this section, then in either of such cases, the engineer of the railway company shall send to the clerk of the municipality, by registered letter, a certificate, certifying that the work has been completed in accordance with the copy of the plans

and profile as may have been finally agreed upon and furnished to the railway company.

(4) When the work is completed under the provisions of clause (a) of sub-section (1) of this section, the council of the municipality shall at their first meeting, after the clerk has received the certificate mentioned in the preceding sub-section, order the payment of the cost of the work and the same shall be paid by the municipality in accordance with the provisions of section 13 of *The Ditches and Watercourses Act* to the railway or to the party authorized by the railway company to receive the same, and if not forthwith paid by the party or parties who are liable for the same under the provisions of the award, it shall be entered upon the collector's roll as provided in sections 14 and 18 of *The Ditches and Watercourses Act*.

7. In any case where the engineer of the municipality reports that any existing bridge or culvert in the road-bed of any railway has to be enlarged by the deepening or widening of the same, or that a new bridge or culvert is required, and that the same has been agreed to and reported either as provided in sub-section 2 of section 5, or as in sub-section 5 of said section 5, or as provided in sub-section 6 of section 5 of this Act, then all such deepening or widening or construction shall be performed by the railway company and by their employees and at the cost of the municipality in the first instance, said cost to be collected from, and paid for by the owners who will be liable for the same, as provided for in the said sections 14 and 18 of *The Ditches and Watercourses Act*.

8. The railway company shall not be liable for the cost of any work performed upon the lands, or under the road-beds of any railway, under the provisions of this Act.

9. If any railway company neglects or refuses to proceed with the work within the time specified in the report for the completion of the same, then in such case, the party or parties who are liable for the payment of the costs of the work under the provisions of the report or award, as may have finally been decided upon, may proceed with and complete said work upon the lands of the railway company, except the enlarging of a bridge or culvert and the excavation in connection therewith.

10. If the railway company neglect or refuse to enlarge or construct a bridge or culvert within the time specified in the award or report for the completion of the same, then in such case the railway company shall be held liable for all damages sustained by the party or parties, embraced in the report or award, on account of the non-enlargement of such bridge or culvert; and such damages shall accrue from the date mentioned in the report for the completion of the work.

11. This Act may be read and cited as *The Railway Clauses of the Ditches and Watercourses Act* and shall be read as part of said Act.

An Act to amend The Ditches and Watercourses Act as applied to Railways.

[Assented to 4th May, 1891.]

WHEREAS there is a dispute as to whether all railways within this Province, or only certain of the railways therein are within the legislative authority of this province for the purposes of the Act hereinafter mentioned; and whereas it has been suggested that the *Act to amend the Ditches and Watercourses Act as applied to Railways*, passed in the 53rd year of Her Majesty's reign, should have been expressed to refer to railways within the legislative authority of this Province; therefore in order to amend the said Act for the purpose of supplying the said words without prejudice to the said question:—

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

1. The Act passed in the 53rd year of Her Majesty's reign entitled *An Act to amend The Ditches and Watercourses Act as applied to Railways*, shall be deemed to apply, and to have been intended to apply, to such railways only as are under the legislative jurisdiction of this Province with respect to the matters by the said Act provided.



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An Act to prevent the spread of Noxious Weeds and of Diseases affecting Fruit Trees.

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

1. Where used in this Act the term "non-resident land" shall apply to all lands which are unoccupied, and the owner of which is not resident within the municipality, and the term "resident lands" shall apply to all lands which are occupied or which are owned by persons resident within the municipality. 47 V. c. 37, s. 13.

2. It shall be the duty of every owner of land, or the occupant thereof if the owner is not resident within the local municipality wherein the same is situate—

1. To cut down or destroy all the Canada thistles, ox-eye daisy, wild oats, rag-weed, and burdock growing on his land, and all other noxious weeds growing on his land, to which this Act may be extended by by-law of the municipality, so often each and every year as is sufficient to prevent the ripening of their seed;

2. To cut out and burn all the black-knot found on plum or cherry trees on his land, so often each and every year as it shall appear on such trees; and

3. To cut down and burn any peach, nectarine, or other trees on his land infected with the disease known as the yellows, and to destroy all the fruit of trees so infected. 47 V. c. 37, s. 2.

3—(1) The council of any city, town, township, or incorporated village may, by by-law, extend the operation of this Act to any other weed or weeds, or to any other disease of fruit trees or fruit which they declare to be noxious to husbandry or gardening in the municipality; and all the provisions of this Act shall apply to such noxious weeds and diseases as if the same were herein enumerated.

(2) Such council may and, upon a petition of fifty or more ratepayers, shall appoint at least one inspector to enforce the provisions of this Act in the municipality, and fix the amount of remuneration, fees or charges he is to receive for the performance of his duties; and in case a vacancy shall occur in the office of inspector, it shall be the duty of the council to fill the same forthwith.

(3) The council of any township in which there are any large tracts or blocks of waste or unoccupied land, may upon the petition of not less than thirty ratepayers, by by-law, suspend the operation of

this Act, in respect of such waste or unoccupied lands; the by-law to define with sufficient clearness the tracts or blocks of land so exempted; such by-law to remain in force until repealed by such council; and until repealed the lands therein described shall be exempt from the operation of this Act. 47 V. c. 37, s. 3.

4—(1) It shall be the duty of the inspector to give or cause to be given notice in writing to the owner or occupant of any land within the municipality whereon the said noxious weeds are growing and in danger of going to seed (and in the case of property of a railway company, the notice shall be given to any station master of the company resident in or nearest to the municipality), requiring him to cause the same to be cut down or destroyed within ten days from the service of the notice; and it shall be the duty of the inspector to give or cause to be given such notice for the first time not later than the 10th day of July in each year, or such other earlier date as may be fixed by by-law of the municipality.

(2) In case such owner or occupant of land (or, if it be railway property, then the station master upon whom notice has been served) refuses or neglects to cut down or destroy all or any of the said noxious weeds within the period aforesaid, the inspector shall enter upon the land and cause such weeds to be cut down or destroyed with as little damage to growing crops as may be, and he shall not be liable to be sued therefor; or the inspector, instead of entering upon the land and causing such weeds to be cut down or destroyed, may lay information before any Justice of the Peace as to such refusal or neglect, and such owner or occupant shall, upon conviction, be liable to the penalties imposed by section 10 of this Act.

(3) But no inspector shall have power to cut down or destroy noxious weeds on any land sown with grain; and where such noxious weeds are growing upon non-resident lands it shall not be necessary to give any notice before proceeding to cut down or destroy the same. 47 V. c. 37, s. 4.

5—(1) The inspector shall keep an accurate account of the expense incurred by him in carrying out the provisions of the preceding sections of this Act with respect to each parcel of land entered upon therefor, and shall deliver a statement of such expenses, describing the land entered upon and verified by oath, to the owner or occupant of resident lands, requiring him to pay the amount.

(2) If any owner or occupant of land amenable under the provisions of this Act deems such expense excessive, an appeal may be had to the said council (if made within thirty days after the delivery of such statement), and the said council shall determine the matter in dispute.

(3) In case the owner or occupant of resident lands refuses or neglects to pay the same within thirty days after such request for payment, the said claim shall be presented to the council of the municipality in which such expense was incurred, and the said council is hereby authorized and required to audit and allow such claim, and order the same to be paid from the fund for general purposes of the said municipality. 47 V. c. 37, s 5.

6. The inspector shall also present to the said council a similar statement, verified by oath, of the expenses incurred by him in carrying out the provisions of this Act upon any non resident lands; and the council is hereby authorized and required to audit and allow the same, or so much thereof as to the council may seem just, and to pay so much thereof as has been so allowed. 47 V. c. 37, s. 7.

7. The council of the municipality shall cause all such sums as have been so allowed and paid by the council under the provisions of this Act to be by the clerk severally placed upon the collector's roll of the municipality against the lands described in the statement of the inspector, and to be collected in the same manner as other taxes imposed by by-laws of the municipality. 47 V. c. 37, s. 7.

8. If written complaint be made to the inspector that yellows or black-knot exist within the municipality, in any locality described in such complaint, with reasonable certainty, he shall proceed to examine the fruit trees in such locality, and if satisfied of the presence of either disease he shall immediately give notice in writing to the owner or occupant of the land whereon the affected trees are growing, requiring him within five days from the receipt of the notice to deal with such trees in the manner provided by section 2 of this Act. 47 V. c. 37, s. 9

9. It shall be the duty of the overseers of highways in any municipality to see that the provisions of this Act relating to noxious weeds are carried out within their respective highway divisions by cutting down or destroying or causing to be cut down or destroyed at the proper times to prevent the ripening of their seed, all the noxious weeds growing on the highways or road allowances within their respective divisions; such work to be performed as part of the ordinary statute labour, or to be paid for at a reasonable rate by the treasurer of the municipality, as the council of the municipality may direct. 47 V. c. 37, s. 8.

10.—(1) Any owner or occupant of land who refuses or neglects to cut down or destroy any of the said noxious weeds after notice given by the inspector, as provided by section 4, or who knowingly suffers any of the said noxious weeds to grow thereon, and the seed to ripen so as to cause or endanger the spread thereof, or who suffers any black-knot to remain on plum or cherry trees, or keeps, any peach, nectarine or other trees infected with yellows or the fruit of trees so

infected, shall upon conviction be liable to a fine of not less than \$5 nor more than \$20 for every such offence.

(2) Any person who knowingly sells or offers to sell any grass, clover, or other seed, or any seed grain among which there is seed of Canada thistles, ox-eye daisy, wild-oats, rag-weed, burdock, or wild mustard shall, for every such offence, upon conviction, be liable to a fine of not less than \$5 nor more than \$20.

(3) Any person who knowingly offers for sale or shipment or sells or ships the fruit of trees infected with yellows shall, upon conviction, be liable to a fine of not less than \$5 nor more than \$20.

(4) Every inspector, overseer of highways, or other officer, who refuses or neglects to discharge the duties imposed on him by this Act shall, upon conviction, be liable to a fine of not less than \$10 nor more than \$20. 47 V. c. 37, s. 10.

11. Every offence against the provisions of this Act shall be punished and the penalty imposed for each offence shall be recovered and levied, on summary conviction, before any Justice of the Peace; and all fines imposed shall be paid to the treasurer of the municipality in which the offence is committed, for the use of the municipality. 47 V. c. 37, s. 11.

12. The council of every municipality in Ontario shall require its inspector, overseer of highways and other officers to faithfully discharge all their duties under this Act. 47 V. c. 37, s. 12.

An Act to amend the Act to Prevent the Spread of Noxious Weeds, and of Diseases Affecting Fruit Trees.

[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. Section 3 of the *Act to Prevent the Spread of Noxious Weeds and Diseases affecting Fruit Trees* is amended by adding the following sub-section thereto:

(4) The council may pass a by-law dividing the municipality into such sections or divisions as may be necessary for the carrying out of this Act, and may appoint inspectors for such divisions whose duties and powers shall in all respects be the same as that of the township inspector.

An Act to amend the Act to prevent the spread of Noxious Weeds and of Diseases Affecting Fruit Trees.

[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. Section 2 of the *Act to prevent the spread of Noxious Weeds and of Diseases affecting Fruit Trees* is amended by striking out the first three lines thereof, and substituting the following:—“2. It shall be the duty of every occupant of land, or if the land be unoccupied, it shall be the duty of the owner.”

2. Sub-section 1 of section 2 of the said Act is amended by adding thereto the following:—“provided that such cutting or destruction does not involve the destruction of the growing grain.”

3. Sub-section 1 of section 3 of the said Act is amended by inserting the words “grain or” after the word “of” in the third line thereof.

4. Section 10 of the said Act is amended by adding thereto the following sub-section:—

(5) Any person who sows any wheat or other grain knowing it to be infected by the disease known as smut without first using some proper and available remedy to destroy the germs of such disease shall upon conviction be liable to a fine of not more than \$20.

