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THE MUNICIPAL ACT.

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

(CONTINUED.)

434. In every city there is hereby constituted a board of commissioners of police, and in every town having a Police Magistrate the council may constitute a like board, and such board shall consist of the mayor, the Judge of the County Court of the county in which the city or town is situate, and the Police Magistrate; and in case the office of County Judge or that of Police Magistrate is vacant, the council of the city shall, and the council of the town may, appoint a person resident therein to be a member of the board, or two persons so resident to be members thereof, as the case may require, during such vacancy; but the council of such town may at any time, by by-law, dissolve

and put an end to the board, and thereafter the council shall have and exercise all powers and duties previously had or exercised by the board.

(2) The council of any city with a population of 100,000 or over, may by by-law provide for the payment of the Police Commissioners or any of them. 46 V. c. 18, s. 455. 53 V. c. 50, s. 14. (2).

435.—(1) The commissioners shall have power to summon and examine witnesses on oath on all matters connected with the administration of their duties, and they shall have the same power to enforce the attendance of such witnesses, and to compel them to give evidence as is vested in any Court of law in civil cases. A notice to attend before the board shall be sufficient, if signed by the chairman of the board, or any one of the commissioners.

(2) No party or witness shall be compelled to answer any question by his answer to which he might render himself liable to a criminal prosecution.

(3) A majority of the board shall constitute a quorum, and the acts of a majority shall be considered acts of the board. 50 V. c. 8, Sched.

(4) All meetings of the board of police commissioners in cities shall be open to the press and the public, unless otherwise decided by the board. 46 V. c. 18, s. 436 (2).

436.—(1) The board of commissioners of police shall, in cities, license and regulate second-hand stores and junk-stores, and shall also, in cities, regulate and license the owners of livery stables, and of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles regularly used for hire within the said city whether such owners are resident or non-resident therein, and shall establish the rates of fare to be taken by the owners or drivers of such vehicles, for the conveyance of goods or passengers either wholly within the limits of the city, or from any point within the city to any other point not more than three miles beyond said limits, and may provide for enforcing payment of such rates, and for such purposes shall pass by-laws and enforce the same in the manner, and to the extent in which any by-law to be passed under the authority of this Act may be enforced.

(2) The council of a city in which there is no board of commissioners of police, shall have and may exercise by by-law, all the powers conferred upon the board of commissioners by this section.

(3) The board of commissioners of police shall also regulate and control children engaged as :

- (a) Express or despatch messengers ;
- (b) Vendors of newspapers and small wares ;
- (c) Bootblacks.

(4) The board of commissioners of police and the council of any city in which there is no board of commissioners of police may pass by-laws defining areas or districts and localities in the city within the limits of which no livery stable, boarding or other stables shall hereafter be established in which horses are to be kept for hire or express purposes.

(5) The board of commissioners of police in any city, and the council of any town, may regulate or prohibit the playing of bands and of musical instruments on any street, highway, park or public place in the city, but this shall not apply to any military band attached to any regular corps of the militia of Canada when on duty under the command of its regular officers. 49 V. c. 37, s. 9. 51 V. c. 28, s. 17. (a) (b) (c). 52 V. c. 36, s. 16 (4). 54 V. c. 42, s. 13 (5). 55 V. c. 43, s. 25.

NOTE.—Section 436 of the said Act is amended by inserting in the fifth line thereof after the word “vehicles” the words “regularly used for hire within the said city, whether such owners are resident or non-resident therein,” in lieu of the words “used for hire.” The amendment of 55 V. c. 43, s. 25, would exempt the owners of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles used *casually* for hire, from paying a license fee.

437. All by-laws of the board of commissioners of police shall be sufficiently authenticated by being signed by the chairman of the board which passes the same ; and a copy of such by-law, written or printed, and certified to be a true

copy by any member of the board, shall be deemed authentic, and be received in evidence in any Court of Justice without proof of such signature, unless it is specially pleaded or alleged that the signature to such original by-law has been forged. 46 V. c. 18, s. 438.

438. In all cases where the board of commissioners of police are authorized to make by-laws, either under this or any other Act or law, they shall have power in and by such by-laws, to attach penalties for the infraction thereof, to be recovered and enforced by summary proceedings before the Police Magistrate of the city for which the same are passed, or, in his absence, before any Justice of the Peace having jurisdiction therein, in the manner and to the extent that by-laws of city councils may be enforced under the authority of this Act; and the convictions in such proceedings may be in the form hereinbefore set forth. 46 V. c. 18, s. 439.

439. The council of every city shall appoint a high bailiff, but may provide, by by-law, that the offices of high bailiff and chief constable shall be held by the same person. 46 V. c. 18, s. 440.

440. The police force in cities and towns having a board of commissioners of police, shall consist of a chief constable and as many constables and other officers and assistants as the council from time to time deem necessary, but, in cities, not less in number than the board reports to be absolutely required; but this section shall not affect or apply to a city in which, by the special Act of incorporation thereof, provision is made for the appointment, control and management of the police by the council. 46 V. c. 18, s. 441.

441. The members of the police force shall be appointed by and hold their offices at the pleasure of the board, and shall take and subscribe the following oath:

I, A, B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Police Constable for the
of _____ without favour or affection, malice or ill-will;
and that I will, to the best of my power, cause _____ to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.

46 V. c. 18, s. 442.

442. The board shall, from time to time, make such regulations as they may deem expedient for the government of the force, and for preventing neglect or abuse, and for rendering the force efficient in the discharge of all its duties. 46 V. c. 18, s. 443.

443. The constables shall obey all lawful directions, and be subject to the government of the board, and shall be charged with the special duties of preserving the peace, preventing robberies and other felonies and misdemeanors, and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities, which belong, by law, to constables duly appointed. 46 V. c. 18, s. 444.

444. The council shall appropriate and pay such remuneration for and to the respective members of the force, as may be required by the board of commissioners of police, and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other necessaries as the board may from time to time deem requisite and require for the payment, accommodation and use of the force; but this section shall not affect or apply to any city in which by the special Act of incorporation thereof provision is made for the appointment, control and management of the police by the council. 46 V. c. 18, s. 445.

445. The council of every town not having a board of commissioners of police shall, and the council of every incorporated village may appoint one chief constable and one or more constables for the municipality; and the persons so appointed shall hold office during the pleasure of the council. 46 V. c. 18, s. 446.

NOTE.—It is the duty of a Town Council not having a board of commissioners to appoint one chief constable and one or more constables for the municipality; a Village Council *may* do so.

446. Where in a town, there was on the 24th day of March, 1874, a board of commissioners of police, constituted under the Acts then in force respecting Municipal Institutions in this Province, the council of the said town may, by by-law, dissolve and put an end to the board, and there-

after the council shall have and exercise all powers and duties which might, under said Acts, have been had or exercised by the board; and unless and until so dissolved and put an end to, the board shall have and exercise all the powers and duties which, but for this section, would have been exercised or had by the board. 46 V. c. 18, s. 447.

447. The council of every county and township may appoint one or more salaried constables for the municipality, to hold office during the pleasure of the council; every such constable, and any city, town or village constable shall have the same powers and privileges and be subject to the same liability and to the performance of the same duties and shall be subject also to suspension by the Judge of the County Court in the same manner, and may act within the same limits, as a constable appointed by the Court of General Sessions. 47 V. c. 32, s. 23 (1).

448. Where any salaried constable is appointed for any municipality, whether by the municipal council or by police commissioners, the council may agree that such constable shall keep, for his own use, his fees of office, or the council may require that the said fees shall be paid to the municipal treasurer for the use of the municipality. 47 V. c. 32, s. 23 (2).

449. In case any person complains to the chief of police, or to a constable in a town or city, of a breach of the peace having been committed, and in case such officer has reason to believe that a breach of the peace has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the persons charged with committing the same is necessary to prevent his escape or to prevent a renewal of a breach of the peace, or to prevent immediate violence to person or property, then, if the person complaining gives satisfactory security to the officer that he will without delay appear and prosecute the charge before the Police Magistrate or before the mayor or sitting Justice, such officer may, without warrant, arrest the person charged, in order to his being conveyed as soon as conveniently may be before the Magistrate, mayor or Justice, to be dealt with according to law. 46 V. c. 18, s. 448.

450. Until the organization of a board of police, every mayor or Police Magistrate may, within his jurisdiction,

suspend from office, for any period in his discretion, the chief constable, or any constable of the town or city, and may if he chooses to, appoint some other person to the office during such period: and in case he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case to the council, and the council may dismiss such officer, or may direct him to be restored to his office after the period of his suspension has expired; and the city council shall have the like powers as to the high bailiff of the city. 46 V. c. 18, s. 449.

451. During the suspension of such officer he shall not be capable of acting in his office, except by the written permission of the mayor or Police Magistrate who suspended him, nor during such suspension shall he be entitled to any salary or remuneration. 46 V. c. 18, s. 450.

COURT HOUSES, GAOLS AND PLACES OF IMPRISONMENT.

452. Every county council may pass by-laws for erecting, improving and repairing a court house, gaol, house of correction, and house of industry, upon land being the property of the municipality, and shall preserve and keep the same in repair, and provide the food, fuel and other supplies required for the same. 46 V. c. 18, s. 451.

453. Every county council may, when a court house is required to be erected within the limits of a city, pass by-laws for entering upon, taking, using, and acquiring such land as may be necessary or convenient for the purposes of such court house. 46 V. c. 18, s. 452.

454. The gaol, court house and house of correction of the county in which a town or city, not separated for all purposes from a county, is situate, shall also be the gaol, court house, and house of correction of the town or city, and shall, in the case of such city, continue to be so until the council of the city otherwise directs; and the sheriff, gaoler and keeper of the gaol and house of correction shall receive and safely keep, until duly discharged, all persons committed thereto by any competent authority of the town or city. 46V. c. 18, s. 453.

455. The council of any city may erect, preserve, improve and provide for the proper keeping of a court house, gaol, house of correction and house of industry, upon lands being the property of the municipality, and may pass by-laws for all or any of such purposes. 46 V. c. 18, s. 454.

456. The council of every county may establish and maintain a lock-up house, or lock-up houses, within the county, and may establish and provide for the salary or fees to be paid to the constable to be placed in charge of every such lock-up house, and may direct the payment of the salary out of the funds of the county. 46 V. c. 18, s. 455.

457. Every lock-up house shall be placed in the charge of a constable specially appointed for that purpose by the magistrates of the county at a General Sessions of the Peace therefor. 46 V. c. 18, s. 456.

458. The council of every city, town, township, and incorporated village may, by by-law, establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment for not more than ten days under any by-law of the council; and of persons detained for examination on a charge of having committed any offence; and of persons detained for transmission to any common gaol or house of correction, either for trial or in the execution of any sentence; and such councils shall have all the powers and authorities conferred on county councils in relation to lock-up houses. 46 V. c. 18, s. 457.

459. Two or more municipalities may unite to establish and maintain a lock-up house. 46 V. c. 18, s. 458.

460.—(1) The council of every county, city or town separated from a county may acquire an estate in landed property for an industrial farm, and may establish a house of industry and a house of refuge, and provide, by by-law, for the erection and repair thereof, and for the appointment, payment and duties of inspectors, keepers matrons and other servants for the superintendence, care and management of such houses of industry or refuge, and in like manner make rules and regulations (not repugnant to law) for the government of the same.

(2) Two or more united counties, or two or more contiguous counties, or a city and one or more counties, or a town and one or more counties, may agree to have only one house of industry or refuge for such united or contiguous counties, or city and counties, or town and counties, and maintain and keep up the same in the manner herein provided.

(3) The council may provide, by by-law, for requiring such persons as may be sent to such industrial farm or other place, to work on the said farm, or at any work or service for the said municipality, at such times, and for such hours, and at such trade or labour as they may appear to be adapted for respectively, and for buying and selling material therefor, and for applying the earnings, or parts thereof, of such persons for their maintenance or the maintenance of the wife or child or wife and children (if any) of such persons, or for the general maintenance of the farm or other places as aforesaid; or for aiding such persons to reach their friends (if any) or any place to which it may be deemed advisable to send them.

(4) Any two or more local municipalities shall have the same powers and rights as to acquiring, holding and maintaining an industrial farm, or acquiring, erecting and maintaining a house of industry or refuge as any county or city or united or contiguous counties or city or town and county now have under and by virtue of this Act or otherwise, and may arrange with any other local municipality or municipalities for the admission upon such terms and conditions as may be agreed upon between them, of such other local municipality or municipalities to a joint ownership or occupancy or right of user by said other municipality or municipalities in or of said farm, house of industry or refuge. Any purchase or grant to or acquisition by two or more local municipalities of any such farm, or the erection of any such house of industry or refuge, or any agreement or by-law therefor or any agreement or by-law for the admission of any other local municipality to such joint ownership or right of user or occupation made, entered into or passed before the passing of this Act shall be as valid and binding for all purposes as though made, entered into or passed after the passing hereof.

(5) All the provisions of this Act relating to industrial farms, houses of industry or houses of refuge respectively,

shall apply to any such local municipalities and to any industrial farm, house of industry or house of refuge acquired, erected, occupied or maintained thereby as fully as to any other municipality or municipalities in the preceding sub-section mentioned, or to any industrial farm, house of industry or house of refuge acquired, owned, erected, occupied or maintained by them or any of them.

(6) The council may provide by by-law that each local municipality within the county shall be required to pay for the maintenance and support of each person sent by or from such local municipality to the House of Refuge, and received therein, a sum not exceeding at the rate of one dollar and fifty cents per week. 46 V. c. 18, s. 459. 51 V. c. 28, s. 18 (4) (5); 52 V. c. 36, s. 17 (6).

461. The inspector of a house of industry or refuge, appointed as aforesaid, shall keep an account of the charges of erecting, keeping, upholding and maintaining the house of industry or refuge, and of all materials found and furnished therefor, together with the names of the persons received into the house, as well as those discharged therefrom, and also of the earnings; and such account shall be rendered to the county council every year, or oftener when required by a by-law of the council; and a copy thereof shall be presented to the Legislature. 46 V. c. 18, s. 460.

462. The council of every city and town may respectively pass by-laws:

1. For erecting and establishing within the city or town, or on such industrial farm, or on any ground held by the corporation for public exhibitions, a workhouse or house of correction, and for regulating the government thereof:

2. For committing and sending, with or without hard labour, to the workhouse or house of correction, or to the industrial farm, house of industry, house of refuge, or house for the poor, aged, and infirm, or lock-up, or to any work or service for the municipality as aforesaid, by the Mayor, Police Magistrate, or Justice of the Peace, while having jurisdiction in the municipality, such disorderly persons, drunkards, vagrants, indigent persons, and such description of persons as are set forth or referred to in section 369 of chapter 48 of the Acts passed in the 36th year of Her Majesty's reign, and as may by the council be

deemed, and by by-law be declared, expedient; and such farm, house of correction, house of industry, house of refuge, or house for the poor, aged, or infirm, lock-up house, or ground held as aforesaid, shall, for the purposes in this sub-section mentioned, be deemed to be within the municipality and the jurisdiction thereof.

3. For erecting and establishing within a city having a population of 50,000 and upwards an institution for the reclamation and cure of habitual drunkards.

4. For committing and sending with or without hard labour to the institution for the reclamation and cure of habitual drunkards by the Mayor, Police Magistrate or Justice of the Peace, while having jurisdiction in the municipality, such drunkards as are set forth or referred to in section 369 of chapter 48 of the Acts passed in the thirty-sixth year of Her Majesty's reign, and as may by the council be deemed and by by-law be declared expedient.

5. In the event of any city establishing an institution for the reclamation and cure of habitual drunkards under the provisions of this Act, sections 97 to 108, both inclusive, of chapter 246 of the Revised Statutes of Ontario, 1887, shall be applicable thereto as if such institution had been named in said Act. 46 V. c. 18, s. 461; 51 V. c. 28, s. 19 (3), (4), (5).

463. Until separated houses of correction are erected in the several counties in Ontario, the common goal in each county respectively shall be a house of correction; and every idle and disorderly person, or rogue and vagabond, and incorrigible rogue, and any other person by law subject to be committed to a house of correction, shall, unless otherwise provided by law be committed to the said common goals, respectively. 46 V. c. 18, s. 462.

464. (1) The sheriff shall have the care of the county gaol, gaol offices and yard, and gaoler's apartments, and the appointment of the keepers thereof, whose salaries shall be fixed by the county council, subject to the revision or requirement of the Inspector of Prisons and Public Charities.

(2) Every appointment, or dismissal, of a gaoler shall be subject to the approval of the Lieutenant-Governor. 46 V. c. 18, s. 463.

465. The salary of the gaoler shall be in lieu of all fees, perquisites or impositions of any sort or kind whatever; and no gaoler or officer belonging to the gaol shall demand or receive any fee perquisite or other payment from any prisoner confined within the gaol or prison. 46 V. c. 18, s. 464.

466. The county council shall have the care of the court house and of all offices and rooms and grounds connected therewith, whether the same forms a separate building or is connected with the gaol, and shall have the appointment of the keepers thereof, whose duty it shall be to attend to the proper lighting, heating and cleaning thereof; and shall from time to time provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Courts of Justice other than the Division Courts, and for the library of the law association of the county (such last mentioned accommodation to be provided in the court house), and shall provide proper offices together with fuel, light and furniture, for all officers connected with such Courts other than (1) officers of the Maritime Court of Ontario (not being in the County of York) and (2) official assignees. 46 V. c. 18, s. 465; 48 V. c. 36, ss. 11, 13; 55 V. c. 43, s. 26.

467. In any city, not being a separate county for all purposes, but having a gaol or courthouse separate from the county gaol or courthouse, the care of such city gaol or courthouse shall be regulated by the by-laws of the city council. 46 V. c. 18, s. 467.

468. In case of a separation of a union of counties, all rules and regulations, and all matters and things in any statute for the regulation of, or relating to courthouses or gaols, in force at the time of the separation, shall extend to the courthouse and gaol of the junior county. 46 V. c. 18, s. 468.

469. Cities and towns separated from counties shall, as parts of their respective counties for judicial purposes, bear and pay their just share or proportion of all charges and expenses from time to time as the same may be incurred in erecting, building and repairing and maintaining the court house and gaol of their respective counties, and of the proper lighting, cleansing and heating thereof, and of providing all necessary and proper accommodation, fuel,

light, stationery and furniture for the gaol and Courts of Justice, other than the Division Courts, and for the library of the law association of the county, and of providing proper offices, together with fuel, light, and furniture for officers connected with such Courts, where the same are required to be provided by the county council; and all other charges relating to criminal justice, payable by the county in the first instance, except constables' fees and disbursements, and charges connected with coroners' inquests, and such other charges as the counties are entitled to be repaid by the Province; and in case the council of the city or town separate as aforesaid, and the council of the county in which such city or town is situate for judicial purposes cannot, by agreement from time to time, settle and determine the amount to be so payable by such city or town respectively, then the same shall be determined by arbitration, according to the provisions of this Act.

(2) It shall be lawful for the council of any county and the council of any city or town, situate in such county, but separated therefrom for municipal purposes, to enter into any agreement,

(a) For the purchase or acquisition of land within the county town for the purpose of erecting thereon buildings for the use of such county and city or town, for municipal and judicial purposes;

(b) And for the erection, maintenance, use, management and control of such buildings;

(c) And for fixing or ascertaining the amount which each municipality shall pay or contribute for the purposes aforesaid;

(d) And for the subsequent disposition of such land and buildings, and of any insurance or other moneys that may be received in respect thereof;

And to acquire such land as may be necessary for the erection thereon of such buildings;

And to pass all such by-laws as may from time to time be necessary for the purchasing of such land, and the carrying out of any such agreement. 46 V. c. 18, s. 469; 48 V. c. 39, s. 12; 52 V. c. 36, s. 18; 52 V. c. 36, s. 18, s. 2; (2) (a) (b) (c) etc.; 55 V. c. 48, s. 27.

470. The council shall not be liable to pay for any furniture which they are required to provide under the provisions of sections 466 and 469 of this Act, unless the same has been ordered by the council or by some person duly authorized by them so to do. 46 V. c. 18, s. 470.

471. The corporation of any county and city or town separated from the county, are hereby declared to have, respectively, insurable interests in the court house and gaol of the county and the furniture thereof, in the proportions in which they shall, for the time being, be liable to contribute towards the erection, building, repairing, and maintaining the same, and towards providing necessary accommodation and furniture for the said gaol and Courts of justice, and for the officers connected with such Courts, and any such corporation may insure its said interest accordingly. 46 V. c. 18, s. 471.

472. In all cases in which any city is required to contribute to the cost of erecting or building a court house or gaol, not commenced before the 5th day of March, 1880, the council of such city shall not be bound to pay for any part of the expenditure thereafter incurred in respect thereof, unless the same has been concurred in by the council of the city, or, in case of dispute, has been determined by arbitration, according to the provisions of this Act, and the council of the city shall have a voice in the selection of the site of the court house and gaol; and in case the council of the county and city shall fail to agree upon the selection of such site, the same shall be settled and determined by arbitration, according to the provisions of this Act. 46 V. c. 18, s. 472.

473.—(1) While a city or town uses the court house, gaol or house of correction of the county, the city or town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon, or settled by arbitration under this Act. 46 V. c. 18, s. 473.

(2) In case of arbitration under the preceding provisions of this section, in determining the compensation to be paid for the care and maintenance of prisoners confined in the gaol, the arbitrators shall, so far as they deem the same just and reasonable, take into consideration the original cost

of the site and erection of the goal buildings, and of repairs and insurance, so far as the same may have been borne or sustained by one or other of the municipalities, and shall also take into consideration the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith ; but the provisions of this sub-section shall apply only to the determining of the compensation to be paid for the care and maintenance of any such prisoners subsequent to the first day of January, 1886. 49 V. c. 37, s. 10.

474. In case, after the lapse of five years from such compensation having been so agreed upon or awarded, or having been settled by statute, and whether before or after the passing of this Act, it appears reasonable to the Lieutenant-Governor in Council, upon the application of either party, that the amount of the compensation should be reconsidered, he may, by an Order in Council, direct that the then existing arrangement shall cease after a time named in the order, and after such time the councils shall settle anew, by agreement or by arbitration under this Act, the amount to be paid from the time so named in the order. 46 V. c. 18, s. 474.

475. Nothing herein contained shall affect any lock-up house heretofore lawfully established, but the same shall continue to be a lock-up house as if established under this Act. 46 V. c. 18, s. 475.

476. The expense of conveying any prisoner to, and of keeping him in a lock-up house, shall be defrayed in the same manner as the expense of conveying him to and keeping him in the common gaol of the county.

(1) In case a county town has not a lock-up approved by the Inspector of Prisons, and the county gaol is used for the purposes of a lock-up, the municipal corporation of the county town shall pay yearly to the county treasurer for the use of the county a reasonable amount for the use of the gaol as a lock-up, and for the expenses incurred thereby and in connection therewith, and in the event of any dispute arising as to the amount which should be paid to the county as aforesaid, the same shall be settled by arbitration as provided for under *The Municipal Act*.

(2) This section shall not apply to cities or towns separated from counties for which provision is made by section 473 of *The Municipal Act*. 46 V. c. 18, s. 477 ; 52 V. c. 36, s. 44.

INVESTIGATION OF CHARGES OF MISCONDUCT IN RELATION TO MUNICIPAL MATTERS.

Investigation by County Judge. Sec. 477.

477.—(1) In case the council of any municipality at any time passes a resolution requesting the Judge of the County Court of the County in which the municipality is situate to investigate any matter to be mentioned in the resolution, and relating to a supposed malfeasance, breach of trust or other misconduct on the part of any member of the council or officer of the corporation, or of any person having a contract therewith, in relation to the duties or obligations of the member, officer, or other person, to the municipality, or in case the council of any municipality sees fit to cause inquiry to be made into or concerning any matter connected with the good government of the municipality, or the conduct of any part of the public business thereof, and if the council at any time passes a resolution requesting the Judge to make the inquiry, the Judge shall enquire into the same, and shall for that purpose have all the powers which may be conferred upon commissioners under *The Act respecting Inquiries concerning Public Matters*, and the Judge shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken thereon. 46 V. c. 18, s. 480.

(2) The Judge of the County Court, holding such investigation, shall be entitled to receive, and shall be paid by the municipality requesting him to hold the investigation, the same fees as he would be entitled to receive if the matter had been referred to him as a referee under the provisions of *The Judicature Act*. 49 V. c. 37, s. 11.

NOTE.—See also ss. 383, 384.

WHEN MAYOR MAY CALL OUT POSSE COMITATUS.

478. The mayor of any city or town may call out the *posse comitatus* to enforce the law within his municipality should exigencies require it, but only under the same circumstances in which the sheriff of a county may now by law do so. 46 V. c. 18, s. 481.

POWERS OF MUNICIPAL COUNCILS.

479. The council of every county, township, city, town, and incorporated village may pass by-law :

1. For obtaining such real and personal property as may be required for the use of the corporation, and for erecting, improving and maintaining a hall, and any other houses and buildings required by and being upon the land of the corporation, and for disposing of such property when no longer required ;

2. For appointing such—

Pound-keepers,	Road Surveyors,
Fence-viewers,	Road Commissioners,
Overseers of Highways, Valuators,	
Game Inspectors,	

and other officers as are necessary in the affairs of the corporation, for carrying into effect the provisions of any Act of the Legislature or by-law of the corporation, or for the removal of such officers ; but nothing in this Act shall prevent any member of a corporation from acting as commissioner, superintendent or overseer, over any road or work undertaken and carried on, in part or in whole, at the expense of the municipality ; and it shall be lawful for the municipality to pay to such member of the corporation acting as such commissioner, superintendent or overseer ; 49 V. c. 45, s. 15 ; 50 V. c. 29, s. 18. *See* Cap. 210, s. 5.

3. For regulating the remuneration, fees, charges and duties of such officers, and the securities to be given for the performance of such duties ; *See* sec. 278.

4. For regulating or preventing the incumbering, injuring, or fouling, by animals, vehicles, vessels or other means, of any public wharf, dock, slip, drain, shore, bay, harbour, river or water ;

5. For directing the removal of door steps, porches, railings, or other erections, or obstructions projecting into or

over any wharf, dock, slip, drain, sewer, bay, harbour, river or water, or the banks or shores thereof, at the expense of the proprietor or occupant of the property connected with which such projections are found ;

6. For making, opening, preserving, altering, improving and maintaining public wharves, docks, slips, shores, bays, harbours, rivers, or waters and the banks thereof ;

7. For regulating harbours ; for preventing the filling up or encumbering thereof ; for erecting and maintaining the necessary beacons, and for erecting and renting wharves, piers and docks therein, and also floating elevators, derricks, cranes and other machinery suitable for loading, discharging or repairing vessels ; for regulating the vessels, crafts and rafts arriving in any harbour ; and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a harbour master ;

8. For granting aid by way of bonus, for or towards the construction of harbours, wharves, docks, slips, and necessary beacons on any river, lake, or navigable water passing in, through, or forming any part of the boundary of a county whether such bonus be given by such county or by a city, town, township, or incorporated village situated therein and to pay such bonus either in one sum, or in annual or other periodical payments, with or without interest, and subject to such terms, conditions and restrictions as the municipality may deem expedient ;

(a) No such by-law shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts ;

(b) Any municipality granting such aid may take and receive of and from such person or body corporate, receiving any such aid, security for the compliance with the terms and conditions upon which such aid is given.

9. For granting money or land in aid of the Agricultural and Arts Association of Ontario, or of any duly organized Agricultural or Horticultural Society in Ontario, or of any incorporated Mechanics' Institute or free library, established under *The Free Libraries Act*, within the municipality,

or within any adjoining municipality, or for the purpose of aiding any regularly organized rifle association; or for adding to the sum paid, during the period of annual or other authorized drill, or when on active service, to any enlisted member or members of any corps of Active Militia organized within such municipality; or for the purpose of military outfit or equipment of the members of such corps; or for aiding in the establishment or maintenance of a band of music.

The provisions of the Acts passed during the present session repealing certain of the bonus provisions of *The Municipal Act* empowering municipalities to aid manufacturers and manufacturing establishments shall not extend to any case where at the time of the passing of this Act the by-law for granting the bonus had passed its first reading since the first day of April, 1892, or where a by-law has heretofore passed its second reading and been advertised; but such by-law and the proceedings thereon shall be governed by the law as it existed immediately before the time of the repeal of the said provisions taking effect. 55 V. c. 44, s. 1.

11. For taking stock in or lending money, or granting bonuses to any incorporated company, in respect of any road, bridge or harbour, within or near the municipality, under and subject to the respective statutes in that behalf, or for granting aid by way of bonus to any incorporated road or bridge company;

(a) No such by-law granting such aid by way of bonus shall be passed until the assent of the electors has been obtained in conformity with the provisions of this Act in respect of by-laws for creating debts.

12. For aiding in maintaining any indigent person belonging to or found in the municipality; at any work-house, hospital or institution for the insane, deaf and dumb, blind or other public institution of a like character; or for granting aid to any charitable institution or out-of-door relief to the resident poor; See s. 504 (11).

13. For taking a census of the inhabitants, or of the resident male freeholders and householders in the municipality;

14. For regulating the driving and riding of horses and other cattle on the highways and public bridges, and for preventing racing, immoderate or dangerous driving or riding thereon ;

15. For opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and pulling down, drains, sewers or water-courses, within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in or adjacent to the municipality in any way necessary or convenient for the said purposes, and for entering upon, taking or using any land not adjacent to the municipality for the purpose of providing an outlet for any sewer, but subject always to the restrictions in this Act contained. 46 V. c. 18, s. 482 (10-15) ; 51 V. c. 28, s. 20.

16. For regulating the size and number of doors in churches, theatres, halls or other buildings used for places of worship, public meetings or places of amusement, and the street gates leading thereto, and the construction and also the size and number of doors, halls, stairs and other means of egress from all hospitals, schools, colleges and other buildings of a like nature, and also the structure of stairs and stair-railings in all such buildings ; and the strength of the walls, beams and joists and their supports ; and for compelling the production of the plans of all such buildings for inspection and for enforcing observance of such regulations.

16. (a) For regulating the size and strength of walls, beams, joists, rafters, roofs and their supports of all buildings to be erected or repaired within the municipality, and for compelling the production of the plans of all buildings for inspection, and for enforcing observance of such regulations. 50 V. c. 29, s. 20 ; 54 V. c. 42, s. 14, 16a 51 V. c. 28, s. 21—16a.

(See also sections 420-423.)

17. For inflicting reasonable fines and penalties not exceeding \$50 exclusive of costs,—

(a) Upon any person for the non-performance of his duties who has been elected or appointed to any office in the corporation, and who neglects or refuses to accept such office, unless good

cause is shewn therefor, or to take the declaration of office, and afterwards neglects the duties thereof; and

- (b) For breach of any of the by-laws of the corporation.

NOTE.—See ss. 177-181.

18 For collecting such penalties and costs by distress and sale of the goods and chattels of the offender;

19. For inflicting reasonable punishment, by imprisonment with or without hard labour, either in a lock-up house in some town or village in the township, or in the county gaol or house of correction, for any period not exceeding twenty-one days, for breach of any of the by-laws of the council, in case of non-payment of the fine inflicted for any such breach, and there being no distress found out of which such fine can be levied; except for breach of any by-law in cities, and of any by-law for the suppression of houses of ill-fame in any municipality, in which cases the imprisonment may be for any period not exceeding six months with or without hard labour in case of the non-payment of the costs and fines inflicted, and there being no sufficient distress as aforesaid. 46 V. c. 18, s. 482 (18-20).

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

the municipality, and may grant sums of money to any person or association of persons to be expended for the same purposes.

21. For seizing and forfeiting bread or other articles when of light weight or short measurement. 46. V. c. 18, s. 482 (24). *See also* secs. 489 (52); 503 (9).

22. For entering upon, taking and using and acquiring so much real property as may be required for the use of the corporation, for public parks, squares, boulevards and drives in the municipality and adjoining local municipalities, without the consent of the owners of such real property, making due compensation therefor to the parties entitled thereto, to be determined under the provisions of this Act, by Arbitration, where the parties do not agree.

23. In every case in which any municipality shall expropriate lands in an adjoining municipality, the municipality so expropriating such lands shall put the same in an efficient state to be used as, and open the same to the general public, for the purposes of such public parks, squares, boulevards, and drives within a reasonable time after such expropriation, and shall maintain and keep the same in an efficient state of repair; and shall provide and maintain such police protection for such public parks, squares and drives, as shall be necessary for the safety of the public frequenting and using the same and the residents whose lands adjoin the lands so expropriated. 56 V. c. 29, s. 21.

480.—(1) Every municipal council shall have power to contract for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable and for the renting of such hydrants for any number of years not, in the first instance, exceeding ten, and for renewing such contract from time to time for such period, not exceeding ten years, as the council may desire, and every council shall also have power to purchase hydrants necessary for any of the purposes or uses aforesaid, and also to erect the same; and to purchase or rent for a term of years or otherwise, fire apparatus of any kind, and fire appliances and appurtenances belonging thereto respectively.

Every municipal council shall in like manner have power to contract for a supply of gas or electric light for street lighting and other public uses for any number of years not in the first instance exceeding ten, and for renewing such contract from time to time for such period not exceeding ten years, as the council may desire. 46 V. c. 18, s. 483. 52 V. c. 36, s. 20.

(2) Subject to the provisions of this Act, or any special Act so far as the same may be applicable, the powers of a municipal corporation for lighting the municipality, or for constructing gasworks, whether by this or by any special Act, shall include the powers conferred on gas companies by sections 54 and 55 of *The Act respecting Joint Stock Companies for supplying Cities, Towns, and Villages with Gas and Water*. 42 V. c. 23, s. 3.

(3) Where any municipal corporation has constructed any gas or water works for supplying the municipality with gas or water, and where there is a sufficient supply thereof, it shall be the duty of the corporation to supply with gas or water all buildings within the municipality situate upon land lying along the line of any supply pipe of the said corporation, upon the same being requested by the owner, occupant, or other person in charge of such building.

(4) The corporation before supplying gas or water to any building or as a condition to its continuing to supply the same, may require any consumer to give reasonable security for the payment of the proper charges of the company therefor or for carrying the gas or water into such building.

(5) Nothing in the preceding two sub-sections contained shall be construed in any way to affect the liability of any corporation in respect of damages on account of any failure of supply through mischance, accident or mismanagement, but the position of the corporation in respect thereto shall remain as if such two sub-sections had not been enacted. 47 V. c. 26, ss. 1, 3, 4.

481. The council of any municipality in which a flagrant crime is believed to have been committed, may offer and pay a reward for the discovery, apprehension, or conviction of the criminal, or of any person who is suspected to be the criminal. 46 V. c. 18, s. 484.

482. Whenever any municipal council has any authority to direct, by by-law or otherwise, that any matter or thing should be done by any person or corporation, such council may also, by the same or another by-law, direct that in default of its being done by the person, such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof with costs by action or distress; and, in case of non-payment thereof, the same shall be recovered in like manner as municipal taxes. 46 V. c. 18, s. 485.

483. Every council shall make to the owners or occupiers of, or other persons interested in, real property entered upon, taken or used by the corporation in the exercise of any of its powers, or injuriously affected by the exercise of its powers, due compensation for any damages (including cost of fencing when required) necessarily resulting from the exercise of such powers, beyond any advantage which the claimant may derive from the contemplated work; and any claim for such compensation, if not mutually agreed upon, shall be determined by arbitration under this Act, and such claim shall be made within one year from the date when the alleged damages were sustained or became known to the claimant, or in case of a continuance of damage, then within one year from the time when the cause of action arose or became known to the claimant.

(2) This section shall not apply to real property taken or used by the corporation. 46 V. c. 18, s. 486. See sec. 385, *et seq.* 54 V. c. 42, s. 16.

484.—(1) In the case of real property which a council has authority under this Act to enter upon, take or use, without the owner's consent, corporations, tenants in tail or for life, guardians, committees, and trustees, shall, on behalf of themselves, their successors and heirs respectively, and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, married women or others, have power to act, as well in reference to any arbitration, notice and action under this Act, as in contracting for and conveying to the council any such real property, or in agreeing as to the amount of damages arising from the exercise by the council of any power in respect thereof.

(2) In case there is no such person who can so act in respect to such real property, or in case any person inter-

ested in respect to any such real property is absent from this Province, or is unknown, or in case his residence is unknown, or he himself cannot be found, the Judge of the County Court for the county in which such property is situate may, on the application of the council, appoint a person to act in respect to the same for all or any of the said purposes. 46 V. c. 18, s. 487.

485. In case any person acting as aforeaid has not the absolute estate in the property, the council shall pay to him the interest only at six per centum per annum on the amount to be paid in respect of such property, and shall retain the principal to be paid to the person entitled to it whenever he claims the same and executes a valid acquittance therefor, unless the High Court, or other Court having jurisdiction in such cases, in the meantime directs the council to pay the same to any person or into Court; and the council shall not be bound to see to the application of any interest so paid, or of any sum paid under the direction of such Court. 46 V. c. 18, s. 488.

486. All sums agreed upon, or awarded in respect of such real property, shall be subject to the limitations and charges to which the property was subject. 46 V. c. 18, s. 489.

487.—(1) Notwithstanding any of the provisions contained in this Act, in all cases where claims are made for compensation for damages by the owners or occupiers of or other persons interested in lands entered upon, taken or used by the corporation of any city, or alleged to have been injuriously affected by such corporation in the exercise of any of its powers, in the event of the corporation not being able to agree with the claimant or claimants on the amount of compensation to be made, and the amount claimed does not exceed \$1,000, the same shall be settled and determined by the award of the Judge of the county within which the city is situate, (sitting as sole arbitrator), or at the option of either party, by such other sole arbitrator as the said Judge on application made by either party to him, upon notice to the other party, may appoint for the purpose.

Provided that in cities having a population of 100,000 or over the limitation of the above provision to claims not exceeding \$1,000 shall not apply, and all claims of the character

aforesaid may, at the option of any party interested therein, be settled and determined by the award of a sole arbitrator to be appointed by any Judge of the Court of appeal for Ontario, upon the application of any party interested, and upon notice, as herein provided, to the other parties.

Provided that in such cities in lieu of appointing a sole arbitrator, the Judge may, in cases where the sole question involved is the value of the property taken, or to be taken, appoint one or more valuers or appraisers, who shall determine the amount of compensation to be made to the claimant or claimants upon view of the locality, and according to their own skill and knowledge without hearing evidence.

(2) Either party shall be entitled to at least seven days' notice exclusive of the day of the service of the notice, of the wish of the other party to have an arbitration, and seven days' notice, exclusive of the seven days above mentioned and of the day of the service of the notice, shall be given of any application to the Judge to appoint any sole arbitrator or valuator or appraiser as aforesaid.

(3) The fees to be paid to the arbitrator shall be the same as those payable to referees under the provisions of *The Act respecting Arbitrations and References*.

(The following sub-sections apply and relate to cities having a population of 100,000 or over.)

(4) The fees to be paid to the valuator or appraiser, or valuers or appraisers shall be determined by the Master in Chambers of the Supreme Court of Judicature for Ontario upon the application of any party interested.

(5) Subject to the provisions of section 488, the costs of any award made under this section, by an arbitrator or by the valuator or valuers, or appraiser or appraisers appointed as herein provided, shall be upon such scale and shall be borne and paid by such of the parties as the said Master in Chambers may direct by order (to be made on the application of either party.)

(6) The appointment of arbitrators, valuers or appraisers under this section, or under sections 391, 392, 393 and 394

of this Act, shall not be deemed to be an admission of any liability on the part of the corporation; and all defences and objections shall be open to either party as if an action had been brought.

(7) Any arbitrator appointed under this section, or under the sections hereinbefore mentioned, may and shall at the request of either party, in and by his said award specify separately, (1) the amount of compensation or damage to which the claimant would be entitled, if there was no set off on account of any advantage derived by the claimant from the work or improvement in question, and (2) the amount deducted from such compensation or damage on account of such advantage, and also whether any, and if any, how much of the said advantage was direct, special and peculiar to the property of the claimant. 49 V. c. 37, s. 41 (1-3); 52 V. c. 36, s. 21-22.

487a. The appointment of arbitrators, under sections 391, 392, 393 and 394 of this Act shall not be deemed to be an admission of any liability on the part of the corporation; and all defences and objections shall be open to either party as if an action had been brought. 55 V. c. 43, s. 30.

488. The council of any municipality in all cases where claims for compensation or damages are made against them which, under the provisions of this or any other Act, are declared to be the subject of arbitration in the event of the parties not being able to agree, may tender to any person making such claim, such amount as they may consider proper compensation for the damage sustained or lands taken, and in the event of the non-acceptance by the claimant or claimants of the amount so tendered, and the arbitration being proceeded with, and if an award is obtained for an amount not greater than the amount so tendered, the costs of the arbitration and award shall, unless otherwise directed by the arbitrator, be awarded to the corporation and set off against any amount which shall have been awarded against them.

488. (a) The compensation or damages which may be agreed upon or awarded for any land taken or injuriously affected by any municipal corporation in the exercise of its corporate powers shall stand in the stead of such lands, and any claim to, or encumbrance upon the said lands,

or to any portion thereof shall, as against the said corporation, be converted into a claim to the money so paid, or to a like proportion thereof.

488. (b) If in the opinion of the High Court of Justice or of any Judge thereof there is reason to fear any claims or encumbrances, or if any person to whom the compensation or damage or any part thereof is payable, refuses to execute the proper conveyance or guarantee, or cannot be found, or is unknown to the corporation, the corporation may pay such compensation into the office of the accountant of the Supreme Court of Judicature for Ontario with interest thereon at 6 per cent. per annum for six months, and may deliver to such accountant an authentic copy of the conveyance or of the award or agreement, as the case may be, and such award or agreement or conveyance shall thereafter be deemed to be the title of the corporation to the land therein mentioned, but this shall not apply to any proceedings heretofore had or taken.

488. (c) A notice in such form and for such time as any judge of the High Court of Justice may direct, shall be inserted in a newspaper, if there is one published in the municipality in which the lands are situated, or if there is no newspaper published in the municipality, then in the *Ontario Gazette*, and also in a newspaper published in the nearest municipality thereto in which any newspaper is published. Such notice shall state that the title of the corporation, under such agreement, award or conveyance, is under this Act, and shall call upon all persons entitled to the lands or to any part thereof so taken or injuriously affected, to file their claims to the said compensation money or any part thereof, and all such claims shall be received and adjudicated upon by the High Court of Justice or by any judge thereof, and the said proceedings shall forever bar all claims to the said lands or to any part thereof, including dower, as well as all mortgages or encumbrances upon the same, and the said court or judge shall make such order for distribution, payment or investment of the said compensation money and for securing the rights of all persons interested, as may be necessary.

488. (d) The costs of the proceedings, including proper allowances to witnesses, shall be paid by the corporation or by such other person as the said court or any judge thereof

may order ; and if the said order of distribution is obtained in less than three months from the payment into court of the said compensation moneys, the court or any judge thereof may direct any proportionate part of such interest to be returned to the said corporation.

488. (e) Such judgment shall forever bar all claims to the lands or any part thereof, including dower, as well as any mortgage or encumbrance upon the same, and the court or judge shall make such order for distribution, payment or investment of the said compensation money, and for the security of the rights of all persons interested therein as may be necessary. 49 V. c. 37, s. 42; 53 V. c. 50, s. 17 (488a), (488b), (488c), (488d), (488e).

489. The council of every township, city, town or incorporated village may pass by-laws—

1. For dividing the wards of such city or town, or for dividing such township or incorporated village into two or more convenient polling sub-divisions and for establishing polling places therein, and for repealing or varying the same from time to time ; and such polling sub-divisions shall be made or varied whenever the electors in any ward, township, village or polling sub-division exceed 200, and shall be made and varied in such a manner that the number of electors in any polling sub-division shall not exceed at any time 200.

(a) Where a municipality is divided into polling sub-divisions, the same polling sub-divisions shall be used both for the election of members of the Legislative Assembly and for the municipal elections ; and the polling sub-divisions for the elections to the Legislative Assembly and municipal elections shall hereafter be made the same in all cases, except that the municipal council of every city, town or incorporated village, may by by-law unite, for the purpose of municipal elections any two adjoining polling sub-divisions. 46 V. c. 18, s. 490 (1).

NOTE.—The privilege of uniting for the purpose of municipal elections any two adjoining polling sub-divisions should be extended to townships.

- (b) Where a polling place has been fixed by by-law for the holding of any election, or the taking of any vote in any township, city, town, or village, and it is afterwards found that the building named as such polling place cannot be obtained, or is unsuitable for the purpose, the clerk of the municipality shall have the power to choose in lieu thereof as a polling place the nearest available building suitable for the purpose, and shall post up and keep posted up a notice on the building fixed by the by-law, and in two other conspicuous places near by, directing the voters to the place chosen as aforesaid.

NOTE.—If on the day of the election, it is found that the place fixed by by-law cannot be obtained, the *deputy returning officer* should be empowered to choose “the nearest available building suitable for the purpose.”

- (c) An election shall not be irregular or void or voidable for the reason that a polling sub-division is not or has not been divided which contains more than 200 voters so long as it does not contain more than 300 voters. 50 V. c. 29, s. 22; 52 V. c. 36, s. 23; 54 V. c. 42, s. 17.

2. For disqualifying any elector from voting at municipal elections who has not paid all municipal taxes due by him on or before the 14th day of December next preceding the election. 46 V. c. 18, s. 490 (2). *See also section 251.*

NOTE.—See note to sec. 131, vol. 1; see also ss. 81, 82, 143 (1).

3. For constructing, building, purchasing, improving, extending, holding, maintaining, managing and conducting waterworks and all buildings, materials, machinery and appurtenances thereto belonging in the municipality and in the neighbourhood thereof, subject to the provisions contained in *The Municipal Waterworks Act*; 46 V. c. 18, s. 496 (2).

4. For compelling the use of water, supplied by the waterworks of the city, town, township or village, for drinking and domestic purposes, within certain areas to

be defined by by-law, and for prohibiting the use of spring or well water within such areas for such purposes. 49 V. c. 37, s. 38 (1); 50 V. c. 29, s. 84.

5. For authorizing the reduction of the annual sinking fund rate, or amount required to be collected under local improvement by-laws passed by the council prior to the Act passed in the 42nd year of the reign of Her Majesty, chaptered 31, and for making allowance for the interest accrued from the investment of the amounts of sinking fund heretofore collected under such by-laws; provided always that in settling the sum to be raised annually for the remaining years which any such by-law has to run for the payment of the debt, in lieu of the sinking fund rate, fixed by the original by-law, the rate of interest on future investments shall not be estimated at more than five per cent. per annum, to be capitalized yearly; provided also that no by-law reducing the sinking fund rates, fixed by any such local improvement by-law shall become valid or effectual until the same shall have been assented to by the Lieutenant-Governor in Council. 49 V. c. 37, s. 38 (2); 50 V. c. 29, s. 48.

6. For licensing, regulating and governing all persons who for hire or gain, directly or indirectly keep, or have in their possession, or on their premises, any billiard or bagatelle table, or who keep or have a billiard or bagatelle table in a house or place of public entertainment or resort, whether such billiard or bagatelle table is used or not, and for fixing the sum to be paid for a license so to have or keep such billiard or bagatelle table, and the time such license shall be in force;

7. For limiting the number of and regulating victualing houses, ordinaries, and houses where fruit, oysters, clams, or victuals are sold to be eaten therein, and all other places for reception, refreshment or entertainment of the public;

8. For licensing the same when no other provision exists therefor, and for fixing the rates of such licenses not exceeding \$20;

9. For licensing, regulating and governing transient traders, and other persons who occupy premises in the city or town, incorporated village, or township, for temporary

periods, and whose names have not been duly entered on the assessment roll in respect of income or personal property for the then current year; and who may offer goods or merchandise of any description for sale by auction, or in any other manner conducted by themselves or by a licensed auctioneer or otherwise; but no such by-law shall affect, apply to or restrict the sale of the stock of an insolvent estate which is being sold or disposed of within the county in which the insolvent carried on business therewith at the time of the issue of a writ of attachment or of the execution of an assignment;

(9a) Or for requiring all transient traders who occupy premises in the municipality, and are not entered upon the assessment roll in respect of income or personal property, and who may offer goods or merchandise of any description for sale by auction, or in any other manner, conducted by themselves or by a licensed auctioneer, or by their agent or otherwise, to pay before commencing to trade a sum, in cities and towns not to exceed \$100, and in other municipalities not to exceed \$50 by way of license, and for providing that the sum so paid as license shall be credited to the trader paying the same upon and on account of taxes for the unexpired portion of the then current year, as well as any subsequent taxes, should such trader remain in the municipality a sufficient time for taxes to become due and payable by him, and in any other event to be taken and used by the municipality as a portion of the license fund of such municipality: but no such by-law shall affect, apply to, or restrict the sale of the stock of an insolvent estate which is being sold or disposed of within the local municipality in which the insolvent carried on business therewith, at the time of the issue of a writ of attachment or of the execution of an assignment. 51 V. c. 28, s. 23; 53 V. c. 50, s. 19.

10. For obtaining such real property as may be required for the erection of public school houses thereon, and for other public school purposes, and for the disposal thereof when no longer required; and for providing for the establishment and support of public schools according to law;

NOTE.—See Public Schools Act, ss. 115-121; 109, 110.

11. For accepting or purchasing land for public cemeteries as well within as without the municipality, but not within any city, town, or incorporated village, except as

hereinafter provided, and for laying out, improving and managing the same; but no land shall be accepted or purchased for such purpose except by a by-law declaring in express terms that the land is appropriated for a public cemetery, and for no other purpose; and thereupon such land, although without the municipality, shall become part thereof, and shall cease to be a part of the municipality to which it formerly belonged; and such by-law shall not be repealed; and the trustees of any burying ground or cemetery or the cemetery company owning any burying ground or cemetery may agree for the sale or transfer thereof to the municipality which desires to acquire the same; and in cases where such grounds have not been used for burials, the municipality may dispose thereof, and acquire other ground instead thereof. 51 V. c. 28, s. 22.

(a) For selling or leasing portions of such land for the purpose of interment, in family vaults or otherwise, and for declaring in the conveyance the terms on which such portion shall be held. 46 V. c. 18, s. 490 (2-9).

(b) Provided, however, that the municipal council of an incorporated village may pass a by-law for accepting or purchasing land for a public cemetery within the territorial limits of the village upon the by-law being first approved of by the Local Board of health, and ratified by the Provincial Board of Health; and the by-law shall thereupon be as valid and effectual as if the land were situated without the municipality.

(c) All expenses incurred by the provincial Board of Health, in respect of and incidental to the by-law, and whether the by-law be ratified by the board or not, shall be paid by the village municipality to the secretary of the board. 50 V. c. 29, s. 23. See Caps. 175, 176.

12. For the acquiring and expropriation of lands to be used for enlarging any existing public cemetery or burying ground, but no expropriation of any land within the limits of a city shall be authorized, and as to any such enlargement in a village or town the consent of the Provincial Board of Health shall be first obtained.

- (a) In case the owner of the land required refuses to sell the same, or refuses to take the price the council of the municipality is willing to pay, then in either of such cases the matter in dispute shall be referred to arbitration, and shall be proceeded with under the provisions of this Act, respecting arbitrations, as to compensation for lands taken.
- (b) The arbitrators shall decide whether it is necessary in the public interests that the lands should be expropriated for the aforesaid purposes or any of them, and if so decided they shall award as to the price to be paid to the owner of said lands, but the costs shall be in the discretion of the arbitrators.
- (c) If the arbitrators award that the lands shall be taken for such cemetery or burying ground, one copy of the award shall be deposited with the registrar of the county or city, as the case may be, in which the lands are situate, and shall be a valid title to the said lands.
- (d) No lands used as an orchard, pleasure ground or garden, nor any lands within two hundred yards of any dwelling house, shall be expropriated without the consent of the owner or owners of such dwelling-house.
- (e) The award shall be in writing and the boundaries of the lands or premises taken shall be fully described therein.
- (f) All the provisions of sub-sections 11 and 13 of this section shall as far as applicable, apply to the lands acquired under this sub-section. 48 V. c. 38, ss. 1-5.

13. For preventing the violation of cemeteries, graves, tombs, tombstones, or vaults where the dead are interred:

NOTE.—By 53 V. c. 48, municipal councils may grant money out of the general funds of the municipality for fencing and keeping in repair certain burial grounds. See s. 496, s.s. 7.

14. For preventing cruelty to animals; and for preventing the destruction of birds; the by-laws for these purposes not being inconsistent with any statute in that behalf;

15. For restraining and regulating the running at large of dogs, and for imposing a tax on the owners, possessors or harbourers of dogs;

16. For killing dogs running at large contrary to the by-laws;

16a. For inspecting and regulating the construction and erection of hoists, scaffoldings and other constructions used in the erecting, repairing, altering or improving buildings, chimneys, or other structures; and for making all necessary regulations for the protection and safety of workmen and other persons employed thereon, and for appointing inspectors of scaffolding. 54 V. c. 42, s. 18.

17. For settling the height and description of lawful fences, and for regulating and settling the height, description and manner of maintaining, keeping up and laying down fences along highways or any part or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down such last-mentioned fences or any part thereof. *See sec. 511 (3).*

18. For regulating the height, extent and description of lawful division fences; and for determining how the cost thereof shall be apportioned; and for directing that any amount so apportioned shall be recovered in the same manner as penalties not otherwise provided for may be recovered under this Act; but until such by-laws are made, the Acts respecting Line Fences and Ditching Water-courses shall continue applicable to the municipality.

19. For providing proper and sufficient protection against injury to persons or animals by fences constructed wholly or in part of barbed wire or any other material.

And in towns and cities for wholly prohibiting the construction or erection of fences made wholly or in part of barbed wire or any other barbed material, along streets and public places. 53 V. c. 50, s. 18.

20. For requiring owners or occupiers of lands bordering upon any public highway, to take down, alter, or remove any fence or fences, subject to the provisions of *The Act respecting Snow Fences*. See sec. 511 (3).

21. For compelling the owners of lands through which any open drain or water course passes to erect and keep up water gates where fences cross such drain or water-course, and for preventing persons obstructing any drain or water-course.

22. For preventing the growth of Canada thistles and other weeds detrimental to husbandry, and compelling the destruction thereof; for the appointment of an inspector with power to enforce the provisions of such by-law; for regulating his duties, and determining the amount of remuneration, fees or charges he is to receive for the performance of such duties; See also Cap. 202.

23. For preventing persons from throwing any dirt, filth, carcasses of animals, or rubbish, on any street, road, lane or highway

24. For regulating the times during which stumps, wood, logs, trees, brush, straw, shaving, or refuse, may be set on fire or burned in the open air, and for prescribing precautions to be observed during such times, and for preventing such fires, being kindled at other times. 46 V. c. 18, s. 490 (10-21). See Cap. 213.

24a. For regulating the keeping and transporting of gunpowder and other combustible or dangerous materials; for regulating and providing for the support by fees, of magazines for storing gunpowder belonging to private parties; for compelling persons to store therein; for acquiring land, as well within as without the municipality, for the purpose of erecting powder magazines, and for selling and conveying such land when no longer required therefor. See Rev. Stat. c. 184, s. 496-(9). 55 V. c. 43, s. 32.

25. For preventing or regulating and licensing exhibitions of wax work, menageries, circus-riding, and other such like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement; and for requiring

the payment of license fees for authorizing the same, not exceeding \$500 for every such license; and for imposing fines to an amount not exceeding the amount of the said license fee on such persons infringing such by-laws; and for levying the same by distress and sale of the goods and chattels of such showman or belonging to or used in such exhibition, whether owned by such showman or not, or for the imprisonment of such offenders for any term not exceeding one month. 55 V. c. 43, s. 33.

(a) shall not be lawful for the council of any municipal corporation, or the commissioners of police in any city, to grant licenses or license certificates to persons having exhibitions of any work or circus-riding, or other shows of a like character, or places of gambling, or to those engaged in traffic in fruits, goods, wares, or merchandise of whatever description, for gain on the days of the exhibition of the Agricultural Association of Ontario, or of any electoral district or township agricultural society, either on the grounds of such society, or within the distance of 300 yards from such grounds. 46 V. c. 18, s. 490 (22); 49 V. c. 37, s. 12; 50 V. c. 29, s. 24. 53 V. c. 50, s. 18.

26. For preventing or regulating and licensing exhibitions held or kept for hire or profit, bowling alleys and other places of amusement. 46 V. c. 18, s. 490 (32).

27. For allowing to any person who plants fruit trees, or trees, shrubs or saplings, suitable for affording shade on any highway within the municipality, in abatement of statute labour or out of the general fund, a sum of not less than twenty-five cents for every tree so planted. See Cap. 201.

28. For preventing the injuring or destroying of trees or shrubs planted or preserved for shade or ornament; and the defacing of private or other property by printed or other notices.

29. For preventing the pulling down or defacing of signboards, or of printed or written notices lawfully affixed.

30. For authorizing any corporate gas or water company to lay down pipes or conduits for the conveyance of water or gas under streets or public squares, subject to such regulations as the council sees fit.

31. For acquiring stock in, or lending money to, such company; and for guaranteeing the payment of money borrowed by, or of debentures issued for money so borrowed by the company; provided the by-law is consented to by the electors, as hereinbefore provided. In such case the head of any corporation holding stock in such company to the amount of \$10,000 shall be, *ex officio*, a director of the company in addition to the other directors thereof, and shall also be entitled to vote on such stock at any election of directors.

32. For preventing the sale or gift of intoxicating drink to a child, apprentice or servant, without the consent of a parent, master or legal protector.

33. For preventing the posting of indecent placards, writings or pictures, or the writing of indecent words, or the making of indecent pictures or drawings, on walls or fences in streets or public places.

34. For preventing vice, drunkenness, profane swearing, obscene, blasphemous or grossly insulting language, and other immorality and indecency.

35. For suppressing disorderly houses and houses of ill-fame.

36. For suppressing gambling houses, and for seizing and destroying faro-banks, *rouge et noir*, roulette tables, and other devices for gambling found therein.

37. For preventing horse racing.

38. For restraining and punishing vagrants, mendicants, and persons found drunk or disorderly in any street, highway or public place. And in cities and towns any such by-law may provide that the chief constable of the municipality or the inspector in charge of any police station to which any person is brought on the charge of being drunk, without being disorderly, may, in any case where it is so far as known to said officer a first or

second arrest for such offence, release such person without bringing him before a justice of the peace or police magistrate; and any person arrested for the said offence shall be a competent witness on his own behalf. 55 V. c. 43, s. 34.

39. For preventing indecent public exposure of the person and other indecent exhibitions.

40. For preventing or regulating the bathing or washing the person in any public water in or near the municipality; 46 V. c. 18, s. 490 (23-31, 33-37).

41. For preventing and abating public nuisances.

42. For establishing, protecting, regulating and cleansing public and private wells, reservoirs and other public and private conveniences for the supply of water, and for closing public and private wells; for preventing the fouling of the same and the wasting of water therein or therefrom; for procuring an analysis of such water, and providing for the payment of the expense thereof, and for making reasonable charges for the use of public water.

43. For compelling the owners, lessees and occupants of real property within any defined area to fill up or close any wells, water-closets, privies, privy-vaults, or cesspools, the continuance of which may, in the judgment of the council, be dangerous to health.

44. For preventing or regulating the erection or continuance of slaughter houses, gas works, tanneries, distilleries or other manufactories or trades which may prove to be nuisances.

45. For preventing or regulating the keeping of cows, goats, pigs and other animals, and defining limits within which the same may be kept.

46. For regulating or preventing the ringing of bells, blowing of horns, shouting and other unusual noises, or noises calculated to disturb the inhabitants.

46a. For preventing or regulating the firing of guns or other firearms; and the firing or setting off of fireballs, squibs, crackers or fireworks, and for preventing charivaries and other like disturbances of the peace. 55 V. c. 43, s. 35.

47. For regulating the construction of cellars, sinks, cesspools, water-closets, earth closets, privies and privy vaults, and for compelling and regulating the manner of draining, cleaning, clearing, and disposing of the contents of the same.

48. For compelling or regulating the filling up, draining, cleaning, clearing, altering, relaying or repairing of any grounds, yards, vacant lots and private drains.

49. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes.

50. For seizing and destroying all tainted and unwholesome meat, poultry, fish, or other articles of food. 47 V. c. 32, s. 13 (1-9, 12).

51. For preventing or regulating the buying and selling of articles or animals exposed for sale or marketed, subject to the restrictions contained in sections 497-502. 46 V. c. 18, s. 503 (4); 47 V. c. 32, s. 15 (1).

52. For preventing the use of deleterious materials in making bread; and for providing for the seizure and forfeiture of bread made contrary to the by-law. 47 V. c. 32, s. 15 (2); 46 V. c. 18, s. 503 (13 part). *See sec. 479 (21).*

53. For appointing inspectors, and for providing for the inspection of milk, meat, poultry, fish and other natural products offered for sale for human food or drink, whether on the streets or in public places, or in shops. 47 V. c. 32, s. 13. (10 part).

54. For licensing and regulating milk vendors, and for fixing the fee to be paid for such license at a sum not to exceed \$1 for one year. 47 V. c. 32, s. 13 (10 part).

55. For making provision for supplying blanks for the notification and recording of cases of contagious or infectious disease, for giving public notice of houses wherein such cases exist, and for taking such measures as by any Act respecting the public health or any other Act, are required to be taken in that behalf, and such other measures as may be necessary for preventing the spread of such diseases. 46 V. c. 18, s. 496 (13); 47 V. c. 32, s. 13 (11).

56. For procuring the necessary estimates, and making the proper application for ascertaining and establishing the boundary lines of the municipality, according to law, in case the same has not been done; and for erecting and providing for the preservation of the durable monuments required to be erected for evidencing the same. 46 V. c. 18, s. 490 (38).

57. For acquiring and holding, by purchase or otherwise for the public use of the municipality, lands situate outside the limits of such township, city, town or incorporated village; but such lands so acquired shall not form part of the municipality of such township, city, town, or incorporated village, but shall continue and remain as of the municipality where situate; and all by-laws passed by township councils for the purpose of acquiring land as provided by this sub-section, are hereby declared as legal and binding where the by-laws have not been contested or impeached before the 23rd day of April, 1887, as if the lands were within the limits of the municipality the council of which passed the by-law.

58. For erecting and maintaining weighing machines in villages or other convenient places, and charging fees for the use thereof, not being contrary to the limitations provided by sub-section 8 of section 497 of this Act. 50 V. c. 29, s. 25.

490. The council of every township, city, town and incorporated village, may also pass by-laws (not inconsistent with the Statutes of Canada respecting Cruelty to Animals)—

1. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound;

2. For restraining and regulating the running at large or trespassing of any animals, and providing for impounding them; and for causing them to be sold, in case they are not claimed within a reasonable time, or in case the damages, fines and expenses are not paid according to law;

3. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to the laws of Ontario or of the municipality.

4. For determining the compensation to be allowed for services rendered, in carrying out the provisions of any Act, with respect to animals impounded or distrained and detained in the possession of the distrainer. 46 V. c. 18. s. 492. See Cap. 215.

NOTE.—See R. S. O., 1887, Cap. 215, entitled “An Act respecting pounds.” (1) “*Until varied or other provisions are made by by-laws passed under the authority of section 490 of the Municipal Act, this Act shall be in force in every township, city, town and incorporated village in Ontario.*”

491.—(1) In case the council of any township, city, town or incorporated village adopts a resolution on the application of one-half of the resident landholders to be affected thereby, or upon its own motion, that it is expedient to place durable monuments at the front or rear of any concession or range or part thereof in the municipality, or at the front or rear angles of the lots therein, the council may apply to the Lieutenant-Governor, in the manner provided for in sections 38, 39 and 40 of *The Act respecting Land Surveyors and the Survey of Lands*, praying him to cause a survey of such concession or range, or such part thereof, to be made, and such monuments to be placed under the authority of the Commissioner of Crown Lands.

(2) The person or persons making the survey shall accordingly plant stones or other durable monuments at the front or at the rear of such concession or range, or such part thereof as aforesaid, or at the front and rear angles of every lot therein (as the case may be), and the limits of each lot so ascertained and marked shall be the true limits thereof; and the costs of the survey shall be defrayed in the manner prescribed by the said statute. 46 V. c. 18, s. 491.

492.—(1) In case any township, city, town, or incorporated village, shall be so situated that in the construction of any sewer therein it becomes necessary in order to procure an outlet therefor, to extend the same into or through a contiguous municipality, such township, city, town, or incorporated village so situated, shall be permitted and have power, subject as hereinafter provided, to so extend such

sewer into or through such contiguous municipality, and shall be permitted and have power to unite and connect the same to any already existing sewer or sewers of such contiguous municipality, upon such terms and conditions as shall be agreed upon between the respective municipalities, and in case of a difference, then upon such terms and conditions as shall be determined by arbitration under the provisions of this Act in that behalf.

(2) In any case where the council of any municipality shall object to allow an adjoining municipality to connect a sewer with any existing sewer or extend a sewer through its territory, as above provided, then and in every such case the arbitrators shall not only determine the terms and conditions upon which the connection or extension shall be allowed to be made; but also whether the connection or extension should, under the circumstances, be permitted or allowed to be made, but nothing in this section contained shall authorise the making of an open drain or sewer, nor shall anything herein affect the provisions of *The Ditches and Water-courses Act*.

(3) Nothing in this section contained shall be construed as limiting or abridging any of the powers conferred on township councils by this Act. 48 V. c. 39, s. 39 (4).

For powers of Cities, Townships, Towns and Villages as to Lock-up Houses, see secs. 458, 449; and as to Tavern and Shop Licenses, see Cap. 194.

POWERS OF COUNCILS OF TOWNSHIPS, CITIES AND TOWNS.

493. The council of every township, city and town may pass by-laws :

1. For licensing and regulating plumbers.
2. For making better provision for securing the inmates and employees in all factories, hotels, boarding and lodging houses, warehouses, theatres, music halls, opera houses and other public buildings and places of amusement, against accident by fire, and providing for the adoption and erection of proper fire escapes upon all such buildings more than two stories in height. 49 V. c. 37, s. 37 ; 50 V. c. 29, s. 48.

POWERS OF COUNCILS OF COUNTIES AND CITIES.

494. The council of every county or city shall provide by law, that a sum not less than \$20 shall be payable as a reward to any person or persons who shall pursue and apprehend, or cause to be apprehended, any person or persons guilty of stealing any horse or mare within the said county or city, and such reward shall be paid out of the funds of the corporation on the conviction of the thief, on the order of the Judge before whom the conviction is obtained. 48 V. c. 18, s. 494.

POWERS OF COUNCILS OF COUNTIES, CITIES AND SEPARATED TOWNS.

495. The council of any county, city and town separated from the county for municipal purposes, may pass by-laws for the following purposes :

1. For appointing, in addition to other officers, one or more engineers, and also one or more inspectors of the house of industry; also one or more surgeons of the gaol and other institutions under the charge of the municipality; and for the removal of such officers;

2. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale, goods, wares, merchandise or effects by public auction; and for fixing the sum to be paid for every such license, and the time it shall be in force; And for licensing, regulating and governing bill-posters, and for fixing the sum to be paid for every such license, and the time it shall be in force. 46 V. c. 18, s. 495, (1, 2). 53 V. c. 50, s. 20.

3. For licensing, regulating and governing hawkers or petty chapmen, and other persons carrying on petty trades, or who go from place to place or to other men's houses, on foot, or with any animal, bearing or drawing any goods, wares, or merchandise for sale, or in or with any boat, vessel, or other craft, or otherwise carrying goods, wares, or merchandise for sale, and for fixing the sum to be paid for a license for exercising such calling within the county, city or town, and the time the license shall be in force:

In case of counties for providing at the discretion of the council, either the treasurer or clerk of the county, or the

clerk of any municipality within the county with licenses, in this and the previous sub-section mentioned, for sale to parties applying for the same under such regulations as may be prescribed in such by-laws :

Provided always that no such license shall be required for hawking, peddling or selling from any vehicle or other conveyance any goods, wares or merchandise to any retail dealer, or for hawking or peddling any goods, wares or merchandise, the growth, produce or manufacture of this Province, not being liquors within the meaning of the law relating to taverns or tavern licenses, if the same are being hawked or peddled by the manufacturer or producer of such goods, wares or merchandise, or by his *bona fide* servants or employees having written authority in that behalf; and such servant or employee shall produce and exhibit his written authority when required so to do by any municipal or peace officer :

And provided also that nothing herein contained shall affect the powers of any council to pass by-laws, under the provisions of section 496 of this Act. 46 V. c. 18, s. 495 (3) ; 47 V. c. 32, s. 11.

(a) The word "hawkers" in this sub-section shall include all persons who, being agents for persons not resident within the county, sell or offer for sale tea, dry goods, watches, plated ware, silver ware or jewellery, or carry and expose samples or patterns of any of such goods to be afterwards delivered within the county to any person not being a wholesale or retail dealer in such goods, wares or merchandise. 55 V. c. 43, s. 36.

(b) The provisions of any by-law passed or enacted by any municipal council prior to the first day of October, 1885, shall not be held as extending to any persons who, by this sub-section are to be held as included within the meaning of the word "hawkers." 48 V. c. 40, ss. 1, 2.

4. For licensing and regulating ferries between any two places within the municipality, under the provisions of *The Act respecting Ferries*, and establishing the rate of ferriage to be taken thereon ; but no such law as to ferries

shall have effect until assented to by the Lieutenant-Governor in Council, but the powers by this sub-section conferred on county councils shall not extend to a ferry between any two places within the same township. 46 V. c. 18, s. 495 (4); 48 V. c. 39, s. 15.

- (a) Until the council passes a by-law regulating such ferries, and in the case of ferries not between two places in the same municipality, the Lieutenant-Governor, by Order in Council, may, from time to time, regulate such ferries respectively, and establish the rates to be taken thereon, in accordance with the statutes in force relating to ferries. 46 V. c. 18, s. 495 (4 a).

5. For establishing high schools and appointing high school trustees subject to the High Schools Act, and for obtaining in such part of the county, or of any city or town separated within the county, as the wants of the people may most require, the real property requisite for erecting high school houses thereon, and for other high school purposes, and for preserving, improving and repairing such school houses, and for disposing of such property when no longer required; 55 V. c. 43, s. 37.

6. For making provisions in aid of such high schools as may be deemed expedient;

Notwithstanding anything contained in this Act or in *The High Schools Act*, the county council of any union of counties may pass a by-law for the purpose of apportioning the amount to be levied for high school purposes, so that each county forming such union shall be liable only for the maintenance of the high schools situated within such county.

7. For making a permanent provision for defraying the expenses of the attendance at the University of Toronto, and at the Upper Canada College in Toronto, of such of the pupils of the public high schools of the county as are unable to incur the expense, but are desirous of, and in the opinion of the respective masters of such high schools, possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such University or College; *See Cap. 226, s. 36 (4)*.

8. For making similar provision for the attendance at any high school, for like purposes, of pupils of public schools of the municipality; *See* Cap. 226, s. 36 (5).

9. For endowing such fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, and in the Upper Canada College at Toronto, for competition among the pupils of the public high schools in the county, as the council deem expedient for the encouragement of learning amongst the youth thereof; *See* Cap. 226, s. 36 (6).

10. For authorizing, on petition of at least fifty qualified electors of the municipality, the holding of public fairs at one or more of the most public and convenient places not separated from the municipality for municipal purposes;

(a) The purpose for which such fairs may be held shall be restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.

(b) The by-law to authorize the establishment of any such fair shall establish rules and regulations for the government of the same, and appoint a person whose duty it shall be to have them carried out, and shall also fix the fees to be paid him by persons attending the said fair.

(c) The council authorizing the establishment of a public fair shall, immediately after the passing of a by-law for that purpose, give public notice of the same.

11. For licensing and regulating "junk" stores or shops, and for fixing the sum to be paid for a license so to have or keep such "junk" store or shop.

(12) For defining the areas within which tanneries hereafter erected, rag, bone, or junk shops, or other industries of a noxious or unhealthy character may not be carried on within the said municipality.

13. For establishing schools for the training and education of artisans, mechanics and workingmen in such subjects as may promote a knowledge of mechanical and manufacturing arts, and for acquiring such real property

as may be requisite for such schools ; and for erecting and maintaining suitable buildings thereon ; and for improving and repairing such school buildings, and for disposing of such property when no longer required.

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

14. For making grants in aid of such schools as may be deemed expedient. 46 V. c. 18, s. 495 (5-11). 53 V. c. 50, s. 21, s-s. 12. 54 V. c. 42, s. 19, s-ss. 13 (a) 14.

POWERS OF COUNCILS OF CITIES, TOWNS AND INCORPORATED VILLAGES.

496. The council of every city, town and incorporated village may pass by-laws :

1. For manufacturing and supplying light and heat under *The Municipal Light and Heat Act*. 46 V. c. 21, s. 2 (1).

2. For preventing common begging, or persons in the streets from importuning others for help or aid in money, or deformed, or malformed, or diseased persons, from exposing themselves, or being exposed in the public streets to excite sympathy or induce help or assistance from general or public charity ;

4. For causing vacant lots to be properly enclosed ;

5. For preventing the leading, riding or driving of horses or cattle upon sidewalks or other places not proper therefor ;

6. For preventing persons in streets or public places from importuning others to travel in or employ any vessel or vehicle, or go to any tavern or boarding house, or for regulating persons so employed ;

7. For regulating the interment of the dead, and for preventing the same taking place within the municipality ;

8. For directing the keeping and returning of bills of mortality; and for imposing penalties on persons guilty of default;

9a. For regulating the construction of cranes, hoists and elevators and determining the manner in which elevators in buildings shall be constructed and worked (whether automatically or otherwise) and for providing for the inspection of all cranes, hoists and elevators, but none of the provisions of the by-laws shall be inconsistent with *The Factory Act* so far as the same provides for the regulation or construction of cranes, hoists and elevators. 53 V. c. 50, s. 22 (9a) .

10. For regulating the erection of buildings and preventing the erection of wooden buildings, or additions thereto, and wooden fences in specified parts of the city, town or village; and also for prohibiting the erection or placing of buildings, other than with main walls of brick, iron or stone, and roofing of incombustible material within defined areas of the city, town or village; and for regulating the repairing or alteration of roofs or external walls of existing buildings within the said areas, so that the said buildings may be made more nearly fire-proof; and for authorizing the pulling down or removal, at the expense of the owner thereof, of any building or erection which may be constructed, repaired or placed in contravention of any by-law;

For regulating the erection or occupation of dwellings on narrow streets, lanes or alleys, or in crowded or unsanitary districts. 47 V. c. 32, s. 16. 52 V. c. 36, s. 24.

11. For appointing fire wardens, fire engineers and firemen, and promoting, establishing, and regulating fire companies, hook-and-ladder companies, and property-saving companies;

12. For providing medals or rewards for persons who distinguish themselves at fires; and for granting pecuniary aid or otherwise assisting the widows and orphans of persons who are killed by accident at such fires;

13 For preventing or regulating the use of fire or lights in stables, cabinet makers' shops, carpenters' shops, and combustible places;

14. For preventing or regulating the carrying on of manufactories or trades dangerous in causing or promoting fire ;

15. For preventing, and for removing or regulating, the construction of any chimney, flue, fire-place, stove, oven, boiler, or other apparatus or thing which may be dangerous in causing or promoting fire ;

16. For regulating the construction of chimneys as to dimensions and otherwise, and for enforcing the proper cleaning of the same, and for compelling manufacturers and others to have such chimneys or other apparatus as shall consume the smoke or prevent the same from fouling the atmosphere or being carried by the wind or otherwise to other shops, houses, or premises, to the inconvenience or injury of the neighbouring premises or residents therein ;

17. For regulating the mode of removal and safe keeping of ashes.

18. For regulating and enforcing the erection of party walls.

19. For compelling the owners and occupants of houses to have scuttles in the roof thereof, with approaches ; or stairs or ladders leading to the roof.

20. For causing buildings and yards to be put in other respects into a safe condition to guard against fire or other dangerous risk or accident.

21. For requiring the inhabitants to provide so many fire buckets, in such manner and time as may be prescribed ; and for regulating the examination of them, and the use of them at fires.

22. For authorizing appointed officers to enter at all reasonable times upon any property subject to the regulations of the council, in order to ascertain whether such regulations are obeyed, or to enforce or carry into effect the same.

23. For making regulations for suppressing fires, and for pulling down or demolishing adjacent houses or other erections, when necessary to prevent the spreading of fire.

24. For regulating the conduct, and enforcing the assistance of the inhabitants present at fires, and for the preservation of property at fires.

25. For compelling persons to remove all snow and ice from the roofs of the premises owned or occupied by them; and to remove and clear away all snow, ice and dirt, and other obstructions, from the sidewalks, streets and alleys adjoining such premises; and also to provide for the cleaning of sidewalks and streets adjoining vacant property, the property of non-residents, and all other persons who, for twenty-four hours, neglect to clean the same; and to remove and clear away all snow and ice, and other obstructions, from such sidewalks and streets, at the expense of the owner or occupant in case of his default; and in case of non-payment, to charge such expenses as a special assessment against such premises, to be recovered in like manner as other municipal rates. 46 V. c. 18, s. 496 (17-31).

(a) The council may, in the by-law passed for the purposes of this sub-section, define certain areas or streets within the municipality, within or upon which the by-law shall be operative. 48 V. c. 39, s. 17.

26. For regulating and compelling the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, craft, cribs, rafts, logs or other obstructions or incumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same; 47 V. c. 32, s. 12.

27. For regulating or preventing the encumbering, injuring or fouling, by animals, vehicles, vessels or other means, of any road, street, square, alley, lane, bridge or other communication;

28. For directing the removal of door-steps, porches, railings or other erections, or obstructions projecting into or over any road or other public communication, at the expense of the proprietor or occupant of the property connected with which such projections are found;

29. For numbering the houses and lots along the streets of the municipality, and for fixing the numbers to the

houses, buildings, or other erections along the streets, and for charging the owner or occupant of each house or lot, with the expense incident to the numbering of the same ;

30. For keeping (and every such council is hereby required to make and keep) a record of the streets and numbers of the houses and lots numbered thereon respectively, and entering thereon, and every such council is hereby required to enter thereon a division of the streets with boundaries and distances for public inspection ; 46 V. c. 18, s. 496 (32-35).

31. For surveying, settling, and marking the boundary lines of all streets, roads, and other public communications, and for giving names thereto, and affixing such names at the corners thereof, on either public or private property ; but no by-law for altering the name of any street, square, road, lane, or other public communication, shall have any force or effect unless passed by a vote in favour thereof of at least three-fourths of the whole council, nor unless and until the by-law has been registered in the registry office of the registry division ; and the registrar shall be entitled to a fee of \$1 for every by-law so registered, and for the necessary entries and certificates in connection therewith ; 46 V. c. 18, s. 496 (36) ; 48 V. c. 39, s. 18.

- (a) Every by-law changing the name of a street in a city or town, shall state the reason for the change, and shall not be finally passed until the same has been approved by the County Judge.
- (b) The Judge, on an application by or on behalf of the municipal council, shall name a day, hour and place for considering the same, and for hearing the advocates of the change, and persons who may deem themselves aggrieved thereby and may desire to be heard, and any other persons the Judge may think fit.
- (c) A copy of the by-law and of the Judges appointment shall be served on the registrar or deputy registrar of the registry division at least two weeks before the time named, and shall be published once in the *Ontario Gazette* at least two weeks before the time so named, and at least weekly for four weeks in such other newspaper or newspapers as the Judge directs.

- (d) If the Judge approves of the change he shall certify to that effect, and his certificate shall be filed with the by-law in the registry office of the registry division in which the territory lies. The change shall take effect from the date of the registration of the certificate and not before. 50 V. c. 29, s. 26 ; 54 V. c. 42, s. 20.

32. For ascertaining and compelling owners, tenants and occupants to furnish the council with the levels of the cellars heretofore dug or constructed, or which may hereafter be dug or constructed along the streets of the municipality, such levels to be with reference to a line fixed by the by-laws ;

33. For compelling to be deposited with an officer, to be named in the by-law, before commencing the erection of any building, a ground or block plan of such building, with the levels of the cellars and basements thereof, with reference to a line fixed by the by-laws ; 46 V. c. 18, s. 496 (37, 38).

34. For charging all persons who own or occupy property which is drained into a common sewer, or which by any by-law of the council is required to be drained into such sewer, with a reasonable rent for the use of the same ; and for regulating the time or times and manner in which the same is to be paid ;

35. For accepting or purchasing any land in any other municipality which may be required for preventing such city, town or incorporated village, or any part thereof, being flooded by the surface or other waters flowing from such other municipality into such city, town or incorporated village, and for providing an outlet for such waters through any other municipality, and for opening, making, preserving and improving drains, sewers, and water-courses in the lands so acquired ; Provided always that the consent of the municipality in which the lands to be taken are situate shall be obtained before the powers conferred by this sub-section shall be exercised ; 46 V. c. 18, s. 496 (42, 43).

36. For regulating the conveyance of traffic in the public streets and the width of the tires and wheels of all vehicles used for the conveyance of articles of burden, goods, wares or merchandise, and for prohibiting heavy traffic, and the

driving of cattle, sheep, pigs and other animals in certain public streets and places to be named in the by-law; 47 V. c. 32, s. 14.

37. For prohibiting or regulating the practice of coasting or tobogganing on the public streets; 48 V. c. 39, s. 19.

38. For authorizing, and for assigning stands for vehicles kept for hire on the public streets and places, and for authorizing the erection and maintenance of covered stands or booths on the streets, highways and public places for the protection and shelter of the drivers of such vehicles: Provided that no such booth or covered stand shall be placed upon any sidewalk without the previous consent of the owner or lessee of the property fronting, abutting or adjoining such stand or booth;

39. For regulating the erection and maintenance of electric light, telegraph and telephone poles and wires within their limits; 54 V. c. 42, s. 21.

40. For preventing children from riding on the platform of cars, or behind waggons and other vehicles, and for preventing accidents arising from such causes; 46 V. c. 18, s. 496 (46-48).

41. For licensing and regulating the owners and keepers of stores and shops (other than taverns and shops holding licenses under *The Liquor License Act*) where tobacco, cigars or cigarettes are sold by retail, and for preventing the sale of tobacco, cigars or cigarettes to children under the age of fourteen years, except on the written order of the parent, guardian or employer of the child.

NOTE.—See 55 V. c. 52, "An Act respecting the use of Tobacco by minors."

42. For inspecting public bathing houses and boat-houses, or premises wholly or partly used for boat-house purposes, and for preventing the use thereof for illegal or immoral purposes;

43. For appointing, employing and paying a night-watchman or watchmen, for the purpose of patrolling at night or between certain hours of the night, any street or streets or such portion or portions thereof within the muni-

unicipality as may by such by-law be defined, and of guarding and protecting the property, real and personal, within the limits thereby defined.

(a) For levying by special rate upon all the real property within the limits defined by the by-law, except vacant lots, all the expenses of or incidental to such employment of such night-watchman or watchmen in the same manner and at the same time as payment of the other rates or taxes within the municipality is enforced ;

(b) No such by-law shall be passed except upon petition therefor by two-thirds of the freeholders and householders who, upon the passing thereof, would become liable to be charged with the expenses to be incurred thereunder, and who represent as value at least two-thirds of the assessed real property thereon liable to be charged with such expenses ;

(c) No such petition shall be received or acted on by the council unless, and until all the signatures thereon are proved by the affidavit of a reliable and competent witness to be the genuine signatures of the persons whose signatures they purport to be, and that the contents thereof were made known to each person signing the same before signature ;

(d) As between the landlord and tenant of premises comprised within the limits defined by said by-law, the tenant shall be liable for the expenses to be levied thereunder, for the period or time of his occupation, unless there is an express agreement to the contrary. 50 V. c. 26, s. 28. 52 V. c. 36, s. 25 (43), (a), (b), (c), (d).

497.—(1) No municipality shall impose, levy or collect a market fee upon any wheat, barley, rye, corn, oats, or upon any other grain, or upon any hay or other seed, or wool, lumber, lath or shingles, or cordwood or other firewood, or upon dressed hogs, or cheese, or upon hay, straw or other fodder, that may be brought to market, or to the market place, for sale or other disposal, or upon the person bringing, or the vehicle in which the same is or shall be brought.

(2) No market fee shall be charged, levied or imposed upon or in respect of butter, eggs or poultry brought to

market, or upon the market place for sale, unless a convenient and fit place in which to offer or expose the same for sale shall be provided by the municipality, which shall afford shelter in summer, and shelter and reasonable protection from the cold in winter.

(3) When the vendor of any article brought within the municipality in pursuance of a prior contract for the sale thereof, proceeds directly to the place of delivery thereof, under such contract, without hawking the same upon the streets or elsewhere in the municipality, it shall not be lawful to impose, levy or collect a market fee thereon, or in respect thereof, or on the vehicle in which the same is so brought.

(4) Where there is no prior contract as mentioned in the previous sub-section, no market fee shall be imposed, levied or collected upon or in respect of any article brought into any municipality after the hour of ten o'clock in the forenoon, nor on or in respect of any vehicle in which such article is so brought, unless such article is offered or exposed for sale upon the market place of the municipality.

(5) No by-law shall require hay, straw or other fodder to be weighed, or wood to be measured, where neither the vendor nor purchaser desires to have the same so weighed or measured.

(6) After nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, no person shall be compelled to remain on any market place with any article which he may have been disposing or offering for sale in such market place, but may, after the expiration of such hour, proceed to sell such article elsewhere than in or on said market place; Provided that such person has paid the market fee on or in respect of such article, or the vehicle in which the same is contained.

(7) No market fees shall be imposed by any municipality higher than those contained in the following scale :

Upon articles brought to the market place in a vehicle drawn by two horses, upon which fees may be imposed, not more than.....10 cents.

Upon articles brought to the market place in a vehicle drawn by one horse, not more than... 5 cents.

Upon articles brought to the market place by hand or in any basket or vessel, not more than..... 2 cents.

Upon or in respect of live stock driven to or upon the market place for sale, as follows :

Every horse, mare, or gelding, not more than 10 cents.

Every head of horned cattle, not more than... 5 cents.

Every sheep, calf, or swine, not more than... 2 cents.

(8) No fee shall be imposed or levied by any municipality for weighing or measuring greater than as follows :

For weighing a load of hay.....15 cents.

For weighing slaughtered meat, or grain, or other articles exposed for sale, under one hundred pounds..... 2 cents.

Over one hundred pounds, and up to one thousand pounds..... 5 cents.

Over one thousand pounds.....10 cents.

For weighing live animals, other than sheep or pigs, per head..... 3 cents.

Sheep or pigs, if more than five, per head..... 1 cent.

If less than five, for the lot..... 4 cents.

For measuring a load of wood..... 5 cents.

(9) Subject to the other provisions of this section, the municipality may regulate the sale by retail in the public streets, or on vacant lots adjacent thereto, of any of the articles herein mentioned, and may regulate traffic in the streets, and prevent the blocking up of the same by vehicles or otherwise. 46 V. c. 18, s. 497.

498.—(1) The preceding section shall not apply to any municipality which shall pass, and so long as it shall keep in force, a by-law providing that the vendors of any articles in respect of which a market fee may, under this Act be

lawfully imposed, may, without paying market fees, offer for sale and sell or otherwise dispose of any such articles, at any place within the municipality, excepting only at and upon the market place or places thereof.

(2) Such by-law may, nevertheless, provide for the imposition and collection of market fees from such vendors of articles in respect of which a market fee may now be imposed, under this Act, as shall voluntarily use the market place for the purpose of selling such articles.

(3) The by-law may also provide for the imposition upon and collection of market fees from any person who shall remain, or cause his vehicle to remain upon that part of any street immediately adjoining or surrounding or being within a hundred yards of the market place, for the purpose of selling upon such street or streets such articles, so as to obtain the advantages of said market place, but driving through or across such portions of streets shall not of itself be deemed sufficient ground for the imposition of any fee; but this sub-section shall not apply to grain, seeds, dressed hogs or wool.

(4) The by-law shall not prevent the sale of any such articles to any person carrying on business and having an actual and *bona fide* store, shop or other similar place of business, on those portions of the streets in the next preceding sub-section mentioned; nor shall the by-law authorize the imposing or levying of any fee in respect of any article so sold, or of any vehicle in which the same is contained.

(5) It shall not be lawful for any municipality passing such by-law to impose a higher tariff or greater fee upon any article or vehicle than was in force or imposed by the municipality on the 1st day of March, 1882.

(6) No market fee shall be levied, collected or imposed by any municipality in respect of any market place or market, or any portion of any such market place or market hereafter established, declared or made in, on, or out of any street or part of any street within said municipality: Provided always that this sub-section shall not apply to so much of any street as immediately adjoins and abuts upon any market square, either now or hereafter established as a market place. 46 V. c. 18, s. 198.

499. The preceding section shall not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but sections 497, 500 and 501 shall apply to such municipality in the event of market fees being thereafter charged or imposed therein. 46 V. c. 18, s. 499.

500. Nothing in the preceding sections contained shall prevent any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might do before the 10th day of March, 1882: Provided always that market fees within the meaning of this section shall not include fees for weighing or measuring; Provided further, that after nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, no person shall be compelled to remain on, or resort to, any market place with any articles which he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on said market places. 46 V. c. 18, s. 500.

501. When and so long as section 497 shall be in force and apply to any municipality, so much of any Act or law as may be contrary to, and as shall conflict with the same, shall not be in force in or apply to such municipality; and when and as long as section 498 shall be in force in and apply to any municipality, so much of any Act or law as may be contrary to, and as shall conflict with the same, shall not be in force in or apply to such municipality. 46 V. c. 18, s. 501.

502. Subject to the provisions of the last preceding five sections, every municipality shall have the power to sell, assign, or lease its market fees. 46 V. c. 18, s. 502.

503. The council of every city, town and incorporated village may, subject to the restrictions and exceptions contained in the last preceding six sections, also pass by-laws:

1. For establishing markets.

2. For regulating all markets established and to be established; the places, however, already established as markets in the municipality, shall continue to be markets, and shall retain all the privileges thereof until otherwise directed by competent authority; and all market reservations or appropriations heretofore made in any such municipality shall continue to be vested in the corporation thereof.

3. For preventing or regulating the sale by retail in the public streets, or vacant lots adjacent thereto, of any meat, vegetables, grain, hay, fruit, beverages small-ware, and other articles offered for sale. 46 V. c. 18, s. 503 (1-3).

4. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw, fodder, wood, lumber, shingles, farm produce of every description, small-ware and all other articles exposed for sale, and the fees to be paid therefor; and also for preventing criers and vendors of small-ware from practising their calling in the market place, public streets and vacant lots adjacent thereto.

5. For granting annually, or oftener, licenses for the sale of fresh meat in quantities less than by the quarter carcase, and for regulating such sale, and fixing and regulating the places where such sale shall be allowed, and for imposing a license fee not exceeding \$50 in cities and \$25 in towns and incorporated villages to be paid for such license, and for enforcing the payment of the same, and for preventing the sale of fresh meat in quantities less than by the quarter carcase, unless by a person holding a valid license and in a place authorized by the council, but nothing herein contained shall affect the powers conferred in the preceding sub-section: Provided that this sub-section shall not be qualified as respects shops or stalls occupied by butchers or others for the sale of fresh meat in quantities less than by the quarter carcase within the said municipality by anything contained in sections 497 or 500 of this Act. 46 V. c. 18, s. 503 (5, 6). 46 V. c. 18, s. 503 (7); 50 V. c. 29, s. 29. 53 V. c. 50, s. 23.

6. For preventing the forestalling, regrating or monopoly of market grains, wood, meats, fish, fruits, roots, vegetables, poultry, and dairy products, eggs and all articles required for family use, and such as are usually sold in the market.

7. For preventing and regulating the purchase of such things by hucksters, grocers, butchers or runners ; 46 V. c. 18, s. 503 (8).

8. For regulating the measuring or weighing (as the case may be) of lime, shingles, laths, cordwood, coal and other fuel ; 46 V. c. 18, s. 503 (9) ; 49 V. c. 37, s. 13.

9. For imposing penalties for light weight or short count or short measurement in anything marketed ; See sec. 479 (21).

10. For regulating all vehicles, vessels, and all other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

11. For selling, after six hours' notice, butchers' meat distrained for rent of market stalls ; 46 V. c. 18, s. 503 (10-12).

12. For regulating the assize of bread. 46 V. c. 18, s. 503 (13 part). See sec. 479 (21).

POWERS OF COUNCILS OF CITIES AND TOWNS.

504. The council of every city and town may pass by-laws ;

1. For licensing and regulating suitable persons to keep intelligence offices, for registering the names and residences of, and giving information to, or procuring servants, labourers, workmen, clerks or other employees for employers in want of the same, and for registering the names and residences of, and giving information to, or procuring employment for domestic servants and other labourers and any other class of servant, workman, clerk or person seeking employment, and for fixing the fees to be charged and recovered by the keepers of such offices ; 50 V. c. 29, s. 30.

2. For the regulating of such intelligence offices ;

3. For limiting the duration of or revoking any such license ;

4. For prohibiting the opening or keeping of any such intelligence office within the municipality without license ;

5. For fixing the fee to be paid for such license, not exceeding \$10 for one year.

NOTE—By 53 V. c. 50, s. 24, the foregoing sub-sections apply to counties, townships and incorporated villages.

5a. For granting money to aid and assist in the construction of public bathing houses within the municipality, to borrow money for such purposes and to issue debentures to secure the re-payment thereof. 46 V. c. 18, s. 504 (2-5). 54 V. c. 42, s. 22 (5a).

6. For establishing, regulating and maintaining a police ; but subject to the other provisions of this Act ;

7. For aiding and assisting by annual money grant or otherwise, as the council may deem expedient, the establishment and maintenance of superannuation and benefit funds for the benefit of the members of the police force and fire brigades, and of their families respectively, where police forces and fire brigades are established ;

8. For acquiring any estate in landed property within or without the city or town for an industrial farm, or for a public park, garden or walk, or for a place for exhibitions, and for the disposal thereof when no longer required for the purpose ; and for accepting and taking charge of landed property, within or without the city or town, dedicated for a public park, garden or walk for the use of the inhabitants of the city or town. *See* secs. 460, 462.

9. For the erection thereon of buildings and fences for the purposes of the farm, park, garden, walk or place for exhibitions as the council deems necessary ;

10. For the management of the farm, park, garden, walk or place for exhibitions and buildings ;

11. For establishing and regulating within the city or town, or on the industrial farm or ground held for public exhibitions, one or more almshouses or houses of refuge for the relief of the destitute, and also for aiding charitable institutions within the city or town. *See* sec. 479 (12), and as to *Workhouses*, sec. 462.

12. For appointing any provincial land surveyor to be the corporation surveyor. 46 V. c. 18, s. 504 (7-13).

13. For constructing gas and water works, and for levying an annual special rate to defray the yearly interest of the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within a time not exceeding thirty years, nor less than five years.

14. For building, equipping, maintaining and operating street railways in, along and over such streets of the city or town and subject to and upon such terms as the Lieutenant-Governor in Council may approve, and for leasing the same from time to time on such terms as may be determined on and for levying an annual special rate to defray the yearly interest on the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within a time not exceeding 30 years, provided that the powers conferred by this sub-section shall not apply to a municipality in which there is an existing street railway constructed or operated under any agreement or contract between the municipality and any street railway company.

15. A municipal corporation which builds, constructs, owns, or manages a street railway shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under *The Street Railway Act*, except where the same shall conflict or be inconsistent with or be repugnant to the rights, powers, liabilities or duty of a municipal corporation as provided by law. Nothing herein contained shall relieve any municipality from the obligations and liabilities in respect of roads, streets, highways, or bridges as provided by this Act.

NOTE.—See provisions set forth in sections 546, 636.

16. In addition to the powers given and contained in sub-section 14 of this section any city or town operating or proposing or intending to build or operate a street railway within its own limits may also pass by-laws for building, equipping, maintaining and operating any extension of any such street railway in any adjoining municipality with the consent of such adjoining municipality by by-law, and subject to and upon such terms as the Lieutenant-Governor in Council may approve, upon the same terms and subject to the same conditions and provisions of law as any street railway

company may build, maintain or operate any street railway under *The Street Railway Act* or any amendments thereof; and such city or town building, constructing, owning or managing a street railway extending beyond its territorial limits and authorized as aforesaid and with the consent aforesaid shall not be held to be illegally expending money, merely because it is expended upon or in connection with such portion of said street railway as may extend beyond its territorial limits. 46 V. c. 18, s. 504 (14). 53 V. c. 50, s. 25 (14), (15). 54 V. c. 42, s. 23 (16).

505. No by-law under sub-sections 13 and 14 of the preceding section shall be passed—

Firstly:—Until estimates of the intended expenditure have been published for one month, and notice of the time appointed for taking a poll of the electors on the proposed by-law has been published for two months, and a copy of the proposed by-law at length, as the same may be ultimately passed, and a notice of the day appointed for finally considering the same in council, have been published for three months, in some newspaper in the municipality; or if no newspaper is published therein, then in some newspaper in the county in which the municipality is situate;

Nor, secondly:—Until, at a poll held in the same manner and at the same places and continued for the same time as at elections for councillors, a majority of the electors, voting at the poll, vote in favour of the by-law;

Nor, thirdly:—Unless the by-law is passed within three months after holding the said poll.

Provided always that where any city or town shall have constructed gas or water works under the authority of this Act, or under the authority of *The Municipal Water Works Act 1882*, or under the authority of any special Act or Acts, or shall hereafter construct such works under the authority of the said Acts or any future amendments of the same, and shall have raised the money for the purchase or construction of such works, or shall hereafter so raise the same by a general rate on the whole of the assessable property of the said corporation under a by-law or by-laws lawfully passed or to be passed, it shall be lawful for the council of the city or town to raise on the credit of the said corporation such further sums as may be necessary to extend or

improve the said works or to pay the expense of any extensions or improvements thereof already made or completed wholly or in part from time to time on the whole ratable property of the said corporation by by-laws to be passed as required by sub-section 13 of section 504 of this Act, and without complying with the requirements of this section, and it shall not be necessary to obtain the assent of the electors or ratepayers to such by-law or by-laws, provided the same shall first be approved of by the Lieutenant-Governor in Council, it being first shewn to the satisfaction of the Lieutenant-Governor in Council that the said extensions are or were necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual special rate required to pay the new debt and interest; and provided also that on the final passing of such by-law or by-laws, three-fourths of all the members of the council shall vote in favour of the same. 46 V. c. 18, s. 505. 51 V. c. 28, s. 24. 53 V. c. 50, ss. 26, 28. 54 V. c. 42, s. 32.

506. If the proposed by-law is rejected at such poll, no other by-law for the same purpose shall be submitted to the electors during the current year. 46 V. c. 18, s. 506.

507. In case there is any water company incorporated for the municipality, the council shall not levy any water rate until such council has, by by-law, fixed a price to offer for the works or stock of the company; nor until after thirty days have elapsed after notice of such price has been communicated to the company without the company's having accepted the same, or having, under the provisions of this Act as to arbitrators, named and given notice of an arbitrator to determine the price, nor until the price accepted or awarded has been paid, or has been secured to the satisfaction of the company. 46 V. c. 18, s. 507.

508. The foregoing clauses or any of them shall not be construed to apply to, or affect the provisions contained in, any special Act obtained, or to be obtained, by any company or municipal corporation. 46 V. c. 18, s. 508.

POWERS OF COUNCILS OF TOWNSHIPS, TOWNS AND VILLAGES.

509. The council of every township, town or village may pass by-laws;

For borrowing money and issuing debentures therefor, for the purposes and subject to the provisions of *The Tile, Stone and Timber Drainage Act*.

2. For making grants in aid of any high school or collegiate institute, or to build, preserve, enlarge or improve any high school or collegiate institute in any adjacent or other municipality. 46 V. c. 18, s. 509. 51 V. c. 28, s. 25 (2).

POWERS OF COUNCILS OF TOWNS AND INCORPORATED VILLAGES.

510. The council of every town and incorporated village may pass by-laws :

For regulating and licensing the owners of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles for hire ; for establishing the rates of fares to be taken by the owners or drivers, and for enforcing payment thereof, and for defining localities or districts within the limits of which no livery or boarding stable shall hereafter be established.

29. The council of every town shall have and shall be deemed to have always had the power to pass a by-law for regulating and licensing teamsters, carters and draymen and regulating the charges for the conveyance of goods or for other services. 48 V. c. 18, s. 510. 52 V. c. 36, s. 27. 53 V. c. 50, s. 29.

EXCLUSIVE POWERS OF COUNCILS OF COUNTIES.

511. The council of every county may make by-laws :

1. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs, and staves within the municipality ;

2. For guaranteeing debentures of any municipality within the county, as the council may deem expedient ; 46 V. c. 18, s. 511.

3. For the exercise, in respect of fences along highways, or parts thereof, which it is the duty of the council to maintain, of the powers conferred upon the councils of townships, cities, towns and incorporated villages, by sub-sections 17 and 20 of section 489 of this Act. 48 V. 39, s 14.

(a) The council of every county shall be deemed and held to have had, and possessed on, from, and since the first day of February, 1883, the powers conferred by this sub-section, and also the power

to assist, aid, and compensate, either by payment of money or otherwise, any owner or occupier of land bordering upon any public highway within the county for the taking down, altering or removing any fence or fences, which in the opinion of the council, would be likely to cause such an accumulation of snow or drift as would impede or obstruct travel on such highway or any part thereof, or for the erection and construction of some other description of fence, approved of, or designated by the council, and subject to such terms and conditions in that behalf as by such council have been or shall be fixed and prescribed.

511 (a)—(1) The council of any county may pass a by-law providing that no sled, sleigh, or other vehicle upon runners (except cutters or pleasure sleighs) drawn by horses or other animals, shall be used by any person residing within the county for the conveyance of persons or goods, on any of the roads or highways within the county, unless the runners thereof shall be apart from each other at the bottom, at least, three feet, nine inches; Provided that no such by-law shall apply to any sled, sleigh or other vehicle upon runners owned or used by any person not resident within the said county.

(2) The council in passing such by-law may exempt from its operation all sleds, sleighs or vehicles on runners owned at the time of the passing of such by-law by any persons resident within the county.

(3) The by-law shall not come into force until the expiration of one year from the time of the passing thereof, or such further time as the council may determine upon. 49 V. c. 37, s. 35. 51 V. c. 28, s. 26 (511a (1) (2) (3)).

512. The council of every county, having county gravel or macadamized roads within its jurisdiction, and under its immediate control, such roads being kept up and repaired by municipal taxation, and upon which no toll is collected, shall have power to pass a by-law or by-laws for regulating and licensing the owners of livery stables, and of horses, cabs, carriages, omnibuses, and all other vehicles used or kept for hire; and for issuing and regulating teamsters' licenses; for regulating the width of tire used on such vehicles; for establishing the rates of fare that may be collected or taken by the owners or drivers; for enforcing the

payment of such licenses, regulating rates of fares for the conveyance of goods or passengers; and for enforcing the width of tire that may be used on such vehicles, when travelling on the aforesaid county gravel or macadamized roads. 46 V. c. 18, s. 512.

513. Every county council shall appoint at its first meeting in each year two persons, not more than one of whom shall belong to the council, to be members of the board of audit, for auditing and approving accounts and demands preferred against the county, the approving and auditing whereof previous to the 19th day of December, 1868, belonged to the General Quarter Sessions. 46 V. c. 18, s. 513.

514. The council may pay the members of the said board of audit any sum not exceeding \$4 each per day for their attendance at such audit, and five cents for each mile necessarily travelled in respect thereof in going to and from such audit. 46 V. c. 18, s. 514.

515. The councils of united counties may make appropriations and raise funds to enable either county, separately, to carry on such improvements as may be required by the inhabitants thereof. 46 V. c. 18, s. 515.

516. Whenever any such measure is brought before the council of any united counties, none but the reeves and deputy reeves of the county to be affected by the measure shall vote; except in case of an equality of votes, when the warden, whether a reeve or deputy reeve of any portion of the county to be affected by the measure or not, shall have the casting vote. 46 V. c. 18, s. 516.

517. In all other respects, all the provisions of this Act making provisions for the payment of the amounts appropriated, whether to be borrowed upon a loan or to be raised directly by taxation, shall be adhered to. 46 V. c. 18, s. 517.

518. The treasurer of the united counties shall pay over all sums so raised and paid into his hands by the several collectors, without any deduction or percentage. 46 V. c. 18, s. 518.

519. The property to be assessed for the purposes contemplated in the last preceding four sections of this Act, shall be the same as the property assessed for any other county

purpose, except, that any sum to be raised for the purposes of one county only, or for the payment of any debt contracted for the purposes of one county only, shall be assessed and levied solely upon property assessed in that county, and not upon property in any other county united with it, and any debenture that may be issued for such purposes may be issued as the debenture of the said one county only and shall be as valid and binding upon that county as if that county were a separate municipality, but such debentures shall be under the seal of the united counties, and be signed by the warden thereof. 46 V. c. 18, s. 519.

520. The county council of each county shall, from time to time, make provision for the whole or partial support either in the county gaol or some other place within the county, of such insane destitute persons as cannot properly be admitted to the Provincial asylums, and shall determine the sum to be paid for such support, and also the parties to whom such sums shall be paid by the county treasurer. 46 V. c. 18, s. 520.

EXCLUSIVE POWERS OF COUNCILS OF TOWNSHIPS.

521. The council of every township, may pass by-laws—

1. For empowering any person (resident or non-resident) liable to statute labour within the municipality, to compound for such labour, for any term not exceeding five years, at any sum not exceeding \$1 for each day's labour ;
2. For providing that a sum of money, not exceeding \$1 for each day's labour, may or shall be paid in commutation of such statute labour ;
3. For increasing or reducing the number of days' labour, to which the persons rated on the assessment roll or otherwise shall be liable, in proportion to the statute labour to which such persons are liable in respect of the amounts at which they are assessed or otherwise respectively ;
4. For enforcing the performance of statute labour, or payment of a commutation in money in lieu thereof, when not otherwise provided by law
5. For regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended ;

6. For reducing the amount of statute labour to be performed by the ratepayers or others within the municipality, or for entirely abolishing such statute labour. 46 V. c. 18. s. 521 (1-6).

7. For providing for the making and keeping open of township roads during the season of sleighing in each year, and for appointing overseers of highways, or pathmasters to perform that duty, and such overseers and pathmasters shall have full power to call out persons liable to perform statute labour within their respective municipalities, to assist in keeping open such roads, and may give to such persons as may be employed in so doing certificates of having performed statute labour to the amount of the days' work done, and such work shall be allowed for to such persons in their next season's statute labour;

8. For providing for the application of so much of the commutation of the statute labour fund as may be necessary for keeping open such roads as last aforesaid within such respective municipalities. 48 V. c. 39, s. 20, *part*.

NOTE.—See R. S. O. 1887, cap. 197, s. 5, *Re* Snow Roads; cap. 202, s. 9, *Re* the Spread of Noxious Weeds, etc.; cap. 188, s. 6, *Re* Exemption of Firemen, also the Assessment Act, ss. 87-118.

9. For acquiring lands in any town or incorporated village within, or partly within, the original boundaries of the township, for the purpose of erecting thereon a town hall, or for renting or acquiring a hall, within such town or village, for the purpose of a town hall;

10. Any township owning, renting or otherwise acquiring a town hall in any such town or village may hold at such town hall, any meeting, nomination, or election, or post at such town hall any notice, assessment roll, or voters' list, or do thereat any other act required by law to be held, posted or done in the township at the town hall, and any meeting of any mutual insurance company, or upon the formation thereof, which is required by any statute to be held in the municipality, may lawfully be held in such hall. 46 V. c. 18, s. 521 (7, 8).

11. For licensing and regulating ferries between any two places within the township with the same rights and powers in respect thereof, and as to establishing rates as are con-

ferred upon county councils by sub-section 4 of section 494 of this Act, and upon the same terms and conditions as are provided by said sub-section 4; but this shall not apply to any ferry for which a license has been granted prior to the 30th day of March, 1885, and was then running, until the expiry of such license. 48 V. c. 39, s. 16.

12. For purchasing from the Government or any corporation or person, at a price (in case of Crown Lands, to be fixed by the Lieutenant-Governor in Council, and which price the Lieutenant-Governor in Council is hereby authorized to fix), all the wet lands at the disposal of the Crown or such corporation or person in such township; and such lands may be sold accordingly to the corporation of such township;

- (a) The purchase and draining of such lands shall be one of the purposes for which any such corporation may raise money by loan or otherwise, or for which they may apply any of their funds not otherwise appropriated.
- (b) The corporation of a township may possess and hold the land so purchased, and may, whenever they deem it expedient, sell or otherwise depart with or dispose of the same by public auction, in like manner as they may by law sell or dispose of other property, and upon such terms and conditions, and with such mortgages upon the land so sold, or other security for the purchase money or any portion thereof, as they may think most advantageous.
- (c) The proceeds of the sale of such lands shall form part of the general funds of the municipality. 46 V. c. 18, s. 482 (21).

13. For declaring that in the case of any lands, the boundary line, or any part of the boundary line whereof passes through a marsh or swamp, or any land covered with water, the same shall, so far as respects that part of such boundary line which so passes through a marsh or swamp, or land covered with water, be deemed to be wholly enclosed within the meaning of section 1 of *The Act respecting Petty Trespasses*, if posts are put up and maintained along such part of such line at distances which will permit of each being clearly visible from the adjoining post. 50 V. c. 29, s. 50.

14. For regulating slaughter houses and manufactures or trades which may prove to be nuisances. 49 V. c. 37, s. 14.

15. For regulating the construction of dry earth closets and compelling the use of the same within such limits within the municipality as may be defined by the by-law. 50 V. c. 29, s. 31.

16. For preventing the obstruction of streams, creeks and water-courses, by trees, brushwood, timber or other materials, and for clearing away and removing such obstructions at the expense of the offenders or otherwise ;

17. For levying the amount of such expense, in the same manner as taxes are levied ;

18. For imposing penalties on parties causing such obstructions.

(19) For regulating the distance from any public highway within the municipality within which unenclosed portable steam-engines may be used for running a sawmill or shingle mill, and preventing the use of the same for either of such purposes within such distance.

(20) for imposing penalties on parties setting up or operating a portable steam-engine for either of such purposes in contravention of such by-law.

(21) For giving and paying bounties not exceeding \$5.00 per head for the destruction of foxes and other wild animals which kill or destroy poultry. 46 V. c. 18, s. 521 (9-11). 51 V. c. 28, ss. 27, 28—55 V. c. 43, s. 19, 20, 21.

522.—(1) Whenever any stream or creek in any township is cleared of all logs, brush or other obstructions to the town line between such township and any adjoining township into which such stream or creek flows, the council of the township in which the creek or stream has been cleared of obstruction may serve a notice in writing on the head of the council of the adjoining township into which the stream or creek flows, requesting such council to clear such stream or creek through their municipality ; and it shall be the duty of such last named council, within six months after the service of the notice as aforesaid, to enforce the removal of all obstructions in such creek or stream within their municipality, to the satisfaction of any person whom

the council of the county, in which the municipality whose council served the notice is situate, shall appoint to inspect the same. And if the council receiving such notice shall neglect the said duty, and by reason of such neglect any public road, street, bridge, or highway in either of the said townships shall be out of repair, the corporation in default, but not the corporation that served the notice, shall, besides being subject to any punishment or proceeding provided by law, be civilly responsible for all damages sustained by any person by reason of such want of repair; but the action must be brought within three months after the damages have been sustained. 46 V. c. 18, 522; 51 V. c. 28, s. 28.

523. No stone, gravel or other material shall be put upon the roads for repairs during the winter months so as to interfere with sleighing. 48 V. c. 39, s. 20 *part*.

POWERS AND DUTIES OF COUNCILS AS TO HIGHWAYS AND BRIDGES.

524. All allowances made for roads by the Crown surveyors in any town, township or place already laid out or hereafter laid out; and also all roads laid out by virtue of any statute, or any roads whereon the public money has been expended for opening the same, or whereon the statute labour has been usually performed, or any roads passing through the Indian lands, shall be deemed common and public highways, unless where such roads have been already altered, or may hereafter be altered according to law. 46 V. c. 18, s. 524. *See* Cap. 152, secs. 44, 45, 62 (1).

525. Unless otherwise provided for, the soil and freehold of every highway or road altered, amended or laid out according to law, shall be vested in Her Majesty, Her Heirs and successors. 46 V. c. 18, s. 525.

NOTE.—The soil and freehold of roads are vested in the Crown.

526. Subject to the exceptions and provisions hereinafter contained, every municipal council shall have jurisdiction over the original allowances for roads and highways and bridges within the municipality. 46 V. c. 18, s. 526.

527. Every public road, street, bridge or other highway, in a city, township, town or incorporated village, shall be vested in the municipality, subject to any rights in the soil which the individuals who laid out such road, street, bridge, or highway reserved, and except any concession or other road within the city, township, town or incorporated village, taken and held possession of by an individual in lieu of a street, road or highway laid out by him without compensation therefor. 46 V. c. 18, s. 527.

NOTE.—Public roads, streets, bridges and other highways are vested *in the municipality*, within which they are situated; in other words, they are made to form part of such municipality. Distinguish between “Municipality” and “Corporation.” See note, to section 525.

528. The council of every city and town may respectively pass by-laws for acquiring and assuming possession of and control over, any public highway or road in an adjacent municipality by and with the consent of such municipality, the same being signified by a by-law passed for that purpose, for a public avenue or walk;

And for acquiring from the owners of the land adjacent to such highway or road, such land as may be required on either side of such highway or road to increase the width thereof to the extent of 100 feet or less, subject to the provisions of section 483 of this Act. 46 V. c. 18, s. 528.

529. The councils of every county and incorporated village may pass by-laws for carrying out any arrangement between them for the assumption, by the village municipality, of any bridge within its limits, under the jurisdiction of the county council, and for such bridge being toll free; and for the payment by the village municipality to the county municipality of any part of the cost of the construction of such bridge;

After the passing of such by-laws the bridge shall be, and remain, under the exclusive jurisdiction of the village municipality; and the village municipality shall be subject to all the liabilities in the premises, which but for the transfer would have devolved on the county municipality; and the bridge shall be and remain toll free. 46 V. c. 18, s. 529.

530. The approaches for 100 feet to and next adjoining each end of all bridges belonging to, assumed by, or under the jurisdiction of any municipality or municipalities, shall be kept up and maintained by such municipality or municipalities: the remaining portion or portions of such approaches shall be kept up and maintained by the local municipalities in which they are situate. 46 V. c. 18, s. 530.

531.—(1) Every public road, street, bridge and highway shall be kept in repair by the corporation, and on default of the corporation so to keep in repair, the corporation shall, besides being subject to any punishment provided by law, be civilly responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained.

(2) This section shall not apply to any road, street, bridge or highway laid out by any private person, and the corporation shall not be liable to keep in repair any such last mentioned road, street, bridge or highway, until established by by-law of the corporation, or otherwise assumed for public user by such corporation. 46 V. c. 18, s. 531.

(3) The corporation shall, in the absence of an agreement to the contrary, keep in repair all crossings, sewers, culverts and approaches, grades, sidewalks, and other works made or done by the council of any municipality, or by any person with the permission of the said council, upon any toll road in or through the said municipality, and on default so to keep in repair shall be responsible for all damages sustained by any person by reason of such default, but the action must be brought within three months after the damages have been sustained. 47 V. c. 32, s. 17; 48 V. c. 39, s. 21.

(4) In case an action is brought against a municipal corporation to recover damages sustained by reason of any obstruction, excavation or opening in or near to a public highway, street or bridge placed, made, left or maintained by another corporation or by any person other than a servant or agent of the municipal corporation, the last mentioned corporation shall have a remedy over against the other corporation or person for and may enforce payment accordingly of the damages and costs, if any, which the plaintiff in the action may recover against the municipal corporation.

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

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

reason of an obstruction, excavation or opening placed, made, left or maintained by the other corporation or person, shall be established in the action against such other corporation or person in order to entitle the municipal corporation to recover in such action.

(7) Where two or more municipalities are jointly liable for the keeping in repair of a public road, street, bridge or highway, there shall be contribution between them as to the damages sustained by any person by reason of their default in keeping the same in repair and if an action shall be brought by any such person the same shall be brought against all of such municipalities and any of the defendants in any such action may require that the proportions in which such damages and the costs of the action shall be borne between them shall be determined therein and in settling such proportions either in the action or otherwise, regard shall be had to the extent to which each municipality was responsible, either primarily, or otherwise, for the act or omission for which the damages shall become payable or be recovered, and the damages and costs shall be apportioned between them accordingly. 50 V. c. 29, s. 33. 54 V. c. 12, s. 24; 55 V. c. 43, s. 46.

NOTE.—Blackstone says: "Every parish is bound of common right to keep their highways in good and sufficient repair; unless by reason of the tenure of lands or otherwise, this care is consigned to some particular private person. From this burden no man was exempt by our ancient laws, whatever other immunities he might enjoy, this being part of the *trinoda necessitas* to which every man's estate was subject, viz., expedition against the enemy, building of castles, and reparation of bridges; for though *bridges* only are expressed yet the roads were always understood."

From the very nature of the interlacing system of roads, streets and highways in a municipality it is to be expected that in order to arrive at a given point, free access may be had thereto, upon and along any and every of such thoroughfares as may be selected for travel, and the Corporation is required to keep all public highways in such good and

sufficient repair as will make them fit and safe for public travel, and in case of sudden breach or obstruction, necessary excavation or other interruption of public traffic, to give proper notice by way of guards, lights or suspended thoroughfare, until proper repairs have been made. A reasonable time will generally be allowed, within which, notice of any recent obstruction or sudden breach in a public highway may be had by the Council of the Corporation or its officers, to enable them to remove the obstruction or repair the defect, and if promptly attended to, the Corporation will seldom be held liable in an action for damages; on the other hand, a knowledge of the defect and neglect to repair implies liability for damages. Instructions should always be given to Commissioners or overseers in emergent cases to repair or guard all dangerous portions or recent defects on public roads without delay and report the same to a member of the Council.

In an action for damages arising from a defective road, bridge or sidewalk, a jury will take into account, amongst other things, the diligence and precaution exercised by the Corporation in the interest of the travelling public, as well as any contributory negligence on the part of the traveller.

It will be observed that all highways which are original allowances for road and roads assumed and established by by-law, or upon which statute labour is *usually performed*, must be kept in repair by the Corporation. See also s. 496, s-s. 27.

532. The county council shall have exclusive jurisdiction over all roads and bridges lying within any township, town or village in the county, and which the council by by-law assumes with the assent of such township, town or village municipality as a county road, or bridge, until the by-law has been repealed by the council, and over all bridges across streams or ponds or lakes separating two townships in the county, and over all bridges crossing

streams or rivers over 100 feet in width, within the limits of any incorporated village in the county, and connecting any main highway leading through the county, and over all bridges over rivers or ponds or lakes forming or crossing boundary lines between two municipalities. 46 V. c. 18, s. 532; 50 V. c. 29, s. 34; 51 V. c. 28, s. 30.

533. Any county council may assume, make and maintain any township or county boundary line at the expense of the county, or may grant such sum or sums from time to time for the said purposes as they may deem expedient. 46 V. c. 18, s. 533.

533a—(1) A township or village, and any town containing by the last official census a population of four thousand or less which is so situate in respect of rivers or streams as to require for the convenience of the public,

- (a) The construction and maintenance by such local municipality of bridges one hundred feet in length or more, requiring (having regard to the other municipalities of the county) greatly disproportionate expenditure by such local municipality, either from the number of bridges or the cost thereof; or—
- (b) Which, having reference to the population and assessed value of such local municipality, require for such construction or maintenance excessive or greatly disproportionate burdens upon the ratepayers thereof:

May notify the county council of any or all of the foregoing circumstances and that such municipality claims from the county council contribution of a share or percentage of the cost of construction and maintenance of such bridges one hundred feet in length or more, which the said municipality may construct and maintain after the passing of this Act.

(2) In the event of the councils of the said county and municipality respectively being unable to agree upon the share or percentage which the said county council shall contribute for the purposes aforesaid, or as to the cost or character of any such bridge, the matters in dispute shall be referred to arbitration under the provisions of this Act respecting arbitrations.

(3) The county council shall pay to such local municipality any sum or sums settled by agreement or fixed by arbitration for the purposes aforesaid, in such manner and at such times as may be provided by the agreement or directed by the award.

(4) Or, where such application has been made by a local municipality, the county council may assume any such bridge or bridges, and in such case, in the event of the councils of the county and municipality respectively being unable to agree upon the share or percentage which the local municipality shall contribute towards such construction and maintenance, or as to the character and cost of the bridge or bridges which the county council proposes to construct and maintain, the matters in dispute shall be referred to arbitration under the provisions of this Act respecting arbitrations.

(5) The county council may require from the local municipality a statement of the kind, character and cost of any bridge or bridges of the length aforesaid proposed to be erected by the said local municipality, and the plans and specifications thereof; or when the county council has assumed such bridge or bridges, the local municipality shall be entitled to the same information from the county council.

(6) Where the arbitration is upon a claim of a local municipality for contribution by the county, the arbitrators shall amongst other matters take into consideration the population and assessed values of the several municipalities of the county and also the average tax imposed by such municipalities during at least the ten years next preceding that in which the application is made, for the construction and maintenance of bridges, the necessity of other municipalities in respect of bridges, and the difference during the said ten years between the average tax imposed by the other municipalities and the applying local municipality for the purposes aforesaid. They shall also consider whether the applying local municipality receives any special or particular benefit by reason of the rivers or streams passing through, or the lakes or ponds being situated therein, which the other municipalities of the county do not receive from like or similar causes. Where the county council has assumed the bridges and calls for a contribution from a local municipality, reference shall be had *mutatis mutandis*, and as far as applicable and as may be practicable to the corresponding facts and circumstances.

(7) The award in either case shall not name the specific sum which the one council shall pay to the other, unless the arbitrating municipalities otherwise agree, but shall determine the share or percentage of the cost of construction or maintenance of such bridge or bridges for which the council may be liable for the ten years after the award including the year in which the award is made, and for as much longer as the two corporations interested may by the submission or by any agreement determine. The arbitrator may, by said award, fix the time or times when any moneys, by the award made payable, shall be paid.

(8) This section shall not apply to any town separated from a county, and shall not come into force until the first of January, 1891.

(9) This section shall apply only,

(a) To bridges of the prescribed length, which have been or shall be constructed after the 7th day of April, 1890.

(b) To the maintenance of all bridges of the prescribed length after the said 7th day of April, 1890; and the word maintenance shall include reconstruction in whole or in part. 53 V. c. 50, s. 30. 55 V. c. 43, s. 49.

534. When a county council assumes, by by-law, any road or bridge within a township as a county road or bridge, the council shall, with as little delay as reasonably may be, and at the expense of the county, cause the road to be planked, gravelled or macadamized, or the bridge to be built in a good and substantial manner; and further the county council shall cause to be built and maintained in like manner, all bridges on any river or stream over 100 feet in width, within the limits of any incorporated village in the county, necessary to connect any main public highway leading through the county. 46 V. c. 18, s. 534; 50 V. c. 29, s. 35.

535.—(1) It shall be the duty of county councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county; and in case of a bridge over a river forming or crossing a boundary line between two or more counties, or a county, city

or separated town, such bridge shall be erected and maintained by the councils of the counties, or county, city and separated town respectively; and in case the councils fail to agree as to the respective portions of the expense to be borne by the municipalities interested, it shall be the duty of each to appoint arbitrators as provided by this Act, to determine the proportionate amount to be paid by each, and the award made shall be final.

(2) A road which lies wholly or partly between two municipalities shall be regarded as a boundary line within the meaning of this section, although such road may deviate so that it is in some place or places wholly within one of the municipalities, and a bridge built over a river crossing such road where it deviates as aforesaid shall be held to be a bridge over a river crossing a boundary line within the meaning of this section.

(3) Where a river or stream forms a boundary line between two or more municipalities within a county, it shall be the duty of the council of the county to keep such river or stream free from all accumulation of driftwood or fallen timber now or hereafter accumulated.

(4) In the case of any river or stream which forms a boundary line between two or more counties, or a county, city, or separated town, it shall be the duty of the councils of the county or counties, city and separated town respectively to keep such river or stream free from all accumulation of drifted or fallen timber now or hereafter accumulated; and in case the councils fail to agree as to the respective portion of the expense to be borne by the municipalities interested, the same shall be decided by arbitration under the provisions of this Act, and the award made shall be final.

(5) Notwithstanding anything contained in sections 532 and 535 and sub-sections thereof, the council of any county may, by by-law, provide that where the words "rivers, lakes and ponds" are mentioned in those sections and sub-sections as applying to the erection and maintenance of bridges over such rivers, lakes and ponds, where such rivers, lakes and ponds cross any boundary line between two municipalities within such county, they or either of them shall not include or extend to any river, lake or pond less than eighty feet in width.

- (a) In the event of the council of any county passing such by-law, then in such case the councils of the minor municipalities bordering upon such boundary line shall erect and maintain all bridges across streams of a less width than eighty feet over all such rivers, lakes and ponds crossing such boundary line. 48 V. c. 39, s. 22; 51 V. c. 28, s. 31, (3), (4); 52 V. c. 36, s. 28, (5), (a).

NOTE.—“ Although such road may deviate so that in some place or places wholly within the municipality ” —existing cases might be referred to where the local municipality *into which* the road deviates has always maintained and kept in repair the road and bridges thereon.

In such cases a reference to arbitration through the County, City or Town Council, or an action in the High Court of Justice would relieve the local municipality from responsibility and *quasi* illegal expenditure.

536. All township boundary lines not assumed by the county council shall be opened, maintained and improved by the township councils, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities.

(2) In the case of any township boundary line, or any portion of such line on which in the original survey thereof a road allowance has not been reserved, the council of any one of the municipalities bordering on such boundary line, may pass a by-law for acquiring the necessary land, either by purchase or expropriation, within such municipality for one-half of the required road allowance.

(a) The clerk of the municipality shall within four days after the passing of the by-law, send by registered letter a copy of the by-law to the clerk of the adjoining municipality.

(3) Sections 539 and 540 of this Act shall apply to proceedings taken under the provisions of this section.

(4) If the matters in dispute between the two municipalities are referred to arbitration the arbitrators shall have power to decide upon the proportion of the cost of the land which will be required upon each side of such boundary line for a road allowance which shall be borne by each municipality, and shall also have power to decide whether a road allowance shall be laid out or not.

(5) If the arbitrators decide against the laying out of a road allowance upon such boundary line or any portion of such line, then no further proceedings shall be taken for the period of two years or such further time as the arbitrators may determine upon, but not exceeding four years in all. 46 V. c. 18, s. 536; 53 V. c. 50, s. 31, (2), (3), (4), (5).

537. Township boundary lines forming also the county boundary lines, and not assumed or maintained by the respective counties interested, shall be maintained by the respective townships bordering on the same, except where it is necessary to erect or maintain bridges over rivers forming or crossing boundary lines between two municipalities. 46 V. c. 18, s. 537.

538. In case a road lies wholly or partly between a county, city, town, township and incorporated village, and an adjoining county or counties, city, town, township or incorporated village, the councils of the municipalities between which the road lies shall have joint jurisdiction over the same although the road may so deviate as in some places to be wholly or in part within one or either of them; and the word road shall not include a bridge over a river forming or crossing the boundary line between two municipalities, other than counties, which bridge it is the duty of the county council to erect and maintain. 46 V. c. 18, s. 538. 55 V. c. 43, s. 50.

539. No by-law of the council of any one of such municipalities with respect to such last mentioned road or bridge, shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other council or councils having joint jurisdiction in the premises. 46 V. c. 18, s. 539.

540. In case the other council, or councils, for six months after notice of the by-law, omit to pass a by-law or by-laws in similar terms, the duty and liabilities of each

municipality in respect to the road or bridge shall be referred to arbitration under the provision of this Act. 46 V. c. 18, s. 540.

541. All powers, duties and liabilities which at any time before the 1st day of January, 1850, belonged to the magistrates in Quarter Sessions, with respect to any particular road or bridge in a county, and are not conferred or imposed upon any other municipal corporation, shall belong to the council of the county, or in case the road or bridge lies in two or more counties, to the councils of such counties; and the neglect and disobedience of any regulations or directions made by such council or councils shall subject the offenders to the same penalties and other consequences as the neglect or disobedience of the like regulations of the magistrates would have subjected them to. 46 V. c. 18, s. 541.

542. No council shall interfere with any public road or bridge vested as a Provincial work in Her Majesty, or in any public department or board, and the Lieutenant-Governor shall by order in Council have the same powers as to such road and bridge as are by this Act conferred on municipal councils with respect to other roads and bridges; but the Lieutenant-Governor may, by proclamation, declare any public road or bridge, under the control of the Commissioner of Public Works, to be no longer under his control, and in that case after a day named in the proclamation, the road or bridge shall cease to be under the control of the Commissioner, and no tolls shall be thereafter levied thereon by him, and the road or bridge shall thenceforth be controlled and kept in repair by the council of the municipality. 46 V. c. 18, s. 542.

543. No council shall pass a by-law—

1. For stopping up or altering the direction or alignment of any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance, or the Principal Secretary of State in whom the Ordinance Estates became vested under the Statute of the Province of Canada passed in the 19th year of Her Majesty's reign, chapter 45, or the Consolidated Statute of Canada, chapter 24, respecting the Ordinances and Admiralty lands, or by the Dominion of Canada; or

2. For opening any such communication through any lands held by the Dominion of Canada; or

3. Interfering with any bridge, wharf, dock, quay or other work vested in the Dominion of Canada; or

4. Interfering with any land reserved for military purposes, or with the integrity of the public defences,— without the consent of the Government of the Dominion of Canada; and a by-law for any of the purposes aforesaid shall be void unless it recites such consent. 46 V. c. 18, s. 543.

544.—(1) No council shall close up any public road or highway, whether an original allowance or a road opened by the Quarter Sessions or any municipal council, or otherwise legally established, whereby any person will be excluded from ingress and egress to and from his lands or place of residence over such road, unless the council, in addition to compensation, also provides for the use of such person some other convenient road or-way of access to the said lands or residence. 46 V. c. 18, s. 544.

(2) If the compensation offered by the council, to the owner of the lands, or the road provided for the owner in lieu of the original road, as a means of egress and ingress, is not mutually agreed upon between the council and the owner or owners, (as the case may be), then in such case, the matters in dispute shall be referred to arbitration, under the provisions of this Act respecting arbitration. 49 V. c. 37, s. 15.

545. No council except the council of a city or town shall lay out any road or street more than 100 nor less than 66 feet in width, except where an existing road or street is widened, or unless with the permission of the council of the county in which the municipality is situate; but any road when altered, may be of the same width as formerly, and no highway or street shall be laid out by any owner of land of a less width than 66 feet, without the consent of the council of the municipality. 46 V. c. 18, s. 545; 52 V. c. 36, s. 29.

546. No council shall pass a by-law for stopping up, altering, widening, diverting or selling any original allowance for road, or for establishing, opening, stopping up, altering, widening, diverting or selling any other public highway, road, street or lane;

1. Until written or printed notices of the intended by-law have been posted up one month previously in six of the most public places in the immediate neighborhood of such original allowance for road, street or other highway, road, street or lane;

2. And published weekly for at least four successive weeks in some newspaper (if there be any) published in the municipality; or if there be no such newspaper, then in a newspaper published in some neighbouring municipality; and, in either case, in the county town, if any such there be; where no such newspaper is published in the municipality or in a neighbouring municipality;

3. Nor until the council has heard, in person or by counsel or solicitor, any one whose land might be prejudicially affected thereby, and who petitions to be so heard;

4. And the clerk shall give such notices at the request of the applicant for the by-law, upon payment of the reasonable expenses attendant on such notices. 46 V. c. 18, s. 546.

5. In case the council of a township or an incorporated village, and property owners interested in lands required to be taken possession of, for establishing a public road, mutually agree as to the recompense or price of such lands, the council may accept a deed or deeds for the same, which shall be registered as provided by section 547 of this Act, and in such case the publication of any by-law in the manner required by sub-section 2 shall be dispensed with. 50 V. c. 29, s. 37.

NOTE.—This may be termed the *pivot section* about which revolves all the enactments relating to or affecting public roads. Under its provisions the first alarm is given by which the owner or occupant of lands adjoining a public highway becomes aware that his rights are to be interfered with by the closing of a road or some burdensome taxation imposed on him to meet the expense of establishing and maintaining a road that might be of little practical use to the community at large.

“Written or printed notices of the intended by-law” must be posted up one month previously in six of the most public places in the immediate neighbourhood.”

It is not intended that any Council shall interfere with a public road, unless with the full concurrence of all those interested therein, for, next to freedom of the person, the Legislature preserves sacred to the people the right of transit from place to place over the public roads of the Province; *“and published weekly for at least four successive weeks in some newspaper.”* Not only must the notices be posted up where they are most likely to be seen, but lest they might be destroyed or overlooked the precaution is taken of having the notice published in such newspaper as will be most likely to have a circulation in the locality where the road under consideration is situated. Again, the right is reserved to any person *“whose land might be prejudicially affected”* to be heard before the Council, when a full and free discussion of the whole matter may be had, and in case the Council should ignore the protest of the person or persons so appearing and determine upon passing the intended by-law, recourse may be had to the Courts for further adjudication. Frequent reference is made to the foregoing section, in this and other Acts, indicating that in all proceedings affecting the right of transit over the public roads the provisions of this section must be observed. See ss. 526, 550, 566, 567, 568, also the Railway, Streets and Drains Act, R. S. O. 1887, c. 199, ss. 9, 32, and the Street Railway Act, R. S. O. 1887, c. 171, s. 17.

547.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter to be passed by any municipal council, under the authority of which any street, road or highway has been, or is, opened upon any private property, shall, before the same becomes effectual in law, be duly registered in the registry office of the registry division in

which the land is situate; and for the purpose of registration a duplicate original of the by-law shall be made out, certified under the hand of the clerk and the seal of the municipality, and shall be registered without any further proof.

(2) Every by-law passed before the said day and every order and resolution of the Quarter or General Sessions, passed before said day, under the authority of which any street, road or highway has already been opened upon any private property, may, at the election of any party interested, and at the cost and charges of such party or municipality, be also duly registered, upon the production, to the registrar, of a duly certified copy of the by-law under the hand of the clerk of the municipality and the seal of the municipality, or by a duly certified copy of such order or resolution of the Quarter or General Sessions, given under the hand of the clerk of the peace, as the case may be. 46 V. c. 18, s. 547. *See also* Cap. 114, s. 75.

548. In case of disputes in any municipality concerning roads, allowances for roads, side lines, boundaries or concessions, within the cognizance of and in the course of investigation before a municipal council, the head of the council may administer an oath or affirmation to any party or witness examined upon the matters in dispute. 46 V. c. 18, s. 548.

549.—(1) In case any municipality in whose jurisdiction an original road, or allowance for road is situate, shall open that which they take and believe to be the true site of the same, and in case the municipality, their officers and servants, shall act in good faith, and shall take all reasonable means to inform themselves of the correctness of their line and work, and in case it appears that the road being opened, although not or not altogether upon the true line of the original road, or allowance for road, is nevertheless, from any difficulty in discovering correctly the true line, as near to, or as nearly upon the true line as under the circumstances could then be ascertained, no action shall be brought by any person against the municipality, their officers or servants, for or in respect of the opening of such road, or allowance for road, or for any other act or matter whatsoever connected with or arising from the same.

(2) The municipality shall, however, in any case respecting the opening of an original road, or road allowance,

make to any person having title to or interest in the same, reasonable compensation in full of all claims, and as a final settlement of the same: Provided the claims for such compensation shall be made within one year from the time of the laying out or taking possession of such road by the municipality or its officers, or the part thereof in respect of which compensation is claimed, and in the event of the parties not agreeing as to the amount or terms of such compensation, the same shall be ascertained and the payment thereof enforced, under the provisions of this Act relating to arbitrations. 46 V. c. 18, s. 549.

POWERS OF COUNTIES, TOWNSHIPS, CITIES, TOWNS AND INCORPORATED VILLAGES IN RELATION TO ROADS AND BRIDGES.

550. The council of every county, township, city, town and incorporated village may pass by-laws—

1. For opening, making, preserving, improving, repairing, widening, altering, diverting or stopping up roads, streets, squares, alleys, lanes, bridges, or other public communications within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions in this Act contained; for setting apart and laying out such portions of any such roads, streets, squares, alleys, lanes, bridges or other communications, as the council may deem necessary or expedient for the purposes of carriage ways, boulevards and sidewalks, or for the improvement or beautifying of the same; and for preventing and removing any obstruction upon any roads or bridges within its jurisdiction, and also for permitting sub-ways for cattle under any highway;

2. For establishing, opening, making, preserving, improving, maintaining, widening, enlarging, altering, diverting or stopping up, within the limits of the municipality, any highway through, over, across, under, along, or upon the railway and lands of any railway company, and for entering upon, breaking up, taking or using any such land in any way necessary or convenient for the said purpose; but subject to the provisions contained in *The Railway Streets and Drains Act*, and provided that the highway is within the jurisdiction of the council;

(2a) For straightening, deepening, widening, or diverting any river, creek or stream, for the purpose of preventing the flooding, undermining or carrying away of any land, or for preventing injury to any highway, bridge or other structure by the flow of the waters of any such river, creek or stream, subject to all the provisions of this Act respecting compensation for lands taken or injured, but nothing herein shall authorize the interference with any mill site or water privilege on any such river, creek or stream. 52 V. c. 36, s. 30, (2a).

3. For raising money by toll on any bridge, road or other work, to defray the expense of making or repairing the same;

4. For making regulations as to pits, precipices and deep waters, and other places dangerous to travellers;

5. For granting to any person, in consideration or part consideration of planking, gravelling or macadamizing a road, or of building a bridge, the tolls fixed by by-law to be levied on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the council authorizing tolls to be collected; and the grantee of the tolls shall, during the period of his right thereto, maintain the road or bridge in repair;

6. For preserving or selling timber, trees, stone, sand or gravel, on any allowance or appropriation for a public road; but this shall be subject to the provisions of *The Act Respecting Timber on Public Lands* relative to Government road allowances and the granting of Crown timber licenses;

7. For regulating the manner of granting to road or bridge companies permission to commence or proceed with roads or bridges within its jurisdiction, and for regulating the manner of ascertaining and declaring the completion of the work, so as to entitle such companies to levy tolls thereon, and for regulating the manner of making the examinations necessary for the proper exercise of these powers by the council.

(7a) For purchasing and holding by itself or jointly with any other municipality such land containing stone or gravel beds within its own or any adjoining municipality as may be necessary to procure stone or gravel therefrom for the

purpose of constructing, maintaining or repairing any streets, roads or highways owned by such municipality, and sell and convey the same wherever the object for which the same was purchased shall no longer exist. 46 V. c. 18, s. 550 (1-7). See Cap. 159. 52 V. c. 36, s. 30, 2a. 54 V. c. 42, s. 25 (7a).

8. For searching for and taking such timber, gravel, stone, or other material or materials (within the municipality) as may be necessary for keeping in repair any road or highway within the municipality; and, for the purpose aforesaid, with the consent of the council of an adjoining municipality (by resolution expressed), for searching for and taking gravel within the limits of such adjoining municipality; and the right of entry upon such lands, as well as the price or damage to be paid to any person for such timber or materials, shall, if not agreed upon by the parties concerned, be settled by arbitration under the provisions of this Act;

(a) But no such gravel shall be taken or removed from the premises of any person in an adjoining municipality until the price or damage has been agreed upon between the parties, or settled by arbitration. 48 V. c. 39, s. 23.

9. For selling the original road allowance, to the parties next adjoining whose lands the same is situated, when a public road has been opened in lieu of the original road allowance, and for the site or line of which compensation has been paid, and for selling, in like manner, to the owners of any adjoining land, any road legally stopped up or altered by the council; and in case such parties respectively refuse to become the purchasers at such price as the council thinks reasonable, then for the sale thereof to any other person for the same or a greater price. 46 V. c. 18, s. 550 (9).

551.—(1) In case any one in possession of a concession road or side line has laid out and opened a road or street in place thereof without receiving compensation therefor, or in case a new or travelled public road has been laid out and opened in lieu of an original allowance for road, and for which no compensation has been paid to the owner of the land appropriated as a public road in place of such original allowance, the owner, if his lands adjoin the concession road, side line, or original allowance, shall be entitled.

thereto, in lieu of the road so laid out, and the council of the municipality, upon the report in writing of its surveyor, or of a deputy provincial land surveyor, that such new or travelled road is sufficient for the purposes of a public highway, may convey the said original allowance for road, in fee simple, to the person or persons upon whose land the new road runs.

(2) When such original road allowance is, in the opinion of the council, useless to the public, and lies between lands owned by different parties, the municipal council may, subject to the conditions aforesaid, sell and convey a part thereof to each of such parties, as may seem just and reasonable; and in case compensation was not paid for the new road, and the person through whose land the same passes does not own the land adjoining the original road allowance, the amount received from the purchaser of the corresponding part of the road allowance when sold shall be paid to the person who at the time of the sale owns the land through which the new road passes. 46 V. c. 18, s. 551.

552. In case a person is in possession of any part of a government allowance for road, laid out adjoining his lot and enclosed by a lawful fence, and which has not been opened for public use by reason of another road being used in lieu thereof, or is in possession of any government allowance for road parallel or near to which a road has been established by law in lieu thereof, such person shall be deemed legally possessed thereof, as against any private person, until a by-law for opening such allowance for road has been passed by the council having jurisdiction over the same. 46 V. c. 18, s. 552.

553. No such by-law shall be passed until notice in writing has been given to the person in possession, at least eight days before the meeting of the council, that an application will be made for opening such allowance. 46 V. c. 18, s. 553.

554. The council of any municipality may pass by-laws for granting aid to any adjoining municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge, or communication passing from or through an adjoining municipality. 46 V. c. 18, s. 554.

POWERS OF TOWNSHIPS, CITIES, TOWNS, AND VILLAGES IN
RELATION TO ROADS AND BRIDGES.

555. The council of every township, city, town and incorporated village may pass by-laws—

1. For granting to the county or united counties in which such municipality lies, aid, by loan, or otherwise, towards opening or making any new road or bridge on the bounds of such municipality;

2. For entering into and performing any arrangement with any other council in the same county, or united counties for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council.

(3) Whenever a public street, square or drive forms the boundary between any two or more municipalities, (although such street, square or drive is wholly within the limits of one of such municipalities or partly in each), the councils of such municipalities may make and enter into any agreements and pass any by-laws proper and necessary to provide for the construction and maintenance of any one or more of the street improvements or works, and the performance of any one or more of the street services for which provision is made in this Act in sections 612 to 629, both inclusive, and every such council may pass by-laws for ascertaining, determining and raising so much of the cost of any such work, improvement or service as is to be borne by the municipality generally, and for determining the proportion thereof to be assessed and levied upon the real property benefited thereby, and for assessing and levying upon the real property so benefited and situate within its jurisdiction, and for collecting the proportion or share of the cost of any such improvement, work or service done under any such agreement by the municipality, in the same manner and with the like remedies as if the improvement had been made or work had been done or service had been rendered upon or in a street within the municipality and as if the cost thereof was assessable upon real property.

the whole of which was situate in the same municipality. 46 V. c. 18, s. 555; 52 V. c. 36, s. 31, (3).

556. Whenever township councils fail to maintain township boundary lines not assumed by the county council, in the same way as other township roads, by mutual agreement as to the share to be borne by each, it shall be competent for one or more of such councils to apply to the county council to enforce joint action on all township councils interested. 46 V. c. 18, s. 556.

557. In cases where all the township councils interested neglect or refuse to open up and repair such lines of road in a manner similar to the other local roads, it shall be competent for a majority of the ratepayers resident on the lots bordering on either or both sides of such line, to petition the county council to enforce the opening up or repair of such lines of road by the township councils interested. 46 V. c. 18, s. 557.

558. A county council receiving such petition either from township councils or from ratepayers, as in the preceding section mentioned, may consider and act upon the same at the session at which the petition is presented. 46 V. c. 18, s. 558.

559. The county council may determine upon the amount which each township council interested shall be required to apply for the opening or repairing of such lines of road, or to direct the expenditure of a certain portion of the statute labour, or both, as may seem necessary to make the said lines of road equal to other roads. 46 V. c. 18, s. 559.

560. It shall be the duty of the county council to appoint a commissioner or commissioners to execute and enforce their orders or by-laws relative to such roads. If the representatives of any or all of the townships interested intimate to the council or to the commissioner or commissioners so appointed, their intention to execute the work themselves, then the commissioner or commissioners shall delay proceedings for a reasonable time; but if the work is not proceeded with during the favourable season by the township officers, then the commissioners shall undertake and finish it themselves. 46 V. c. 18, s. 560.

561. Any sum of money so determined upon by the county council, as the portion to be paid by the respective townships shall be paid by the county treasurer on the order of the commissioner or commissioners, and the amount retained out of any money in his hands belonging to such township; but if there are not, at any time before the striking of a county rate, any such moneys belonging to such township in the treasurer's hands, an additional rate shall be levied by the county council against such township sufficient to cover such advances. 46 V. c. 18, s. 561.

562. Whenever the several townships interested in the whole or part of any county boundary line road are unable mutually to agree as to their joint action in opening or maintaining such line road, or portion thereof, one or more of such township councils may apply to the wardens of the bordering counties to determine jointly the amount which each township shall be required to expend, either in money or statute labour, or both, and the mode of expenditure, on such road; the County Judge of the County in which the township first making the application is situate, shall in all cases be the third arbitrator. 46 V. c. 18, s. 562.

563. It shall be the duty of the wardens of the counties interested to meet within twenty-one days from the time of receiving such application for the determination of the matter in dispute. The warden of the county in which the township first making the application is situated, shall be the convener of the meeting; and it shall be his duty to notify the warden of the other county and County Judge of the time and place of meeting within eight days of the time of his receiving such application. 46 V. c. 18, s. 563.

564. At such meeting the wardens and County Judge, or any two of them, shall determine on the share to be borne by the respective townships, of the amount required on the part or parts to be opened or repaired by each or both, and shall appoint a commissioner or commissioners to superintend such work, and it shall be the duty of the township treasurer to pay the orders of the commissioners to the extent of the sum apportioned to each; and pathmasters controlling the statute labour on the lots adjoining such line, on the portion of such line to be opened or repaired, shall obey the orders of the commissioner or commissioners in performing the statute labour unexpended. 46 V. c. 18, s. 564.

POWERS OF COUNTY AND TOWNSHIP COUNCILS IN RELATION
TO ROADS.

565.—(1) The corporation of any township or county, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon, or under any roads over which the township or county may have jurisdiction, if considered expedient so to do.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road, for at least one month previous to the time fixed for considering the by-law.

(3) The deed or conveyance or lease to the purchaser or lessee under the by-law, shall contain a proviso protecting the road for public travel, and preventing any uses of the granted rights interfering with public travel. 46 V. c. 18, s. 567.

POWERS OF COUNTY COUNCILS IN RELATION TO ROADS AND
BRIDGES.

566. The council of every county shall have power to pass by-laws for the following purposes :

1. For stopping up, or stopping up and sale, of a., original allowance for roads or parts thereof within the county, which is subject to the sole jurisdiction and control of the council, and not being within the limits of any village, town or city within or adjoining the county ; but the by-law for this purpose shall be subject to section 546 of this Act ;

2. For opening, making, preserving, improving, repairing, widening, altering, diverting and stopping up roads, streets, squares, alleys, lanes, bridges or other public communications, running or being within one or more townships, or between two or more townships of the county ; or any bridge required to be built or made across any river over 100 feet in width within any incorporated village in the county connecting any public highway leading through the county, and which is in continuation of a county road, or between the county and any adjoining county or city or

separated town, or on the bounds of any town or incorporated village, within the boundaries of the county, as the interests of the inhabitants of the county, in the opinion of the council, require to be so opened, made, preserved and improved; and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes, subject to the restrictions herein contained; 46 V. c. 18, s. 565 (1, 2).

3. For directing that, on each and either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor, within a time appointed by the by-law, or, in his default, by the county surveyor or other officer in whose division the land lies; and in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may further pay such expenses out of county funds;

4. For providing for the making and keeping open of double tracks in snow roads, according to the provisions of *The Act Respecting Double Tracks in Snow Roads*;

5. For granting to any town, township or incorporated village in the county, aid, by loan or otherwise, towards opening or making any new road or bridge in the town, township or village, in cases where the council deems the county at large sufficiently interested in the work to justify such assistance, but not sufficiently interested to justify the council in at once assuming the same as a county work, and also for guaranteeing the debentures of any municipality within the county, as the council may deem expedient;

6. For requiring that the whole or any part of a county road within any local municipality shall be opened, improved and maintained by such local municipality: 46 V. c. 18, s. 565 (3-6).

7. For abandoning or otherwise disposing of the whole or any portion of a toll or any other road owned by a county, whether situated wholly within the county or partly

within the county and partly within an adjoining county or counties, and on the passing of such by-law the clerk shall forthwith forward a certified copy thereof to the local municipality or municipalities through or along which any portion of said abandoned road shall run or border upon: Provided, however, that no such by-law shall take effect until assented to by the local municipality or municipalities affected, or until the same shall have been approved by the Lieutenant-Governor in Council. 48 V. c. 39, s. 24; 49 V. c. 37, s. 18; 53 V. c. 50, s. 32.

POWERS OF TOWNSHIP COUNCILS IN RELATION TO ROADS
AND BRIDGES.

567. The council of every township may pass by-laws—

1. For granting to any adjoining county, aid in making, opening, maintaining, widening, raising, lowering or otherwise improving any highway, road, street, bridge or communication lying between the township and any other municipality, and for granting like aid, to the county in which the township lies, in respect of any highway, road, street, bridge, or communication, within the township, assumed by the county as a county work, or agreed to be so assumed on condition of such grant;

2. For the stopping up, leasing or sale of any original allowance for road, or any part thereof, within the municipality, and for fixing and declaring therein, the terms upon which the same is to be leased, sold and conveyed;

But no such by-law shall have any force—

(a) Unless passed in accordance with section 546 of this Act, nor

(b) Until confirmed by a by-law of the council of the county in which the township is situate, at an ordinary session of the county council, held not sooner than three months nor later than one year next after the passing thereof;

3. For directing that, on each or either side of a highway, under the jurisdiction of the council, passing through a wood, the trees (unless such as are reserved by the owner

for ornament or shelter) shall, for a space not exceeding twenty-five feet on each side of the highway, be cut down and removed by the proprietor within a time appointed by the by-law, or, on his default, by the overseer of highways, or other officer in whose division the land lies; and, in the latter case, for authorizing the trees to be used by the overseer or other officer for any purpose connected with the improvement of the highways and bridges in his division, or to be sold by him to defray the expenses of carrying the by-law into effect; and the council may grant, out of township funds, any money that may be necessary to pay for cutting down and removing such trees;

4 For setting apart so much of any highway as the council may deem necessary for the purposes of a footpath, and for imposing penalties on persons travelling thereon on horseback or in vehicles. 46 V. c. 18, s. 566.

568.—(1) In case the trustees of any police village, or fifteen of the inhabitant householders of any other unincorporated village or hamlet consisting of not less than twenty dwelling houses standing within an area of 200 acres, petition the council of the township in which the village or hamlet is situate, and in case the petition of such unincorporated village or hamlet, not being a police village, is accompanied by a certificate from the registrar of the registry division within which the township lies, that a plan of the village or hamlet has been duly deposited in his office according to the registry laws, the council may pass a by-law to stop-up, sell and convey, or otherwise deal with any original allowance for road lying within the limits of the village or hamlet, as the same shall be laid down on the plan, but subject to all the restrictions contained in this Act with reference to the sale of original allowances.

(2) The preceding sub-section shall apply to a village or hamlet situate in two townships, whether such townships are in the same or different counties, and in such case the council of each of the townships shall have the power thereby conferred as to any original allowance for road lying within that part of the village or hamlet which, according to the registered plan, is situate within such township. 46 V. c. 18, ss. 568, 569.

POWERS OF MUNICIPAL COUNCILS AS TO DRAINAGE AND OTHER IMPROVEMENTS PAID FOR BY LOCAL RATE.

LOCAL IMPROVEMENTS IN TOWNSHIPS, CITIES, TOWNS AND VILLAGES.

569. In case the majority in number of the persons, as shewn by the last revised assessment roll, to be the owners (whether resident or non-resident) of the property to be benefited in any part of any township, city, town or incorporated village, petition the council for the deepening or straightening of any stream, creek, or water-course, or for draining of the property (describing it), or for the removal of any obstruction which prevents the free flow of the waters of any stream, creek or water-course, as aforesaid, or for the lowering of any waters of the lake or pond, for the purpose of reclaiming flooded land or more easily draining any lands, the council may procure an engineer or provincial land surveyor to make an examination of the stream, creek or water-course proposed to be deepened or straightened, or from which it is proposed to remove obstructions, or of the lake or pond, the waters of which it is proposed to lower, or of the locality proposed to be drained, and may procure plans and estimates to be made of the work by such engineer or surveyor, and an assessment to be made by such engineer or surveyor of the real property to be benefited by such work, stating as nearly as may be, in the opinion of such engineer or surveyor the proportion of benefit to be derived therefrom by every road and lot, or portion of lot; and if the council is of opinion that the proposed work, or a portion thereof, would be desirable, the council may pass by-laws;

1. For providing for the proposed work, or a portion thereof, being done, as the case may be. 46 V. c. 18, s. 570 (1).

(2) For borrowing on the credit of the municipality the funds necessary for the work or the proportion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities and for issuing the debentures of the municipality to the

requisite amount, including the costs of reference, if any, in sums of not less than \$100 each and payable within twenty years from date, with interest at a rate of not less than four per centum per annum. 55 V. c. 43, s. 52 (1a).

- (a) Any council issuing debentures under the provisions of this section may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest shall be taken to authorize the issue of debentures, in accordance with this sub-section, to the same amount with interest added, if the council, by subsequent resolution, direct the treasurer to issue debentures in accordance with this section, as aforesaid; 46 V. c. 18, s. 570 (2); 49 V. c. 37, s. 20; 50 V. c. 6, s. 1.

3. For assessing and levying in the same manner as taxes are levied, upon the real property to be benefited by the work, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing and levying the same as other taxes are levied by an assessment and rate on the real property so benefited (including roads held by joint stock companies or private individuals and including roads held by counties or county councils), in proportion, as nearly as may be, to the benefit derived by each lot or portion of lot and road in the locality;

- (a) The cost of any arbitration held in connection with the construction of any works under this section, the cost of the publication of by-laws, and all other expenses incidental to the construction of the works and the passing of the by-laws shall be deemed part of the cost of such works, and included in the amount to be raised by local rate;
- (b) Any person whose property has been assessed for such work may pay the amount of such assessment, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionably reduced; and

(c) Any agreement on the part of any tenant to pay the rates or taxes of the demised property shall not apply to or include the charges or assessments for any works under this section, unless such agreement in express terms mentions or refers to such charges or assessments, and as payable in respect of drainage works; but in cases of contracts of purchase or of leases giving the lessee a right of purchase, the said charges or assessments shall be added to the price, and shall be paid (as the case may be) by the purchaser, or by the lessee in case he exercises such right of purchase;

4. For regulating the times and manner in which the assessment shall be paid;

5. For determining what real property will be benefited by the works, and the proportion in which the assessment should be made on the various portions of land so benefited, and subject in every case of complaint by the owner or person interested in any property assessed, (whether of overcharge, or undercharge of any other property assessed, or that property which should be assessed has been wrongfully omitted to be assessed,) to proceedings for trial of such complaint an appeal therefrom, in like manner, as nearly as may be, as on proceedings for the trial of complaints to the Court of Revision under *The Assessment Act*;

6. The engineer or surveyor in assessing the real property to be benefited by any works to be executed under this section, need not confine his assessment to the part of a lot actually drained, but, in order that the portion to be rated may be conveniently ascertained, may make such assessment on the whole lot, or on the half, quarter, or other described part of the lot, if the person owning the part actually drained owns the whole lot, or owns such half, quarter, or other described part of the lot;

7. The proportion of benefit to be derived from any works, by different parcels of land or roads may be shewn by the engineer or surveyor by placing sums of money opposite such parcels and roads, and it shall not be deemed to have been necessary to state the fraction of the cost to be borne by each parcel or road;

(7a.) Any engineer or surveyor employed or appointed by any council to perform the work provided for by section

569, or any work under any of the drainage clauses of this Act, involving the assessment of real property for the purposes of drainage, shall before entering upon his duties take and subscribe the following oath (or affirmation) before the clerk of the municipality, a justice of the peace or a commissioner for taking affidavits, and shall leave the same with the clerk of the municipality :—

In the matter of the proposed drainage (*or as the case may be*) in the township (*or as the case may be*).

I _____ of the _____ of _____
 in the county of _____ (*engineer or surveyor*) make
 oath and say (*or solemnly declare and affirm*) that I will to
 the best of my skill, knowledge, judgment and ability hon-
 estly and faithfully and without fear, favour or prejudice
 against any owner or owners, perform the work assigned to
 me in connection with the above work and make a true
 report thereon.

Sworn (or solemnly declared
 and affirmed) before me at
 the _____ of _____
 in the county of _____
 this _____ day of _____
 A.D., 189 .

8. The council shall have the like power, and the provisions of this section shall apply in cases where the work can be effectually accomplished only by embanking, pumping or other mechanical operations, but in such cases the council shall not proceed except upon the petition of two-thirds of the owners above mentioned in this section. 46 V. c. 18, s. 570 (2, *part*, 3-8); 55 V. c. 43, s. 53.

9. In cases provided for in the next preceding sub-section, the council may pass by-laws for assessing and defraying the annual cost of maintaining the necessary works upon the lands and roads to be benefited thereby, according to the provisions of this Act; and may do all things necessary, and pass all requisite and proper by-laws, and enter into all proper contracts for maintaining and giving full effect to said works; and all the provisions of this and the following sections to section 632 inclusive, shall be applicable, so far as possible to the draining of lands under sub-section 8 of this section; except that the council of the municipality may, on the petition of two-thirds of the

owners appearing by the last revised assessment roll to be assessed for work mentioned in said sub-section, pass a by-law relieving the municipality from all liability under the provisions of section 586; and after such last mentioned by-law shall have been passed, the provisions of said section 586 shall not apply to any of the works mentioned in said sub-section and set forth and designated in said last mentioned by-law; 46 V. c. 18, s. 570 (9); 49 V. c. 37, s. 21.

10. Trial of such complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands or roads lie, which Court the council shall, from time to time as the occasion may require, hold on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, notice of which shall be published with the by-law during the first three weeks of its publication; and all notices of appeal shall be served upon the clerk of the municipality at least eight days prior to such Court of Revision; but the Court of Revision may though such notice be not given permit the appeal to be heard on such conditions as to giving notice to all persons interested and otherwise as may seem just; 46 V. c. 18, s. 570 (10); 50 V. c. 29, s. 38.

11. Such Court shall be constituted in the same manner and have the same power as Courts of Revision under *The Assessment Act*;

11a. In case of a lot or part of a lot being assessed for the construction or repair of a drain and the same property being afterwards assessed by the engineer, for the construction or repair of another drain, the court of revision or judge may take into consideration any prior assessment or assessments for drainage purposes on the same lands. 53 V. c. 50, s. 33.

12. In case of any such complaint, the clerk with whom the roll is deposited shall transmit to the Court of Revision a certified copy of so much of the said roll as relates to such municipality;

13. The appeal from the Court of Revision shall be to the Judge, or junior or acting Judge, of the County Court of the county within which such municipality is situate;

14. In case of appeal to the Judge, junior or acting Judge of the County Court, he shall have the same powers and duties and the clerk of the municipality shall have the same powers and duties, as nearly as may be, as they have respectively upon appeals from the Court of Revision under *The Assessment Act*;

15. In case on any such complaint or appeal the assessment in respect of the property which is the subject of complaint or appeal ought to be varied, the court or judge shall adjourn the hearing of such appeal for a sufficient time to enable the clerk of the municipality to notify all persons to be effected personally or by registered letter of the date to which such hearing of the said complaint or appeal is adjourned, and the said clerk shall so notify all persons interested, and unless such interested parties appear and show cause, then the court or judge may, in its or his discretion vary the assessment of the said property and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein so as to do justice to all parties, so that the aggregate amount assessed shall be the same as if there had been no appeal; and the Judge, or in case there is no appeal to the Judge, the Court of Revision, shall return the roll to the municipal clerk from whom it was received, and the assessors shall prepare and attest a roll in accordance with their original assessment as altered by such revision; 53 V. c. 50, s. 84, amended.

16. The provisions of this section shall be deemed to extend to the re-execution or completion of any works which have been executed or have been partly or insufficiently executed under any provision of any Act of this Legislature, or of the Parliament of the Province of Canada, and to any works which it may be deemed expedient to dig, construct, or make for the purposes aforesaid, or any of them, provided that the stream, lake, or pond is, for the purposes hereof, within the jurisdiction of this Legislature; 46 V. c. 18, s. 570 (11-16).

17. In order the better to maintain and operate works constructed under the provisions of sub-section 8 of this section, the council may pass by-laws appointing one or more commissioners from among those whose lands are assessed for the construction of such works, and the commissioners so appointed shall have full power to enter into all such necessary and proper contracts for the purchase of

fuel, repairs of buildings and machinery, and may do all other things necessary to facilitate the successful operation of such works as may be set forth in the by-law appointing such commissioners; 48 V. c. 39, s. 25

18. Where any obstruction within the meaning of the provisions of this section, is wholly situate or existing beyond the limits of the municipality, the same shall for all purposes, and with respect to every provision of this Act, be deemed and taken to be an obstruction, situate and existing partly within and partly without the limits of the municipality, and as if the proposed work or operations in connection therewith, or with the removal thereof, were to be done and performed in part within the limits of the municipality, and in part to be continued and extended beyond such limits, and all the provisions of this Act, shall be held and deemed to apply and operate accordingly;

19. Where such obstruction is occasioned by or is a dam or other artificial structure, the council shall be deemed to have full power to acquire with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right and title to remove the same, wholly or in part; and any amount so paid or payable as purchase money, shall be deemed part of the cost of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly;

20. The two preceding sub-sections are to be taken as applying only to cases where the obstruction is actually situate or existing in a municipality next adjoining to the municipality mentioned in such sub-sections; 49 V. c. 37, s. 22.

21. To remove doubts it is hereby declared and enacted that where the obstruction referred to in this section is occasioned by, or is a dam or other artificial structure, and is situate wholly within the municipality, the council shall be deemed to have full power to acquire, with the consent of the owner thereof, and upon payment of such purchase money as may be mutually agreed upon, the right to remove the same, wholly or in part; and any amount so paid or payable as purchase money, shall be deemed part of the costs of the works under this section in connection with the removal of such obstruction, and shall be dealt with and provided for accordingly, and where the lands

benefited are situated partly in the said municipality, and partly in the next adjoining municipality, the special rate sufficient for the payment of the principal and interest of the debentures and the assessment and levying of the same shall be made, levied, and paid over by the said municipality, and the said next adjoining municipality, in such proportions as the said engineer or surveyor may determine and charge upon the lands aforesaid, and in like manner and to the same extent, as nearly as may be, as is provided for by this Act where the lands benefited are situated wholly within the municipality.

(22) Any person who has signed a petition under this section shall be at liberty to withdraw therefrom and to abandon such petition at any time before the expiry of the time limited for appealing from the proposed assessment to the court of revision, but not afterwards. If the proposed work shall not be proceeded with on account of such withdrawal from the petition, then the persons signing such petition including those who have withdrawn therefrom shall be *pro rata* chargeable with and liable to the municipality for the expenses incurred by such municipality in connection with such petition, and the amount with which such persons are chargeable shall be entered upon the collector's roll for such municipality against the person liable, and shall be collected in the same manner as any other sum so placed on the roll for collection. 50 V. c. 29, s. 54. 53 V. c. 50, s. 35 (22).

NOTE.—(1) Drainage works—upon petition of the majority of owners of property to be benefited by the improvements mentioned in section 569, the Council *may* procure an engineer or surveyor to make an examination, prepare and submit plans, estimates and assessment of such property and if the Council is of the opinion that such work is desirable, a by-law or by-laws *may* be passed for carrying into effect the prayer of the petition. The preliminary proceedings are:—(1) Petition of owners; (2) Report of Clerk as to the required majority; (3) Appointment of engineer or surveyor. It might prove more satisfactory to have a committee or commissioners appointed with the engineer or surveyor to

co-operate in furnishing to the Council reports under sub-sections 569-628 as to the advisability of undertaking the work or improvement ; (4) Submission of engineers report as to property to be benefited, together with plans and assessments therein. It will be observed that the petitioners must comprise a *majority* of the owners of the property to be benefited, no reference being made to the proportionate value of lands represented by the petitioners. The directions to the Council are not imperative ; according to the opinion of the Council the work may or may not be undertaken. See note to section 9, *Re Incorporation*.

570.—The by-law shall, *mutatis mutandis*, be in the form or to the effect following :

A BY-LAW to provide for draining parts of (or, for the deepening of in, or as the case may be) the Township of , and for borrowing, on the credit of the Municipality, the sum of for completing the same.

Provisionally adopted the day of , A.D.

Whereas a majority in number of the owners, as shewn by the last revised assessment roll, of the property hereinafter set forth to be benefited by the drainage (or deepening, or as the case may be), have petitioned the Council of the said Township of , praying that (here set out the purport of the petition, describing generally the property to be benefited.)

And whereas, thereupon the said Council procured an examination to be made by , being a person competent for such purpose, of the said locality proposed to be drained (or the said stream, creek, or water-course proposed to be deepened, or as the case may be), and has also procured plans and estimates of the work to be made by the said and an assessment to be made by l.m of the real property to be benefited by such drainage (or deepening, or as the case may be), stating, as nearly as he can, the proportion of benefit which, in his opinion, will be derived in consequence of such drainage (or deepening, or as the case may be), by every road and lot, or portion of lot, the said assessment so made, being the assessment hereinafter by this by-law enacted to be assessed and levied upon the lots and parts of lots hereinafter in that behalf specially set forth and described, and the report of the said in respect thereof, and of the said drainage (or deepening, or as the case may be), being as follows: (here set out the report of the Engineer or Surveyor employed.)

And whereas, the said Council are of opinion that the drainage of the locality described (or the deepening of such stream, creek or water-course, or as the case may be) is desirable :

Be it therefore enacted by the said Municipal Council of the said Township of , pursuant to the provisions of *The Municipal Act*.

1st. That the said report, plans and estimates be adopted, and the said drain (or deepening, or as the case may be) and the works connected therewith be made and constructed in accordance therewith.

2nd. That the Reeve of the said Township may borrow on the credit of the Corporation of the said Township of the sum of _____ the sum of _____ being the funds necessary for the work, and may issue debentures of the Corporation to that amount, in sums of not less than \$100 each, and payable within _____ years from the date thereof, with interest at the rate of _____ per centum per annum, that is to say, in (insert the manner of payment, whether in annual payments or otherwise), such debentures to be payable at _____, and to have attached to them coupons for the payment of interest.

3rd. That for the purpose of paying the sum of \$475, being the amount charged against the said lands so to be benefited as aforesaid, other than lands (or roads, or lands and roads) belonging to the Municipality, and to cover interest thereon for (ten) years, at the rate of (five) per cent. per annum, the following special rates, over and above all other rates, shall be assessed and levied (in the same manner and at the same time as taxes are levied) upon the undermentioned lots and parts of lots; and the amount of the said special rates and interest assessed as aforesaid against each lot or part of lot respectively shall be divided into _____ equal parts, and one such part shall be assessed and levied as aforesaid, in each year, for _____ years after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or Part of Lot.	Acres.	Value of Improvement.	To cover Interest for (10) years at (5) per cent.	Total Special Rate.	Annual Assessment during each year for (10) years
			\$ cts.			
10	5	200	75 00			
"	S. $\frac{1}{2}$ 6	100	50 00			
"	N. $\frac{1}{2}$ 6	50	50 00			
"	S. W. $\frac{1}{4}$ 8	100	80 00			
"	5	200	150 00			
"	S. $\frac{1}{2}$ and N. $\frac{1}{2}$ 10	150	90 00			
			475 00			
Chargeable to Municipality for roads (or lands, or roads and lands)			120 00			
			595 00			

4th. For the purpose of paying the sum of \$120 being the total amount assessed as aforesaid against the said roads (or lands or roads and lands) of the said Municipality, and to cover interest thereon for (ten) years, at the rate of (five) per cent. per annum, a special rate of _____ in the dollar shall, over and above all other rates, be levied (in the same manner and at the same time as taxes are levied) upon the whole ratable property in the said Township of _____ in each year for the period of _____ years, after the date of the final passing of this by-law, during which the said debentures have to run.

(2) In the event of the assessment being altered by the Court of Revision or Judge, the by-law shall, before being finally passed, be amended so as to correspond with such alteration by the Court of Revision or Judge (as the case may be). 46 V. c. 18, s. 571; 49 V. c. 37, s. 24.

(3) In case the council shall finally pass the by-law before the time for appealing to the Judge has expired, or while an appeal is pending before him, the Judge shall, notwithstanding such by-law has been passed, proceed and determine the appeal; and if he varies the assessment, the council shall by an amending by-law alter the by-law in accordance with the variation in the assessment made by the Judge. 49 V. c. 37, s. 23.

NOTE.—See note to s. 414; see also ss. 66, 67, 200, 203, 330, 345, 427, 618, R. S. O. 1887, c. 38, Forms 1-7.

571.—(1) Before the final passing of the by-law it shall be published, once, or oftener, in every week for four weeks in such newspaper published either within the municipality or in the county town, or in a public newspaper published in an adjoining or neighbouring local municipality, as the council may designate by resolution, together with a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer, and upon the clerk of the municipality, of his intention to make application for that purpose to the High Court, at Toronto, during the six weeks next ensuing the final passing of the by-law. 46 V. c. 18, s. 572 (1); 49 V. c. 37, s. 25. 55 V. c. 43, s. 55.

(2) The council may, at their option, instead of such publication in a newspaper, direct by resolution that a copy of the by-law and notice, written or printed, or partly written and partly printed, be served upon each of the several owners, their lessees or occupants, or upon the agent or agents of such owners, to be left at their places of residence with some grown up member of the family, or where the land is unoccupied and the owner or owners, or their agent or agents do not reside within the municipality, may cause to be sent by registered letter to the last known address of such owner or owners, a copy of the by-law and notice, and the by-law shall not be finally passed until

after the expiration of three weeks from the last of such services, and the clerk shall keep on file in his office a statutory declaration or declarations by the party or parties making the service or services, and the manner in which the same were affected.

(3) Such service shall be made or registered letter sent, and a copy of the notice of the appeal also served on the clerk of the municipality, at least twenty days prior to the sitting of the Court of Revision. 46 V. c. 18, s. 572 (2). *See* sec. 622. 55 V. c. 43, s. 56 (3).

572.—(1) In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the preceding section, or if the notice is served, then, in case the application is not made or is unsuccessful the by-law shall, notwithstanding any want of substance or form, either in the by-law itself or in the time and manner of passing the same, be a valid by-law.

(2) Where the application is made, and is successful in part, so much of the by-law as is not quashed upon the application shall be valid, notwithstanding any want of substance or form aforesaid. 46 V. c. 18, s. 573.

573.—(1) In case a by-law already passed, or which may be hereafter passed by the council of any municipality, for the construction of drainage works, by assessment upon the real property to be benefited thereby, and which has been acted upon by the construction of such works in whole or in part, does not provide sufficient means, or provides more than sufficient means for the completion of the works, or for the redemption of the debentures authorized to be issued thereunder as the same become payable, the said council may, from time to time, amend the by-law in order fully to carry out the intention thereof, and of the petition on which the same was founded, and to refund the surplus (if any) to the then owners of the land *pro rata* according to the original assessment. 46 V. c. 18, s. 574 (1); 49 V. c. 37, s. 26.

(2) Where a by-law which has been heretofore passed, or which may be hereafter passed under the provisions of the preceding sub-section, has been or shall hereafter be published in the manner required by section 571 of this Act, or in case of a city, town or incorporated village, has been or shall be notified in the manner required by section 622, section 572 shall apply to such by-law, and any by-law

passed under the said preceding sub-section need not be published unless the council sees fit; and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of the said sub-section which have heretofore been or shall hereafter be purchased by the direction of the Lieutenant-Governor in Council. 46 V. c. 18, s. 574 (2).

574. No debenture issued or to be issued under any by-law aforesaid shall be held invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums not in the whole exceeding the amount authorized by the by-law. 46 V. c. 18, s. 575.

575. Where it is necessary to continue the works aforesaid beyond the limits of any municipality, the engineer or surveyor employed by the council of such municipality may continue the survey and levels into the adjoining municipality, or upon the boundary between two or more municipalities, until he finds fall enough to carry the water beyond the limits of the municipality in which the work was commenced, and until he obtains a sufficient outlet for the water, and in every such case he may charge the lands and roads to the same extent and in the same manner as is provided by the next succeeding section. 46 V. c. 18, s. 576; 49 V. c. 37, s. 27. 55 V. c. 43, s. 57.

576. Where the works in the opinion of the engineer or surveyor aforesaid benefit lands in an adjoining municipality without extending into it, or greatly improve any road lying within any municipality or between two or more municipalities, then the engineer or surveyor aforesaid shall charge the lands to be so benefited and the corporation, person or company whose road or roads are improved with such proportion of the costs of the works as he may deem just; and the amount so charged for roads or ascertained by reference shall be paid out of the general fund of such municipality or company. 55 V. c. 43, s. 58.

577. The engineer or surveyor aforesaid shall determine and report to the council by which he was employed, whether the works shall be constructed and maintained solely at the expense of such municipality, or whether they shall be constructed and maintained at the expense of both municipalities, and in what proportion. 46 V. c. 18, s. 578.

578. The engineer or surveyor aforesaid, where necessary shall make plans and specifications of the works to be constructed, and charge the lands to be benefited by the work as provided herein. 46 V. c. 18, s. 579.

579. The council of the municipality in which the deepening or drainage is to be commenced, shall serve the head of the council of the municipality into which the same is to be continued, or whose lands or roads are to be benefited without the deepening or drainage being continued, with a copy of the report, plans, specifications, assessment and estimates of the engineer or surveyor aforesaid; and unless the same is appealed from as hereinafter provided it shall be binding on the council of such municipality. 46 V. c. 18, s. 580.

580. The council of such last mentioned municipality shall, within four months from the delivery to the head of the corporation of the report of the engineer or surveyor, as provided in the next preceding section, pass a by-law or by-laws to raise and pay over to the treasurer of the initiating municipality such sum as may be named in the report, or in case of an appeal, for such sum as may be determined by the arbitrators, in the same manner and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed and petitioned as provided in section 569 of this Act, and such council shall hold the Court of Revision provided for by sub-section 10 of section 569 of this Act. 46 V. c. 18, s. 581. 52 V. c. 36, s. 32—55 V. c. 43, s. 55.

581.—(1) The council of the municipality into which the work is to be continued, or whose lands, road or roads are to be benefited without the work being carried within its limits, may, within twenty days from the day in which the report was served on the head of the municipality, appeal therefrom, in which case they shall serve the head of the corporation from which they received the report, with a written notice of appeal; such notice shall state the ground of appeal, the name of an engineer or other person as their arbitrator, and shall call upon such corporation to appoint an arbitrator in the matter on their behalf, within ten days after the service of such notice.

(2) When it is proposed to continue the deepening or drainage from the municipality in which the same is to be commenced into another municipality, and when through

misapprehension or mistake the council served with the report, plans and specifications of the engineer or surveyor, omits to appeal therefrom within twenty days, the Judge of the County Court of the county in which the municipality so served as aforesaid is situated may, upon application at any time before the drainage works have been already commenced or the contract let for the same, or the debentures have been actually issued under the said by-law, after the said twenty days have elapsed, by order, grant permission to appeal, upon such terms and conditions, as to costs and otherwise, as he deems just and reasonable, within a time to be limited by him in the order; or the other council or councils interested may, by resolution waive the lapse of the said time, and in either of such cases the proceedings for appeal shall be the same as would have been required if the appeal had been gone on with in the proper time.

(3) The summons to shew cause why an appeal should not be allowed shall not be returnable in less than seven days from the service thereof, and the council or councils shall have power to amend any by-law or by-laws which may have been passed as shall become necessary or proper, by reason of the appeal or the result thereof. 46 V. c. 18, s. 582 (1-3).

582. The arbitrators shall be appointed by the parties in manner hereinbefore provided by the sections of this Act with reference to arbitration, and shall proceed as therein directed; but in no case shall the engineer or surveyor employed to make surveys, plans and specifications, nor any ratepayer or person interested in the construction of any such works be appointed or act as arbitrator, but nothing in this Act shall be construed to give authority to such arbitrators to hold or act as or perform the work of a Court of Revision as provided for by sub-section 10 of section 569. 46 V. c. 18, s. 583; 52 V. c. 36, s. 33.

583.—(1) After such work is fully made and completed, whether the work has been done under this Act or under any former or other Act respecting drainage works and local assessment therefor, it shall be the duty of each municipality, in the proportion determined by the engineer or arbitrators (as the case may be), or until otherwise determined by the engineer or arbitrators, under the same formalities, as nearly as may be, as provided in the preceding sections, to preserve, maintain and keep in repair the

same within its own limits, either at the expense of the municipality, or parties more immediately interested, or at the joint expense of such parties and the municipality, as to the council upon the report of the engineer or surveyor may seem just. 46 V. c. 18, s. 584 (1); 52 V. c. 36, s. 34.

(2) Any such municipality neglecting or refusing so to do upon reasonable notice in writing being given by any person interested therein, and who is injuriously affected by such neglect or refusal, may be compellable by *mandamus*, to be issued by any Court of competent jurisdiction, to make from time to time the necessary repairs to preserve and maintain the same; and shall be liable to pecuniary damage to any person who, or whose property is injuriously affected by reason of such neglect or refusal.

(a) Provided, nevertheless, that any municipality, after receiving such notice, may within fourteen days thereafter apply to the Judge of the County Court of the county within which the municipality is situate to set aside the notice. Such application may be made upon four days' notice to the person or persons who gave the notice to the municipality, and the Judge shall, after hearing the parties and any witnesses that may be called or other evidence, adjudicate upon the questions in issue, confirm the notice or set it aside, as to him shall seem proper, or order that the said work shall be done wholly or in part, and the costs of and concerning the said motion shall be in the discretion of the Judge, except as hereinafter mentioned, and may be taxed upon the County or Division Court scale, as the Judge may direct.

(b) Should the judge find that the notice to the council was given maliciously, or vexatiously, or without any just cause, or to remove an obstruction which, under section 588 of *The Municipal Act*, it was the duty of the person giving the notice to remove, he shall, notwithstanding anything hereinbefore contained, order the costs to be paid by the person giving such notice.

(c) Any costs which the municipality may be called upon to pay, by reason of any proceedings in this amendment mentioned, shall be a charge

upon the lands benefited, and may be levied and collected in the same way as the cost or expense of keeping the drain or ditch in repair are levied or collected.

- (d) A mandamus against the municipality shall not be moved for until after the lapse of fourteen days from the date of service of the notice upon the municipality in any case, nor while the motion is pending before the County Court Judge, and thereafter only on an appeal in the next subsection provided for.
- (e) Any party to such proceedings may appeal to a Divisional Court of the High Court of Justice, from the decision or judgment of the Judge, upon the application and the proceedings in and about such appeal shall be the same as nearly as may be as upon an appeal from the decision or judgment of a Judge of the County Court under chapter 47 of the Revised Statutes of Ontario, 1887.

Upon any such appeal the Court may determine whether a mandamus shall issue or otherwise, and may make such order as will do justice in the matter.

Nothing herein shall authorize an appeal upon the mere question of costs. 47 V. c. 32, s. 18; 52 V. c. 36, s. 35.

(3) The deepening, extending or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case when it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47.

584. After any works undertaken under section 598 are fully made and completed, it shall be the duty of each minor municipality to reserve, maintain and keep in repair the same within its own limits, in accordance with the requirements of the preceding section, which shall be applicable thereto. 46 V. c. 18, s. 585.

585. In any case wherein the better to maintain any drain constructed under the provisions of this Act, or of *The Ontario Drainage Act* and amendments thereto, or of *The Ontario Drainage Act of 1873*, or of any other Act respecting drainage works and local assessment therefor, or of *The Municipal Drainage Aid Act* or to prevent damages to adjacent lands, it shall be deemed expedient to change the course of such drain, or make a new outlet, or otherwise improve, extend or alter the drain or to cover any portion of said drain where it passes through a ridge of land, the council of the municipality, or of any of the municipalities whose duties it is to preserve and maintain the said drain, may, on the report of an engineer appointed by them to examine and report on such drain, undertake and complete the alterations and improvements or extensions specified in the report under the provisions of sections 569 to 582 inclusive, without the petition required by section 569; and the engineer or surveyor, Court of Revision, county judge or referee (as the case may be) shall for such alterations, improvements or extension have all the powers to assess and charge lands and roads conferred by said sections and section 590.

(2) When the engineer reports that the covering of any portion of a drain that has been, or which may hereafter be constructed under the provisions of any of the aforesaid Acts, is necessary for the efficiency of any such drain and is necessary to the better maintaining and keeping in repair of any such drain, then in such case he shall determine the size and capacity of the proposed covered portion of said drain, and also the material to be used in the construction thereof. 46 V. c. 18, s. 586; 47 V. c. 32, s. 19; 48 V. c. 39, s. 27; 49 V. c. 37, s. 28; 50 V. c. 29, s. 39; 53 V. c. 50, s. 36; 55 V. c. 43, s. 60.

586. (1) In any case wherein after such work is fully made and completed, the same has not been continued into any other municipality than that in which the same was commenced, or wherein the lands or roads of any such other municipality are not benefited by such work whether the work has been done under this Act or under any former or other Act respecting drainage works and local assessment therefor, it shall be the duty of the municipality making such work to preserve, maintain and keep in repair the same at the expense of the lots, parts of lots and roads, as the case may be, as agreed upon and shewn in the by-law when finally passed.

(2) In any case where similar work has been constructed out of the general funds of the municipality, the council may, without petition, on the report of an engineer or surveyor, pass a by-law for preserving, maintaining and keeping in repair the same at the expense of the lots, parts of lots and roads, as the case may be, benefited by such work, and may assess such lots, parts of lots and roads so benefited, for the expense thereof, in the same manner, by the same proceedings, and subject to the same right of appeal as is provided with regard to works made and completed under the provisions of this Act. 46 V. c. 18, s. 587 (1, 2); 50 V. c. 29, s. 40; 52 V. c. 36, s. 36.

(3) The council may, from time to time, change such assessment on the report of an engineer or surveyor appointed by them to examine and report on such work and repairs, subject to the like rights of appeal as a person charged would have in the case of an original assessment; and the said council shall appoint a Court of Revision to consider such appeals in the manner heretofore provided. 50 V. c. 29, s. 41, *part*.

(4) The deepening, extending, or widening of a drain in order to enable it to carry off the water it was originally designed to carry off, shall be deemed to be a work of preservation, maintenance, or keeping in repair within the meaning of this section; provided the cost of such extension does not exceed the sum of \$200, and in every case where it exceeds that amount, proceedings shall be taken under the provisions of section 585. 48 V. c. 39, s. 26 (2); 50 V. c. 29, s. 47.

(5) In any of the cases referred to in this and the preceding sections, any moneys that have been or may hereafter be advanced by the council of any municipality out of its general funds in anticipation of the levies to be made for the purposes of the said sections, shall be recouped to the municipality so soon as the moneys derived from the assessment shall have been made. 50 V. c. 29, s. 41, *part*.

587. The provisions of sections 583, 586 and 589 of this Act shall extend to drains constructed under the provisions of *The Ontario Drainage Act*, and amendments thereto, or of *The Ontario Drainage Act, 1873*, or of *The Municipal Drainage Act*, the word "assessors" being substituted as to such drains for the word "engineer" in the third line of section 583, 48 V. c. 39, s. 26 (1).

588. (1) In the event of any ditch, drain, creek or watercourse that has been constructed or opened up under the provisions of *The Ontario Drainage Act*, or any of the amendments thereto, or under the provisions of any Act respecting drainage to be paid by local rate, becoming obstructed, so that the free flow of the water is impeded thereby, if the aforementioned obstructions have been wilfully or through negligence placed in such ditch, drain, creek, or water-course, by any party or parties through whose land, or between whose lands, such ditch, drain, creek, or water-course is situate, the party or parties causing the same shall, upon notification in writing by the council of the municipality, or an officer appointed by the council of the municipality, or an officer appointed by the council for the inspection or care of drains, remove such obstructions, and if not so removed within the time specified, the council shall, without further delay, have the same removed at the cost of the said party or parties. 46 V. c. 18, s. 588 (1); 49 V. c. 37, s. 29, *part*.

(2) If such cost is not paid by the party or parties to the person performing the same when the work is completed, the council shall pay the amount to the party performing the work; and the clerk of the municipality shall place such amount upon the collector's roll against the party or parties, as the case may be, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal by the said party, or parties, in respect of the cost of the work, to the Judge of the County Court of the county in which the lands are situate, in the same manner as is provided by section 11 of *The Ditches and Watercourses Act*. 46 V. c. 18, s. 588 (2).

(3) Any person or persons who shall wilfully and intentionally obstruct, fill up or injure, any drains constructed under the provisions of any of said Acts, or wilfully or intentionally cut, destroy or injure any embankment or other drainage work connected therewith, shall upon the complaint of the council of the municipality, liable to keep such drain, embankment or work in repair, and upon conviction thereof before a Justice of the Peace, be liable to a fine of not less than \$1 nor more than \$50. 49 V. c. 37, s. 29 *part*.

589.—(1) Where the repairs, required to be made under either section 583 or section 586, are so extensive that the municipal council does not deem it expedient to levy the

cost thereof in one year, the said council may pass a by-law to borrow upon the debentures of the municipality the funds necessary for the work, and shall assess and levy upon the property benefited a special rate sufficient for the payment of the principal and interest of the debentures; the by-law shall not require the assent of the electors.

(2) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of any such by-law, if such by-law, before it was finally passed, was published or notified in the manner provided by section 571 of this Act, or, after it was passed, was promulgated in the manner authorized by section 329 of this Act. 46 V. c. 18, s. 589.

590. If a drain already constructed, hereafter constructed or proposed to be constructed by a municipality, is used as an outlet or will provide when constructed an outlet for the water of the lands of another municipality, or of a company, or an individual, or if from the lands of any municipality, company or individual, water is by any means caused to flow upon and injure the lands of another municipality, company or individual, then the lands that use or will use such drain when constructed as an outlet either immediately, or by means of another drain from which water is caused to flow upon and injure lands, may be assessed in such proportion and amount as may be ascertained by the engineer or surveyor, court of revision, county judge or referee under the formalities, except the petition, provided in the foregoing sections, for the construction and maintenance of the drain so used or to be used as an outlet as aforesaid, or for the construction and maintenance of such drain or drains as may be necessary for conveying from such lands the water so caused to flow upon and injure the same. 55 V. c. 43, s. 61.

591. If any dispute arises between individuals, or between individuals and a municipality or company, or between a company and municipality, or between municipalities, as to damages alleged to have been done to the property of any municipality, individual or company, in the construction of drainage works, or consequent thereon, then the municipality, company or individual complaining may refer the matter to arbitration, as provided in this Act; and the award so made shall be binding on all parties. 46 V. c. 18, s. 591.

592. Where, on account of proceedings taken under this Act, or *The Ontario Drainage Act*, or other Acts respecting drainage works and local assessments therefor, damages are recovered against the corporation or parties constructing the drainage works, or other relief is given by any judgment or order of any Court, or any award made under this Act, all such damages, or any sum of money that may be required to enable the corporation to comply with any such judgment, order or award, made in respect thereof, shall be charged *pro rata* upon the lands and roads liable to assessment for such drainage works; provided always, that if to enable the corporation to comply with any such judgment, order or award, it shall be necessary or expedient to change the course of any drain, or to make a new outlet or otherwise improve or alter any drain or drainage works, the same shall for all purposes, and in all respects be dealt with and carried out, and all works and operations in respect thereof shall be executed and performed as if the same were alterations and improvements within the meaning of section 585, and all provisions of this Act applying to, or in respect of any work, alterations or improvement provided for by the said section, shall apply to any work, alteration or improvement intended to be provided for by this section. 49 V. c. 97, s. 31.

593. In case any person finds it necessary to continue an underdrain into an adjoining lot or lots, or across or along any public highway, for the purpose of an outlet thereto, and in case the owner of such adjoining lot or lots, or the council of the municipality refuses to continue such drain to an outlet, or to join in the cost of the continuation of such drain, then the firstly mentioned person shall be at liberty to continue his said drain to an outlet, through such adjoining lot or lots, or across or along such highway; and in case of any dispute as to the proportion of cost to be borne by the owner of any adjoining lot or municipality the same shall be determined under the provisions of and in the same manner as is provided for the determination of similar disputes by *The Ditches and Watercourses Act*. 48 V. c. 39, s. 28.

594. Where, under the provisions of sections 569 to 632 both inclusive, of this Act, a ditch is being constructed for drainage purposes along a road allowance, contracts may be made, by the municipal council so constructing, for spreading the earth taken from the ditch on the road; and

if the road or any part thereof is timbered, or if stumps are in the way, the timber may be removed; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. 46 V. c. 18, s. 594.

595. The removal of the timber, grubbing and spreading of the earth, together with such portion of the cost of the ditch as the engineer or provincial land surveyor may deem just and proper, shall be charged to the municipality and paid out of its general funds. 46 V. c. 18, s. 595.

596. When it is necessary to construct such a ditch on a town line between two or more municipalities, the municipal council of either of the adjoining municipalities may, on petition, as provided for in section 569 of this Act, cause the ditch to be constructed on the road allowance between the municipalities, and make the road in manner as provided in the last preceding two sections of this Act, and shall charge the lands and roads benefited in the adjoining municipality or municipalities with such proportion of the cost of constructing the said ditch as the engineer or surveyor aforesaid deems just and proper; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such municipality or municipalities. 46 V. c. 18, s. 596; 55 V. c. 43, s. 62.

597. The provisions of sections 569 to 632, both inclusive, of this Act, shall apply, as far as applicable, to such ditch. 46 V. c. 18, s. 597.

598.—(1) Where any works proposed to be constructed in any locality under section 569 affect more than one municipality, either on account of such works passing, or partly passing, through two or more municipalities, or on account of the lowering or raising of the waters of any stream or lake, which is contemplated in the proposed scheme of drainage, either draining or flooding lands in two or more townships, the county council of the county to which such municipalities belong, upon the application of the council of any of the municipalities affected, and without any preliminary petition from the owners of the property to be benefited may pass by-laws for the purposes authorized by the said section. 46 V. c. 18, s. 598 (1).

(2) Unless where contrary to this Act the provisions of sections 569 to 574, 576, 590, and 591 shall apply to any works constructed under this section; but the Court to be

held for the trial of complaints in the first instance shall be composed of three or more persons, nominated by the county council for that purpose, who may or may not be members of the council as the council may deem expedient and any three or more of the persons nominated who are present at the sittings of such Court may proceed and adjudicate upon any complaints notwithstanding the absence of one or more of the members of the Court. The engineer or surveyor who made the assessment shall not be a member of the Court of Revision. 46 V. c. 18, s. 598 (2); 49 V. c. 37, s. 33.

(3) The sittings of such Court shall be held in the county town, or in such other place or places as the county council or the majority of the said Court may name. All complaints against the assessment shall be lodged with the clerk of the county. 46 V. c. 18, s. 598 (3).

599. The county shall raise the money necessary for the construction of the said works, but each township shall be liable to the county for the amount payable in respect of all the lands within such township, and each township shall pass such by-laws as may be requisite for collecting the amount assessed against the lands or roads within its jurisdiction. 46 V. c. 18, s. 599.

600.—(1) In case the municipalities upon which the cost of the works would fall are in several counties, any of the counties may procure an examination to be made by an engineer or Provincial land surveyor of the lands affected by the proposed works, and may procure plans of the work, and estimates to be made of the cost thereof, including an estimate of the amount to be paid for damages, if any, and an assessment to be made by such engineer or Provincial land surveyor of the real property to be benefited, stating as nearly as may be in the opinion of such engineer or surveyor, the proportion of benefit to be derived from such works by every road and lot or portion of lot.

(2) Any municipality may agree to indemnify the county, in respect of the expenses incurred in the case of the works not being proceeded with. 46 V. c. 18, s. 600.

601. The council shall thereupon, if it considers it desirable to proceed with the work, pass a resolution to this effect, and shall cause a copy of the said report to be published at least once in newspapers published in the county

towns of the several counties affected, or in newspapers published in such of the said county towns as have newspapers, but it shall not be necessary that such report shall be published in more than one paper in one county town, and shall cause to be served a copy of the report, plans, specifications, estimates and assessment upon the warden of each of the other counties affected. 46 V. c. 18, s. 601.

602.—(1) In case ten of the owners of the property assessed, within ten days of the first publication of the report in a newspaper published in the county town of the county the council of which procured the examination to be made, petition such council not to proceed with the work, such council shall, if it desires to proceed therewith, pass a by-law for taking the votes of the persons assessed, upon the question whether or not the work shall be proceeded with; such by-law shall provide for holding a polling place in each municipality affected, whether within or without the county passing the by-law; and every person whose lands are assessed, or if the lands of a married woman are assessed, then the husband of such married woman, shall be entitled to vote upon the question: Provided the person proposing to vote is of the full age of twenty-one years, and shall, if required, name the lands in respect of which he claims to be entitled to vote; and shall also, if required take the oath or affirmation following:

You swear that you are of the full age of 21 years, and a natural born (or naturalized) subject of Her Majesty.

That you have not voted before in the township on the question now being voted upon.

That you are the owner (or as the case may be) of the lands in respect of which you claim to vote, namely (*here mention the lands*).

That you are, according to law, entitled to vote on the said question.

That you have not directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender.

That you have not received anything, nor has anything been promised to you, directly or indirectly, either to induce you to vote on the said question, or for loss of time, travelling expenses, hire of team, or any other service connected therewith.

That you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting.

So help you God.

(2) The clerk of each municipality shall act as deputy returning officer at the polling place in such municipality, and the proceedings for taking the poll shall be the same, as nearly as may be, as the proceedings upon voting upon a by-law.

(9) The clerk of the county council which passed the by-law shall act as returning officer. 46 V. c. 18, s. 602.

603.—(1) If a vote of the owners has been taken, and they have decided in favour of proceeding with the work, or if such a vote has not been taken, then after the time for presenting a petition as aforesaid has elapsed, in case the council or councils of the county or counties upon which two-thirds of the cost of such work fall, shall have passed a resolution or resolutions to the effect that it is desirable to proceed therewith, the council which caused the survey to be made may serve upon the warden of the other county, or each of the other counties, a notice (hereinafter called a requisition of appeal) requiring such county to state whether or not it is content to accept the assessment made, as shewing the proper proportion to be borne by such county, and notifying such council that if dissatisfied with such assessment they must, within thirty days from the receipt of such notice by their warden, appeal therefrom.

(2) If the council whose warden is served with a requisition of appeal do not, within thirty days of such service, serve the warden of the council from which they received the requisition with a written notice of appeal, they shall be deemed to have accepted the assessment: Provided that the High Court or a Judge thereof, if it be shewn that the omission to serve the notice of appeal was through mistake, oversight or misadventure, may upon such terms, as to the Court or Judge seems just, relieve them, and permit them to appoint an arbitrator.

(3) In case a council whose warden is served with a requisition of appeal is dissatisfied with the proportion assessed against the county, or with the proportion assessed against any other county, they shall, within thirty days of the receipt of the requisition by their warden, serve the warden of the county from which they received the requisition with a written notice of appeal, and shall also serve each of the other counties affected with a like notice.

(4) The notice shall state the grounds of appeal, and the name of an arbitrator appointed by such council, and shall call upon the council served to appoint an arbitrator on their behalf within ten days after service of such notice.

(5) In default of an appointment, within the said term, the Judge of the County Court of the county in default shall appoint an arbitrator for such county.

(6) Neither the engineer or surveyor who made the assessment, nor any officer or member of any council concerned, shall be appointed an arbitrator.

(7) In case, after such council has appointed an arbitrator, there is an even number of arbitrators, such arbitrators shall select an additional arbitrator, or in case of the arbitrators not agreeing in such selection within thirty days after the completion of their number, the Lieutenant-Governor in Council may appoint such additional arbitrator. 46 V. c. 18, s. 603.

604. The arbitrators shall, by their award, determine the proportion of the cost of such work that is to be borne by each of the minor municipalities whose lands are affected thereby. 46 V. c. 18, s. 604.

605. In case of a difference between the arbitrators the decision of the majority shall be conclusive, and the arbitrators shall make their award in so many parts as may be necessary to permit of one thereof being filed with the clerk of each of the counties interested, and one shall be filed with the clerk of each such county accordingly. 46 V. c. 18, s. 605.

606. In case a majority of the arbitrators are unable within six months of their appointment, to agree, or in case, prior to the expiration of the said term they, by an instrument in writing, signed by the majority of them, declare their inability to agree upon a complete award, any of the counties interested may apply to a Judge of the High Court to appoint an umpire, and the umpire may make an award upon hearing the points in difference between the arbitrators stated by them, or may, if he deems necessary, re-hear the entire case, or such particular parts thereof as he considers requisite. 46 V. c. 18, s. 606.

607. Any of the minor municipalities interested may appear, by their head, or by their counsel or agent, before the arbitrators, in support of the assessment, or of any variations which they contend should be made in the proportions in which the minor municipalities are assessed. 46 V. c. 18, s. 607.

608. In case more counties than one are concerned, no by-laws for assessing the cost of the work upon the various parcels and roads shall be passed until it is ascertained

that there is not to be an appeal, or until after the award is made, where an appeal is had. 46 V. c. 18, s. 608.

609. Immediately upon an award being made, or, in case there is no appeal, immediately after the time for appealing has elapsed, each county interested shall pass a by-law or by-laws to raise the sum chargeable against such county, and for assessing and levying the same, in accordance with the proportions fixed by the report of the engineer or surveyor, upon the real property within the county to be benefited by the said works, and for the appointment of a court for the trial, in the first instance, of complaints against such assessment, in the same manner and subject to the same conditions as is hereinbefore provided in respect of a county which is solely interested. 46 V. c. 18, s. 609.

610. Sections 584, 592 and 599, and sub-sections 2 and 3 of section 598 shall apply to drainage works, in which several counties are interested, as well as to works which only affect one county.

(a) Nothing in section 598 and subsequent sections contained shall be construed to reduce or take away the powers of any municipal council of a township, city town or incorporated village to undertake and carry out drainage works under sections 569 to 597 (both inclusive) notwithstanding that such works affect more than one municipality. 46 V. c. 18, s. 610; 55 V. c. 43, s. 63.

611. In case any of the drainage works hereinbefore referred to, are to be carried through, across, under or along the railway of any railway company, in respect of which this Legislature has authority in this behalf, the powers of the municipal councils are, so far as regards the railway, to be exercised, subject as nearly as may be to the terms and restrictions contained in *The Railway Streets and Drains Act*. 46 V. c. 18, s. 611.

NOTE.—571—611*d*. See ss. 496 (34), 509 (1), 521 (12), also the Ditches and Water Courses Act, R. S. O. 1887, c. 220. The Ontario Drainage Act, R. S. O. 1887, c. 36; The Municipal Drainage Act, R. S. O. 1887, c. 37; The Tile, Stone and Timber Drainage Act, R. S. O. 1887, c. 38; The Railway Streets and

Drains Act, c. 199 ; The Drainage Trials Act, 54 V. c. 51. By 611 c. exemption from any general rate or assessment "for the like purpose" in so far as relates to ss. 611a and 611b, where all the owners to be benefited petition for improvements is subject to the decision of the Council, not so under s. 624. See sec. 637a, *et seq.*, 54 V. c. 42, ss. 35-43.

612. The council of every township, city, town, and incorporated village may pass by-laws for the following purposes :

(1) For providing the means of ascertaining and determining what real property will be immediately benefited by any proposed work or improvement, the expense of which is proposed to be assessed, as hereinafter mentioned, upon the real property benefited thereby; and of ascertaining and determining the proportions in which the assessment of the cost thereof is to be made on the various portions of real estate so benefited; and there shall be the same right of appeal from any such assessment or proposed scale of assessment to the court of revision, and from the court of revision to the county judge, as is provided for by section 569 of this Act; and the proceedings thereon shall except as otherwise provided in section 618 of this Act be the same respectively as in the case of appeals from ordinary assessments under *The Assessment Act*, R. S. O. (1887) c. 184, s. 612 (1).

(2) For assessing and levying by means of a special rate, the cost of deepening any stream, creek, or watercourse, and draining any locality, or the cost of making, enlarging or prolonging any common sewer, or of opening, widening, prolonging or altering, macadamizing, grading, levelling, paving or planking any street, lane, alley, public way or place, or of constructing any sidewalk, bridge, culvert or embankment forming part of a highway therein, or of curbing, sodding, or planking any street, lane, alley, square, or other public place, or in any case where a system of waterworks has been constructed by such municipality, then, for providing for the cost of the extension within the limits of such municipality of branch mains and pipes, and all other work necessary for connecting the properties of the property owners with the waterworks system of said municipality, in order to permit such property owners to receive the benefit of such waterworks; or, in any case where a system for lighting within a municipality has been

constructed, or erected, by such municipality then for providing for the cost of the extension within the limits of such municipality of the poles, wires and pipes, and all other work necessary for lighting any street, square, or other public place whereon the lands to be benefited thereby front or abut, or of reconstructing any work hereby provided for. R.S.O. (1887) c. 184 s. 612 (2).

(3) For regulating the time or times and manner in which the assessments to be levied under this section are to be paid, and for arranging the terms on which parties assessed for such works or improvements may commute for the payment of their proportionate shares of the cost thereof in principal sums. R. S. O. (1887) c. 184, s. 612, (6).

(4) For effecting any such work or improvements as aforesaid with funds provided by parties desirous of having the same affected. R. S. O. (1887) c. 184, s. 612, (7).

(5) If the contemplated work or improvement is the construction of a common sewer having a sectional area of more than four feet, one-third of the whole cost thereof shall be provided for by the council; and the council of every municipality which has not passed a by-law within and under the provisions of section 625 of this Act shall also provide in connection with all sewers, the cost of all culverts and other works necessary for street surface drainage, and also the cost of that part of every such work, improvement or service which is incurred at and is chargeable in respect of street intersections, and also that part thereof done or made opposite real property which by any general or special Act is exempt from special or local assessment. R. S. O. (1887) c. 184, s. 612 (8).

(6) If the contemplated works or improvements relate to any stream, creek, or watercourse, or to draining any locality, and in the opinion of the engineer or surveyor specially benefit any lands lying within the municipality or any road or roads lying therein or any roads therein belonging to any other municipality or corporation, then the engineer or surveyor aforesaid shall charge the lands road or roads to be so benefited, and the municipality, corporation, person or company whose lands, road or roads are improved with such proportion of the cost of the work or improvement as he may deem just, and the amount so charged for lands or roads, or agreed upon by arbitra-

tion shall be paid by such person or out of the general funds of the municipality, corporation or company, as the case may be, and the provisions of this Act relating to drainage so far as applicable shall apply to any such work or improvement constructed under this section. R. S. O. (1887) c. 184, s. 612 (10).

613.—(1) The special rate to be so assessed and levied shall be an annual rate according to the frontage thereof, upon the real property fronting or abutting upon or extending to within six feet of the street or place whereon or wherein such improvement or work is proposed to be done or made. R. S. O. (1887) c. 184, s. 612 (4); 55 V. c. 43, s. 66.

(2) If in any case the first assessment for any such work or improvement proves insufficient, the council shall make a second or other additional assessment in the same manner, and so on until sufficient moneys shall have been realized to pay for such improvement or work, and if too large a sum shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid.

(3) In the case of a township, any portion of which is situate within five miles of a city containing 50,000 inhabitants or more, if the council shall determine that any real property other than that fronting or abutting on the street, lane, alley, public way or place, or the portion thereof whereon or wherein the improvement made or to be made is specially benefited and ought to be charged with a part of the cost thereof, and shall determine the proportion in which the cost of the improvement shall be assessed against the land so benefited, the council may, upon the petition of three-fourths in number of the owners representing three-fourths in value of the lands to be benefited, assess and levy the proportion of the costs chargeable against the lands benefited, and whether or not fronting or abutting upon such street, lane, alley, public way or place by frontage rate in like manner as the same would be assessed and levied in the case of lands fronting or abutting upon the street, lane, alley, public way or place, or the portion thereof whereon or wherein the improvement is made or to be made; provided, however, that instead of assessing and levying by a frontage rate, the council may by by-law provide that the cost of the local improvement therein specified may be assessed and levied by a special rate upon the lands benefited thereby, according to the proportion of benefit received

therefrom, instead of by a frontage rate as hereinbefore provided. R. S. O. (1887) c. 184, s. 612 (5); 55 V. c. 43, s. 67.

614. Nothing contained in the two preceding sections shall be construed to apply to any work of ordinary repair or maintenance; and all works or improvements constructed under the said sections shall thereafter be kept in a good and sufficient state of repair at the expense of the township, city, town, or village generally. R. S. O. (1887) c. 184, s. 612 (3).

615. It shall be deemed to have been and to be a sufficient compliance with the provisions of section 612, if the council shall have passed or shall pass a general by-law or general by-laws, providing the means of ascertaining and determining what real property will be immediately benefited by any proposed work or improvement, the expense of which is proposed to be assessed upon the real property immediately benefited thereby, and of ascertaining and determining the proportions in which the assessment of the final cost thereof is to be made on the various portions of real estate so benefited, and it shall not be deemed to have been, or to be necessary to pass a special by-law in each particular instance for the purposes above mentioned. R. S. O. (1887) c. 184, s. 612 (1) (a).

616.—(1) Upon the receipt of a petition praying for any of the works and improvements mentioned in the four preceding sections, signed by at least two thirds in number of the owners of any real property to be benefited thereby, according to the last revised assessment roll of the municipality, such owners representing at least one-half in value of such real property, the council may take all proper and necessary proceedings for the execution and completion of such work or improvement with as little delay as possible. R. S. O. (1887) c. 184, s. 612 (9).

(2) Where the word "owner" occurs in this Act in sections 569 to 629, both inclusive, it shall be construed and deemed to include a leaseholder, the unexpired term of whose lease (including any renewals therein provided for) extends over a period which is not less than the duration of the proposed assessment, if the lessee has covenanted in his lease to pay all municipal taxes on the demised property during the term of said lease, and would be liable for the taxes for the proposed improvements, and every such lessee

shall have the same right to petition for or against any local improvement proposed to be constructed under this Act as if he were the owner of the property, liable to be assessed therefor. (*New*).

(3) In any case where a lessee has the right to petition for or against any proposed improvement under the provisions of the last preceding sub-section, the owner of the property in fee shall not have such right, but this sub-section and sub-section two shall not apply to townships. (*New*).

(4) If the council of any city or town upon the recommendation of the local board of health, affirms by a vote of two-thirds of all the members of the council at any regular meeting thereof, that it is desirable and necessary in the public interest, to construct, make, enlarge or prolong a drain, sewer or sewers, for the purpose of draining a particular locality for sanitary or drainage purposes, as a local improvement it shall not be necessary for such council to give notice of the proposed assessment for such local improvement, except the notice of the sitting of the court of revision for the purpose of hearing complaints against such proposed assessment that is required by sub-section 4 of section 618 of this Act. This shall not affect or impair the powers heretofore conferred upon any municipality by special Act. (*New*). 54 V. c. 42, s. 26.

617.—(1) Any such work or improvement may be undertaken by the council and the assessment of the cost thereof made upon the properties benefited thereby, unless the majority of the owners of such real property (to be ascertained as aforesaid), representing at least one-half in value thereof, petition the council against the same, within one month after the last publication of a notice of the intention of the council to undertake the said work, such notice to be inserted in at least two newspapers published in such township, city, town or incorporated village, if there are two newspapers published therein; and if there are not, then in a newspaper published nearest to the proposed improvement or work, such publication to be once in each week for two weeks. R. S. O., (1887) c. 184, s. 612 (4).

(2) In the event of any such petition against any such proposed work or improvement, sufficiently signed, being presented to the council, no second notice for the same proposed work or improvement shall be given by the council within two years thereafter. R. S. O., (1887) c. 184, s. 612 (4) (b).

(3) The number of the owners petitioning against the proposed improvement or work and the value of the real property which they represent, may be ascertained and finally determined as aforesaid, or in such manner or by such means as are provided by by-law in that behalf. R. S. O., (1887) c. 184, s. 612 (4) (c).

(4) In any case when notice of a proposed improvement, work or service to be paid for by special assessment as a local improvement, has been given by the council of any municipality pursuant to the provisions of the *Municipal Act* then in force, or any amending Act or Acts, and no petition sufficiently signed as aforesaid has been presented to the said council or to the succeeding council against such proposed improvement, work or service and assessment within the time limited in that behalf by the said Acts, it shall be lawful for the said council, in the same or any succeeding year, to carry on the proposed work, improvement or service to completion, before making the assessment therefor; and such notice, so given, shall stand good as the authority for undertaking any such work, improvement or service, and for making such assessment or assessments, and passing all necessary by-laws, whether the same shall have been or shall be undertaken and completed by the council giving such notice, or by the council in any succeeding year. R. S. O., (1887) c. 184, s. 616.

618.—(1) No by-law passed by the council of any township, city, town or incorporated village, under the provisions of sections 569, 570 or 612 of this Act shall require to be advertised or published by the said council in any newspaper, but a written or printed, or partly written and partly printed notice of the sitting of the court of revision for the confirmation of every such special assessment shall be given to the owners and lessees having the right to petition, or the agents of such owners and lessees of each parcel of real estate included in such by-laws and assessments.

(2) Every such notice shall contain a general description of the property in respect of which the same is given, the nature of the improvements, works or services, the total cost thereof, the amount of the assessment on the particular piece of property, and the time and manner in which the same is payable, and shall be signed by the clerk or the assessment commissioner or other officer to be

appointed by the council for the purpose, and be mailed to the address of the person entitled to notice at least fifteen days before the day appointed for the sittings of the said court, and ten days notice shall also be given by publication in some newspaper having a general circulation, of the time and place of the meeting of the said court, which notice shall specify generally what such assessment is for and the total amount to be assessed. R. S. O., (1887) c. 184, s. 622.

(3) Where the notice of the intention of the council to undertake any work or improvement is given under the provisions of a general by-law passed under section 615, and which provides, or is intended to provide, that the special rate to be assessed therefor shall be an annual rate according to the frontage of the real property fronting or abutting upon the street or the portion of the street or the place whereon or wherein the improvement or work is proposed to be done or made, it shall be sufficient if the notice of the proposed work or improvement describes the street or place or portion thereof, whereon or wherein the work or improvement is to be done or made by a general description thereof, stating the points between which it is to be made, and it shall not be necessary to state the value of the real property rateable therefor, or to impose a rate upon such real property by any description other than that hereinbefore mentioned. R. S. O. (1887) c. 184, s. 623. (1).

(4) In such cases the council shall procure a measurement of the frontage liable to the assessment for the cost of the proposed work or improvement and of the frontages exempt from taxation, and shall keep a statement of the same open for inspection in the office of the clerk of the municipality for at least ten days before its final decision to undertake the said proposed work or improvement, and the council shall also cause to be inserted in a public newspaper published within the municipality or in the county town, or in a public newspaper published in the nearest municipality in which a public newspaper is published, once a week for two successive weeks, a notice in the form following or to the like effect:

Take notice that the municipal council of the corporation of the
 intends to (*describing the work*) on
 street, between (*describing the points between which the work has been or is
 to be made or constructed*) and to assess the final cost thereof upon the
 property abutting thereon, "and to be benefited thereby," and that a
 statement showing the lands liable to pay the said assessment, and the

names of the owners thereof, so far as they can be ascertained from the last revised assessment roll, is now filed in the office of the clerk of the municipality and is open for inspection during office hours.

The estimated cost of the work is \$ _____ of which \$ _____

is to be provided out of the general funds of the municipality.

A court of revision will be held on _____ at _____ for the purpose of hearing complaints against the proposed assessment or accuracy of the frontage measurements or any other complaint which persons interested may desire to make, and which is by law cognizable by the court.

Dated _____

Clerk.

R. S. O. (1887) c. 184, s. 623. (2).

(5) There shall be the same right of appeal from any such proposed assessment to the court of revision, and from the court of revision to the county judge, as is provided in section 569 of this Act, and the proceedings thereon shall, except as otherwise provided by this Act, be the same (as nearly as practicable) as in the case of appeals from ordinary assessments under *The Assessment Act*, and the court of revision and the county Judge shall respectively have the like jurisdiction, rights and powers in respect to every such appeal as in the case of such last mentioned appeals. R. S. O. (1887) c. 184 s. 623 (3).

(6) The said statement, or the same as altered or varied by the court of revision or the county judge upon appeal, shall be final and conclusive as to all matters therein contained. R. S. O. (1887) c. 184, s. 623 (4).

LOANS AND ADVANCES FOR COST OF LOCAL IMPROVEMENTS.

619.—(1) For the purpose of enabling councils to avoid the necessity of making supplementary assessments, or refunding in case of over assessments, and of ascertaining the exact cost of any work or improvement, done or constructed as a local improvement under the provision of this Act, they may and they are hereby authorized and empowered to make agreements with any bank, or any person or body corporate for temporary advances and loans until the completion of the work or improvement, for meeting the cost thereof, and they may and they are hereby authorized and empowered in their option to make the special assessments for the cost thereof, after the work or improvement, as the case may be, shall have been completed, and to pass the necessary by-law authorizing the issue of debentures to repay the amount of the temporary loan or advance. R. S. O. (1887) c. 184, s. 621 (1).

(2) Every by-law for borrowing money shall provide for the repayment of the loan and the maturing of the debentures.

tures to be issued pursuant to such by-law, within the probable life of the work or improvement for which such debt has been incurred, as certified by the engineer, or other proper officer, to be appointed by the council for that purpose. R. S. O. (1887) c. 184, s. 621 (2).

(3) If in any case a debt has been incurred by the municipality for any work or improvement done or constructed under the provisions of this Act, and after the incurring of the said debt the special assessment for such work or improvement or the by-law providing for borrowing money therefor, is set aside or quashed, either wholly or in part, on the ground of any irregularity or illegality in the making of such assessment or passing such by-law, it shall be lawful for the council, and they are hereby authorized, to cause a new assessment or assessments to be made, and to pass a new by-law, so often as may be necessary to provide funds for the payment of the debt so incurred for such work or improvement: Provided always that nothing herein contained shall be construed as authorizing any assessment to be made or work or improvement to be undertaken, except the same be initiated in some one of the three methods by law provided, namely :

- (a) Either on the report of the engineer or other sanitary officer, and of a committee of the council, adopted by the council, recommending the proposed work or improvement for sanitary or drainage purposes; or
- (b) On a petition of the owners of the real property benefited, sufficiently signed; or
- (c) After due notice, as above provided, of the proposed assessment and no sufficiently signed petition of the owners, as hereinbefore defined, of the real property benefited against the proposed assessment being presented to the council within the time limited therefor. R. S. O. (1887) c. 184, s. 621 (3).

ASSESSMENTS FOR LOCAL IMPROVEMENTS.

620.—(1) In ascertaining and determining the cost of draining any locality or making and laying or prolonging any common sewer, the council of any township; city, town or incorporated village, may estimate the cost of the construction of branch drains from the drain or sewer to the line of street, and may include the cost of such branch drains in

making the assessment for such drains or sewers, as a local improvement to the last preceding section. R. S. O. (1887) c. 184 s. 613.

(2) In any case where in order to afford an outlet for the sewerage and drainage of real property other than that fronting or abutting upon the street in which such a sewer shall hereafter be constructed such sewer shall be constructed of a larger capacity than that required for the efficient sewerage and drainage of the real property fronting or abutting upon the street, then and in every such case the council may impose a special assessment upon the other real property benefited by the construction of such sewer in the manner provided by sections 618 and 619 of this Act. 51 V. c. 28, s. 33 ; 5 V. c. 43, s. 68.

(3) In case the council of such municipality is about to construct, renew or alter the character of a pavement on any street, highway, or public place, or portion thereof, as a local improvement, the council may, before putting down such pavement, put in all necessary private drain connections, from any existing drain or sewer upon such street or portion thereof to the street line on each side of the drain or sewer, and also all necessary water mains, and may assess and levy the cost thereof, and of any alterations of service pipes and stop-cocks, necessitated thereby against the particular properties benefited thereby as part of the cost of the said local improvement, pursuant to the provisions of section 612 of this Act. 54 V. c. 42, s. 27.

(4) The council of every township, city, town and incorporated village may, by by-law, provide an equitable mode of assessing for local improvements, works and services, corner lots, triangular or other irregular shaped pieces of land situate at the intersections or junctions of streets, having due regard to the situation, value and superficial area of such lots, as compared with adjoining lots and pieces of land assessable for such improvements, works and services, and may charge the amount of any allowance made on any such lot or piece of land, on the other real property fronting on the improvements, or assume the same as a portion of the municipality's share of the work or improvements; but any such assessment shall be subject to appeal to the court of revision and from the court of revision to the county judge as herein provided. R. S. O., (1887) c. 184, s. 614.

(5) It shall and may be lawful for the council of any township, city, town or incorporated village by a two-thirds vote of the council to pass by-laws to remit and refund so much of the special rates imposed prior to the 30th day of March, 1885, on corner lots and irregular pieces of land for the construction of pavements and sidewalks under local improvement by-laws as may be necessary to equalize the assessment made on such property with the assessment made on adjoining properties for the same improvement or work, and to provide the amount of all rates so remitted or refunded by passing by-laws for borrowing money by the issue of debentures, or by including said amounts in the rate bills for the year; provided that no such remission or refund shall be made in any case where the work or improvement shall have been made or constructed more than four years before the passing of the by-law authorizing the refund or remission. R.S.O., (1887) c. 184, s. 615.

(6) Where the lands on either side of a street, lane, or alley in a city, town or incorporated village, in the opinion of the council, are from any cause unfit for building purposes, and the council deem it inequitable to assess the same for local improvements at as high a rate as the building lots fronting on said street, lane or alley, the council shall, in all such cases, determine in what proportion the cost of any such improvement shall be borne by the lands on each side of the said street, lane or alley, respectively. R.S.O., (1887) c. 184, s. 617.

(7) Real property adjoining and fronting on any park, square, public drive or boulevard shall be specially assessable for and in respect of the improvements, works and services made, done or provided upon or in any such drive or boulevard in like manner as real property fronting or abutting upon any public street, but where a public park, square, drive or boulevard exists or may hereafter be established, the lands adjoining it not exempt from taxation shall be assessable only in respect of such improvements, works and services to the extent to which such lands are specially benefited by such improvements, works and services; and where the lands on one side of such drive or boulevard are a public park or square, or for other reasons are exempt from taxation at least one-half of the cost of such improvements, works and services shall be borne by the municipality generally; and no petition against any such assessment shall avail to prevent the carrying out of

any improvement, work or service in any such park, square, drive or boulevard, and the making of such special assessment. 52 V. c. 36. s. 39; 54 V. c. 42, s. 28.

BRIDGES, STREET EXTENSIONS, SIDEWALKS, ETC.

621.—(1) Where it shall, in the opinion of the council of any township, city, town or incorporated village, be deemed expedient and necessary to construct or repair bridges or culverts on any street, lane or alley, or to open up and extend any street, lane or alley within the limits thereof for the more immediate convenience or benefit of any locality within such limits, and the council is of opinion that from any cause it is inequitable to charge the whole of the cost of the improvement on the lands fronting thereon, the council shall determine what lands are benefited by such works or improvements, and the proportion in which the cost thereof shall be assessed against the lands so benefited, and also the proportion, if any, of the cost of the improvement, which shall be assumed by the township, city, town or incorporated village as its share thereof: provided always that the share or proportion of the cost of such improvement assumed by the municipality may be provided for by the issue of debentures upon the credit of the municipality at large, in like manner as in the case of the share of the municipality of other local improvements, and that all assessments made under the above provisions shall be subject to an appeal to the court of revision and from the court of revision to the county judge in like manner as in the case of other special assessments for local improvements, under the provisions of this Act. R. S. O. (1887) c. 184, s. 618; 51 V. c. 28, s. 36.

(2) If in the case of the construction or repair of a bridge or culvert, or the opening up and extension of any street, lane or alley, the council shall determine that any real property other than that fronting or abutting on the street, lane or alley, or the portion thereof whereon or wherein the improvement is made, or to be made, is specially benefited, and ought to be charged with a part of the cost thereof, and shall determine the proportion in which the cost of the improvement shall be assessed against the lands so benefited the council shall assess and levy the proportion of the cost chargeable against the lands benefited, but not fronting or abutting upon such street, lane, or alley, by a frontage rate, in like manner as the same would be assessed and levied in

the case of lands fronting or abutting upon the street, lane or alley, or the portion thereof whereon or wherein the improvement is made or to be made. R. S. O. (1887) c. 184, s. 619.

(3) Or in the case of a township, the council may, by by-law, provide that the cost of the works therein specified may be assessed and levied by a special rate upon the lands benefited thereby according to the proportion of benefit received therefrom instead of by a frontage rate, as hereinbefore provided, and where the owners of real property have constructed works or improvements which might have been constructed by the municipality as local improvements, the council may, upon the petition of three-fourths of the owners of lands to be benefited by the acquisition of such works or improvements, representing at least two-thirds in value thereof, acquire the same at a price to be fixed by arbitration pursuant to this Act, and the purchase money therefor may be raised, assessed and levied, as for local improvements upon the real property benefited thereby as above provided.

(a) The number of owners petitioning for the said assessments, and the value of the real property which they represent may be ascertained and finally determined in such manner, and by such means as are provided by by-law in that behalf subject to an appeal to the judge of the county court as in the case of other special assessment for local improvements. 51 V. c. 28, s. 37.

622. In any case when the council affirms by a two-thirds vote thereof that the constructing, erecting or making of any bridge, culvert or embankment, benefits the municipality at large, and that it would be inequitable to raise the whole cost of such improvement or work by local special assessments, the council may pass a by-law for borrowing money by the issue of debentures upon the credit of the municipality at large to provide as the corporation's share of the cost of such improvement or work an amount not exceeding one-half of the whole cost thereof; and no such by-law shall require the assent of the electors before the final passing thereof. R. S. O. (1887) c. 184, s. 618 (2).

623. The council may permit the owner or owners of lands in any township, city, town or incorporated village,

to build or improve the sidewalk in front of his or their lands, under the direction of the council or an officer thereof appointed for that purpose, and according to such plans and regulations as the council may prescribe, in which case the owners or occupants of such lands shall be exempt from all taxes for improvements of a like nature so long as he or they shall keep the same in repair to the satisfaction of the council. R. S. O. (1887) c. 184, s. 620.

623a. Whenever in cities and towns an appeal lies from the court of revision to the county judge under sections 569 to 623 inclusive, the said county judge shall, in addition to his other powers under this Act and *The Assessment Act*, have the power to enquire and determine what other lands (if any) than those included in the assessment appealed from are or will be specially benefited by the proposed work or improvement and to add such lands to the assessment, notwithstanding such lands or any part thereof may not have been specified in any notice of appeal to the said judge; and the said judge shall cause all parties to be affected by the addition to the assessment of their lands, to be notified of the time and place when the said appeal and matter will be considered, and may for that purpose adjourn the hearing of the said appeal from time to time. (*New*).

624.—(1) Any real property specially assessed by any council for any local improvement or work under this Act, shall be exempted by the council from any general rate or assessment for the like purpose, except the cost of works at the intersection of streets, and except such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment.

(2) Where a local improvement or service is petitioned for, and the petition is by two-thirds in number of the owners of the real property fronting or abutting upon the street or place wherein or whereon such improvement or work is proposed to be done or made, the exemption may be for a specified period named in the petition and agreed to by the council.

(3) Or if, either with or without naming any period for such exemption, the petition requests an arbitration, the council may accede to the proposal, for an arbitration.

(4) In case the matter is to be determined by arbitration, a sole arbitrator shall be chosen for the purpose by the county Court Judge, unless some person or persons is or are agreed to in that behalf by the petitioners and the council.

(5) Where, by reason of a special assessment, the owners are exempted from a general rate, for the like purpose, as aforesaid, the council, shall, from year to year, by by-law directing the general rate of assessment, or by some other by-law, state what proportion of the general rate is for purposes for which there is such special assessment in any part of the municipality, and shall state the same in such manner as may give effect to this section.

(6) Until a by-law is passed containing such statement, none of the money raised by general rate on real property specially assessed or rated for any work or service hereafter executed shall be applied to any work or service of the same character in any part of the municipality. 46 V. c. 18, s. 619.

625.—(1) The council of any township, city, town or incorporated village may, by a by-law, passed with the assent of the electors according to the provisions of this Act, direct that all future expenditure in the municipality for the improvements and services, or for any class or classes of improvement or service, for which special provisions are made in sections 612 and 629, shall be by special assessment on the property benefited, and not exempt by law from assessment.

(2) After such a by-law has been passed in manner aforesaid, it shall not be repealed without the like assent of the electors; and, in case of such repeal, the preceding section, with respect to freedom from any general rate or assessment of property which is subject to a special rate, shall apply to all property which has been specially rated or assessed for such improvement or service, while the repealed by-law was in force. The time the exemption is to cease, is to be determined by arbitration, and the arbitrator is to be appointed by the County Judge on the application of the council. 46 V. c. 18, s. 620; 50 V. c. 29, s. 48.

(3) Notwithstanding anything contained in sub-section 3 of section 612, after such a by-law has been passed in manner aforesaid, the council may pass a by law or by-laws dividing the municipality into certain areas, districts or

sections within which the streets or parts of streets may be maintained, repaired, cleaned, cleared of snow and ice, watered, swept, lighted and the grass therein cut and trees therein trimmed, and may impose a special rate upon the assessed real property therein, according to the frontage thereof, in order to pay any expenses incurred in maintaining, repairing, cleaning, clearing of snow and ice, watering, sweeping and lighting such streets or parts of streets, and cutting grass and trimming trees therein, or for any one or more of such services. 48 V. c. 39, s. 30.

626. With respect to land on which a place of worship is erected, and land used in connection therewith, the municipal council may, by the by-law to be passed in that behalf, require the corporation, trustees, and other persons in whom is vested any such property, and the said property, to be assessed for any local improvement in the same manner, and to the same extent, as the other owners and land benefited by the improvement, in the following cases, namely:

1. In case a by-law is passed under the preceding section ;
2. Or in case no such by-law is passed, but two-thirds of the owners of the real property to be benefited by the proposed improvement (excluding such corporation, trustees, or other persons aforesaid), representing at least one-half in value of the remaining property, petition the council to undertake the said improvement ;
3. Or in case no such by-law is passed as aforesaid, but the said corporation, trustees or other persons, and two-thirds of the owners of the real property to be benefited by the proposed improvement (including the said corporation, trustees, or other persons), representing at least one-half in value of the property, including the said property so vested in the corporation, trustees, or other persons aforesaid, petition the council for the said improvement. 46 V. c. 18, s. 621.

NOTE.—See 53 V. c. 55, ss. 1-3.

627.—(1) In case of a special assessment on property benefited by local improvement, the council of the municipality (if they think fit) may, by by-law, provide for constructing, at the expense of the general funds of the municipality, such part of the local improvement as is situate upon or in that part of any street, lane, alley, public place,

or square, which is intersected by any other street, lane, alley, public place, or square, or as would otherwise fall on property exempt from assessment: and the council may provide for the cost in the general rates or taxes for the year, or by the issue of debentures, or in such other manner not inconsistent with the provisions of this Act, or any special Act, as to said council may seem best, and subject to such by-laws as the council may pass in that behalf.

(2) The by-law authorizing the issue of the debentures need not be submitted for the assent of the electors of the municipality; and the debentures being issued to pay for that part of the work payable by local assessment may, if the council thinks fit, be issued as a series distinct from those required to pay for that part which is to be borne by the general funds of the municipality, or all the debentures required for the work may be issued in one series, as "Local Improvement Debentures." This sub-section shall be deemed declaratory of the law on and from the 5th day of March, 1880. 46 V. c. 18, s. 622.

628.—(1) The council of any township, city, town, or incorporated village may pass all by-laws necessary, from time to time, to raise loans and borrow moneys required for its share of any local improvements and works on the credit of such township, city, town, or incorporated village at large; and it shall not be necessary to obtain the assent of the electors of such township, city, town, or village to the passing of any such by-law under the provisions of this Act, any special or private Act in that behalf to the contrary notwithstanding; provided always that nothing in this section contained shall be construed as authorizing an extension of the general debt of such township, city, town, or village beyond the limits thereof fixed by any Act limiting the same.

(2) It is hereby declared that the debentures issued under local improvement by-laws on the security of special assessments therefor form no part of the general debt of any such municipality, within the meaning of any such last above-mentioned Act, and it shall not be necessary to recite the amount of such local improvement debt so secured by special rates or assessments in any by-law for borrowing money on the credit of the township, city, town, or incorporated village at large as aforesaid, but it shall be sufficient to state in any such by-law, that the amount of the general debt of the municipality as therein set forth is exclusive of

local improvement debts, secured by special Acts, rates or assessments. 46 V. c. 18, s. 623; 50 V. c. 29, s. 48.

NOTE—(612) “Ascertaining and determining what real property will be immediately benefited.” Councils would find it convenient to work under a general by-law as provided by s. 615 for so ascertaining and determining, upon any application, what property would be benefited; such by-law should among other things state:—(1) That the assessment for the improvement or work is to be made on the frontage or area of the lands benefited; (2) That upon receipt of petition it shall be referred to the clerk and assessor to ascertain if sufficiently signed by the necessary two-thirds of the owners, representing one-half of the value of lands to be benefited and liable for the proposed improvement; (3) That upon the satisfactory report of the clerk and assessor, as to the genuineness of the signatures and proper representation of value of lands to be benefited, the engineer or surveyor (with or without a committee or commissioners), shall examine and report on the advisability or necessity of undertaking such improvement—showing the real property to be benefited—the probable life time of the improvement, the cost of the work and proportionate benefit to be derived by the several portions of land, to be charged for the improvement, the frontage or area liable to assessment as well as frontages and areas which may be exempt. In case the Council should decide to undertake the work or improvement, the proper notices must be given by the clerk of the intention of the Council to so proceed—the probable cost of the work—assessment and date for Court of Revision. (See form s. 618, s. s. 6); an appeal may be had to the County Judge against an assessment as provided by s. 569, being similar to proceedings under the Assessment Act. By sec. 624 property which is specially assessed for

a local improvement is exempt from any general rate *for the like purpose*. See note to s. 629. Sections 569 to 611*l* inclusive, if consolidated with the various sections of all acts affecting drainage and with ss. 612-628 inclusive, of this Act, would render the law respecting drainage more intelligible to the municipal student and simplify the working of the local improvement proceedings.

629.—(1) The council of every township, city, town and incorporated village may pass by-laws for raising, upon the petition of at least two-thirds of the freeholders and householders resident in any street, square, alley or lane, representing in value one-half of the assessed real property therein, such sums as may be necessary for sweeping, watering or lighting the street, square, alley or lane, by means of a special rate on the real property therein, according to the frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full council; but the council may charge the general corporate funds with the expenditure incurred in such sweeping, watering or lighting as aforesaid. 46 V. c. 18, s. 624 (1); 50 V. c. 29, ss. 45, 48.

NOTE.—*Re* voting by the Council. See s. 616 (4).

“Two-thirds of all the members of the Council at any regular meeting thereof,” s. 620 (5) “a two-thirds vote of the Council,” s. 622 “when the Council affirms by a two-thirds vote thereof,” s. 629 (1-2) “adopted by a three-fourths vote of the full council. 53 V. c. 50, s. 42 “in the opinion of two-thirds of the members present at any regular meeting;” a record of the members present, and of the vote should always be recorded in the minutes.—
See note to s. s. 4.

(2) The council may also, by by-law, define certain areas or sections within the municipality, in which the streets should be watered, swept and lighted, and may impose a special rate upon the assessed real property therein, according to a frontage thereof, or according to the assessed value thereof when only such latter system of assessment shall have been adopted by a three-fourths vote of the full

council, in order to pay any expenses incurred in watering, sweeping or lighting such streets. 46 V. c. 18, s. 624 (2); 54 V. c. 42, s. 29.

(3) The council may also include in either of the foregoing by-laws, the cutting of grass and weeds, and trimming the trees or shrubbery on any such street, square, alley or lane, and otherwise cleaning the same. 48 V. c. 39, s. 31.

(4) The council may also by by-law define certain areas or sections within the municipality, in which all snow, ice and dirt and other obstructions shall be removed from the side-walks, streets, lanes or alleys, in such area or sections, and may impose a special rate upon the real property therein, according to the frontage thereof, in order to pay any expenses incurred in removing such snow, ice, dirt, or other obstruction. 50 V. c. 29, s. 46.

NOTE—On petition of two-thirds of the freeholders and householders residing on the street, square, alley or lane representing one half in value of the assessed property therein, the Council *by a three-fourths vote of the full Council* may pass a by-law for raising such sums as may be necessary for sweeping, watering or lighting the same. The Council may also define areas within which the streets should be watered *and* lighted, etc., by a three-fourths vote of the *full* council. Under 53 V. c. 50, s. 42, the improvement must be pronounced “desirable in the public interest” by a two-thirds vote of the *members present at any regular meeting*. In each case the vote should be recorded in the minutes.

TOWNSHIP AND VILLAGES.

630.—(1) In addition to the powers conferred upon the councils of townships and incorporated villages by sections 612 to 628, both inclusive, of this Act, the council of any such township or village, under and subject to the provisions of the said sections, may pass by-laws providing for lighting, or for the construction of water works or for the purchase of fire engines and other appliances, for the purpose of fire protection.

(2) The said council may, by the same or any subsequent by-law, define by metes and bounds, or otherwise, what real property will be immediately benefited by the proposed improvement, and is to be charged with the cost thereof, and may also, by such by-law, make provision for assessing and levying on the property so defined the cost of managing and maintaining the said works, fire engine and appliances.

(3) Sub-section 3 of section 612 of this Act, shall not apply to any works constructed under the powers by this section conferred.

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

(5) The said trustees shall have the care, control and management of said fire engine and appliances. 48 V. c. 39, s. 32; 50 V. c. 29, s. 48; 51 V. c. 28, s. 38; 52 V. c. 36, s. 40; 54 V. c. 42, s. 31.

630a.—(1) In addition to the powers conferred upon the councils of townships by sections 612 and 628, both inclusive, and by section 530 of this Act, the council of any township, may, on the petition of two-thirds in number of the owners, representing one-half in value of the property proposed to be assessed and subject to the provisions of said sections, may pass by-laws providing for the maintenance and repair of any highway or portion thereof which has theretofore been a toll road, and has been abandoned as such, within the jurisdiction of such council, and may define by the same or any subsequent by-law what real property will be immediately benefited by the work, and is to

be charged with the cost thereof, and may also declare what proportion of the cost is to be borne by the real property within the limits defined by the by-law, and what proportion shall be borne by the general funds of the township, and may also by by-law make provision for assessing and levying upon the property so defined the cost of such maintenance and repairs not provided by the township.

(2) Sub-section 3 of section 612 of this Act and section 624 shall not apply to work done under the provisions of this section. 53 V. c. 50. s. 39, (630a).

NOTE—Proceedings under this section are subject to the provisions of ss. 612-628.

In addition to the powers given by *The Municipal Water Works Act* and subject to all the provisions of the said Act, including those relating to the making of compensation and otherwise, every municipal corporation may acquire by purchase, demise or gift the right or title to any stream, river, creek, waters, water power, water course or lands situate, being or flowing in or through any such municipality, or within three miles thereof, and build, erect, make, preserve, improve, renew, widen or alter any dam or dams, water gates, waste gates, weirs or flumes upon, over or across any such stream, river, creek, waters, water course or lands, and make, dig, widen, preserve, alter or improve any raceway or raceways leading to or from any such dam or dams, for the purpose of obtaining power to run or drive the necessary machinery for supplying electric light within the municipality.

COUNTIES.

631. The council of every county shall have power to pass by-laws for levying, by assessment on all ratable property within any particular part of one or parts of two townships to be described by metes and bounds in the by-law, in addition to all other rates, a sum sufficient to defray the expenses of making, repairing or improving any road, bridge, or other public work, lying within one township or between parts of such two townships, and by which the inhabitants of such parts will be more specially benefited, but this section shall not apply to any road, bridge or other public works within the limits of any town or incorporated village. 46 V. c. 18, s. 625.

632. No by-law under the last preceding section shall be passed, except—

1. Upon a petition signed by at least two-thirds of the electors who are rated for at least one half of the value of the property within those parts of such township which are to be affected by the by-law; nor

2. Unless a printed notice of the petition, with the names of the signers thereto, describing the limits within which the by-law is to have force, has been given for at least one month, by putting up the same in four different places within such parts of the township, and at the places for holding the sittings of the council of each township, whether it be within such parts or not, and also by inserting the same weekly for at least three consecutive weeks in some newspaper (if any there be), published in the county town, or if there is no such newspaper, then in the two newspapers published nearest the proposed work. 46 V. c. 18, s. 626.

633.—(1) A county council may, by by-law, assume or acquire any road, bridge or other public work, lying within or adjacent to one or more townships or incorporated towns or villages, and may, by by-law, raise by way of loan, a sum of money for the improvement of such road, bridge or public work, to be repaid by a special assessment on all the ratable property within the municipalities which shall be immediately benefited by such road, bridge or public work. 46 V. c. 18, s. 627 (1); 49 V. c. 37, s. 34.

(2) Such by-law shall state the amount to be raised for such work, and shall define the municipalities forming the portion of the county municipality to be affected by the by-law, and the portion of work to be performed in each municipality, and shall provide for the raising of the said amount by the issue of debentures of the county, payable in twenty years, or by equal annual instalments of principal, with interest, and shall provide for assessing and levying upon all the ratable property, lying within the section defined in such by-law, an annual special rate sufficient for the payment of the principal and interest of the debentures.

(3) The by-law shall, if approved by a majority of the representatives in the county council of the municipalities which are defined in the said by-law, be submitted to the vote of the qualified ratepayers in the portion of said

county to be affected by said by-law who are entitled to vote on money by-laws.

(4) In case there should be a majority of votes cast against the by-law in any one or more of the municipalities mentioned therein, although the by-law be carried, then the same shall only apply to those municipalities in which it has received a majority of the votes cast, and shall not affect the other municipalities mentioned, in any way, and the amount of money mentioned in the by-law to be raised by way of loan, shall be reduced by the proportionate amount which the said municipality or municipalities, giving a majority of votes against the by-law, would have been required to pay under the by-law.

(5) In case, there should be a majority of votes cast against the by-law in any one or more municipalities mentioned therein, although the by-law be carried, then upon the approval of the majority of the representatives in the county council of the municipalities which have given a majority of votes in favour of the by-law, the same may be read a third time and passed by the county council, or dropped altogether; but in case the by-law is finally passed only the representatives in the county council of those municipalities giving a majority in favour of the by-law, and to be affected by the same, shall have any voice in reference to the expenditure of the money to be raised thereby.

(6) In all other respects the voting on the by-laws, and the passing and subsequent proceedings thereon, shall be in accordance with the provisions of this Act. 46 V. c. 18, s. 627 (2-6).

(7) Cities and towns separated from the county may, with the approval of the ratepayers qualified to vote on money by-laws, pass similar by-laws to assist in the purchase of any toll roads, in which the cities or separated towns may be interested, or may pass by-laws abolishing the market fees charged by them, on condition that certain toll roads therein named are made free. 49 V. c. 37, s. 34, *part.*

POWERS OF MUNICIPAL COUNCILS AS TO
RAILWAYS.

634. The council of every county, township, city, town and incorporated village may pass by-laws—

1. For subscribing for any number of shares in the capital stock of, or for lending to, or for guaranteeing the payment of any sum of money borrowed by, an incorporated railway company to which section 18 of the statute 14 and 15 Victoria, chapter 51, or sections 75 to 78 inclusive of chapter 66 of the Consolidated Statutes of Canada, or the equivalent sections of *The Railway Act of Ontario*, have been or may be made applicable by any special Act; or to which the equivalent sections of *The Railway Act of Canada* do now or may hereafter apply;

2. For endorsing or guaranteeing the payment of any debenture to be issued by the company for the money by them borrowed, and for assessing and levying from time to time, upon the whole ratable property of the municipality, a sufficient sum to discharge the debt or engagement so contracted;

3. For issuing, for the like purpose, debentures payable at such times, and for such sums respectively, not less than \$20, and bearing or not bearing interest, as the municipal council thinks meet.

4. For granting bonuses to any railway company in aid of such railway, and for issuing debentures, in the same manner as is in the preceding sub-section provided, for raising money to meet such bonuses;

5. For directing the manner and form of signing or endorsing any debenture so issued, endorsed or guaranteed, and of countersigning the same, and by what officer or person the same shall be so signed, endorsed or countersigned respectively;

But no municipal corporation shall subscribe for stock, or incur a debt or liability, for the purposes aforesaid, unless the by-law, before the final passing thereof, receives the assent of the electors of the municipality in manner provided by this Act. 46 V. c. 18, s. 628. *See also* Cap. 170, s. 39 (3), and *sec.* 320 *ante.* 52 V. c. 36, s. 41.

635. In case any municipal council subscribes for and holds stock in a railway company under the next preceding section to the amount of \$20,000 or upwards, the head of the council shall be *ex-officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as the other directors of the company.

635 (a)—(1) In addition to the powers conferred by section 634 a portion of a township municipality which may be interested in securing the construction of a railway, or through or near which any such railway may pass or be situated, may aid the said railway by granting money or debentures by way of bonus or gift, or by way of loan to such railway under and subject to the provisions hereinafter contained, provided always that such aid shall not be given except after the passing of a by-law for the purpose, and the adoption of such by-law by the qualified ratepayers of the said portion of the municipality in the manner provided in respect to granting aid by way of bonuses to railways.

(2) Before a by-law is submitted under this section to the vote of the ratepayers a petition shall be presented to the council expressing the desire to aid the railway, and stating in what way and for what amount, and defining the portion of the township to be charged by metes and bounds, or lots and concessions, and shall be signed by fifty, or a majority of the freeholders, in such portion of the township, being duly qualified voters under this Act.

(3) The by-law shall in each instance provide :

(a) For raising the amount petitioned for in the portion of the municipality mentioned in the petition by the issue of debentures of the municipality, and shall also provide for the delivery of the debentures or the application of the amount to be raised thereby as may be expressed in the said by-law.

(b) For assessing and levying upon all ratable property lying within the portion of the municipality defined in said by-law, an annual special rate sufficient to include a sinking fund for the repayment of the said debentures within twenty years with interest thereon payable yearly, or

half yearly, which debentures the councils, reeves and other officers of the municipality are hereby authorized to execute and issue in such cases. 46 V. c. 18, s. 629. See also Cap. 170, s. 39 (4); 51 V. c. 28, s. 34; 53 V. c. 50, s. 2.

636. The council of every township may pass by-laws for authorizing any railway company, in case such authority is necessary, to make a branch railway on property of the corporation, or on highways, under such conditions as the council sees fit, and subject to the restrictions contained in *The Railway Act of Ontario*, and any other Acts affecting such railway; and may also pass by-laws to authorize companies or individuals to construct tramways and other railways, along any highway, on such terms and conditions as the council sees fit. 46 V. c. 18, s. 630.

NOTE—But see R. S. O. 171, ss. 4, 17, also note to s. 546.

637. So much of any enactment in private and other Acts, passed on or before the fifth day of March, 1880, as authorizes or provides for the grouping or joining together of municipalities or a municipality, or part of any municipalities or municipality with part of another municipality or parts of other municipalities, for the purpose of granting municipal aid to any railway or railway company, is hereby repealed and declared to be inoperative.

637a. The council of every municipality within the districts of Algoma, Thunder Bay and Rainy River whether established under the provisions of chapter 185 of the Revised Statutes of Ontario or of any special Act may pass by-laws:

For granting aid by way of bonus for the promotion of iron smelting works within its limits or within the limits of any municipality contributing aid thereto by granting such sum or sums of money to any person or body corporate in respect of such industry as the said municipality may determine upon; and to pay such sum, either in one sum or in annual or other periodical payments, with or without interest, and subject to such terms, conditions and restrictions as the said municipality may deem expedient;

(a) No such by-law shall be passed until the assent of the electors has been obtained, in conformity with the provisions of this Act, in respect of

by-laws for creating debts and shall obtain the assent of one-third of all ratepayers entitled to vote, as well as a majority of the ratepayers voting on such by-law.

- (b) No property owner or lessee interested in, or holding shares of stock in, any company shall be qualified to vote on a by-law for the purpose of granting a bonus to the company in which he is so interested as aforesaid.
- (c) Any municipality granting such aid, may take and receive security for the compliance with the terms and conditions upon which such aid is given.

40. Whenever there is a dispute between a county council and the council of any other municipality as to whether the duty or liability to build or maintain a bridge on any river or stream belongs to or rests upon such county council or such other council, either party to the dispute may bring and prosecute an action in the High Court of Justice for Ontario against the other to try the question in dispute, or the said court may, upon the application of either party, compel by mandamus the performance, by the party upon or to whom such duty or liability rests or belongs, of such duty or liability.

41. The council of every city with a population of 100,000 or over may pass a by-law or by-laws for granting aid to the University of Toronto and may create a debt therefor, and may issue debentures for the amount of such debt, and no such by-law shall require the assent of the ratepayers of the municipality before the final passing thereof, unless such amount shall exceed \$500.

42. Notwithstanding anything contained in sections 612 to 623 inclusive, of *The Municipal Act* or in any by-law of the municipality, the corporation of any city or town may construct and lay down a plank sidewalk upon and along any street, lane, alley or other thoroughfare or park in the said city or town as a local improvement, and the cost thereof may be assessed against the properties fronting or abutting thereon, if such sidewalk is in the opinion of two-thirds of the members present at any regular meeting of the city or town council desirable in the public interest.

54 V. c. 42, ss. 33-34.

43. Lands dedicated by any owner thereof for a street or public highway shall not be subject to any claim for dower by the wife of any person by whom the same was dedicated.

44. The municipal council of any city having a population of 50,000 or more may pass a general by-law prescribing the minimum width of streets, lanes, alleys or other public places within the municipality wherein dwelling houses may be erected or occupied and the minimum area of vacant land to be attached to and used with any dwelling house hereafter to be erected, as the courtyard or curtilage thereof, and the mode of erection of buildings occupied or intended to be occupied as dwelling houses within the municipality or within any area or areas thereof to be defined by the said by-law or by any other by-law as may from time to time alter or amend or repeal any such by-law.

(2) Every such by-law before the final passing thereof shall be published in full twice in each week for four consecutive weeks in two newspapers published in the city with a notice appended thereto, stating the date when the council proposes to take the proposed by-law into consideration.

45. The Act entitled *An Act respecting the Revised Statutes of Ontario, 1887*, passed in the fiftieth year of Her Majesty's reign, chaptered 2, from section 7 to section 10 thereof, both inclusive shall in so far as the same may be applicable and unless where inconsistent with this Act, apply hereto.

46. This Act shall be read with and form part of *The Municipal Act*, and except as hereinbefore provided with respect to sections 13 and 30, shall come into force on the first day of July, 1890, and as to those sections at the time therein respectively mentioned. 53 V. c. 50, ss. 40-46.

95. Where local improvements benefiting real property have heretofore or shall hereafter be made under the provisions of the local improvement clauses of this Act the costs whereof, in whole or in part, have been charged upon or against the real property, the petitioning for or procuring to be made, or the making of any such local improvements, or the charging the costs thereof upon or against the real property, or the fact that they are a charge upon or against such real property, shall not be deemed to be a breach of the covenant by a vendor or person agreeing to sell that he

has done no act to encumber the real property, except to the extent that the annual or other payments in respect of such charge are in arrear, and unpaid, but this shall not affect or apply to any case already adjudicated upon or now pending in litigation.

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

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

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

(4) In any and every case in which street railway lines are built by different duly incorporated street railway companies in the same or adjoining municipalities along different routes to the same terminal point, then in case an

agreement cannot be arrived at between two such companies providing for the exchange and transfer of tickets for a continuous trip over both such lines or portion thereof, the matters in difference in respect thereof shall be referred to arbitration under the provisions of *The Municipal Act*.

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

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

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

(2) For borrowing, on the credit of the municipality, the funds necessary for the work, although the same extends beyond the limits of the municipality (subject, in that case to be reimbursed as hereinafter mentioned), and for issuing the debentures of the municipality to the requisite amount, including the costs of arbitration, if any, in sums of not

less than \$100 each, and payable within twenty years or less from date, with interest at the rate of not less than four per cent. per annum.

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

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

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

43. This Act shall be read with and shall form part of *The Municipal Act*, and shall come into force on the first day of July, 1891; except as to section 36, which shall come into force upon the passing hereof. 54 V. c. 42, ss. 35-43.

NOTE.—See note to section 611.

72. When changes have been made in the boundaries of a city, or a new division of a city into wards under section 22 of *The Municipal Act* has been made and it has been deemed expedient by the council or the clerk thereof to postpone the annual election for mayor or aldermen or the public school board for the city, until after the completion

of new voters' lists prepared upon the basis of the new division into wards, and a new division thereof into polling sub-divisions, and a new election has been held after the completion of such voters' lists for such mayor, aldermen or trustees, such election shall not be held to have been void, invalid or illegal for the reason that the same did not take place at the time provided by law for holding the annual municipal or school board elections. This section shall apply to past elections only. 55 V. c. 43, s. 72.

POLICE VILLAGES.

638. Until otherwise provided by competent authority, every existing police village shall continue to be a police village with the boundaries now established. 46 V. c. 18, s. 632.

639. On the petition of any of the inhabitants of an unincorporated village, the council or councils of the county or counties within which the village is situate may, by by-law, erect the same into a police village, and assign thereto such limits as may seem expedient. 46 V. c. 18, s. 633.

640. The trustees of every police village existing when this Act takes effect, shall be deemed the trustees respectively of every such village as continued under this Act. 46 V. c. 18, s. 634.

641. The trustees of every police village shall be three in number. 46 V. c. 18, s. 635.

642. The persons qualified to be elected police trustees shall be such persons as reside within the police village or within two miles thereof, and are eligible to be elected township councillors, and are qualified in respect of property for which they are rated in such police village to the amount required so to qualify them. 46 V. c. 18, s. 636.

643. If there are not six persons qualified under the preceding section, any person entitled to vote at the election may be elected. 46 V. c. 18, s. 637.

644. Any township elector, rated on the last assessment roll for such property in a police village as entitles him to vote in respect thereof at the municipal election for the township, shall be entitled to vote at the election for police trustees. 46 V. c. 18, s. 638.

645. The council by which a police village is established shall, by the by-law establishing the same, name the place in the village for holding the first election of police trustees, and the returning officer therefore. 46 V. c. 18, s. 639.

646. In a police village, after the first election, the trustees thereof, or any two of them, shall, from time to time, by writing under their hands, appoint the returning officer, and the place or places within such village for holding nominations and elections. 46 V. c. 18, s. 640.

647. No election of police trustees shall be held in a tavern, or in a house of public entertainment licensed to sell spirituous liquors. 46 V. c. 18, s. 641.

648.—(1) A meeting of the electors shall take place for the nomination of candidates for the offices of police trustees in each police village, at noon on the last Monday in December, annually, at such place therein as is from time to time fixed by the trustees.

(2) When the last Monday in December happens to be Christmas day, the meeting shall be held on the preceding Friday. 46 V. c. 18, s. 642.

649. The returning officer (or, in his absence, a chairman to be chosen) shall preside at such meeting, of which the police trustees shall give at least six day's notice. 46 V. c. 18, s. 643.

650. If only three candidates are proposed and seconded, the returning officer or chairman shall, after a lapse of one hour, declare such candidates duly elected. 46 V. c. 18, s. 644.

651. If more than the necessary number of candidates are proposed, the returning officer or chairman shall adjourn the proceedings until the first Monday in January, when a poll or polls shall be opened for the election, at nine o'clock in the morning, and shall continue open until five o'clock in the afternoon, and no longer. 46 V. c. 18, s. 645.

652 The returning officer or chairman of the meeting shall, on the day following that of the nomination, post up in the office of the clerk of the township, if it is situated in such police village, and if not, then in some other public

place in such police village, the names of the persons nominated at such meeting; and shall, if a poll is necessary, demand in writing from the clerk of the township, or clerks of the townships, a list of the names of the persons appearing by the assessment roll to be entitled to vote in the said police village, such as is required to be furnished under the next succeeding section. 46 V. c. 18, s. 646.

653. The clerk of the township, or clerks of the townships in which any police village is situated, shall, at latest on the day previous to the day for opening the poll, deliver to the returning officer of such police village a list of the names, according to the form by law prescribed in the case of other municipal elections, of the persons entitled to vote at township municipal elections, in respect of real property situate, or income received in the said police village, or in the portion thereof in the municipality of such clerk, and shall attest the said list by his solemn declaration in writing under his hand. 46 V. c. 18, s. 647.

654. The various sections of this Act relating to the proceedings at the nomination and election of township councillors, including those relating to the questions to be put and oaths to be administered to electors, and as to the appointment of a chairman or returning officer, in case the person appointed is absent, and also the provisions respecting controverted elections and for the prevention of corrupt practices, shall apply and be acted on, unless where a different provision is herein made, in the election of police trustees. 46 V. c. 18, s. 648.

655. In case a casting vote is required to determine an election, the returning officer, whether otherwise qualified or not, shall give a casting vote for one or more of such candidates, so as to decide the election, and except in such case the returning officer shall not vote at such election. 46 V. c. 18, s. 649.

656. The returning officer shall have the like powers for the preservation of the peace as are given to returning officers and deputy returning officers at municipal elections. 46 V. c. 18, s. 650.

657. The persons elected shall hold office until their successors are elected or appointed and sworn into office and hold their first meeting. 46 V. c. 18, s. 651.

658. Every returning officer shall, on the day after the close of the poll, return the ballot papers, voters' list and other documents relating to the election, to the clerk of the township in which the village is situated, or in case the village lies in several townships, then to the clerk of the county, verified under oath before such clerk, or before any Justice of the Peace for the county or union of counties in which the village lies, as to the due and correct taking of the votes. 46 V. c. 18, s. 652.

659. In case of a vacancy in the office of a police trustee by death or otherwise, the remaining trustee or trustees shall, by writing to be filed with such clerk as aforesaid, appoint a trustee or trustees to supply the vacancy. 46 V. c. 18, s. 653.

660. The trustees of every police village, or any two of such trustees, shall, by writing under their hands, to be filed with the clerk of the township, or in case the village lies in several townships, with the clerk of the county, appoint one of their number to be inspecting trustee. 46 V. c. 18, s. 654.

DUTIES OF POLICE TRUSTEES.

661. Every police trustee shall take oaths of office and qualification in the same manner and within the time prescribed for township councillors, under like penalties in case of default. 46 V. c. 18, s. 655.

662. The trustees of every police village shall hold their first meeting at noon on the third Monday of the same January in which they are elected, or on some day thereafter at noon. 46 V. c. 18, s. 656.

663. The trustees, at any time previous to the first day of June, may require the council of the township or townships in which the police village is situated to cause to be levied along with the other rates, upon the property liable to assessment in such village, such sums as they may estimate to be required to cover the expenditures for that year in respect of matters coming within their duties, and to cover any balance for expenditures incurred during the year then last past; such sum not to exceed one cent in the dollar on the assessed value of such property. 46 V. c. 18, s. 657.

70. The trustees of every police village may pass by-laws for letting contracts, or employing labour and purchasing material, for building sidewalks, culverts, putting in drains and making, repairing and improving streets, and doing all things necessary for such purposes within the limits of the police village. 55 V. c. 43, s. 70.

71. The rate levied for police village purposes upon the property liable to assessment in such village by the township or townships in which the police village is situated, shall be in lieu of such proportion of the township rate now levied for the same or like purposes within such village as the trustees and the council may by agreement provide. 55 V. c. 43 s. 71.

664. In case the village is situated in two or more townships, the trustees shall require a proportionate amount from each, according to the value of the property of the village in each township, as shewn by the last equalized assessment rolls. 46 V. c. 18, s. 658.

665. The township treasurer shall from time to time, if he has moneys of the municipality in his hands not otherwise appropriated, pay any order given in favor of any person by the inspecting trustee, or by any two of the trustees, to the extent of the amount required to be levied as aforesaid, although the same may not have been then collected. 46 V. c. 18, s. 659.

666. No trustee shall give such order in favour of any person except for work previously actually performed, or in payment of some other executed contract. 46 V. c. 18, s. 660.

667. The trustees of every police village shall execute and enforce therein the regulations following:

1. Every proprietor of a house more than one story high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of \$1 for every omission; and a further penalty of \$2 of every week such omission continues.

2. Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of \$1 for each bucket deficient.

3. No person shall build an oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding \$2 for non-compliance.

4. No person shall pass a stovepipe through a wooden or lath partition or floor, unless there is a space of four inches between the pipe and the woodwork nearest thereto; and the pipe of every stove shall be inserted into a chimney; and there shall be at least ten inches in the clear between any stove and any lathed partition or woodwork, under a penalty of \$2.

5. No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of \$1.

6. No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of \$1.

7. No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, without having such fire confined in some copper, iron, or tin vessel, under a penalty of \$1 for the first offence, and of \$2 for every subsequent offence.

8. No person shall light a fire in a street, lane or public place, under a penalty of \$1.

9. No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling-house, under a penalty of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.

10. No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of \$1.

11. No person shall place or deposit any quick or unslacked lime in contact with any wood of a house, outhouse or other building, under a penalty of \$1, and a further penalty of \$2 a day until the lime has been removed, or secured to the satisfaction of the inspecting trustee, so as to prevent any danger of fire.

12. No person shall erect a furnace for making charcoal of wood, under a penalty of \$5.

13. No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of \$5 for the first offence, and \$10 for every subsequent offence.

14. No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of \$10 for the first offence, and of \$20 for every subsequent offence.

15. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of \$1, and a further penalty of \$2 for every week he neglects or refuses to remove the same after being notified to do so by the inspecting trustee, or some other person authorized by him. 46 V. c. 18, s. 662.

668. The inspecting trustee, or in his absence, or when he is the party complained of, one of the other trustees, shall sue for all penalties incurred under the regulations of police herein established, before a Justice of the Peace having jurisdiction in the village and residing therein, or within five miles thereof; or if there be no such Justice than before any justice of the Peace having jurisdiction in the village; and the Justice shall hear and determine such complaint in a summary manner, and may convict the offender, upon the oath or affirmation of a credible witness, and cause the penalty, with or without costs, as he may see fitting, to be levied by distress and sale of the goods of the offender, to be paid over to the path-master or path-masters of the division or divisions to which the village belongs, or to such of the said path-masters as the trustees may direct; and such path-master or path-masters shall apply the penalty to the repair and improvement of the streets and lanes of the village, under the direction of the trustees. 46 V. c. 18, s. 663.

669. Any police trustees who wilfully neglects or omits to prosecute an offender at the request of any resident householder of the village offering to adduce proof of an offence against the regulations of police herein established, or who wilfully neglects or omits to fulfil any other duty imposed on him by this Act, shall incur a penalty of \$5. 46 V. c. 18, s. 664.

670. The penalties prescribed by the next preceding section, or by that for the establishment of regulations of police, shall be sued for within ten days after the offence has been committed or has ceased, and not subsequently. 46 V. c. 18, s. 665.

CONFIRMING AND SAVING CLAUSES.

671. Nothing herein contained shall be taken or construed to affect or repeal so much of the schedules in either of the Municipal Corporation Acts of 1849 and 1850 as defines the limits or boundaries of any cities or towns, being Schedule B of the Act of 1849, numbers 2, 3, 4, 6, 7, 8, 9, 10 and 11, and Schedule C of the same Act, numbers 1, 2 and 3, and Schedule B of the Act of 1850, numbers 1, 5, 12, 13, 14 and 15; and also so much of Schedule D of the said Acts of 1849 and 1850 as relates to Amherstburgh, and also so much of section 203 of the said Act of 1849, and so much of any other sections of either of the said Acts relating to any of the schedules thereof as have been acted upon, or as are in force and remain to be acted upon at the time this Act takes effect, and all proclamations and special statutes by or under which cities and other municipalities have been erected, so far as respects the continuing the same and the boundaries thereof, shall continue in force. 46 V. c. 18, s. 666.

672. Nothing herein contained shall affect *The Act respecting the establishment of Municipal Institutions in the Districts of Algoma, Muskoka, Parry Sound, Nipissing, Thunder Bay, and Rainy River.* 46 V. c. 18, s. 667.

AN ACT CONSOLIDATING AND REVISING
THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

INSPECTORS.

149. No person shall be appointed inspector of public schools who does not hold an inspector's certificate of qualification, and no teacher or trustee of any public, high or separate school shall be appointed inspector while acting as teacher or trustee. R. S. O. c. 225, s. 175.

150.—(1) The municipal council of each county shall appoint an inspector for such county, providing always that any inspector appointed hereafter for a county or part of a county, shall be the inspector of the schools of any town not separated from the county in the district to which he has been appointed. R. S. O. c. 225, s. 176 (1), *part*.

(2) One inspector shall not have charge of more than one hundred and twenty schools or less than fifty but it shall not be necessary to appoint more than one inspector in each riding of a county. R. S. O. c. 225, s. 176 (1), *part*, (2).

(3) In counties containing any municipality wherein the French or German language is the common or prevailing language, an inspector may have charge of any number of schools not less than forty. R. S. O. c. 225, s. 176 (3).

(4) In counties where there are more than fifty public schools, the county council may appoint two or more inspectors, and prescribe and number the territorial limits of each, and change or remove the inspectors from one district or riding of the county to another. R. S. O. c. 225, s. 176 (4).

151. In the event of a vacancy occurring in the office of county inspector, the warden of the county may appoint any person legally qualified to fill such vacancy until the next ensuing meeting of the county council. Notice of such appointment or of any appointments by the county council shall be given to the Minister of Education forthwith. R. S. O. c. 225, ss. 177, 178.

152. Every county inspector shall, in case of misconduct or inefficiency, be subject to dismissal by the Lieutenant-Governor in Council, or by a majority of the members of the council appointing him, or without cause by a vote of two-thirds of such council, and no such inspector shall be re-appointed without the concurrence of the party who dismissed him. R. S. O. c. 225, s. 180.

153. The Lieutenant-Governor may direct the payment annually out of the Consolidated Revenue of the sum of \$5 per school to each county inspector, and the county council shall pay quarterly at the rate of not less than an equal amount per school, and in addition thereto reasonable travelling expenses, the amount to be determined by the county council. R. S. O. c. 225, s. 181.

154. The Lieutenant-Governor in Council may appoint such inspectors as may be deemed expedient for the purpose of inspecting schools in the territorial districts and encouraging the establishment of new schools, and also for conducting any examination prescribed by the Education Department, or reporting on any school matter, and any person or persons so appointed shall be paid out of any moneys appropriated by the Legislature for educational purposes. R. S. O. c. 225, s. 182. (*Amended*).

NOTE.—In every examination, a pupil's general proficiency and standing during the year should be taken into consideration, as nervous excitement consequent to the arrival of examination day frequently binds up the retentive faculties of a certain class to such an extent, that failure might be printed on their examination papers before being distributed. In such cases, the student, knowing his own ability and right to advancement, becomes dispirited, his ambition and aspirations are crushed, and he retires from a course which might have led to a brilliant future.

155. It shall be the duty of every county inspector :—

1. To visit every public school within his jurisdiction once in each term, unless required to do so oftener (for the adjustment of disputes or other purposes) by the county council which appointed him, and to see that every school is conducted according to this Act and the regulations of the Department;

2. To examine at his visits of inspection, into the condition of the school, as respects the progress of the pupils in learning; the order and discipline observed; the system of instruction pursued; the mode of keeping the school registers; the average attendance of pupils; the character and condition of the building and premises; and to give such advice to the teachers, pupils and officers of the school as he may consider proper;

3. To deliver from time to time, public lectures in his district on some subject connected with public school education;

4. To withhold his order for the amount apportioned from the legislative or municipal grant to any school section; (*a*) When the school was kept open for less than six months in the year; or (*b*) When the trustees fail to transmit the annual or semi-annual school returns properly filled up; or, (*c*) When the trustees fail to comply with the School Act, or the regulations of the Education Department; or (*d*) When the teacher uses, or permits to be used, as a text book any book not authorized by the Education Department; and in every case to report to the trustees and to the Education Department his reasons for so doing;

5. To give when desired any information in his power to the Minister of Education, respecting any public school matter within his jurisdiction, and to prepare and transmit to the Minister of Education, on or before the first day of March, an annual report in the form prescribed by the Education Department;

7. To recommend to the county or township council such special aid as he may deem advisable to be given to new or weak school sections in the county;

8. To appoint, in his discretion, the time and place for a special school meeting;

9. To give, at his discretion, any candidate, on due examination, a certificate of qualification to teach a school

within his district until the next ensuing professional examination of teachers;

10. To deliver over to his successor, on retiring from office, copies of his official correspondence, and all school papers in his custody, on the order of the county council or public school board appointing him. R. S. O. c. 225, s. 183. (*Amended*).

INSPECTORS OF CITIES AND TOWNS.

156. Inspectors of cities and of towns separated from the county, shall possess the same qualifications and powers and shall be subject to the same duties as county inspectors under this Act, so far as the same are applicable. They shall also discharge such other duties as may be prescribed by the board of school trustees, by whom they are appointed, or by the regulations of the Education Department. R. S. O. c. 225, s. 187.

157.—(1) Inspectors in cities and in towns separated from the county shall be appointed by the board of public school trustees, and shall be subject to dismissal by the Lieutenant-Governor in Council or by a majority of the members of the board, in case of inefficiency or misconduct, or by a vote of two-thirds of the board without cause, and no such inspector shall be re-appointed without the concurrence of the party who dismissed him. R. S. O. c. 225, s. 184. (*Amended*).

(2) When the teachers engaged by the trustees of any city exceed three hundred in number the board shall appoint two inspectors, and likewise an additional inspector for every three hundred teachers on the staff above six hundred. (*New*).

158. (1). When the public school board of any town not separated from the county has before the passing of this Act appointed an inspector, other than the county inspector within whose district such town is situated, the county treasurer, on demand shall pay to the order of such board a sum of money equal to the amount collected within such town for the payment of the salary of the county inspector. R. S. O. c. 225, s. 185.

(2). The Lieutenant-Governor in Council may direct annually the payment out of the Consolidated Revenue of a sum not exceeding \$5 for every teacher occupying a

separate room with a separate register, to the school board of any city or town separated from the county, towards the payment of the salary of the public school inspector. (*New*).

159. No inspector of schools shall, during his tenure of office engage in or hold any other employment, office, or calling which would interfere with the full discharge of his duties as inspector. R. S. O. c. 225, s. 188.

160. In cases where any inspector requires the testimony of witnesses to the truth of any fact alleged in any complaint or appeal made to him or to the Minister of Education or the Education Department, it shall be lawful for such inspector to administer an oath to such witnesses, or to require their solemn affirmation before receiving their testimony. R. S. O. c. 225, s. 189.

ALLOWANCE TO ARBITRATORS AND INSPECTORS.

161.—(1) All persons engaged as arbitrators on any matter arising under this Act shall be paid the sum of four dollars per diem and travelling expenses. In making their award the arbitrators shall, among other things, determine the liabilities of the parties concerned therein for the costs of such arbitration, and such determination shall be final and conclusive. R. S. O. c. 225, s. 190. (*Amended*).

(2) When any complaint is made to an inspector with regard to any matter affecting the validity of the election of a public school trustee, or the procedure of a school meeting requiring the taking of evidence where the cause of complaint arose, the trustees of the school section concerned shall pay the inspector while conducting such investigation the sum of \$4 per diem and travelling expenses. (*New*).

SUPERANNUATION.

162. Every teacher or inspector whose name is entered as having paid into the fund for the support of superannuated teachers, may contribute to such fund in such manner as may be prescribed by the Education Department, the sum of at least \$4 annually. R. S. O. c. 225, s. 191.

163.—(1) On the decease of any teacher or inspector^s his wife, her husband, or other legal representative, shall be entitled to receive back the full amount paid into the superannuation fund by such teacher or inspector, with interest

at the rate of seven per cent. per annum. R. S. O. c. 225, s. 192.

(2) No teacher or inspector who has reached the age of sixty years shall be held to be disqualified from superannuation by reason of his having retired from active service before reaching the age of sixty, provided that such teacher or inspector has served for a period of thirty-five years, and that no payment shall be made to such teacher or inspector until he has reached the age of sixty. (*New*).

164 —(1) Every teacher or inspector who, while engaged in his profession, contributes to the superannuated teachers' fund as provided by this Act, shall, on reaching the age of sixty years, be entitled to retire from the profession at his discretion, and receive an allowance or pension at the rate of \$6 per annum, for every year of such service in Ontario, upon furnishing to the Education Department satisfactory evidence of good moral character, of his age, and of the length of his service as teacher or inspector.

(2) Every pension payable under this Act may be supplemented out of local funds by any municipal council or public school board at its pleasure.

(3) To remove doubts—nothing in this section contained shall be held as applying to any person who, prior to 1871, had ceased to be engaged in his profession as a teacher, and had not, prior to the 30th day of March, 1885, contributed to the said fund, and no payment for arrears shall be hereafter received. R. S. O. c. 225, s. 193.

165. Every teacher or inspector under sixty years of age who has contributed as aforesaid and who is disabled from practising his profession, shall be entitled to a like pension, or local supplementary allowance, upon furnishing the like evidence, and upon furnishing to the Education Department from time to time, in addition thereto, satisfactory evidence of his being disabled. R. S. O. c. 225, s. 194.

166. Every teacher or inspector entitled to receive an allowance from the superannuated teachers' fund, who holds a first or second-class provincial certificate, or a first-class county board certificate, or who is a principal of a high school or collegiate institute, shall in addition to said allowance or pension, be entitled to receive a further allowance at the rate of \$1 per annum for every year of

service while he held such certificate, or while he acted as principal of a high school or collegiate institute. R. S. O. c. 225, s. 195.

167. The retiring allowance shall cease at the close of the year of the death of the recipient, and may be discontinued at any time should the pensioned teacher fail to maintain a good moral character, to be vouched for (when requested) to the satisfaction of the Education Department. R. S. O. c. 225, s. 196.

168. If any pensioned teacher or inspector shall, with the consent of the Education Department, resume the profession of teaching or inspecting, the payment of his allowance shall be suspended from the time of his being so engaged. In case such teacher or inspector is again placed on the superannuation list a pension for the additional time of service shall be allowed him, on his compliance with this Act, and the regulations of the Education Department. R. S. O. c. 225, s. 197, 198.

169. Any teacher or inspector who, having resumed his profession, draws or continues to draw upon the superannuation fund for any part of his allowance as a superannuated teacher, shall forfeit all claim to the fund, and his name shall be struck off the list of superannuated teachers. R. S. O. c. 225, s. 199.

170. In the case of those teachers or inspectors who may not avail themselves of the provisions of sections 162 or 171 of this Act, the provisions of sections 163 to 171 inclusive shall apply so far as relates to all sums of money already paid into the fund for the support of superannuated teachers. R. S. O. c. 225, s. 200.

171. Any teacher who retires from the profession, or any teacher or inspector who desires to remove his name from the list of contributors to the superannuated teachers' fund, shall be entitled to receive back from the Minister of Education one-half of any sums paid by him or her to the fund, through the public school inspector, or otherwise. R. S. O. c. 225, s. 201.

NON-RESIDENT PUPILS

172.—(1) The trustees of every public school shall admit to their school any non-resident pupils who reside nearer such school than the school in their own section,

providing always the inspector reports the accommodation of the school room sufficient for the admission of such pupils. In case of dispute as to the distance from the school, the decision of the inspector shall be final. R. S. O. c. 225, s. 202 (1). (*Amended*).

(2) The parents or guardians of such non-resident children shall pay to the trustees of the school to which their children have been admitted such fees monthly as may be mutually agreed upon, provided such fees, together with the taxes paid to such school (if any), do not exceed the average cost of the instruction of the pupils of such school. (*New*).

(3) Any person residing in one school section, and sending his children to a neighbouring school, shall, be liable for the payment of all rates assessed on his taxable property for the school purposes of the section in which he resides, but it shall be lawful for any board of trustees to remit so much of the school rates of any such person as would be the equivalent of the fees paid to the trustees of the neighbouring section. R. S. O. c. 225, s. 124.

(4) In case a county council establishes a house of refuge in any county any person of school age maintained in such house of refuge shall for the purposes of this Act be deemed a non-resident, and the county council shall pay to the trustees of the school attended by such person or persons such monthly fees as may be mutually agreed upon, provided such fees do not exceed the average cost of the instruction of the pupils of such school. R. S. O. c. 225, s. 203. (*Amended*).

HOLIDAYS.

173.—(1) The public school teaching year shall consist of two terms: in townships the first shall begin on the third Monday of August, and end on the 22nd day of December; the second term shall begin on the 3rd day of January, and end on the 30th day of June.

(2) In cities, towns and incorporated villages the first term shall begin on the last Monday of August, and end on the 22nd day of December; the second term shall begin on the 3rd day of January, and end on the 30th day of June, with holidays during the week following Easter Sunday.

(3) Every Saturday, every public holiday, and every day proclaimed a holiday by the authorities of the municipality in which the school section is situated, shall be a holiday in public schools. R. S. O. c. 225, s. 204. (*Amended*).

AUTHORIZED BOOKS.

174. No teacher shall use or permit to be used as text books any books in a model or public school, except such as are authorized by the Education Department, and no portion of the legislative grant shall be paid by the inspector to any school in which unauthorized books are used. R. S. O. c. 225, s. 205.

175. Any authorized text book in actual use in any public or model school may be changed by the teacher of such school for any other authorized text book in the same subject on the written approval of the trustees and the inspector, provided always such change is made at the beginning of a school term, and at least six months after such approval has been given. R. S. O. c. 225, s. 206.

176. In case any teacher or other person shall negligently or wilfully substitute any unauthorized text book in place of any authorized text book in actual use upon the same subject in his school, he shall for each such offence, on conviction thereof before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding \$10 payable to the municipality for public school purposes, together with costs, as the Police Magistrate or Justice may think fit. R. S. O. c. 225, s. 207.

NOTE.—Changes in school books have been of too frequent occurrence in the past, and now that these books may be supplied *free*, the tendency to make changes should be carefully guarded against, as in many cases the advantage to the pupil may be only a secondary consideration. Again, it must be noted that the cost of such *free* books will appear on the *rate bill*.

SPECIAL INQUIRIES.

177. The Minister of Education shall have power to appoint one or more persons, as he may deem expedient, to inquire into and report to him upon any school matter; such inspector or other person or persons shall be entitled to such remuneration out of any moneys appropriated by the Legislature for that purpose as may be deemed just and equitable, considering the nature and extent of the duties to be performed. Such person or persons, or any of them, shall have power to administer oaths to witnesses, or require

them to make solemn affirmation of the truth of the matters they may be examined upon. R. S. O. c. 225, s. 226.

178. In any matter of inquiry which the Minister is by law authorized to institute, make or direct, a writ or writs of subpoena *ad testificandum* and also *duces tecum* may issue from the High Court upon the *præcipe* of the Minister of Education therefor, containing the names of the witnesses intended to be summoned thereby, to be directed to such person or persons for him or them to attend and give evidence under oath, at such times and places, and before such person or persons as the Minister shall appoint, and any default of any such person in obeying any such subpoena shall be punishable as in the like case in any action or cause in the said Court. R. S. O. c. 225, s. 227.

APPEALS FROM DIVISION COURT DECISIONS.

179. The Judge of any Division Court wherein any action between teachers, inspectors, trustees, or others acting under this Act, or *The High Schools Act*, is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister of Education to appeal the case. R. S. O. c. 225, s. 228.

180. The Minister may, within one month after the rendering of judgment in any such case, appeal from the decision of the Division Court Judge to the High Court at Toronto, by serving notice in writing of such appeal upon the clerk of the Division Court appealed from, which appeal shall be entitled "The Minister of Education for Ontario, Appellant, in the matter between (A. B. and C. D.)" But nothing herein contained shall be held to interfere with the right of any of the parties to the action exercising the ordinary right of appeal. R. S. O. c. 225, s. 229.

181. The Judge, whose decision is thus appealed from, shall thereupon certify under his hand, to the Registrar of the Division of the High Court appealed to, the summons and statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections made thereto. After notice of appeal has been served as hereinafter provided no further proceeding shall be had in such case until the matter of appeal has been decided by the High Court. R. S. O. c. 225, ss. 230, 231.

182. On the Judge receiving a notice of appeal from his decision (under the authority of this Act), he shall thereupon certify under his hand, to the Minister of Education, the statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections thereto. The High Court shall give such order or direction to the Court below, touching the judgment to be given in the matter, as the circumstances of the case require. Upon receipt of such order, direction, and certificate, the Judge of the Division Court shall forthwith proceed in accordance therewith. R. S. O. c. 225, ss. 232, 233, 236.

183. The Court may also in its discretion award costs against the appellant, which costs shall be certified to and form part of the judgment of the Court below. All costs awarded against an appellant, and all costs incurred by him, shall be paid by the Minister, and charged as contingent expenses of his office. R. S. O. c. 225, ss. 234, 235.

SCHOOL VISITORS.

184. All judges, members of the Legislature, members of county councils, and aldermen shall be school visitors in the municipalities where they respectively reside. All clergymen shall be school visitors in the municipalities where they have pastoral charge. R. S. O. c. 225, s. 238.

NOTE.—A professor or graduate of a University, lawyer or doctor, resident in a school section might be added to this list. See note to sec. 131, s-s. 5.

185. All school visitors may visit the public schools as in this Act provided. They may also attend the examination of schools, and at the time of any such visit, may examine the progress of the pupils, and the state and management of the school, and give such advice to the teacher and pupils, and any others present, as they deem expedient. R. S. O. c. 225, s. 239. (*Amended*).

PENALTIES AND PROHIBITIONS.

186. If any township clerk neglects or refuses to prepare and furnish the map of the school sections of his municipality as required by this Act, or if he neglects for one month

to make any return required by this Act, he shall be liable to a penalty not exceeding \$10, to be recovered before a Justice of the Peace, for the school purposes of his municipality, at the instance of any ratepayer thereof. R. S. O. c. 225, s. 242.

187. No person shall wilfully make a false declaration of his right to vote at any school meeting or election of school trustees; and any person convicted of a contravention of this section, upon the complaint of any person, shall be punishable by fine or imprisonment, at the discretion of the Court of General Sessions; or by a penalty of not less than \$5 or more than \$10 to be sued for and recovered with costs before a Justice of the Peace, by the public school trustees of the city, town, village, school section, or other division, for its use. R. S. O. c. 225, s. 243.

188. If any person elected as a school trustee attends any meetings of the school board as such, after being disqualified under this Act, he shall be liable to a penalty of \$20 for every meeting so attended. R. S. O. c. 225, s. 244.

189. No trustee of a school section shall hold the office of public school inspector, or be a master or teacher within the section of which he is a trustee; nor shall the master or teacher of any public, high, or separate school hold the office of trustee, nor shall an inspector be a teacher or trustee of any public, high or separate school while he holds the office of inspector. R. S. O. c. 225, s. 245.

190. Any trustee who is convicted of any felony or misdemeanour, or becomes insane, or absents himself from the meetings of the board for three consecutive months, without being authorized by resolution entered upon its minutes, or ceases to be an actual resident within the school section for which he is a trustee, shall *ipso facto* vacate his seat, and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election. R. S. O. c. 225, s. 246.

191. Any trustee who has any pecuniary interest, profit or promise or expected benefit in, or from any contract, agreement or engagement, either in his own name, or in the name of another, with the corporation of which he is a member, or who receives, or expects to receive any compensation for any work, engagement, employment or duty,

on behalf of such corporation, shall *ipso facto* vacate his seat, and every such contract, agreement, engagement or promise shall be null and void; and, on the complaint of the remaining trustee or trustees, the county judge may declare the seat vacant, and forthwith order a new election, provided always that it shall be lawful for the trustees of any rural school section to allow the secretary or secretary-treasurer such compensation for his services, for the purposes specified in this Act as may be approved at the annual meeting of the ratepayers and duly entered in the minutes. R. S. O. c. 225, s. 247. (*Amended*).

192. In case any annual or other rural school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give the notice, shall forfeit the sum of \$5 to be sued for and recovered before a Justice of the Peace, by any resident inhabitant in the rural school section, for the use thereof. R. S. O. c. 225, s. 248.

193. Any person who wilfully disturbs, interrupts, or disquiets the proceedings of any school meeting authorized to be held by this Act, or any one who wilfully interrupts or disquiets any public school established and conducted under its authority, or other school, by rude or indecent behaviour, or by making a noise either within the place or where such school is kept or held, or so near thereto as to disturb the order or exercises of the school, shall, for each offence, on conviction thereof before a Justice of the Peace, on the oath of one credible witness, forfeit and pay for public school purposes to the school section, city, town, or village within which the offence was committed, a sum not exceeding \$20 together with the costs of the conviction, as the said Justice may think fit. R. S. O. c. 225, s. 249.

NOTE.—Not only should the proceedings and exercises of a public school be protected against interruption by noise or unseemly conduct, but no communication should be had with the teacher on school matters, when engaged in teaching; recommendations, enquiries or complaints, should be made to the trustees, whose duty it is to look after the best interests of the school.

194. If any person chosen as trustee refuses to serve he shall forfeit the sum of \$5. R. S. O. c. 215, s. 250.

195. Every person so chosen who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of \$20 to be sued for and recovered before a Justice of the Peace, by the trustees of the school section or division, or by any person whatsoever for its use, as authorized by this Act. R. S. O. c. 225, s. 251.

196 If the trustees of any public school wilfully neglect or refuse to exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them, any trustee or trustees so neglecting or refusing to exercise such power shall be held to be personally responsible for the fulfilment of such contract or agreement. R. S. O. c. 225, s. 252.

197. Any chairman who neglects to transmit to the county inspector a minute of the proceedings of an annual or other rural school section meeting over which he has presided, within ten days after the holding of such meeting shall be liable, on the complaint of any ratepayer, to a fine of not more than \$5 to be recovered as provided by this Act. R. S. O. c. 225, s. 253.

NOTE.—See note to section 31.

198. If any trustees of any school section refuse or neglect to take proper security from the secretary-treasurer, or other person to whom they entrust school moneys, they shall be held personally responsible for the moneys. R. S. O. c. 225, s. 254.

199. If any part of the public school fund or moneys is embezzled or lost, through the dishonesty or faithlessness of any trustee, secretary-treasurer, or other person to whom it has been entrusted, and proper security against the loss has not been taken, the person or persons whose duty it was to have exacted the security shall be personally responsible for the sums so embezzled or lost; and such sums may be recovered from him or them by the person entitled to receive the same, by action in any Court having jurisdiction to the amount, or by information at the suit of the Crown. R. S. O. c. 225, s. 255.

200. No secretary-treasurer appointed by the school trustees of any school section, and no person having been such secretary-treasurer, and no trustee or other person who may have in his possession any books, papers, chattels,

or moneys, which came into his possession as such secretary-treasurer, trustee or otherwise, shall wrongfully withhold, or neglect or refuse to deliver up, or account for, and pay over the same or any part thereof to the person, and in the manner directed by a majority of the school trustees for the school section then in office, or by other competent authority; and such withholding, neglect or refusal to deliver up or account for, shall be punishable, as provided in the three following sections of this Act. R. S. O. c. 225, s. 256.

201.—(1) Upon application to the Judge of the County Court, by a majority of the trustees, or any two ratepayers in a school section supported by their affidavit made before some Justice of the Peace, of such wrongful withholding or refusal, the Judge shall make an order that such secretary-treasurer, or person having been such secretary-treasurer or trustee, or other person, do appear before him at a time and place to be appointed in the order.

(2) Any bailiff of a Division Court, upon being required by the Judge, shall serve the order personally on the person complained against, or leave the same with a grown-up person at his residence. R. S. O. c. 225, s. 257.

202. At the time and place so appointed, the Judge being satisfied that service has been made, shall, in a summary manner, and whether the person complained of does or does not appear, hear the complaint, and if he is of opinion that the complaint is well founded, the Judge shall order the person complained of, to deliver up, account for, and pay over the books, papers, chattels, or moneys as aforesaid, by a certain day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may tax. R. S. O. c. 225, s. 258.

203. In the event of non-compliance with the terms specified in such order, or any or either of them, the Judge shall order the said person to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common gaol of his county, there to remain without bail until the Judge be satisfied that the person has delivered up, accounted for, or paid over the books, papers, chattels or moneys in question, in the manner directed by the majority of the trustees, or other competent

authority as aforesaid; upon proof of his having so done, the Judge shall make an order for his discharge, and he shall be discharged accordingly. R. S. O. c. 225, s. 259.

204. No such proceeding shall impair or affect any other remedy which the said trustees, or other competent authority, may have against the secretary-treasurer, or person having been such secretary-treasurer or his sureties, or against any trustee or other person as aforesaid. R. S. O. c. 225, s. 260.

205. The trustees, or their secretary-treasurer in their behalf, shall not refuse to furnish the auditors of any accounts of a rural school section, or either of them, with any papers or information in their power, and which may be required of them relative to their school accounts, and any contravention of this section upon prosecution therefor by either of the auditors, or any ratepayer, shall be punished by fine or imprisonment, as provided by this Act. R. S. O. c. 225, s. 261.

206. In case the trustees of any rural school section neglect to transmit to the county inspector, on or before the 30th day of June, and the 31st day of December in every year, a correct and verified statement of the average attendance of pupils in each of the schools under their charge during the six months then immediately preceding, then the school section shall not be entitled to the apportionment from the school fund for the said six months, and the trustees so neglecting shall be personally responsible for the amount of the loss of such apportionment. R. S. O. c. 225, s. 262.

207. In case the trustees of any school section neglect to prepare and forward the aforesaid annual report to their county inspector by the 15th day of January in every year, each of them shall, for every week after such 15th day of January, and until such report has been prepared and presented, forfeit the sum of \$5 to be sued for by the county inspector, and collected and applied in the manner provided for by this Act. R. S. O. c. 225, s. 263.

208.—(1) If any trustee of a public school knowingly signs a false report, or if any teacher of a public school keeps a false school register, or makes a false return, with

the view of obtaining a larger sum than the just proportion of school moneys coming to such school, the trustee or teacher shall, for every offence, forfeit to the public school fund of the municipality the sum of \$20 for which any person whatever may prosecute him before a Justice of the Peace, and the trustee or teacher may be convicted on the oath of one credible witness other than the prosecutor.

(2) If upon conviction, the penalty is not forthwith paid, the same shall, under the warrant of the Justice, be levied with costs by distress and sale of the goods and chattels of the offender.

(3) The penalty, when so paid or collected, shall by the Justice be paid over to the said public school fund. R. S. O. c. 225, s. 264.

209.—(1) The trustees of every school section shall be personally responsible for the amount of any school moneys forfeited by or lost to the school section in consequence of the neglect of duty of the trustees during their continuance in office.

(2) The amount thus forfeited or lost shall be collected and applied in the manner provided for by this Act. R. S. O. c. 225, s. 265.

GENERAL PROHIBITIONS.

210.—(1) No teacher, trustee, inspector, or other person officially connected with the Education Department, the normal, model, public, or high schools or collegiate institutes, shall become or act as agent for any person or persons to sell, or in any way to promote the sale for such person or persons, of any school, library, prize or text-book, map, chart, school apparatus, furniture or stationery, or to receive compensation or other remuneration or equivalent for such sale, or for the promotion of sale in any way whatsoever. R. S. O. c. 225, s. 266.

(2) Any teacher who refuses to give up possession of any visitor's book, school register, school house key or any other school property in his possession shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim which he may have against the said trustees. (*New*).

HOW FINES AND PENALTIES MAY BE RECOVERED.

211. (1)—Unless it is in this Act otherwise provided, all fines, penalties, and forfeitures recoverable by summary proceedings, may be sued for, recovered, and enforced with costs, by and before any Police Magistrate or Justice of the Peace having jurisdiction within the school section, city, town, or village in which such fine or penalty has been incurred.

(2) If the fine or penalty and costs are not forthwith paid, the same shall, by and under the warrant of the convicting Justice, be enforced, levied and collected with costs, by distress and sale of the goods and chattels of the offender, and shall be by the Police Magistrate or Justice paid over to the school treasurer of the school section, city, town, or village, or other party entitled thereto.

(3) In default of such distress, the Police Magistrate or Justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs, and the reasonable expenses of endeavouring to collect the same, are sooner paid. R. S. O. c. 225, s. 267.

CONFIRMING AND SAVING CLAUSES.

212. All lands which, previous to the 24th day of July, 1850, were granted devised or otherwise conveyed to any person or persons in trust for common school purposes, and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in the public school trustees of the school section or division in which such lands are respectively situate, shall continue vested in such trustees, and shall continue to be held by said trustees and their successors upon the like trusts and subject to the same conditions and estates upon or subject to which the said lands are now respectively held. R. S. O. c. 225, s. 268.

213. Chapter 225 of the Revised Statutes of Ontario, 1887, and chapter 51 of the Statutes passed in the 52nd year of Her Majesty's reign, are hereby repealed, but such repeal shall not in any manner or for any purpose be deemed or taken to alter, vary, affect or repeal any provision of law relating to Roman Catholic Separate Schools or the supporters thereof.

*

MISCELLANEOUS.

The appointment of officials should not be subject to such frequent changes. The clerk, after serving an apprenticeship, and becoming familiar with the duties of his office, becomes an important adjunct to the Council. Members may come and go, but the Clerk is the most reliable guide and instructor for new members. An Assessor when he becomes acquainted with the residents and property in his district, is less liable to commit an error than any one who may desire to supplant him ; and it is worthy of consideration whether the Assessor should not be also appointed Collector in the district where he has become so familiar with all the property, and the residence or location of the owners. Overseers of highways, and commissioners, have serious duties to perform, and the most competent persons should always be appointed in order that the highways may be kept in good repair. Better remunerate a good overseer for his time, than become liable for damages through any defect in highways or bridges. Generally, the services of an efficient official should be retained as long as his object is to work for the best interests of the municipality.

ERRATA.

Vol. I. p. 125: Note in second line, read "s. 9." In seventh line, read "s. 73."

OMISSION;—Read after page 179, s. 79, Vol. I.:

NOTE.—This section should be amended by adding after the clause "Firstly," a proviso, that in all municipalities adjacent to a city having a population of 100,000 and upwards, persons having the right to vote, shall consist of resident freeholders of the municipality. In many cases the resident vote is powerless to elect members of the Council. For instance:—The Township of York adjoining the City of Toronto, has 4,790 voters; of these, 2,669 are non-resident, and 2,121 resident voters. The Town of North Toronto, adjacent to said city, has 1,230 voters; of these, 887 are non-resident, and 343 resident voters; where personal interests are involved, a non-resident vote may be prejudicial to the best interests of the municipality.

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KEY TO REFERENCES, page 0/0 section, thus : Arbitration, 37/24, means Arbitration will be found at page 37, section 24.

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