

THE CANADIAN

# Municipal Journal.

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BY

ARTHUR L. WILLSON, B.A.

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THE  
Canadian Municipal Journal

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THE MUNICIPAL ACT.

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

(CONTINUED.)

NOTE.—The Municipal Amendment Act, 1892, makes the following amendments to the consolidation of the Act contained in Volume I. of THE JOURNAL up to section 269:—

Sub-section 7 of section 2, page 4, is amended by substituting the words, "and any interest or estate therein or right or easement affecting the same," for the last seven words of said sub-section. It is also enacted that "this section shall not apply to any matter in respect to which an action is now pending but the same shall be concluded and adjudicated upon as though this Act had not been passed."

Sub-section 1 of section 73 of the said Act is amended by adding immediately after the words "the same" the 14th line (page 123 of JOURNAL) the following: "elsewhere than in the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Thunder Bay, Rainy River, and the provisional County of Haliburton;" after article 4 (page 124) add "and in the said last named districts and provisional county:" "5. In townships and incorporated villages freehold to \$200, or leasehold to \$400." "6. In towns freehold to \$400 or leasehold to \$800."

Sub-section 2 (page 124) is amended by inserting the words "or by the expiration or surrender of the demised term" after the word "property" in the fifth line. Add to sub-section 5 of sec. 79 (page 181) the following words, "any leaseholder the term of whose lease is not less than five years shall be deemed an owner within the meaning of this section."

Section 80 is amended by striking out all the words after the word "following" in the fourth line and substituting the following words:—

" In townships and incorporated villages...	\$100
" In towns where the population does not exceed 3,000 .....	200
" In towns with a population of over 3,000.	300
" In cities .....	400
" the population shall be determined by reference to the latest annual enumeration of the assessors."	

Section 99 (page 231) is amended by inserting at the commencement thereof the following words:—

"In any case where the returning officer for any ward refuses or neglects to attend at the time and place required by the clerk to receive his instructions and nomination papers and"

The Act is amended by inserting the following as 105a (page 237) :—

105a. The voter shall be entitled to select for himself for that purpose any one of the forms contained in sections 102 to 105 both inclusive; whatever may be the description either in the voter's list or assessment roll as to the qualification or character in respect of which he is entered upon the list or roll.

Section 117 (page 240) is repealed and the following substituted therefor :—

117. At the nomination meeting or on the following day any person proposed for one or more offices may resign or elect for which office he is to remain nominated; and in default he shall be taken as nominated for the office in respect of which he was first proposed and seconded; the clerk or other returning officer or chairman shall, on the day of the nomination post up in the office of the clerk of the municipality the names of the persons proposed for the respective offices; provided always that the resignation after the nomination meeting of any person so proposed shall be in writing, signed by him and attested by a witness, and shall, within the time hereinbefore mentioned, be delivered to the clerk of the municipality; provided, also, that if by reason of such resignation only one candidate remains proposed for a particular office, the clerk or other returning officer shall declare such candidate duly elected for such office.

Section 239 (page 302) is amended by adding thereto the following sub-section :—

(2) In case of the illness or absence of the mayor, or of the office of mayor being vacant, the person appointed by the council under this section as presiding officer shall also have authority to act as police commissioner during the time he acts as such presiding officer in the place of the mayor.

Section 247 (page 304) is amended by adding thereto the following sub-section :—

(2) A copy of any document in the possession of or under the control of the clerk of the municipality certified under

his hand and under the corporate seal of the municipality may, after the original thereof has been produced from the proper custody, be filed in any court in lieu of such original and shall be received in evidence without proof of the the seal of the corporation or of the signature or official character of the person appearing to have signed the same and without further proof thereof unless the court or judge otherwise directs.

Sub-section 2 of section 268 (pages 315, 316) is amended by adding thereto the following article:—

(a) They shall also make a report upon the condition and value of the securities given by the Treasurer for the due performance of the duties of his office, and such report shall show what cash balance, if any, was due from the treasurer to the municipality at the date of the audit, and where such balance is deposited, and what security exists that the same will be available when required for the purposes of the municipality; but this shall not relieve the council from the performance of any duty imposed thereon by section 249.

Section 268 is amended by adding thereto the following sub-sections:—

(2a) The auditors may make a written requisition upon the treasurer for an order or request to or upon any bank or company with whom the public moneys are or have been deposited, or with whom such treasurer has kept an account, authorizing or requesting such bank or company, to exhibit the account and the details hereof to such auditors, and such treasurer shall within twenty-four hours after the delivery to him of such requisition comply therewith upon pain of forfeiture of office.

(2b) It shall be the duty of the treasurer of every municipal corporation to keep the moneys of the municipality separate as far as practicable from his own moneys, and in depositing any money of the municipality in any bank or company to deposit the same to a separate account kept in his name as treasurer or under some other designation that may show the account to be an account of the money of the municipality.

Sub-section 3 of said section 268 is amended by inserting after the word "taxes" in the eighth line (page 316)

the words following: "A similar statement in detail shall be attached thereto respecting the last 15 days of the preceding year."

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VALUATORS.

**269.** The council of every county may appoint two or more valutors for the purpose of valuing the real property within the county whose duty it shall be to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the county council; but the valutors shall not exceed the powers possessed by assessors; and the valuation so made shall be made the basis of equalization of the real property by the county council for a period not exceeding five years; and the equalization of personal property shall be as heretofore. 46 V. c. 18, s. 271; 55 V. c. 43, s. 14.

(2) The county council may, at or before the expiration of the said period, extend the time for a term not exceeding five years further, and thereupon the valuation shall continue to be made the basis of equalization of the real property by the county council for such extended period.

**270.** (1) Every person elected or appointed under this Act to any office requiring a qualification of property in the incumbent shall, before he takes the declaration of office, or enters on his duties, make and subscribe a solemn declaration to the effect following:

I, *A. B.*, do solemnly declare that I am a natural born (or naturalized) subject of Her Majesty; and have and had to my own use and benefit, in my own right (or have and had in right of my wife, as the case may be), as proprietor (or tenant, as the case may be), at the time of my election (or appointment, as the case may require) to the office of

hereinafter referred to, such an estate as does qualify me to act in the office of (naming the office) for (naming the place for which such person has been elected or appointed), and that such estate is (the nature of the estate to be specified, as an equitable estate of leasehold or otherwise, as the case may require, and if land, the same to be designated by its local description, rents or otherwise) and that such estate at the time of my election (or appointment, as the case may require) was of the value of at least (specifying the value) over and above all charges, liens and incumbrances affecting the same.

(2) Where any person has been elected as reeve, deputy-reeve, or councillor of any township council he may,

instead of the foregoing declaration, make and subscribe a solemn declaration to the effect following:—

I, *A. B.*, do solemnly declare that I am a natural born (or naturalized) subject of Her Majesty; and have and had to my own use and benefit, in my own right (or have and had in right of my wife, *as the case may be*) as proprietor at the time of my election to the office of \_\_\_\_\_ hereinafter referred to, such an estate as does qualify me to act in the office of (naming the office) for (naming the place for which such person has been elected), and that such estate is (the nature of the estate to be specified and the land to be designated by its local description) and that such estate at the time of my election was in my actual occupation, and was actually rated in the then last revised assessment roll of this Township (naming it) at an amount not less than \$2,000. 46 V. c. 18, s. 272; 49 V. c. 37, s. 4.

**271.** Every member of a municipal council, every mayor, and every clerk, treasurer, assessor and collector, engineer or clerk of works and street overseer or commissioner appointed by a council, shall also, before entering on the duties of his office, make and subscribe a solemn declaration to the effect following:—

I, *A. B.*, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office), to which I have been elected (or appointed) in this township (or *as the case may be*), and that I have not received, and will not receive, any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the said corporation “(where declaration is made by the clerk, treasurer, assessor, collector, engineer, clerk of works or street overseer, the words following): ‘save and except that arising out of my office or position as clerk (or *as the case may be*).’” 51 V. c. 28, s. 15; 55 V. c. 43, s. 15.

271 (a). Every returning officer, deputy returning officer, poll clerk, constable and other officer appointed by a council shall, before entering upon the duties of the office, make and subscribe a solemn declaration to the effect following:—

I, *A. B.*, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (inserting the name of the office), to which I have been elected (or appointed) in the township (or *as the case may be*), and that I have not received, and will not receive any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office.

NOTE—It will be seen that sec. 271 of the Municipal Act has been repealed and a distinction made in the forms given by s. 271 and s. 271a for members of councils and certain officials, the nature of whose duties should not preclude them from having an

interest in a contract with the corporation. But as by sec. 271a no exception is made for officials enumerated in sec. 271, such officials are required to make the declaration given in sec. 271a under the words "and other officer appointed by a council."

**272.** The solemn declaration to be made by every auditor shall be as follows :

I, A. B., having been appointed to the office of Auditor for the Municipal Corporation of \_\_\_\_\_, do hereby promise and declare, that I will faithfully perform the duties of such office according to the best of my judgment and ability ; and I do solemnly declare, that I had not directly or indirectly any share or interest whatever in any contract or employment (except that of Auditor, *if reappointed*) with, by, or on behalf of such Municipal Corporation, during the year preceding my appointment, and that I have not any such contract or employment except, that of auditor, for the present year. 46 V. c. 18, s. 274.

**273.** The head and other members of the council, and the subordinate officers of every municipality, shall make the declaration of office and qualification before some Court, Judge, Police Magistrate, or other Justice of the Peace having jurisdiction in the municipality for which such head, members or officers have been elected or appointed, or before the clerk of the municipality ; and the Court, Judge, or other persons before whom such declarations are made, shall give the necessary certificate of the same having been duly made and subscribed. 46 V. c. 18, s. 275.

NOTE.—"The necessary certificate," the word "necessary" refers to the proof of compliance with the Act rather than to any particular form of certificate to be given, see sec. 277. The certificate may be in the following form : "I do certify that C. D. who has been elected (*or appointed*) to the office of (*Mayor, Reeve, Clerk, or as the case may be*) of the \_\_\_\_\_ of \_\_\_\_\_, has this day made and subscribed before me a declaration of office (or qualification) as required by the provisions of *The Municipal Act*,—A. B., J. P. (*or as the case may be*).

**274.** The head of any council, any alderman, reeve or deputy-reeve, any Justice of the Peace or clerk of a muni-

cipality may, within the municipality, administer any oath, affirmation or declaration under this Act, relating to the business of the place in which he holds office, except where otherwise specially provided, and except where he is the party required to make the oath, affirmation or declaration. 46 V. c. 18, s. 276.

**275.** The deponent, affirmant, or declarant shall subscribe every such oath, affirmation, or declaration, and the person administering it shall duly certify and preserve the same, and within eight days deposit the same in the office of the clerk of the municipality to the affairs of which it relates. 46 V. c. 18, s. 277.

**276.** The head of every council, or in his absence the chairman thereof, may administer an oath or affirmation to any person concerning any account or other matter submitted to the council. 46 V. c. 18, s. 278.

**277.** Every qualified person duly elected or appointed to be a mayor, alderman, reeve, or deputy-reeve, councillor, police trustee, assessor or collector of or in any municipality, who refuses such office, or does not within twenty days after knowing of his election or appointment, make the declarations of office and qualification where a property qualification is required, and every person authorized to administer such declaration, who, upon reasonable demand, refuses to administer the same, shall, on summary conviction thereof before two or more Justices of the Peace, forfeit not more than \$80, nor less than \$8, at the discretion of the Justices, to the use of the municipality, together with the cost of prosecution. 46 V. c. 18, s. 279.

NOTE.—Making and subscribing the declarations of office and qualification are sufficient evidence of acceptance of office, and the limitation of time within which such declarations are to be made enables the electors when default is made to take action as herein provided, for contravention of the provisions of the Act, and in case of a contested election there need be no uncertainty when the declarations have been made, in exercising the privileged alternative mentioned in sec. 188 of instituting proceedings “within six weeks after the election,” “or one month after acceptance of office.”

**278.** (1) In case the remuneration of any of the officers of the municipality has not been settled by Act of the Legislature, the council shall settle the same, and the council shall provide for the payment of all municipal officers, whether the remuneration is settled by statute or by by-law of the council.

(2) No municipal council shall assume to make any appointment to office, or any arrangement for the discharge of the duties thereof, by tender or to applicants at the lowest remuneration.

(3) Where a solicitor or counsel is employed by a municipality, whose remuneration is wholly or partly by salary, annual or otherwise, the municipality shall, notwithstanding, have the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel, was not receiving a salary, when the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. 46 V. c. 18, s. 280.

(1a) It shall also be the duty of the council to give a fair and reasonable remuneration to the clerk of the municipality for services and duties performed by him in carrying out the provisions of *The Ditches and Water Courses Act*, the same to be fixed by by-law of the council.

(1b) The council shall also fix by by-law the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by the clerk other than services which it is his duty to perform under the provisions of *The Ditches and Water Courses Act*.

NOTE.—The appointment and remuneration of officers should always be fixed by by-law.

**279.** All officers appointed by a council shall hold office until removed by the council, and shall, in addition to the duties assigned to them in this Act, perform all other duties required of them by any other statute, or by the by-laws of the council. 46 V. c. 18, s. 281.

NOTE.—This section is somewhat conflicting with sec. 271, ss. 1a and 1b. However, councils should make provisions for special services, enumerating the several Acts relating thereto in the by-law

fixing the remuneration of officers. Officials hold office only during the pleasure of the council, unless the office is held under a contract, in writing, authorized by a by-law of the corporation.

**280.** Any municipal council, other than a provisional council, may grant to any officer who has been in the service of the municipality for at least twenty years, and who has, while in such service, become incapable through old age of efficiently discharging the duties of his office, a sum not exceeding his aggregate salary or other remuneration for the last three years of his service, as a gratuity upon his removal or resignation. 46 V. c. 18, s. 282.

**281.** The bonds or policies of guarantee of any incorporated or joint stock company, empowered to grant guarantees, bonds or policies for the integrity and faithful accounting of public officers and other like purposes, may be accepted instead of, or in addition to, the bond or security of any officer or servant of a municipal corporation, in all cases where, by the provisions of this or any other Act, or of any by-law of such corporation, such officer or servant is required to give security, either by himself, or by himself and a surety or sureties, and where the parties directed or authorized to take such security see fit to accept the bond or policy of such company as aforesaid, and approve the terms and conditions thereof; and all the provisions in such Act relating to such security, to be given by such officer or servant, or his sureties, shall apply to the bonds and policies of guarantee of such company as aforesaid, which may be taken instead of, or in substitution of, any existing securities, if the parties directed or authorized as aforesaid see fit, whereupon such existing securities shall be delivered up to be cancelled. 46 V. c. 18, s. 283.

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#### JURISDICTION OF COUNCILS.

**282.** The jurisdiction of every council shall be confined to the municipality the council represents, except where authority beyond the same is expressly given; and the powers of the council shall be exercised by by-law, when not otherwise authorized or provided for. 46 V. c. 18, s. 284.

NOTE.—See note to sec. 8, see ss. 288-290.

**283.** Every council may make regulations not specifically provided for by this Act, and not contrary to law, for governing the proceedings of the council, the conduct of its members, the appointing or calling of special meetings of the council, and generally such other regulations as the good of the inhabitants of the municipality requires, and may repeal, alter and amend its by-laws, save as by this Act restricted. 46 V. c. 18, s. 285.

NOTE.—Every council should have a by-law of rules and regulations, as, by acting in conformity therewith, no unseemly controversies are likely to take place as to Parliamentary usage, etc., for special meetings, see ss. 236, 237.

**284.** A municipal council shall be deemed and considered as always continuing and existing, notwithstanding any annual or other election of the members composing the same, and upon and after the annual or other election of the members thereof, and their having organized and held their first meeting as a council, every council may take up and carry on to completion all by-laws, reports and proceedings which had been begun or have been under consideration by the council, either in the then next preceding year or subsequent or prior thereto, and it shall not be necessary to begin *de novo* with any by-law, proceeding, report, matter or thing entertained by the council in such preceding year, or subsequent or prior thereto, as aforesaid. 49 V. c. 37, s. 43.

**285.** In all cases where, under the provisions of this Act, or of any other Act, any council or the board of commissioners of police, in any city, or either of them, is or are authorized to pass by-laws for licensing any trade, calling, business, or profession, or the person carrying on or engaged in any such trade, calling, business, or profession, the council and the board of commissioners of police, respectively, shall have the power to pass by-laws for fixing the sum to be paid for such license, for exercising any such trade, calling, business, or profession, in the municipality, and enforcing the payment of the license fee, and determining the time the license shall be in force. 46 V. c. 18 s. 286.

**286.** No council shall have the power to give any person an exclusive right of exercising, within the municipality, any trade or calling, or to impose a special tax

on any person exercising the same, or to require a license to be taken for exercising the same, unless authorized or required by statute so to do; but the council may direct a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to such trade or calling. 46 V. c. 18, s. 287.

**287.** A council may grant exclusive privileges in any ferry which may be vested in the corporation represented by such council, other than a ferry between a Province of the Dominion of Canada and any British or foreign country, or between two Provinces of the Dominion. 46 V. c. 18, s. 288. See B. N. A. Act, 1867, s. 91, (13); cap. 117; and sec. 495 (4), *post*.

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#### BY-LAWS.

**288.** Every by-law shall be under the seal of the corporation, and shall be signed by the head of the corporation, or by the person presiding at the meeting at which the by-law has been passed, and by the clerk of the corporation. 46 V. c. 18, s. 289.

NOTE.—See ss. 8, 282.

**289.** A copy of any by-law, written or printed, without erasure or interlineation, and under the seal of the corporation, and certified to be a true copy by the clerk, and by any member of the council, shall be deemed authentic, and be received in evidence in any Court of Justice without proof of the seal or signatures, unless it is specially pleaded or alleged that the seal or one or both of the signatures have been forged. 46 V. c. 18, s. 290.

NOTE.—But see sec. 332.

**290.** The facts required by this Act to be recited in any by-law which requires the approval of the Lieutenant-Governor in Council, shall, before receiving such approval, be verified by solemn declaration, by head of the Council, and by the treasurer and clerk thereof, and by such other person, and on such other evidence, as to the Lieutenant-Governor in Council satisfactorily proves the facts so recited; or in case of the death or absence of such municipal officer, upon the declaration of any other member of the council, whose declaration the Lieutenant-Governor in Council may accept. 46 V. c. 18, s. 291.

**291.** In case a person rated on the assessment roll of a municipality, or of any locality therein, objects to the passing of a by-law, the passing of which is to be preceded by the application of a certain number of the rateable inhabitants of such municipality or place, he shall, on petitioning the council, be at liberty to attend in person, or by counsel or solicitor, before the council at the time at which the by-law is intended to be considered, or before a committee of the council appointed to hear evidence thereon, and may produce evidence that the necessary notice of the application for the by-law was not given, or that any of the signatures to the application are not genuine, or were obtained upon incorrect statements, and that the proposed by-law is contrary to the wishes of the persons whose signatures were so obtained, and that the remaining signatures do not amount to the number, nor represent the amount of property, necessary to the passing of the by-law. 46 V. c. 18, s. 292.

NOTE.—Upon petition, as provided by this section, a ratepayer is vested with a statutory privilege of addressing the council or a committee thereof, without its formal concurrence. See also sec. 546, s-s. 3.

**292.** If the council is satisfied upon the evidence that the application for the by-law did not contain the names of a sufficient number of persons, whose names were obtained without fraud and in good faith, and who represent the requisite amount of property, and are desirous of having the by-law passed, or if the council is satisfied that the notice required by law was not duly given, the council shall not pass the by-law. 46 V. c. 18, s. 293.

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#### VOTING ON BY-LAWS.

**293.** In case a by-law requires the assent of the electors of a municipality before the final passing thereof, the following proceedings shall be taken for ascertaining such assent, except in cases otherwise provided for :

1. The council shall, by the by-law, fix the day and hour for taking the votes of the electors, and such places in the municipality as the council shall, in their discretion, deem best for the purpose, and where the votes are to be taken

at more than one place, shall name a deputy-returning officer to take the votes at every such place; and the day so fixed for taking the votes shall not be less than three, nor more than five, weeks after the first publication of the proposed by-law.

2. The council shall, before the final passing of the proposed by-law, publish a copy thereof in some public newspaper published either within the municipality or in the county town, or in a public newspaper published in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week for three successive weeks, and the council shall put up a copy of the by-law at four or more of the most public places in the municipality. 46 V. c. 18, s. 294 (1, 2).

3. Appended to the copy so published and posted shall be a notice, signed by the clerk of the council, stating that the copy is a true copy of a proposed by-law which has been taken into consideration, and which will be finally passed by the council in the event of the assent of the electors being obtained thereto, after one month from the first publication in the newspaper, stating the date of the first publication, and that at the hour, day and place or places therein fixed for taking the votes of the electors, the polls will be held. 46 V. c. 37, s. 25.

NOTE.—See note to sec. 19; also ss. 329, 571.

**294.** Forthwith after the day has been fixed as aforesaid, for taking the votes of electors with respect to the by-law, the clerk of the municipal council which proposes the by-law, shall cause to be printed, at the expense of the municipality, such a number of ballot papers as will be sufficient for the purposes of the voting. 46 V. c. 18, s. 295.

**295.** The ballot papers shall be according to the form of Schedule J to this Act. 46 V. c. 18, s. 296.

**296.** The council shall, by the by-law, fix a time when, and a place where, the clerk of the council which proposed the by-law shall sum up the number of votes given for and against the by-law, and a time and place for the appointment of persons to attend at the various polling places, and at the final summing up of the votes by the

clerk respectively, on behalf of the persons interested in, and promoting or opposing the passage of, the by-law respectively. 46 V. c. 18, s. 297.

**297.** At the time and place named, the head of the municipality shall appoint, in writing signed by him, two persons to attend at the final summing up of the votes, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the the passing of the by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of the by-law. 46 V. c. 18, s. 298.

**298.** Before any person is so appointed he shall make and subscribe, before the head of the municipality, a declaration in the form of Schedule K to this Act, that he is interested in, and desirous of promoting, or opposing (as the case may be), the passing of the by-law. 46 V. c. 18, s. 299.

**299.** Every person so appointed before being admitted to the polling place or the summing up of the votes, as the case may be, shall produce to the deputy-returning officer, or clerk of the municipality, as the case may be, his written appointment. 46 V. c. 18, s. 300.

**300.** In the absence of any person authorized as aforesaid to attend at a polling place, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing, before the deputy-returning officer at the polling place, or the clerk of the municipality, a declaration in the form of Schedule K to this Act, be admitted to the polling place to act for the person so absent. 46 V. c. 18, s. 301.

**301.** During the time appointed for polling no person shall be entitled or permitted to be present in any polling place, other than the officers, clerks and persons or electors authorized to attend as aforesaid at the polling place. 46 V. c. 18, s. 302.

**302.**—(1) The clerk of the municipality, on the request of any elector entitled to vote at one of the polling places, who has been appointed deputy-returning officer or poll clerk, or who has been named as the person to attend at a polling place, other than the one where he is entitled to vote, shall give to such elector a certificate that such deputy-returning officer, poll clerk, or person is entitled to

vote for or against the by-law, at the polling place where such elector is stationed during the polling day, and the certificate shall also state the property or other qualification in respect to which he is entitled to vote.

(2) On the production of the certificate, the deputy-returning officer, poll clerk, or person shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling place of the ward, or polling subdivision where he would otherwise have been entitled to vote; and the deputy-returning officer shall attach the certificate to the voters' list; but no such certificate shall entitle such elector to vote at such polling place, unless he has been actually engaged as deputy-returning officer, poll clerk, or person during the day of polling.

(3) In case of a deputy-returning officer voting at the polling place at which he is appointed to act, the poll clerk, or in the absence of the poll clerk, anyone authorized to be present at the polling place, may administer to the deputy-returning officer the oath required to be taken of voters qualified to vote on the by-law. 46 V. c. 18, s. 303.

**303.** In the case of municipalities which are divided into wards or polling subdivisions, the clerk of the municipality shall, before the poll is opened, prepare and deliver to the deputy-returning officer for every ward or polling subdivision, a voters' list in the form of Schedule C to this Act, containing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled, under the provisions of sections 308 and 309 of this Act, to vote in that ward or polling subdivision, and shall attest the said list by his solemn declaration in writing under his hand. 46 V. c. 18, s. 304.

**304.** In the case of municipalities which are not divided into wards or polling subdivisions, the clerk shall provide himself with the necessary ballot papers, the materials for marking ballot papers, printed directions to voters, and a list of electors for the municipality similar to the list mentioned in the preceding section; and the clerk shall perform the like duties with respect to the whole municipality as are imposed upon a deputy-returning officer in respect of a ward or polling subdivision. 46 V. c. 18, s. 305.

**305.** At the day and hour fixed as aforesaid, a poll shall be held and the vote shall be taken by ballot. 46 V. c. 18, s. 306.

**306.** The proceedings at the poll, and for and incidental to the same, and the purposes thereof, shall be the same, as nearly as may be, as at municipal elections, and all the provisions of sections 120 to 176 inclusive, of this Act, so far as the same are applicable, and except so far as is herein otherwise provided, shall apply to the taking of votes at the poll, and to all matters incidental thereto. 46 V. c. 18, s. 307.

**307.** The printed directions to be delivered to the deputy-returning officers shall be in the form of Schedule L to this Act. 46 V. c. 18, s. 308.

**308.**—(1) Every ratepayer, being a man, unmarried woman or widow, shall be entitled to vote on any by-law requiring the assent of the electors, who, at the time of tender of the vote, is of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and who is at the time of the tender a freeholder in his own right of real property within such municipality, of sufficient value to entitle him to vote at any municipal election, and is rated on the last revised assessment roll as such freeholder, provided such person is named or purported to be named in the voters' list of electors.

(2) In case of a new municipality in which there has not been any assessment roll, the qualification of being named on the list and of being rated on the roll shall be dispensed with, but in such case the person offering to vote shall not be entitled to vote, unless he possesses the other qualifications above mentioned, and has, at the time of tender of his vote, sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names such property to the deputy-returning officer; and the deputy-returning officer shall note such property in the voters' list opposite the voter's name, at the request of any one entitled to vote on such by-law. 46 V. c. 18, ss. 309, 311.

**309.**—(1) Every ratepayer shall be entitled to vote on any by-law requiring the assent of the electors, who is a man, unmarried woman or widow, and at the time of

tender of the vote is of the full age of twenty-one years, and a natural born or naturalized subject of Her Majesty, and who has neither directly nor indirectly received, nor is in expectation of receiving, any reward or gift for the vote which he tenders, and is resident within the municipality for which the vote is taken for one month next before the vote, and who is, or whose wife is, a leaseholder of real property within the municipality of sufficient value to entitle him to vote at a municipal election, and who is rated on the last revised assessment roll therefor, and which lease extends for the period of time within which the debt to be contracted or the money to be raised by the by-law is made payable; in which lease the lessee has covenanted to pay all municipal taxes in respect of the property leased, and which person is named, or purported to be named, in the voters' list.

(2) The said provisions as to the lease extending for the period of time within which the debt to be contracted or the money to be raised by such by-law is made payable, shall not apply to a by-law respecting local improvements, under section 625 of this Act.

(3) In case of a new municipality in which there has not been any assessment roll, the qualification of being named on the list and of being rated on the roll, and of residence for one month, shall be dispensed with, but in such case the person offering to vote shall not be entitled to vote unless possessing the other qualifications above mentioned, and unless he is at the time of tender of his vote a resident of the municipality, and then has sufficient property to have entitled him to vote if he had been rated for such property, and unless at such time he names the property to the deputy-returning officer; and the deputy-returning officer shall note the property in the voters' list, opposite the voter's name, at the request of any one entitled to vote on such by-law. 46 V. c. 18, ss. 310, 311. 55 V. c. 43, s. 17.

309a. "Where a municipality is divided into wards, such ratepayer shall be so entitled to vote in each ward in which he has the qualification to entitle him to vote on such by-laws."

**310.** Any ratepayer offering to vote in respect of a freehold on such by-law, may be required by the deputy-returning officer, or any ratepayer entitled to vote on such

by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded :

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

That you are a freeholder in your own right (or your wife is a freeholder), within the Municipality (or ward, as the case may be) for which the vote is taken ;

That you have not voted before on the by-law in this Township (or Ward, as the case may be) ;

That you are, according to law, entitled to vote on the said by-law in the Ward for which this vote is taken ;

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 are the person named, or purporting to be named, in the voters' list of electors.

(In the case of an unmarried woman or widow claiming to vote). That you are unmarried (or a widow, as the case may be) ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

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

(In case of a new Municipality in which there has not been any assessment roll, then instead of referring to being named in the voters' list, the person offering to vote may be required to name, in the oath, the property in respect of which he claims to vote ;)

And no enquiries shall be made of any voter, except with respect to the facts specified in such oath or affirmation.  
46 V. c. 18, s. 312. 55 V. c. 43, s. 18.

**311.** Any ratepayer offering to vote in respect of a leasehold, on such by-law, other than a by-law respecting local improvements, under section 625, may be required by the deputy-returning officer or any ratepayer entitled to vote on such by-law, to make the following oath or affirmation, or any part thereof, or to the effect thereof, before his vote is recorded :

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 been a resident within the Municipality for which the vote is taken, for one month next before the vote ;

That you are (or your wife is), a leaseholder within this Municipality (or Ward, as the case may be), and the lease extends for the period of time within which the debt to be contracted or the money to be raised by the by-law now submitted to the ratepayers is made payable, and that you have (or the lessee in said lease has) covenanted in such lease to pay all municipal taxes ;

That you have not before voted on the by-law in this Township (or Ward, as the case may be) ;

That you are, according to law, entitled to vote on the said by-law in the Ward for which this vote is taken ;

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 are the person named, or purporting to be named, in the voters' list ;

(In the case of an unmarried woman or widow claiming to vote). That you are unmarried (or a widow, as the case may be) ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

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

(In case of a new municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the vote and of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote, and that he is a resident of such Municipality ;)

And no enquiries shall be made of a voter, except with respect to the facts specified in the oath or affirmation.  
46 V. c. 18, s. 313. 55 V. c. 43, s. 19.

**312.** A ratepayer offering to vote in respect of a leasehold, on a by-law respecting local improvements, under section 625, may be required by the deputy-returning officer, or any ratepayer entitled to vote on the by-law, to make the following oath or affirmation, or any part thereof or to the effect thereof, before his vote is recorded :

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 been a resident within the Municipality for which the vote is taken, for one month next before the vote ;

That you are (or your wife is) a leaseholder within this Municipality (or Ward, as the case may be), and that you have (or the lessee in such lease has) covenanted in such lease to pay all municipal taxes ;

That you have not before voted on the by-law in this Township (or Ward, as the case may be) ;

That you are, according to law, entitled to vote on the said by-law, in the Ward for which this vote is taken ;

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 are the person named, or purporting to be named, in the voters' list ;

(In the case of an unmarried woman or widow claiming to vote.) That you are unmarried (or a widow, as the case may be) ;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote on this by-law or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

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

*(In case of a new Municipality in which there has not been any assessment roll, then instead of swearing to residence for one month next before the vote, and of referring to being named in the voters' list, the person offering to vote may be required to name in the oath the property in respect of which he claims to vote, and that he is resident of such Municipality;)*

And no enquiries shall be made of a voter, except with respect to the facts specified in the oath or affirmation. 46 V. c. 18, s. 314. 55 V. c. 43, s. 20.

**313.** The written statement to be made by every deputy-returning officer at the close of the polling shall be made under the following heads:

- (a) Name or number of ward or polling subdivision, and of the municipality, and the date of the polling;
- (b) Number of votes for and against the by-law;
- (c) Rejected ballot papers. 46 V. c. 18, s. 315.

**314.** The deputy-returning officer shall take a note of any objection made by any person authorized to be present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the deputy-returning officer. 46 V. c. 18, s. 316.

**315.** Every deputy-returning officer, at the completion of the counting of votes after the close of the poll shall, in the presence of the persons authorized to attend, make up into separate packets, sealed with his own seal, and the seals of such persons authorized to attend as desire to affix their seals, and marked upon the outside with a short statement of the contents of such packet, the date of the day of polling, the name of the deputy-returning officer, and of the ward or polling subdivision and municipality—

- (a) The statement of votes given for and against the by-law and rejected ballot papers;
- (b) The used ballot papers which have not been objected to and have been counted;

- (c) The ballot papers which have been objected to, but which have been counted by the deputy-returning officer;
- (d) The rejected ballot papers;
- (e) The spoiled ballot papers;
- (f) The unused ballot papers;
- (g) The voters' list, with the oath in the form of Schedule G annexed thereto; a statement of the number of voters whose votes are marked by the deputy-returning officer, under the heads "Physical Incapacity" and "Unable to Read," with the declarations of inability; and the notes taken of objections made to ballot papers found in the ballot box. 46 V. c. 18, s. 317.

**316.** Every deputy-returning officer shall, at the close of the poll, certify, under his signature, on the voters' list, in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside, and shall, before placing the voters' list in its proper packet as aforesaid, make and subscribe before the clerk of the municipality, a Justice of the Peace or the poll clerk, his solemn declaration that the voters' list was used in the manner prescribed by law, and that the entries required by law to be made therein were correctly made, which declaration shall be in the form of Schedule G to this Act, and shall, thereafter be annexed to the voters' list: he shall also forthwith return the ballot box to the clerk of the municipality. 46 V. c. 18, s. 318.

**317.** Every deputy-returning officer, upon being requested so to do, shall deliver to the persons authorized to attend at his polling place, a certificate of the number of votes given at the polling place for and against the by-law, and of the number of rejected ballot papers. 47 V. c. 18, s. 319.

**318.** The clerk, after he has received the ballot papers and statements before mentioned of the number of votes given in each polling place, shall, at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, without opening any of the sealed packets of ballot papers, sum up from such statements the number of votes for and against the by-law, and shall then and there declare the

result, and forthwith certify to the council under his hand, whether the majority of the electors voting upon the by-law have approved or disapproved of the by-law. 46 V. c. 18, s. 320.

**319.** Where the assent of the electors or of the ratepayers, or a proportion of them, is necessary to the validity of a by-law, the clerk or other officer shall not be entitled to give a casting vote. 46 V. c. 18, s. 321.

**320.**—(1) To render valid a by-law of a municipality for granting a bonus in aid of a railway, or in aid of any water-works or water company, or for taking stock in a railway company, or for lending money to such company, or for guaranteeing the payment of money borrowed by such company, the assent shall be necessary of one-third of all ratepayers who were entitled to vote, as well as of a majority of the ratepayers voting on the by-law.

(2) In such case, in addition to the certificate required by section 318 of this Act, the clerk, in case of the majority of votes being in favor of the by-law, shall further certify whether or not, as far as shewn by the voters' list, and assessment roll, such majority appears to be one-third of all the voters who were entitled to vote on the by-law.

(3) In case of dispute as to the result of the vote, the Judge shall have the same powers for determining the question as he has in any case of a scrutiny of the votes.

(4) The petition to the Judge may be by any elector, or by the Council; and the proceedings for obtaining the Judge's decision shall be the same, as nearly as may be, as in the case of a scrutiny. 46 V. c. 18, s. 322. 53 V. c. 50, ss. 7, 8. 55 V. c. 43, s. 21.

**321.**—(1) Every officer, clerk and person in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place.

(2) No officer, clerk or other person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain, at the polling place, information as to the manner in which any voter at such polling place is about to vote or has voted.

(3) No officer, clerk or other person shall communicate at any time, to any person, any information obtained at a polling place as to the manner in which any voter at such polling place is about to vote or has voted.

(4) Every officer, clerk and person in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not communicate, or attempt to communicate, any information obtained at such counting as to the manner in which any vote is given in any particular ballot paper.

(5) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the manner in which he has marked his vote.

(6) Every person who acts in contravention of this section shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labor. 46 V. c. 18, s. 323.

**322.** The clerk of the municipality, and every officer, clerk or person authorized to attend a polling place, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy in the presence, if he is the clerk of the municipality, of a Justice of the Peace, and if he is any other officer, or a clerk or an agent, in the presence of a Justice of the Peace, or the clerk of the municipality, or a deputy-returning officer; and such statutory declaration of secrecy shall be in the form given in Schedule M to this Act, or to the like effect. 46 V. c. 18, s. 324.

**323.** If within two weeks after the clerk of the council who proposed the by-law has declared the result of the voting, any elector applies upon petition to the County Judge after giving such notice of the application, and to such persons as the Judge directs, and shews by affidavit to the Judge reasonable grounds for entering into a scrutiny of the ballot papers, and the petitioner enters into a recognizance before the Judge in the sum of \$100, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of \$50 each, conditioned to prosecute the petition with effect, and to pay the party against whom the same is brought any costs which may be adjudged to him against the petitioner, the Judge may appoint a day and place, within the municipality, for entering into the scrutiny. 46 V. c. 18, s. 325.

**324.** At least one week's notice of the day appointed for the scrutiny, shall be given by the petitioner to such persons as the Judge directs, and to the clerk of the municipality. 46 V. c. 18, s. 326.

**325.** On the day and at the hour appointed, the clerk shall attend before the Judge with the ballot papers in his custody, and the Judge upon inspecting the ballot papers, and hearing such evidence as he may deem necessary, and on hearing the parties, or such of them as may attend, or their counsel, shall, in a summary manner, determine whether the majority of the votes given is for or against the by-law, and shall forthwith certify the result to the council. 46 V. c. 18, s. 327.

**326.** The Judge shall on the scrutiny possess the like powers and authority, as to all matters arising upon the scrutiny, as are possessed by him upon a trial of the validity of the election of a member of a municipal council; and in all cases costs shall be in the discretion of the Judge, as in the case of applications to quash a by-law, or he may apportion the costs as to him seems just. 46 V. c. 18, s. 328.

**327.** A by-law which is duly carried by the vote of the qualified electors, shall within six weeks thereafter be passed by the council. 46 V. c. 18, s. 329; 49 V. c. 37, s. 6.

NOTE.—46 V. c. 18, s. 329, reads as follows: "Any by-law which is carried by a majority of the duly qualified electors voting thereon shall within six weeks thereafter be passed by the Council which submitted the same. By 49 V. c. 37, s. 6, the last four words were struck out.

This section is now applicable not only to a by-law requiring a majority vote of electors voting thereon, but to such by-laws as may require the assent of a certain proportion of all ratepayers entitled to vote. See sec. 320; see sec. 505 "thirdly."

**328.** In case of a petition being presented, the by-law shall not be passed by the Council until after the petition has been disposed of; and the time which intervenes between the presenting of the petition and the final disposal thereof shall not be reckoned as part of the six weeks

within which the by-law is to be passed. 46 V. c. 18, s. 330.

**329.** Every promulgation of a by-law shall consist in the publication, through the public press, of a true copy of the by-law, and of the signature attesting its authenticity, with a notice appended thereto of the time limited by law for applications to the Courts to quash the same or any part thereof, and the publication aforesaid shall be in such public newspaper, published either within the municipality or in the county town, or in a public newspaper published in an adjoining local municipality, as the council may designate by resolution, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper, each week, for three successive weeks. 46 V. c. 18, s. 331.

NOTE.—“Promulgation” from Lat. Promulgatio, an open declaration, publication, or proclamation. See note to sec. 19; see also ss. 293, 571. Application to quash a by-law must be made within three months next after the third publication thereof. See sections 330 and 331; see, also, secs. 333, 334, 352.

**330.** The notice to be appended to every copy of the by-law for the purpose aforesaid, shall be to the effect following:

NOTICE.—The above is a true copy of a by-law passed by the municipal council of the \_\_\_\_\_ of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 18 \_\_\_\_\_ and approved by His Honour the Lieutenant-Governor in Council, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 18 \_\_\_\_\_

(where such approval is required to give effect to the by-law): And all persons are hereby required to take notice that any one desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the High Court at Toronto, within three months next after the publication of this notice once a week for three successive weeks, in the newspaper called the \_\_\_\_\_ or he will be too late to be heard in that behalf.

46 V. c. 18, s. 332.

**331.** In case no application to quash a by-law is made within three months next after the third publication thereof and notice as aforesaid, the by-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of substance or form, either in the by-

law itself, or in the time or manner of passing the same, be a valid by-law. 46 V. c. 18, s. 333.

**332.**—(1) Any resident of a municipality, or any other person interested in a by-law, order or resolution of the council thereof, may by motion apply to the High Court to quash the by-law, order or resolution in whole or in part for illegality, and the court may upon such motion quash the by-law, order or resolution accordingly in whole or in part for illegality, and may according to the result of the application award costs for or against the corporation;

(2) The notice of such motion shall be served at least 7 days before the day on which the motion is to be made;

(3) The by-law, order or resolution may upon such motion be proved by the production of a copy of the by-law, order or resolution, certified under the hand of the clerk, and under the corporate seal, and shewn by affidavit to have been received from the clerk. Provided, however, that before any such motion is made or entertained the applicant shall enter into a recognizance before the judge of the county court of the county in which the municipality whose by-law is the subject of the notice is situate, himself in the sum of \$50, and two sureties each in the sum of \$50, conditioned to prosecute the motion with effect. The judge may allow the said recognizance upon the sureties making proper affidavits of justification, and thereupon the same shall be filed in the High Court with the other papers relating to the motion. 55 V. c. 43, s. 22.

**333.** No application to quash a by-law, order or resolution, in whole or in part, shall be entertained unless the application is made within one year from the passing of the by-law, order, or resolution, except in the case of a by-law requiring the assent of electors or ratepayers, when the by-law has not been submitted to, or has not received the assent of, the electors or ratepayers, and in such case an application to quash the by-law may be made at any time. 46 V. c. 18, s. 335.

**334.** In case a by-law, by which a rate is imposed, has been promulgated in the manner hereinbefore specified, no application to quash the by-law shall be entertained after the expiration of three months from the promulgation. 46 V. c. 18, s. 336.

NOTE.—See sec. 352 and note to sec. 329.

**335.** Any by-law, the passage of which has been procured through, or by means of, any violation of the provisions of sections 209 and 210 of this Act shall be liable to be quashed upon an application to be made in conformity with the provisions hereinbefore contained. 46 V. c. 18, s. 337.

**336.**—(1) Before determining an application for the quashing of a by-law, upon the ground that any of the provisions of the said sections 209 and 210 of this Act have been contravened in procuring the passing of the same, and if it is made to appear to a Judge of the High Court that probable grounds exist for a motion to quash the by-law, the Judge may make an order for any inquiry to be held, upon such notice to the parties affected as the Judge may direct, concerning the said grounds, before the Judge of the County Court of the county in which the municipality which passed the by-law is situate, and require that upon the inquiry all witnesses, both against and in support of the by-law, be orally examined and cross-examined upon oath before the County Court Judge.

(2) The County Court Judge shall thereupon return the evidence so taken before him, to one of the Registrars of the High Court at Toronto; and after the return of the evidence, and upon reading the same, a Judge of the High Court may, upon notice to such of the parties concerned as he thinks proper, proceed to hear and determine the question; and if the grounds therefor appear to him to be satisfactorily established he may make an order for quashing the by-law, and he may order the costs attending the proceedings to be paid by the parties or any of them who have supported the by-law; and if it appears that the application to quash the by-law ought to be dismissed, the Judge may so order, and in his discretion award costs, to be paid by the persons applying to quash the by-law. 46 V. c. 18, s. 338.

**337.** After an order has been made by a Judge directing an inquiry, and after a copy of the order has been left with the clerk of the corporation of which the by-law is in question, all further proceedings upon the by-law shall be staid until after the disposal of the application in respect of which the inquiry has been directed; but if the matter is not prosecuted to the satisfaction of the Judge he may remove the stay of proceedings. 46 V. c. 18, s. 339.

**338.** In case a by-law, order, or resolution is illegal, in whole or in part, and in case anything has been done under it which, by reason of such illegality, gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring the action has been given to the corporation, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. 46 V. c. 18, s. 340.

**339.** In case the corporation tenders amends to the plaintiff or his solicitor, if such tender is pleaded and (if traversed) proved, and if no more than the amount tendered is recovered, the plaintiff shall have no costs, but costs shall be taxed to the defendant, and set off against the verdict, and the balance due to either party shall be recovered as in ordinary cases. 46 V. c. 18, s. 341. See sec. 430.

#### BY-LAWS CREATING DEBTS.

**340.** Every municipal council may, under the formalities required by law, pass by-laws for contracting debts, by borrowing money or otherwise, and for levying rates for payment of such debts on the ratable property of the municipality for any purpose within the jurisdiction of the council, but no such by-law shall be valid, which is not in accordance with the following restrictions and provisions, except in so far as is otherwise provided in the next following two sections of this Act :

1. The by-law, if not creating a debt for the purchase of public works, shall name a day in the financial year in which the same is passed when the by-law is to take effect ; and if no day is named shall take effect on the day of the passing thereof ;

2. If not contracted for railways, harbor works or improvements, gas or water works, or for the purpose of public works according to the statutes relating thereto, or for the construction of sewers by the municipality, the purchase and improvement of parks or the erection of public school houses, the whole debt and the obligations to be issued therefor shall be made payable at twenty years at furthest from the date on which such by-law takes effect, and if a debt is contracted for railways, gas or water works,

or for the construction of sewers by the municipality, the purchase and improvement of parks or the erection of public school houses, the same shall in like manner be paid in thirty years at furthest from the date on which the by-law takes effect;

3. The by-law shall settle a certain specific sum to be raised annually for the payment of interest during the currency of the debentures; also, a certain specific sum to be raised annually for the payment of the debt; such sum to be such as will be sufficient with the estimated interest on the investments thereof, to discharge the debt when payable;

4. In settling the sum to be raised annually for the payments of the debt, the rate of interest on investments shall not be estimated at more than five per cent. per annum, to be capitalized yearly;

5. The by-law shall provide that such annual sum shall be raised and levied in each year by a special rate, sufficient therefor, on all the ratable property in the municipality; or, if the by-law is for a work payable by local assessment, on all the property ratable under the by-law or per foot frontage, as the case may be;

6. The by-law, unless it is for a work payable by local assessment, shall recite:

- (a) The amount of the debt, which the new by-law is intended to create, and, in some brief and general terms, the object for which it is to be created;
- (b) The total amount required by this Act to be raised annually by special rate for paying the new debt and interest;
- (c) The amount of the whole ratable property of the municipality according to the last revised, or revised and equalized assessment roll;
- (d) The amount of the existing debenture debt of the municipality, and how much (if any), of the principal or interest is in arrear. 46 V. c. 18, s. 342.

NOTE.—For the purchase of public works see sec. 349-350.

AN ACT RESPECTING THE ASSESSMENT  
OF PROPERTY.

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

(CONTINUED.)

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NOTE.—The Assessment Amendment Act, 1892, contains the following amendments to the consolidation of the Act contained in Vol. I. of the Journal up to sec. 140:

Sub-section 23 of sec. 7 is amended by striking out all the words after "earnings" in the second line, page 28, and substituting the words "to the amount of \$700" in lieu thereof.

Sub-section 24 of said section is amended by striking out all after the figures \$400 in the second line, page 28, and adding the words "derived from any source other than personal earnings."

Sub-section 24a is added to said section 7 as follows:

24a. Provided, nevertheless, that no person shall be exempted for or in respect of income for a sum greater than \$700, whether derived from personal earnings or from other sources of income, or from the two combined.

A new section 7 (a) is added as follows :

7 (a)—(1) In any town or incorporated village in which there are lands held and used as farm lands only, and in blocks of not less than five acres by any one person, such lands shall be assessed as farm lands.

(2) When such lands are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally,

the council of such town or incorporated village shall annually, at least two months before striking the rate of taxation for the year, pass a by-law declaring what part or parts of the said lands so held and used as farm lands only, shall be exempt or partly exempt from taxation for the expenditure of the municipality incurred for water works, the making of sidewalks, the construction of sewers or the lighting and watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such improvements. Provided nevertheless that nothing in this sub-section contained shall exempt or relieve any lands therein mentioned from the general rate for the payment of any debenture debt contracted before the passing of this Act or that may be renewed in whole or in part.

(3) Any person claiming such exemption in whole or in part shall notify the council of the municipality thereof within one month after the time fixed by law for the return of the assessment roll and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed.

(4) Any person complaining that the said by-law does not exempt or sufficiently exempt him or his said farm lands from taxation as aforesaid, may within 14 days after the passing thereof notify the clerk of the municipality of the intention to appeal against the provision of such by-law or any of them to the judge of the county court who shall have full power to alter or vary any or all of the provisions of the said by-law, and determine the matter of complaint in accordance with the spirit and intent of the preceding sub-section and of this Act.

(5) The provisions of sub-section 3 of section 68, as amended by *The Assessment Amendment Act, 1890*, sub-sections 4, 5 and 6 of section 68, and sections 69, 70, 71, 72, 73 and 74 of this Act, and section 7 of *The Assessment Amendment Act, 1889*, relating to appeals from a court of revision to the county judge and the amendment of the assessment roll thereon, shall so far as applicable, regulate and govern the procedure to be followed upon appeals to the county judge under this section and the amendment of the by-law thereon.

(6) Nothing in the last two preceding sub-sections contained, shall be deemed to prevent or affect the right of appeal to the county judge from the decision of a court of revision upon any appeal against an assessment.

Section 14, s-s. 3, column 2 is struck out, and the following substituted: "Column 2, name (surname first) and post office address of taxable party."

Column 8 of said section is amended by adding thereto the words "or residence in the case of manhood suffrage voters."

Section 16 is amended by adding the following:

"But when a married woman is assessed as owner, the name of the husband shall also be entered upon the assessment roll as an occupant." [See secs. 28-30 of *Assessment Act*.]

Section 28, page 154, is amended by adding s-s. (2) as follows:

(2) The owners or tenants of islands in the lakes not exceeding ten acres in extent and used with the houses erected thereon exclusively as summer resorts and upon which the owner or his tenants do not reside more than three months in the year and whereon no statute labour is done, shall not be rated for statute labour nor shall the owner or tenant thereof be liable for the performance of statute labour or for the payment of commutation thereof for or in respect of such property.

Section 29a (page 155), is amended by inserting the words "not owned by any municipal corporation" after the word "roads" in the first line thereof.

Section 29b, is amended by striking out the word "municipality" from the first line thereof, and inserting the words "other than a municipal corporation" after the word "person" in the second line thereof.

Section 31, (page 185) is repealed and the following substituted in lieu thereof:

31. Subject to the provisions of section 8 no person deriving an income from any trade, calling, office, profession or other source whatsoever not declared exempt by this Act shall be assessed for a less sum as the amount of his net personal earnings or income during the year then last

past than the excess of such earnings or income over and above the exemptions specified in sub-sections 23 and 24 and 24a of section 7 of this Act, and such last year's income in excess of such exempted sums shall be held to be his net personal property unless such person has other personal property liable to assessment, in which case such excess of income and other personal property shall be added together and constitute his personal property liable to assessment.

Section 38 (page 187) is repealed and the following section substituted:

38. Every person who holds any appointment or office of emolument to which any salary, gratuity or other compensation is attached, or who is hired or regularly employed for wages, salary or other compensation, and performs the duties of such appointment or office, or the work in which he is so employed within a municipality in which he does not reside, shall be assessed in respect of such salary, gratuity, wages or other compensation at the place where he performs such duties or is so employed, and he shall not be assessable therefor at his place of residence, but if required shall procure a certificate of being otherwise assessed under the provisions of this section. But this section shall not apply to clergymen, county municipal officers, or to Government officers or officers of minor municipalities when the location of the office is fixed by law or regulation of the Government or municipality, but in such cases the salary, gratuity, wages or other compensation, shall be assessed against the incumbent of the office in the municipality wherein he resides.

Section 49, (page 191) is repealed, and the following substituted:

49. Subject to the provisions of sections 52 and 54 every assessor shall begin to make his roll in each year not later than the 15th day of February and shall complete the same on or before the 30th day of April and shall attach thereto the following affidavit or solemn declaration verified upon oath or solemn affirmation before the Clerk, a Justice of the Peace or a Commissioner in the form following:

I (*name and residence*), make oath and say (*or solemnly declare and affirm*),

1. That I have set down in the above assessment roll all the real property liable to taxation, situate in the municipality (or ward) of (*as the case may be*), and the true actual value thereof in each case;

2. According to the best of my information and judgment; and also that the said assessment roll contains a true statement of the aggregate amount of the personal property, or of the taxable income, of every party named on the said roll and that I have estimated and set down the same according to the best of my information and belief:

3. That I have entered thereon the names of all the resident householders, tenants and freeholders, and of all other persons who have required their names to be entered thereon, with the true amount of property occupied or owned, or of income received by each, and that I have not entered the name of any person whom I do not truly believe to be a householder, tenant, or freeholder or the *bona fide* occupier or owner of the property, or in receipt of the income set down opposite his name, for his own use and benefit; or otherwise entitled by law to be so entered;

4. That according to the best of my knowledge and belief, I have entered thereon the name of every person entitled to be so entered either under this Act or *The Manhood Suffrage Act*, or of any Act amending either of the said Acts, and that I have not intentionally omitted from said roll the name of any person whom I knew or had good reason to believe, was or is entitled to be entered thereon under any or either of the said Acts; and I further say, that the date of delivery or transmitting the notice required by section 47 of this Act is in every case truly and correctly stated in the said roll;

5. I further say, that I have not entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and that the amount for which each such person is assessed upon the said roll truly and correctly appears in the said notice delivered or transmitted to him as aforesaid.

6. I further say, that I have not entered any name in the above roll, or improperly placed any letter or letters in column 4, opposite any name, with intent to give to any person not entitled to vote, a right of voting; and that I

have not intentionally omitted from the said roll the name of any person whom I believe entitled to be placed thereon, nor have I, in order to deprive any person of a right of voting, omitted from column 4 opposite the name of such person, any letter or letters which I ought to have placed there. 52 V. c. 40, s. 3 (6).

Sworn (or solemnly declared and affirmed) before me at \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 18 \_\_\_\_\_

Section 50, (page 192) is amended by striking out the words "certificates and" in the 3rd and 4th lines.

Section 58, (page 210) is amended by adding at the end thereof the following: "But no member of the Court shall act as a member thereof when an appeal is being heard respecting any property in which he is directly or indirectly interested.

Section 64, s-s. 15 (page 214), is amended by inserting immediately after the word "accordingly" in the fifth line the following words: and the Court may, in determining the value at which any land shall be assessed, have reference to the value which similar land in the vicinity is assessed.

Section 75, (page 218) is amended by inserting the words "within ninety days" in lieu of the words "without delay" in the third line, and by adding to the section the words "under a penalty of not less than ten dollars and not more than twenty dollars."

Section 79 is amended by adding thereto sub-section 9.

The costs incurred in the prosecution, and opposing of such appeal respectively, shall be borne and paid as directed by the County Judge or Court, as the case may be, and not otherwise, and shall be subject to taxation on the County Court scale by the clerk of the County Court of said County.

Section 123, sub-sec. 2, is amended by striking out all the words in the sub-sec. after the word "person" in the sixth line and substituting in lieu thereof the following:

"Or if so empowered by by-law of the municipality he shall leave with the person taxed or at his residence or domicile or place of business a written or printed notice specifying the amount of such taxes, and shall at the time of such demand or notice as the case may be, or immediately thereafter enter the date thereof on his collection roll opposite the name of the person taxed, and such entry shall be *prima facie* evidence of such demand or notice.

Section 124, s-s. 1, (page 323) is amended by inserting therein after the word "demand" in the third line the following: "Or after notice served pursuant to such by-law as aforesaid."

Sub-sec. 2 of said sec. 124, is amended by inserting after the word "made" in the first line the words "or notice served pursuant to such by-law."

**140.** The treasurer of every county shall furnish to the clerk of each municipality, except cities and towns, in the county, and the treasurer of every city and town shall furnish to the clerk of his municipality, a list of all the lands in his municipality in respect of which any taxes have been in arrear for the three years next preceding the 1st day of January in any year; and the said list shall be so furnished on or before the 1st day of February in every year, and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 18* "; and, for the purposes of this Act, the taxes for the first year of the three which have expired under the provisions of this Act, on any land to be sold for taxes, shall be deemed to have been due for three years, although the same may not have been placed upon a collector's roll until some month in the year later than the month of January. R. S. O. 1877, c. 180, s. 108.

**141.** The clerk of the municipality is hereby required to keep the said list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver to the assessor or assessors of the municipality, in each year, as

soon as such assessor or assessors are appointed, a copy of such list; and it shall be the duty of the assessor or assessors to ascertain if any of the lots or parcels of land contained in such list are occupied, or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, that the land is liable to be sold for arrears of taxes, and enter in a column (to be reserved for the purpose) the words "*Occupied and Parties Notified,*" or "*Not Occupied,*" or incorrectly described as the case may be; and all such lists shall be signed by the assessor or assessors and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein, and the clerk shall file the same in his office for public use, and furnish forthwith to the County Treasurer a true copy of the same certified to by him under the seal of the corporation; and every such list, or copy thereof, shall be received in any Court, as evidence, in any case arising concerning the assessment of such lands. R. S. O. 1877, c. 180, s. 109. See s. 204, 55 V. c. 49, s. 20.

**142.** The assessors shall attach to each such list a certificate signed by them, and verified by oath or affirmation, in the form following:

"I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief."

R. S. O. 1877, c. 180, s. 110.

**143.**—(1) The clerk of each municipality shall examine the assessment roll when returned by the assessor, and ascertain whether any lot embraced in the said list last received by him from the treasurer pursuant to section 140, is entered upon the roll of the year as then occupied, or is incorrectly described; and shall forthwith furnish to the said treasurer a list of the several parcels of land which appear on the resident roll as having become occupied, or which have been returned by the assessor as incorrectly described.

(2) Except in the cases provided for by sections 52 and 54, on or before the 1st day of July in the then current year, the county treasurer shall return to the clerk of each local municipality other than a city or town, and every city or town treasurer shall return to the clerk of the city or

town, an account of all arrears of taxes due in respect of such occupied lands, including the percentage chargeable under section 157 of this Act.

(3) The clerk of each municipality shall, in making out the collectors' roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands for the current year; and such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the collector's roll. R. S. O. 1877, c. 180, s. 111.

**144.** If there is not sufficient distress upon any of the occupied lands, in the preceding section named, to satisfy the total amount of the taxes charged against the same, as well for the arrears as for the taxes of the current year, the collector shall so return it in his roll to the treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. R. S. O. 1877, c. 180, s. 112.

**145.**—(1) The treasurer of every township and village shall, within fourteen days after the time appointed for the return and final settlement of the collector's roll and before the 8th day of April in every year, furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the said collector's roll or by school trustees to be collected.

(2) Such return shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section 141 of this Act, and generally such other information as the county treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year; and the county treasurer shall not be bound to receive any such statement after the 8th day of April in each year. R. S. O. c. 1877, c. 180, s. 113.

**146.** In case it is found by the statement directed by the last preceding section to be made to the county treasurer, that the arrears of taxes upon the occupied lands of non-residents, directed by section 143 of this Act to be placed on the collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such

arrears, and shall be included in the next or ensuing list of lands to be sold by the county treasurer, under the provisions of section 160 of this Act, notwithstanding that the same may be occupied in the year when such sale takes place; and such arrears need not again be placed upon the collector's roll for collection. R. S. O. 1877, c. 180, s. 114; 55 V. c. 49, s. 21.

**147.** If the clerk of any municipality neglects to preserve the said list of lands in arrears for taxes, furnished to him by the treasurer, in pursuance of section 140, or to furnish copies of such lists, as required, to the assessor or assessors, or neglects to return to the treasurer a correct list of the lands which have come to be occupied, as required by section 143 of this Act, and a statement of the balances which remain uncollected on any such lots, as required by section 144 of this Act; or if any assessor or assessors neglect to examine such lands as are entered on each such list, and make returns in manner hereinbefore directed, every officer making such default shall, on summary conviction thereof before any two Justices of the Peace having jurisdiction in the county in which such municipality is situated, be liable to the penalties imposed by sections 225, 226 and 227 of this Act; all fines so imposed shall be recoverable by distress and sale of any goods and chattels of the party making default. R. S. O. 1877, c. 180, s. 115.

**148.**—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished the statement to the county treasurer, mentioned in section 145, arrears of taxes may be paid to such local treasurer; but after the said statement has been referred to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

(2) The collection of arrears shall thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel, of land, and the date of payment, in accordance with the provisions of section 205 of this Act. R. S. O. 1877, c. 180, s. 116.

**149.** Any local municipality may, by by-law, remit, either in the whole or in part, any taxes now due or to

become due upon the lands of non-residents within such municipality, specifying the particular lands upon which the remission is made; and upon the passing of such by-law, it shall be the duty of the clerk forthwith to transmit a copy of the by-law to the treasurer or other officer having the collection of such arrears, who shall then collect only so much of the said taxes as are not remitted. R. S. O. 1877, c. 180, s. 117.

**150.** The treasurer shall not receive any part of the tax charged against any parcel of land unless the whole of the arrears then due is paid, or satisfactory proof is produced of the previous payment, or erroneous charge of any portion thereof; but if satisfactory proof is adduced to him that any parcel of land on which taxes are due has been subdivided, he may receive the proportionate amount of tax chargeable upon any of the subdivisions, and leave the other subdivisions chargeable with the remainder; and the treasurer may, in his books, divide any piece or parcel of land which has been returned to him in arrear for taxes, into as many parts as the necessities of the case may require. R. S. O. 1877, c. 180, s. 118.

**151.** The treasurer shall, on demand, give to the owner of any land charged with arrears of taxes, a written statement of the arrears at that date, and he may charge twenty cents for the search and statement on each separate lot or parcel not exceeding four, and, for every additional ten lots, a further fee of twenty cents; but the treasurer shall not make any charge for search to any person who forthwith pays the taxes. R. S. O. 1877, c. 180, s. 119; 55 V. c. 49, s. 22.

**152.** The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the 1st day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. R. S. O. 1877, c. 180, s. 120.

**153.** If two or more local municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration, is situate. R. S. O. 1877, c. 180, s. 172, *part*.

**154.** If, at the yearly settlement to be made on the 1st day of May, it appears to the treasurer that any land liable to assessment has not been assessed, he shall report the same to the clerk of the municipality; thereupon, or if it comes to the knowledge of the clerk in any other manner that such land has not been assessed, the clerk shall, under the direction of the council, enter such land on the collector's roll next prepared by him thereafter, or on the roll of non-residents, as the case may be, as well for the arrears omitted of the year preceding only, if any, as for the tax of the current year: and the valuation of such land so entered shall be the average valuation of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor or assessors for the current year to value such lands; and it shall be the duty of the assessor or assessors to value such lands when required, and certify the valuation in writing to the clerk; and the owners of such lands shall have the right to appeal to the council at its next or some subsequent meeting after the taxes thereon have been demanded, but within fourteen days after such demand, which demand shall be made before the 10th day of November; and the council shall hear and determine such appeal on some day not later than the 1st day of December. R. S. O. 1877, c. 180, s. 121.

NOTE.—The clerk in making up the collector's roll for any year, if he is aware by notification from the treasurer, or otherwise, that any property in the municipality has not been assessed, should report to the council and under its direction, shall, in addition, to the rates for such year, add the taxes which would have been payable on such property for the previous year and for such purpose shall

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strike an average valuation for "the three *previous* years," if assessed for the said three years, but if not so assessed the clerk shall require the assessor or assessors to value such lands. The "three previous years" no doubt refers to the three years next immediately preceding the omitted assessment.

**155.** The county treasurer may correct any clerical error which he himself discovers, from time to time, or which may be certified to him by the clerk of any municipality. R. S. O. 1877, c. 180, s. 122.

**156.** If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee, or other municipal officer, he shall not be bound to accept the same until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. R. S. O. 1877, c. 180, s. 123.

**157.** If, at the balance to be made on the 1st day of May in every year, it appears that there are any arrears due upon any parcel of land, the treasurer shall add to the whole amount then due ten per centum thereon. R. S. O. 1877, c. 180, s. 124.

**158.** Where the county treasurer is satisfied that there is distress upon any lands of non-residents in arrear for taxes in a township or village municipality, he may issue a warrant under his hand and seal to the collector of such municipality, who shall thereby be authorized to levy the amount due, upon any goods and chattels found upon the land, in the same manner, and subject to the same provisions, as are contained in sections 124 to 130 inclusive of this Act, with respect to distresses made by collectors. R. S. O. 1877, c. 180, s. 125.

**159.** Unpatented land vested in or held by Her Majesty which may be hereafter sold, or agreed to be sold, to any person, or which may be located as a free grant, shall be liable to taxation from the date of such sale or grant; and any such land which had been already sold, or agreed to be sold, to any person, or had been located as a free grant, prior to the 1st day of January, 1863, shall be held to have been liable to taxation since the 1st day of January,

1868, and all such lands shall be liable to taxation thenceforward under this Act, in the same way as other land, whether any license of occupation, location ticket, certificate of sale, or receipt for money paid on such sale, has or has not been, or is or is not issued, and, in case of sale, or agreement for sale by the Crown, whether any payment has or has not been, or is or is not made thereon, and whether any part of the purchase money is or is not overdue and unpaid; but such taxation shall not in any way affect the rights of Her Majesty in such lands. R. S. O. 1877, c. 180, s. 126.

**160.** Where a portion of the tax on any land has been due for and in the third year, or for more than three years preceding the current year, the treasurer of the county shall, unless otherwise directed by a by-law of the county council, submit to the warden of such county a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county, and the other shall be returned to the treasurer, with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding him to levy upon the land for the arrears due thereon, with his costs. R. S. O. 1877, c. 180, s. 127; 52 V. c. 17, s. 3.

Section 160 of *The Assessment Act* shall not apply to the districts of Muskoka and Parry Sound.

NOTE.—See 52 V. c. 17.

**161.** The council of a county, city or town, shall have power from time to time to extend beyond the term of three years, the time for the enforced collection by sale of non-resident taxes by by-law passed for that purpose. R. S. O. 1877, c. 180, s. 128.

NOTE.—This power might with propriety be extended to any township adjoining a city.

**162.** It shall not be the duty of the treasurer to make inquiry before effecting a sale of lands for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. R. S. O. 1877, c. 180, s. 129.

**163.** The treasurer shall not sell any lands which have not been included in the lists furnished by him to the clerks of the several municipalities in the month of January preceding the sale, nor any of the lands which have been returned to him as being occupied under the provisions of section 143 of this Act, except the lands, the arrears for which had been placed on the collection roll of the preceding year, and again returned unpaid and still in arrear in consequence of insufficient distress being found on the lands. R. S. O. 1877, c. 180, s. 130; 55 V. c. 49, s. 23.

**164.**—(1) The county treasurer shall prepare a copy of the list of lands to be sold, required by section 160 of this Act, and shall include therein, in a separate column, a statement of the proportion of costs chargeable on each lot for advertising, and for the commissions authorized by this Act to be paid to him, distinguishing the lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published four weeks in the *Ontario Gazette*, and once a week, for thirteen weeks, in some newspaper published within the county, and, in the case of a union, of counties, in each county of the union, if there be one published in each county, and if not, in such county or counties of the union in which a newspaper is published, or, if none be so published, in some other newspaper published in some adjoining county.

(2) Where a junior county is separated from a union of counties after a return is made to the treasurer of the united counties of lands in arrear for taxes, but such lands have not been advertised for sale by the treasurer of the united counties, or senior county, such treasurer shall return to the treasurer of the junior county a list of all the lands within the junior county returned as in arrear for taxes, and not advertised; and the treasurer and warden of the junior county shall have power respectively to take all the proceedings which treasurers and wardens, under this Act, can take for the sale and conveyance of lands in arrears for taxes; but, in case the lands in such junior county have been advertised by the treasurer of the united counties before such separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place. R. S. O. 1877, c. 180, s. 131.

**165.** The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, the treasurer will proceed to sell the lands for the taxes, on a day, and at a place named in the advertisement. R. S. O. 1877, c. 180, s. 132.

**166.** The day of sale shall be more than ninety-one days after the first publication of the list. R. S. O. 1877, c. 180, s. 133.

**167.** The treasurer shall also post a notice similar to the said advertisement in some convenient and public place at the court house of the county, at least three weeks before the time of sale. R. S. O. 1877, c. 180, s. 134.

**168.** The treasurer shall, in each case, add to the arrears published, his commission or other lawful charges and the costs of publication. R. S. O. 1877, c. 180, s. 135. 55 V. c. 49, s. 24.

**169.** If, at any time appointed for the sale of the lands, no bidders appear, the treasurer may adjourn the sale from time to time. R. S. O. 1877, c. 180, s. 136.

**170.**—(1) If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale, and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes due; and the amount of taxes stated in the treasurer's advertisement shall, in all cases, be held to be the correct amount due.

(2) If the treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week, nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless

otherwise directed by the local municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold shall not be at liberty to redeem the same, except upon payment to the county treasurer of the full amount of taxes due, together with the expenses of sale; and the treasurer shall account to the local municipality for the full amount of taxes paid. R. S. O. 1877, c. 180, s. 137.

(3) If the council of the local municipality, in which the same shall be situate, desire to become the purchasers of any lot to which sub-section 2 refers for the amount of the arrears of taxes thereon, it shall be lawful for such municipality to purchase the same if the price offered at such adjourned sale shall be less than the amount of such arrears, and if the council of the local municipality shall before the day of such adjourned sale have given notice in writing of the intention so to do, and it shall be the duty of the council of such local municipality to sell any lands which shall be so acquired within three years from the time when they shall be acquired. 50 V. c. 32, s. 7.

**171.** If the treasurer sells any interest in land of which the fee is in the Crown, he shall only sell the interest therein of the lessee, licensee, or locatee, and it shall be so distinctly expressed in the conveyance to be made by the treasurer and warden, and such conveyance shall give the purchaser the same rights in respect of the land as the original lessee, licensee or locatee enjoyed, and shall be valid, without requiring the assent of the Commissioner of Crown Lands. R. S. O. 1877, c. 180, s. 138.

**172.** If the purchaser of any parcel of land fails immediately to pay to the treasurer the amount of the purchase money the treasurer shall forthwith again put up the property for sale. R. S. O. 1877, c. 180, s. 139.

*Certificate of Sale—Tax Deed.*

**173.** The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been so sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has

been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 170 and 171 of this Act, will be executed by the treasurer and warden on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land is not previously redeemed. R. S. O. 1877, c. 180, s. 140.

**174.**—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

(2) The purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force. R. S. O. 1877, c. 180, s. 141.

**175.** From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser shall cease to have any further right in, or to the land in question. R. S. O. 1877, c. 180, s. 142.

**176.** Every treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him, as aforesaid, except that where the taxes against any parcel of land are less than \$10 the treasurer shall be entitled to charge in lieu of his commission 25 cents. R. S. O. 1877, c. 180, s. 143; 55 V. c. 49, s. 25.

**177.** Where land is sold by a treasurer, according to the provisions of section 164, and following sections of this Act, he may add the commission and costs which he is hereby authorized to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. R. S. O. 1877, c. 180, s. 144.

**178.** The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the registry office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, such surveyor's fee not to exceed \$1; and the charge so incurred shall be included in the account and paid by the purchaser of the land sold, or the party redeeming the same. R. S. O. 1877, c. 180, s. 145.

**179.** Except as before provided, the treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. R. S. O. 1877, c. 180, s. 146.

**180.** The owner of any land which may hereafter be sold for non-payment of arrears of taxes, or his heirs, executors, administrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the county treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per centum thereon; and the treasurer shall give to the party paying such redemption money, a receipt stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption. R. S. O. 1877, c. 180, s. 147.

## AN ACT CONSOLIDATING AND REVISING THE PUBLIC SCHOOLS ACTS.

(54 Vic., 1891.)

(CONTINUED.)

### PUBLIC SCHOOL BOARDS IN CITIES, TOWNS AND INCORPORATED VILLAGES.

**97.** Every board of public school trustees in cities, towns and incorporated villages, elected as provided by this Act shall be a corporation by the name of "The Public School Board" (prefixing to words "Public School Board" the name of the city, town or incorporated village for which such trustees are elected), and shall have and possess all the powers usually possessed by corporations, so far as the same are necessary for carrying out the purposes of this Act.

**98.** Any ratepayer resident in the municipality of the full age of twenty-one years shall be eligible to be elected a public school trustee, and every trustee shall continue in office until his successor has been elected and the new board organized. R. S. O. c. 225, ss. 97, 106.

NOTE.—A candidate for the office of school trustee does not require to be an elector in order to qualify.

**99.**—(1) In case any unincorporated village become incorporated, or in case a village, or town changes its corporate status, the trustees having jurisdiction over the school property situated within such village, or town, prior to its incorporation or prior to the change of its corporate status, shall exercise all the powers conferred by this Act upon the trustees of incorporated villages, towns or cities until a new election of trustees is held, and such trustees shall call a meeting of the ratepayers of such incorporate

village, town or city within one month after the date of such incorporation for the election of a new public school board. (*Amended.*)

(2) In calling the meeting of the ratepayers of such newly incorporated village, town or city, the provisions of section 102 of this Act shall be complied with so far as the same are applicable. Where the trustees of the municipality whose corporate status was changed were elected by ballot, the provisions of section 103 of this Act shall apply to the election of trustees in such newly incorporated town or city. R. S. O. c. 225, s. 94.

NOTE.—When the area embraced in the newly incorporated village, town or city formed parts of two or more school sections, provision should be made in the Act of incorporation for holding the first election of a public school board.

**100.**—(1) For every ward into which any city, town or incorporated village is divided there shall be two school trustees, each of whom, after the first election of trustees, shall continue in office for two years, and until his successor has been elected and the new board organized.

(2) One of the trustees in each ward (to be determined by lot at the first meeting of trustees after their election, which determination shall be entered upon the minutes) shall retire from office at the time appointed for the next annual school meeting, and the other shall continue in office one year longer and then retire, after which one trustee shall be elected annually for each ward.

(3) When any town or incorporated village is annexed to a city, the town or incorporated village so annexed shall, for all the purposes of this Act, be deemed to be part of the city. R. S. O. c. 235, s. 95, 97.

NOTE.—“The time appointed for the next annual school meeting” would be two years after the first election, and one trustee for each ward would hold office for three years.

**101.**—(1) In every incorporated village not divided into wards there shall be six trustees, each of whom, after the first election for trustees, shall continue in office for two years and until his successor has been elected and the new board organized.

(2) Three of the trustees (to be determined by lot at the first meeting of trustees after their election, which determination shall be entered upon the minutes) shall retire from office at the time appointed for the next annual school election, and the other three shall continue in office one year longer and then retire; after which three trustees shall be elected annually. R. S. O. c. 225, s. 96.

NOTE.—See note to section 100.

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

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

2. The public school board shall by resolution before the second Wednesday in December each year name the returning officer or officers to preside at the meeting or meetings for the nomination of candidates, and also for holding the election in case of a poll, and in case of the absence of such officer the chairman chosen by the meeting shall preside, and the public school board shall give at least six days notice of such meeting. (*Amended.*)

3. If at such meeting only the necessary number of candidates to fill the vacant offices are proposed and seconded, the returning officer or person presiding, after the lapse of one hour, shall declare such candidates duly elected, and shall so notify the secretary of the public school board; but if two or more candidates are proposed for any one office and a poll in respect of any such office is demanded by any candidate or elector, the returning officer or chairman shall adjourn the proceedings for filling such office until the first Wednesday of the month of January then next, or if a holiday, then to the day following when a poll or polls shall be opened at such place or places and in each ward, where such exist, as shall be determined by resolution of the trustees.

4. The poll or polls shall be opened at the hour of the clock in the forenoon, and shall continue open until

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five o'clock in the afternoon, and no longer, and any poll may close at any time after eleven o'clock in the forenoon, when a full hour has elapsed without any vote having being polled.

5. In cities, towns, incorporated villages, and in townships where public school boards exist, the clerk of the municipality shall furnish to the public school board, within three days after request in writing, 'The Voters' List,' of such municipality, annexing thereto a list of the names of persons being supporters of separate schools, and also a list of the names, alphabetically arranged, of all ratepayers not being already upon 'The Voters' List.' R. S. O. c. 225, s. 99.

6. The public school board shall provide each polling place with the list aforesaid, and also a poll book; and, at every election at which a poll is demanded, the returning officer or person presiding, or his sworn poll clerk, shall enter in such book in separate columns the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns, write the names of the ratepayers offering to vote at the election, and shall, in each column on which is entered the name of a candidate voted for by a voter set the figure '1' opposite the voter's name, with the residence of the voter. R. S. O. c. 225, s. 101.

7. The returning officer or person presiding shall, on the day after the close of the election, return the poll book to the secretary or secretary-treasurer of the public school board, with his solemn declaration thereto annexed, that the poll-book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer. R. S. O. c. 225, s. 98 (6).

8. The secretary-treasurer shall add up the number of votes for each candidate for any office, as appears from the poll book so returned, and shall declare elected, the candidate or candidates having the highest number of votes, and shall forthwith notify the candidates in writing of the number of votes polled for each of them respectively in said election. R. S. O. c. 225, s. 98 (7).

9. In case two or more candidates have an equal number of votes, the member of the board present at the first meeting thereof after such election and before the organization of the board, who is assessed highest as a ratepayer

on the last revised assessment roll, shall give a vote for one or more such candidates, so as to decide the election. R. S. O. c. 225, s. 98 (8).

NOTE.—Sub-section 5 provides for cases where rate-payers may have been omitted from the voters' list of the municipality for want of sufficient qualification as electors of the municipality or in consequence of their names appearing on the defaulters' list.

#### ELECTION BY BALLOT.

**103.**—(1) The board of public school trustees of any city, town, incorporated village or township may, by resolution, of which notice shall be given to the clerk of the municipality on or before the first day of October in any year, require the election of school trustees for such city, town, incorporated village, or township, to be held by ballot on the same day as municipal councillors, or aldermen are elected, as the case may be. In like manner any board of trustees may discontinue the use of the ballot in trustee elections on giving notice to the clerk of the municipality to that effect at the time hereinbefore mentioned, and thereafter elections for the purposes of this Act shall be conducted as provided in section 102.

(2) Where any board of trustees require elections to be held by ballot, and elections are so held, no change shall be made in the mode of conducting such election for a period of three years, and should the mode of conducting the elections by ballot be discontinued at any time, then the provisions of section 102 shall apply for a period of three years at least after such discontinuance.

(3) In every case in which notice is given as aforesaid requiring the election of public school trustees to be held by ballot, such election shall thereafter be held at the same time and place, and by the same returning officer or officers, and conducted in the same manner as the municipal nominations and elections of aldermen or councillors are conducted, and the provisions of *The Municipal Act* respecting the time for opening and closing the poll, the mode of voting, corrupt or improper practices, vacancies, and declarations of office shall *mutatis mutandis* apply to the election of public school trustees.

(4) A separate set of ballot-papers shall be prepared by the clerk of the municipality for all the wards or polling sub-divisions, containing the names of the candidates nominated for school trustees, of the same form as those used for councillors or aldermen except the substitution of the words "school trustee" for councillors or aldermen, as the case may be, on said ballot papers.

(5) In the list of qualified voters required by section 102 of this Act to be delivered to the returning officer by the clerk of the municipality before the opening of the poll, the clerk shall place opposite the names of any persons on the said list who are supporters of separate schools, the letters S. S. S. (signifying supporters of separate schools), and the returning officers shall not deliver to any such person a ballot paper for public school trustees. R. S. O. c. 225, s. 103.

(6) In case any objection is made to the right of any person to vote at any election of school trustees the deputy returning officer shall require the person whose right of voting is objected to, to make the following oath or affirmation:—

You swear (or solemnly affirm) that you are the person named, or purporting to be named, in the list (or supplementary list) of voters now shewn to you (*showing the list to voter*);

That you are a ratepayer;

That you are of the full age of twenty-one years;

That you are a public school supporter;

That you have not voted before at this election, either at this or any other polling place in this Ward or in this Municipality (*where the municipality is not divided into wards*) for School Trustee;

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 at this election;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election: So help you God. R. S. O. c. 225, s. 105.

**104.** In case of any vacancy in the office of trustee of any public school board arising from any cause, the remaining trustees shall forthwith take steps to hold a new election in the manner provided by this Act for the annual

election of trustees to fill the vacancy so created and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor was elected, or for which the office is filled. R. S. O. c. 225, s. 98 (11).

**105.** The Judge of the County Court, in case any complaint respecting the validity or mode of conducting the election of any trustee of a public school board in any municipality within his county, is made to him within twenty days after such election, shall receive and investigate such complaint; and shall thereupon, within a reasonable time, in a summary manner, hear and determine the same; and may by order cause the assessment rolls, collector's rolls, poll books, and any other records of the election to be brought before him, and may inquire into the facts on affidavit or affirmation, or by oral testimony, and cause such person or persons to appear before him as he may deem expedient, and may confirm the said election, or set it aside, or order that some other candidate was duly elected; and the Judge may order the person found by him not to have been elected to be removed; and in case the Judge determines that any other person was duly elected, the Judge may order him to be admitted; and, in case the Judge determines that no other person was duly elected instead of the person removed, the Judge shall order a new election to be held, and shall report such decision to the secretary-treasurer of the public school board. R. S. O. c. 225, s. 98 (9).

**106.**—(1) The members of every board of school trustees in townships, cities, towns and incorporated villages shall hold their first meeting on the third Wednesday in January, or if a board of education, then on the first Wednesday in February, at the hour of seven o'clock in the afternoon, or at such other hour on the same day as may have been fixed by resolution of the former board, at the usual place of meeting of such board. R. S. O. c. 225, s. 107. (*Amended*).

(2) At the first meeting in each year of every public school board, the secretary of the board shall preside at the election of chairman, or, if there be no secretary, the members present shall appoint one of themselves to preside at such election, and the member so appointed to preside may vote as a member. R. S. O. c. 225, s. 108.

(3) In case of an equality of votes at the election of chairman, the member who is assessed as a ratepayer for

the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member. R. S. O. c. 225, s. 109.

(4) In the absence of the chairman any person appointed to act as chairman by the majority of those present shall preside, and the chairman or person so acting may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R. S. O. c. 225, s. 111.

(5) A majority of the members of the board, when present at any meeting, shall constitute a quorum, and the vote of the majority of such quorum shall be necessary to bind the corporation. R. S. O. c. 225, s. 112.

#### DUTIES OF TRUSTEES.

**107.** It shall be the duty of the board of trustees of cities, towns and incorporated villages, and they shall have power:—

1. To appoint a secretary and treasurer or secretary-treasurer, and one or more collectors, if requisite, of such school fees or rate bills as the board may have authority to charge, and such other officers and servants of the board as they may deem expedient; R. S. O. c. 225, ss. 113-1 (*Amended*).

2. To fix the times and places of the board meetings, the mode of calling and conducting them, and of keeping a full and correct account of the proceedings of such meetings;

3. To provide adequate accommodation for all the children between the ages of five and sixteen years, resident in the municipality, as ascertained by the census taken by the municipal council for the next preceding year; provided always, such residents are not to include the children of persons on whose behalf a separate school or schools have been established under the provisions of *The Separate Schools Act*;

4. To purchase or rent school sites or premises, and to build, repair, furnish, and keep in order the school-houses and appendages, and to keep the well, closets and premises generally in a proper sanitary condition, lands, enclosures, and movable property, and procure registers in the prescribed form, suitable maps, apparatus, and prize books, and, if they deem it expedient, establish and maintain school libraries. R. S. O. c. 225, s. 113,—2,—3.

5. To determine the number, grade and description of schools (such as central, ward, or night schools) to be established and maintained; the teachers to be employed; the terms on which they are to be employed, and the amount of their remuneration; and to provide, as they may deem expedient, for children between four and seven years of age, kindergarten schools. R. S. O. c. 225, s. 113,—4,—13. (*Amended*).

6. To dismiss from the school any pupil who shall be adjudged so refractory by a majority of the trustees and the teacher that his presence in school is deemed injurious to the other pupils, and where practicable, to remove such pupil to an industrial school. R. S. O. c. 225, s. 113,—14.

7. To collect, at their discretion, from the parents or guardians of the pupils attending any public school under their charge, a sum not exceeding twenty cents per month, per pupil, to defray the cost of text-books, stationery and other school supplies; or, at their discretion, to purchase for the use of pupils attending such schools text-books, stationery and other school supplies at the expense of the corporation. R. S. O. c. 225, s. 113,—7. (*Amended*).

8. To appoint of their number, and under such regulations as they think proper, a committee for the special oversight and management of the schools under their charge, and to see that all such schools are conducted according to the regulations of the Education Department. R. S. O. c. 225, s. 113,—6. (*Amended*).

9. To constitute at their discretion one or more of the public schools to be a model school for the training of teachers. R. S. O. c. 225, s. 113,—10. (*Amended*).

10. To submit to the municipal council, on or before the first day of August, or at such time as may be required by the municipal council, an estimate of the expenses of the schools under their charge for the current year. R. S. O. c. 225, s. 113,—5. (*Amended*).

11. To submit all accounts, books and vouchers, to be audited by the municipal auditors, and it shall be the duty of such auditors to audit the same. R. S. O. c. 225, s. 113,—8.

12. To publish at the end of every year, in one or more of the public newspapers, or otherwise, the annual report of the auditors, and to prepare and transmit before the 15th of January, the annual report of the school to the Education Department. R. S. O. c. 225, s. 113,—11. (*Amended*).

13. To take possession and have the custody and safe keeping of all public school property which has been acquired or given for public school purposes in the section, including movable property, moneys or income given or acquired at any time for public school purposes, and to hold or apply the same according to the terms on which the same were acquired or received; and to dispose, by sale or otherwise, of any school site or school property not required by them in consequence of a change of school site, or other cause; to convey the same under their corporate seal, and to apply the proceeds thereof to their lawful school purposes, or as directed by this Act. R. S. O. c. 225, s. 40,—9.

**108.** Every public school board in a city, town or incorporated village, shall have power to take and acquire land for a school site or for enlarging school premises already held. In the event of any dispute between the owner of the land selected and the trustees, with regard to the price of such land, sections 67 to 72 of this Act shall apply. R. S. O. c. 225, s. 113,—12. *Part. (Amended).*

#### SCHOOL ASSESSMENT.

**109.**—(1) The municipal council of every township shall levy and collect by assessment, upon the taxable property of the public school supporters of the whole township, in the manner provided by this Act, and by the municipal and assessment Acts, the sum of \$100 at least for every public school therein in which a public school has been kept open the whole year exclusive of vacations. Where the public school has been kept open for six months or over, a proportionate amount of the said sum of \$100 at least shall be levied and collected by assessment upon the taxable property of the whole township. An additional sum of \$50 at least shall be levied and collected in a similar manner for every assistant teacher engaged for the whole year, and a proportionate amount if such assistant teacher is engaged for six months or over.

(2) In the case of union school sections the municipal council of each municipality of which the union school section is composed shall levy and collect upon the taxable property of the respective municipalities the said sum in the proportion fixed by the equalization provided under section 95 of this Act.

(3) The municipal council of the township shall collect from the taxable property in each section such other sums as may be required by the trustees thereof for school purposes. R. S. O. c. 225, s. 117. (*Amended*).

NOTE.—Under the provisions of this section, the trustees of a School Section levying the lowest possible rate for school purposes, will receive the same amount out of the general allowance as those sections where only the most competent teachers are employed. Moneys should be apportioned on a basis of salaries paid to teachers. See High School Act, section 43.

The following words, forming part of section 123 of chapter 225 of the Revised Statutes of 1887, repealed by *The Public Schools Act, 1891*, are hereby re-enacted:—  
 “Where the public school rate and the separate school rate are not the same, if the owner is compelled to pay a school rate in consequence of the default of the tenant to pay the same, he shall only be liable to pay the amount of the school rate of the schools to which in virtue of his right in this behalf he directed his money to be paid.”

To remove doubts, section 109 of *The Public Schools Act, 1891*, shall be construed to mean that union school sections composed of a part of a township, and any incorporated village or town shall not be included within the provisions of said section 109.

**110.** The municipal council of every city, town and incorporated village shall levy and collect upon the taxable property of the municipality, in the manner provided in this Act, and in the municipal and assessment Acts, such sums as may be required by the public school trustees for school purposes, subject to sections 116 and 117 of this Act. R. S. O. c. 225, s. 118.

**111.**—(1) The clerk of every municipality shall upon request, furnish the public school inspector with a statement of the assessed value of each school section as shewn by the revised assessment roll for that year. Such clerk shall be entitled to reasonable payment from the council for the above-mentioned services. R. S. O. c. 225, s. 116. (*Amended*).

(2) The clerk of every municipality shall, at the request of any board of trustees, furnish the board with a state-

ment shewing the several parcels or lots of land composing the school section for which they are trustees, the assessment of such parcel or lot and the amount of taxes entered on the collector's roll against each parcel of such lands. The cost of preparing such statement shall be paid by the board of trustees applying for the same. (*New*).

**112.** The council of every municipality may, in addition to any demand made by requisition of the public school trustees, raise by assessment such other sums as it may deem expedient for the establishment and maintenance of a public school library, or for aiding new or weak schools within such municipality, or for the support of model schools, or for supplementing teachers' salaries. R. S. O. c. 225, ss. 142, 208. (*Amended*).

**113.** The clerk of every municipality in which any separate school section or part of a section is situate, shall, not later than the first day of December in each year, make out and transmit to the county school inspector a list of the supporters of separate schools against whom any county rate for public school purposes has been erroneously placed upon the collector's roll shewing the amount so rated against each and the total amount so rated. The county inspector shall, before issuing his order for the payment of the county grant to the public school sections, deduct therefrom the amount so certified to him by the clerk of such municipality, and shall give the trustees of the separate school section an order on the township treasurer for the amount thereof, and it shall be the duty of such treasurer to pay over the same. R. S. O. c. 225, ss. 122, 144.

**114.** It shall be the duty of every county clerk to furnish the Minister of Education with a copy of the minutes of the council relating to school assessments and other educational matters and to transmit to the Minister, on or before the first day of March in each year, a certified copy in the form provided, of the abstract of the report of the auditors for the preceding year. R. S. O. c. 225, s. 128.

#### SCHOOL DEBENTURES.

**115.**—(1) On the application of any board of rural school trustees for the issue of debentures for the purchase of a school site or sites, for the erection of a school-house or school-houses, or any addition thereto, or for the purchase or erection of a teacher's residence, the municipal

council of the township shall pass a by-law for the said purpose, and shall forthwith issue a debenture or debentures to be repayable out of the taxable property of the school section concerned, and subject to the limitations contained in this Act, provided always the proposal for such loan has been submitted by the trustees to and sanctioned at a special meeting of the ratepayers of the section, called for the purpose. R. S. O. c. 225, s. 129.

(2) All applications for a loan, for the purposes herein mentioned, shall be made by the trustees of a union school section to the council of the municipality within which the school house or site of such union section is situated, and all debentures for the payment of such loan shall be issued by such municipality. Any other municipality or municipalities forming part of the union school section shall pay, on the requisition of the clerk of the municipality by which the debentures were issued, as they come due, its or their share of the loan, including interest, so made according to its or their liability for school purposes, as determined by section 95 of this Act. (*New*).

(3) Where application is made by a union section composed of a town or incorporated village and part of the adjoining township or townships and the school house is situated in such town or village, all applications for the issue of debentures for school purposes shall in such cases be subject to the provisions of sections 116 and 117 of this Act. (*New*).

(4) Notwithstanding any alteration which may be made in the boundaries of any school section, the taxable property situated in the school section at the time when such loan was effected, shall continue to be liable for the rate which may be levied by the township council for the repayment of the loan. R. S. O. c. 255, s. 131.

(5) The expenses of preparing and publishing any by-law or debentures under the said section 115 and all other expenses incident thereto, shall be paid by the school section on whose behalf such debentures were issued, and the amount of such expenses may be deducted from any school rates collected by the municipal council for such school section, anything in *The Public Schools Act* to the contrary notwithstanding. 55 V. c. 60, s. 3.

NOTE.—It is essential that the trustees should submit the proposal for a loan to a special meeting of the ratepayers of the section before applying to the

council for the issue of debentures. When sanctioned it becomes imperative for the council to grant the application ; but see section 119.

Provision should be made, that in case alteration is made in the boundary of a school section, where a debenture debt has been incurred, the property liable for the repayment of the loan should not be made liable for a debt of a similar nature until the original debt has been paid. (See Local Improvements, *Municipal Act*, sec. 624) "for the like purpose."

**116.**—(1) Where application is made by a township board of trustees, or by the trustees of any city, town or incorporated village for any of the purposes mentioned in the preceding section, and where the municipal council refuses to raise or borrow the sum required, then the question shall be submitted by the municipal council, if requested by the board of trustees, to the vote of the electors of the municipality who are supporters of public schools, in the manner provided by *The Municipal Act* for the creating of debts, and in the event of the assent of such electors being thereby obtained, then it shall be the duty of such council to raise or borrow such sum. R. S. O. c. 225, ss. 130, 133 (1).

(2) The municipal council may, if deemed expedient, without submitting the same to a vote of the ratepayers of such municipality, as required by *The Municipal Act*, for the creating of debts, pass a by-law for the purpose of raising or borrowing money, on the requisition of the public school board, for any of the purposes named in the preceding section. R. S. O. c. 225, s. 133 (2).

NOTE—Upon an application being made by a board of school trustees, the council may borrow the sum required or submit the matter to the electors. (See ss. 293—340, *et seq.*, *Municipal Act*.)

**117.** Any debenture issued by any municipality for school purposes may be in the form given by this Act, and for such term of years and for such amount as the council shall see fit, not exceeding thirty years, or the municipal

council may in its discretion make the principal and interest of such debt repayable by annual or other instalments, in the manner provided in *The Municipal Act*. R. S. O. c. 225, s. 135. (*Amended*).

**118.** All sums levied and collected by the municipal council of any township for school purposes shall be paid over to the secretary-treasurer of the board of trustees, without any deduction whatever, on or before the 15th day of December in each year. R. S. O. c. 225, s. 125.

NOTE.—But see 55 V. c. 60, s. 3 (5) amending section 115 of this Act.

No municipal by-law hereafter passed for exempting any portion of the ratable property of a municipality from taxation in whole or in part shall be held or construed to exempt such property from school rates of any kind whatsoever.

In all cases in which two municipal corporations are united by proclamation or by any Act of the Legislative Assembly, all the assets and liabilities of the school corporations of the minor municipality shall be assumed by the school corporation of the united municipality.

**119.** When, in the opinion of any rural school corporation it is not desirable to apply to the municipal council for the issue of debentures for any of the purposes mentioned in this Act, such trustees may, without a vote of the ratepayers of the section, require the municipal council to raise, by one yearly rate, such sums as may be necessary for the purchase of a school site, the erection, or purchase of a school house or teacher's residence. R. S. O. c. 225 s. 40,—3. (*Amended*).

NOTE.—Under the provisions of this Act the trustees constitute a corporation. (See notes to sections 5, 570, *Municipal Act re councils*). Trustees may raise by one yearly rate without issuing debentures.

**120.** No township council shall levy or collect in any school section during any one year more than one school rate except for the purchase of a school site, or for the erection of a school-house. R. S. O. c. 225, s. 132.

**121.** Any rural school corporation may, with the consent of the ratepayers of their school section first had and obtained at a special meeting duly called for that purpose, by resolution authorize the borrowing from any municipal corporation of any surplus moneys derived from the Ontario municipalities fund, or from any other source, for such term and at such rate of interest as may be set forth in such resolution, for the purpose of purchasing a school site or school sites, or erecting a school-house or school-houses; and any sum or sums so borrowed shall be applied to that purpose, and to that only. R. S. O. c. 225, s. 134.

## CHAPTER 57.

## An Act Consolidating and Revising the High Schools Act.

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

## GENERAL.

1. This Act may be cited as "*The High Schools Act, 1891.*"

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

(1) "High Schools" shall include collegiate institutes, unless a contrary meaning appears. R. S. O. c. 226, s. 2.

(2) "Municipality" shall mean a city, town, incorporated village or township, but shall not mean a county.

(3) "County" shall also include counties united for municipal purposes. (*New.*)

(4) "District" shall mean the municipalities and parts of municipalities over which the high school board of trustees have jurisdiction as a corporation.

(5) "County pupils" shall mean pupils whose parents or guardians reside in the county in which the high school attended by such pupils is situated, but not within the limits of any high school district of such county. (*New.*)

(6) "Resident pupils" shall mean pupils whose parents or guardians reside in the district in which the high school attended by such pupils is situated. (*New.*)

(7) "Non-resident pupils" shall mean (a) pupils whose parents or guardians do not reside in the county, city or town separated from the county in which the high school

attended by such pupils is situated, or (b) pupils whose parents or guardians reside in a high school district of the county other than the district in which the high school attended by such pupils is situated.

(8) "Permanent improvements" shall mean such expenditure as may be necessary for the purchase or rental of a residence for the teacher, or for the purchase or rental of a school site and the erection or rental of a school house, or for the enlargement of both or either of them, or for permanently changing the system of heating and ventilation, the erection of fences, out-houses and gymnasium, or for the purchase of school furniture, maps and apparatus, library, and all other appliances required by the Regulations of the Education Department for High Schools. (*New*).

(9) "Maintenance" shall mean such expenditure as may be necessary for ordinary repairs in the teacher's residence or for the improvement of the grounds attached thereto, and for the salaries of teachers, officers and servants of the board and for conducting the entrance examination prescribed by this Act and for repairs to school buildings, outhouses, gymnasium, and fences and for the improvement of the school grounds, the repair of school furniture, and sundry expenses for ordinary school purposes and such annual additions to the library, apparatus, and other school appliances as may be required by the Regulations of the Educational Department for High Schools. (*New*).

**3.** The trustees of every high school district shall be a corporation by the name of "The—High School Board," (prefixing to the term "High School," or "Collegiate Institute," the name of the municipality within which such high school or collegiate institute is situated), and shall have and possess all the powers usually enjoyed by corporations, so far as the same are necessary for carrying out the purposes of this Act. The trustees of every high school shall hold office until their successors are appointed and the new board is organized. R. S. O. c. 226, s. 21 (1).

#### UNION OF PUBLIC AND HIGH SCHOOL BOARDS.

**4.—(1)** The union of the trustees of any public and high school for the joint management of the public and high schools of any municipality shall form one corporation under the name of "The Board of Education" for the city,

town, incorporated village or township of—(as the case may be). Such board shall have the powers of trustees of both public and high school trustees. A majority of the members shall form a quorum. R. S. O. c. 225, ss. 219, 220. (*Amended*).

(2) If at any meeting of a board of education called for that purpose a majority of all the members thereof vote in favor of the dissolution of the board such board shall be dissolved on and after the close of the current year. R. S. O. c. 225, s. 221. (*Amended*).

(3) In case any board of education is dissolved, the members of such board of education who were appointed on behalf of the high school shall be the board of trustees for such high school, to hold office the full term of their appointment or until changed according to the provisions of this Act. (*New*).

(4) In the case of such dissolution as aforesaid all school property held by the corporation for high school purposes shall be vested in the high school board of trustees, subject to any trust for public school purposes attached thereto, and any other property held or possessed jointly by the corporation before dissolution shall be divided as may be agreed upon by the trustees of the high school and public school respectively at a meeting called for that purpose. If no division is made within six months, then the division shall be made forthwith by the council of the municipality within which the high school is situated. R. S. O. c. 225, s. 222, 223. (*Amended*).

(5) It shall not be lawful for the trustees of any high school to unite hereafter with the trustees of any public school to form a board of education. R. S. O. c. 225, s. 225.

5. All appointments, agreements, contracts, assessments, and rate-bills, heretofore duly made in relation to high schools existing at the passing of this Act, and all powers and duties connected therewith, shall continue in full force and effect, subject to the provisions of this Act. R. S. O. c. 226, s. 3.

#### HIGH SCHOOL DISTRICTS.

6.—(1) All high school districts in existence on the passing of this Act shall remain as then constituted until changed by the municipal council of the county by which

they were established, or until altered as is hereinafter provided, but nothing herein contained shall be construed as interfering with any suit or action now pending before any court of competent jurisdiction in which the validity of any high school district is called in question. R. S. O. c. 226, ss. 3, 5. (*Amended*).

(2) Where prior to the first day of January, 1878, the municipal council of any county did by by-law set apart and constitute any portion of the county as a separate district for high school purposes, the by-law, if not heretofore set aside, repealed, or quashed by any lawful authority in that behalf, shall, to all intents and for all purposes be considered and taken as valid, legal and binding, and the high school districts thereby constituted or intended to be constituted, shall also for all purposes be deemed, and taken as having been lawfully and validly constituted. 53 V., c. 72.

(3) Any right of appeal from any judge of the High Court of Justice or from a Divisional Court of the said High Court which any party or corporation had on the seventh day of April, 1890, with regard to the validity of any by-law establishing a high school district is hereby revived. (*New*).

7.—(1) On the petition of two-thirds of the ratepayers of any municipality contiguous to a high school district, or, on the petition of two-thirds of the ratepayers of any portion of a municipality contiguous to a high school district, the municipal council of such municipality shall, by by-law, unite the whole or such portion thereof as is set forth in the said petition, to such high school district for high school purposes, and such union shall take effect on the first of January next following the lapse of six months after the adoption of such by-law.

(2) In like manner and on like petition any municipality or any portion thereof forming part of a high school district, may withdraw from such high school district without the concurrence or any other act on the part of the other municipality or municipalities composing the high school district, but any by-law for such withdrawal shall not come into operation until the first day of January next following the lapse of six months from the passing thereof, and such withdrawal shall not relieve the municipality or any portion thereof so withdrawn from any rates legally imposed for the issue of debentures or from any other debts incurred

while such municipality or part thereof was attached to such high school district. R. S. O. c. 226, s. 33. (*Amended*).

(3) The certificate of the clerk of the municipality with respect to the number of ratepayers in such municipality, or part thereof, to which the petition heretofore mentioned is intended to refer, shall be final and conclusive. (*New*).

#### NEW HIGH SCHOOLS.

**S.**—(1) On or before the first of July in any year, the municipal council of any county may, subject to approval by the Lieutenant-Governor in Council, pass a by-law for the establishment of a new high school in any municipality, containing not fewer than one thousand inhabitants, according to the last municipal census, and the municipal council of any county may in like manner discontinue, at the end of the current calendar year, any high school already established.

(2) Where it is proposed to form a high school district to be composed of more municipalities than one, the county council may pass a by-law for the establishment of a high school in any incorporated village, although containing less than one thousand inhabitants, within the proposed district, but such by-law shall not be operative until it is shown to the satisfaction of the Lieutenant-Governor in Council that the adjoining municipalities have passed by-laws as provided by section 7 of this Act, for uniting with such incorporated village so as to constitute a district containing at least 3,000 inhabitants according to the last Dominion census.

(3) The municipal council of a city may establish as many high schools in such city as it may deem expedient, subject to the approval of the Lieutenant-Governor in Council. R. S. O. c. 226, ss. 7, 8, 9, 10. (*Amended*).

**D.**—(1) In every high school, instruction shall be given in the higher branches of a practical English and commercial education; the natural sciences, with special reference to agriculture; the elements of mathematics and physics, and the Latin, Greek, French and German languages, so far as to prepare students for matriculation into the University of Toronto. R. S. O. c. 226, s. 12.

(2) Preparatory schools or classes shall be abolished on and after the 1st of January next ensuing after the passage of this Act. (*New*).

**10.** On the report of the Minister of Education, and subject to the regulations of the Education Department, any high school having (1) suitable school buildings, out-buildings, grounds and appliances for physical training; (2) a library, containing standard books of reference in the subjects of the high school curriculum; (3) a laboratory, with the necessary chemicals, and apparatus for teaching the elements of the sciences; (4) a staff of at least five teachers, four being specialists, one in each of the following departments: Classics, Mathematics, Natural Science, Modern Languages, including English, and any one of the staff being a specialist in the Commercial Department; (5) such other assistants as will secure thorough instruction in all the subjects on the curriculum of studies approved by the Education Department for collegiate institutes; may be constituted a collegiate institute by order of the Lieutenant-Governor in Council. R. S. O. c. 226, s. 13. (*Amended*).

#### TRUSTEES.

**11.** Every high school corporation shall consist of at least six trustees. In the case of high schools situated in any municipality within the jurisdiction of the county, three of such trustees shall be appointed by the county council, and additional trustees shall be appointed by the municipalities composing the high school district as follows, that is to say:—

(1) Where a high school district is composed of one municipality the municipal council thereof shall appoint three additional trustees; where a high school district is composed of two municipalities, each municipality shall appoint two additional trustees; and where a district is composed of more than two municipalities, each municipality shall appoint one additional trustee. Any portion of a municipality assessed for \$50,000, included in a high school district, shall be considered a municipality for the purposes of this section. In every case one of the trustees appointed by the county council and one trustee in each municipality composing the high school district shall retire each year.

(2) Where a high school district is composed of a county, the county council shall appoint six trustees for such district, two of whom shall retire every year.

(3) In cities and in towns separated from the county, the municipal council thereof shall appoint six trustees for each of the high schools of such city or town; where the

high schools in a city do not exceed three in number, the municipal council shall appoint six trustees for each high school, and the trustees so appointed shall, with such additional trustees as are authorized by this Act, form one corporation. The municipal council of every city and town shall, by by-law, provide for the annual retirement of so many of the trustees appointed by the council as shall secure a complete rotation every three years.

(4) Where the trustees of any high school situated in a city or in a town separated from the county, notify the county clerk that such high school is open to county pupils on the same terms as high schools in the municipalities not separated from the county, the county council may, from time to time, appoint three additional trustees of and for such high school so long as the school is open to county pupils on the terms aforesaid.

(5) The separate school board of the city, town, or incorporated village in which a high school is situated, may appoint one trustee of and for such high school board, who shall hold office for one year, provided always, in the case of a board of education, that such trustee shall not take part in any of the proceedings affecting the public school. R. S. O. c. 226, ss. 14, 15, 16, 17, 20. (*Amended*).

(6) Except in the case of a board of education, the public school trustees of every city, town, or incorporated village in which a high school is situated, may appoint annually one trustee of and for such high school board, who shall hold office for one year. (*New*).

**12.**—(1) Vacancies arising from the annual retirement of trustees shall be filled at the first meeting thereof after being duly organized in each year by the municipal councils or by the boards of trustees empowered under this Act to make the appointments; and vacancies arising from death, resignation, or removal from the high school district or county, or otherwise, shall be filled forthwith by the municipal council or board of trustees having the right of appointment, and the person appointed to fill such vacancy shall hold office only for the unexpired term of the person whose place has become vacant. R. S. O. c. 226, s. 18. (*Amended*).

(2) Any resident ratepayer 21 years of age who is not a member of the municipal council of the municipality or county in which the high school is situated shall be quali-

fied to serve as a high school trustee, or as a member of a board of education. This sub-section shall not apply to any person now serving as a high school trustee or as a member of a board of education until his present term of office as trustee has expired.

*First Meeting.*

**13.**—(1) The first annual meeting of every board of trustees or board of education shall be held at the hour of seven o'clock in the afternoon of the first Wednesday of February or at such hour of the same day as may have been determined by resolution of the former board, and shall be organized by the election of a chairman, who shall be a member of the board, and a secretary and treasurer or secretary-treasurer. A majority of the board shall form a quorum.

(2) The secretary or secretary-treasurer for the previous year shall preside at the first meeting of the board until the chairman is elected, or if there be no secretary or secretary-treasurer then such member of the board shall preside as may be appointed for that purpose.

(3) In case of an equality of votes at the election of chairman, the trustee who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote, in addition to his vote as a member of the board.

(4) The chairman or presiding officer of the board may vote with the other members of the board on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R. S. O. c. 226, ss. 22, 23, 24. (*Amended*).

*Duties of Trustees.*

**14.** It shall be the duty of every board of trustees and they shall have power.

(1) To fix the times and places of the board meetings, the mode of calling and conducting them, and of keeping a full and correct account of the proceedings of such meetings;

(2) To take charge of the high school for which they have been appointed trustees, to keep the school buildings in proper repair, to provide from time to time suitable

furniture and equipment, and to see that the grounds and all the property of the corporation are duly protected ;

(3) To settle the amount to be paid by parents and guardians for each pupil attending the high school, subject to the provisions of this Act, to fix the times of payment, and, when necessary, to sue for and recover such amounts ;

(4) To give the necessary orders upon the treasurer of the board for the payment of the salaries of the teachers and other officers and servants of the high school, and for any other necessary expenses ;

(5) To apply to the municipal council or councils, liable under this Act, on or before the first day of August, for such sums as the board may require for the maintenance of the high school, or for any sums not exceeding five hundred dollars in one year for permanent improvements ;

(6) To take such security from the treasurer of the board as they may deem expedient ;

(7) To expel, on the report of the principal, any pupil whose conduct may be deemed injurious to the welfare of the school ; and to expel any pupil whose parents or guardians neglect or refuse to pay the tuition fees of such pupil after reasonable notice ;

(8) To appoint and remove such teachers, officers and servants as they may deem expedient, and to fix their salaries and prescribe their duties ;

(9) To provide adequate accommodation according to the regulations of the Education Department for all resident pupils, and in the case of high schools receiving aid from the county for county pupils also, subject to section 33 of this Act ;

(10) To certify to the treasurer of the county on or before the first of August in each year, the amount of fees collected from county pupils for the calendar year next preceding ;

(11) To see that the high school is conducted according to the provisions of this Act, and the regulations of the Education Department ;

(12) To prepare and transmit to the Minister of Education, the annual report before the 15th of January, and the semi-annual reports at the close of each half-year, in accordance with forms provided by the education Department. R. S. O. c. 226, s. 25. (*Amended*).

## SITES FOR HIGH SCHOOLS.

**15.** A high school site shall not be selected in a township within a hundred yards of the garden, orchard, pleasure ground, or dwelling house of the owner without his consent. 51 V. c. 37, s. 2.

**16.** It shall be competent for the trustees to enlarge any existing high school site, as required by the regulations of the Education Department, provided no such enlargement shall be made in the direction of, or including an orchard, garden, pleasure ground or dwelling house, without the consent of the owner of the land required, unless the school site cannot be otherwise enlarged. 51 V. c. 37, s. 3.

**17.** If the owner of any land selected by the board of trustees of any high school for a site, or for high school purposes or for the enlargement of the high school premises, refuses to sell the same, or demands therefor a price deemed unreasonable by the trustees of such high school, then such owner and trustees shall each forthwith appoint an arbitrator, and the arbitrators thus appointed, together with the senior county Judge of the county in which the site in dispute is situated, or in the case of his inability to attend, any person appointed by him on his behalf as third arbitrator, or any two of them, shall appraise the damages for such land. 51 V. c. 37, s. 4.

**18.** If the owner of land selected for a school site, as provided by the preceding section, neglects or refuses to appoint an arbitrator, it shall be competent for the county Judge, with the arbitrator appointed by the trustees, to meet and determine the matter; and in such cases the county Judge shall have a second or casting vote, if he and such arbitrator do not agree. 51 V. c. 37, s. 5.

**19.** The arbitrators aforesaid, or any two of them, shall have the power to settle all claims or rights of incumbancers, lessees, tenants, or other persons, as well as those of the owner, in respect of the land required for the purpose of the high school site, upon notice in writing to every such claimant, and after hearing and determining his claims or rights, and, upon tender of the amount of such damage to the owner or other person entitled thereto, or to any part of such amount, by the trustees, the land shall be taken and used for the purpose aforesaid. 51 V. c. 37, s. 6

**20.** If only a majority of the arbitrators appointed to decide any case arising under the authority of this Act are present at any lawful meeting, in consequence of the neglect or the refusal of the other arbitrator to meet them, it shall be competent for those present to make and publish an award upon the matter or matters submitted to them, or to adjourn the meeting for any period not exceeding ten days, by giving the absent arbitrator notice of the adjournment. 51 V. c. 37, s. 7.

**21.** Any award for a high school site made and published under this Act, if there be no conveyance, shall hereafter be deemed to be the title of the trustees to the land mentioned therein, and shall be a good title thereto against all persons interested in the property in any manner whatsoever, and shall be registered in the proper registry office on the affidavit of the secretary of the board of trustees verifying the same. 51 V. c. 37, s. 8.

**22.** The costs of arbitration shall be paid by the parties concerned in such proportion as may be determined by the arbitrators. 51 V. c. 37, s. 9.

**23.** All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, femmes-coverts, or other person, seized, possessed of or interested in any land, may contract for, sell or convey all or part thereof to high school trustees for a school site or an addition to the school site, or for a teacher's residence; and any contract, agreement, sale, conveyance and assurance so made shall be valid and effectual to all intents and purposes whatsoever; and the corporations or persons so conveying are hereby indemnified for what they respectively do by virtue of or in pursuance of this Act. 51 V. c. 37, s. 10.

**24.** If the owner of land duly selected for the said purpose is absent from the county in which the land lies, or is unknown, the trustees may procure from a sworn surveyor a certificate that he is not interested in the matter; that he knows the land and that some certain sum therein named is, in his opinion, a fair compensation for the same, and on filing the said certificate with the Judge of the County Court of the county in which the land lies, accompanied by an affidavit or affidavits which satisfy the Judge

that the owner is absent from the county and that, after diligent enquiry, he cannot be found, the Judge may order a notice to be inserted for such a time as he sees fit in some newspaper published in the county; and he may, in addition thereto, order a notice to be sent to any person by mail, or may direct service of the same to be effected in such other way as he sees fit. 51 V. c. 37, s. 11.

**25.** The notice shall contain a short description of the land, and a declaration of the readiness of the trustees to pay the sum certified as aforesaid; shall give the name of a person to be appointed as the arbitrator of the trustees if their offer of that sum is not accepted; shall name the time within which the offer is to be accepted, or an arbitrator named by the owner; and shall contain any other particulars which the County Judge may direct. 51 V. c. 37, s. 12.

**26.** If within such time as the Judge directs, the owner does not notify the trustees of the acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as arbitrator, the Judge shall, on the application of the trustees, appoint a sworn surveyor to be sole arbitrator for determining the compensation to be paid for the property. 51 V. c. 37, s. 13.

**27.** Where land is taken by the trustees without the consent of the owner, the compensation to be paid therefor shall stand in the stead of the land; and after the trustees have taken possession of land any claim to, or incumbrance upon the same or any portion thereof, shall as against the trustees, be converted into a claim to the compensation or to a proportion thereof, and the trustees shall be responsible accordingly whenever they have paid such compensation or any part thereof to a party not entitled to receive the same, saving always their recourse against such party. 51 V. c. 37, s. 14.

**28.** If the trustees have reason to fear any claims or incumbrance, or if any party to whom the compensation or any part thereof is payable refuses to execute the proper conveyance, or if the party entitled to claim the same cannot be found or is unknown to the trustees, or if for any other reason the trustees deem it advisable, they may pay the arbitration and other expenses, and deposit the amount of the compensation with the High Court, or in such other manner as the County Judge may direct, with interest thereon for six months, and may deliver therewith an

authentic copy of the conveyance, or of the agreement or award if there be no conveyance; and such agreement or award shall thereafter be deemed to be the title of the trustees to the land therein mentioned, and shall be a good title thereto against all persons interested in the property in any manner whatever, and shall be registered in the proper registry office on an affidavit of the secretary of the board of trustees verifying the same. 51 V. c. 37, s. 15.

*Property vested in Trustees.*

**29.** All property heretofore granted, devised or acquired in any municipality, and vested in any person or persons, or corporation, for high school purposes, or which may hereafter be so granted, devised or acquired, shall be deemed and be taken as having vested absolutely in the board of high school trustees and the board shall have full power to convey, sell, transfer or lease such property, upon the adoption of a resolution by the board that such property is no longer required for high school purposes, and the proceeds of such sale, transfer or lease shall be applied for the use of such high school. R. S. O. c. 226, s. 26. (*Amended*).

MUNICIPAL GRANTS FOR MAINTENANCE.

**30.** The municipal council of every county shall on or before the 15th day of December in each year pay for the maintenance of every high school in any town not separated from the county, or in any incorporated village or township within the county, an amount equal to the amount apportioned by the Minister of Education for each of such high schools. R. S. O. c. 226, s. 32.

**31.**—(1) Where the proportionate cost of the maintenance of county pupils at any high school exceeds, or is alleged to exceed, the amount of money granted by the county council under the preceding section, and of the fees received for county pupils, the county shall be liable for a further sum, in the proportion as nearly as may be which the average attendance of county pupils enrolled at such high school during the preceding three years bears to the average attendance of all the pupils enrolled at the same period of three years. In the case of new high schools the period herein mentioned for which the average attendance is to be reckoned, shall be the number of years for which such school was open, not exceeding three years.

(2) Where the trustees of any high school situated in a city or in a town separated from the county notify the county clerk that such high school is open to county pupils on the same terms as high schools in the municipalities not separated from the county, the county council shall in all such cases pay the proportionate cost of the maintenance of county pupils at such high schools subject to the provisions of this Act.

(3) The trustees of a high school and the county council may by mutual agreement settle the proportionate amount to be paid by the county for the maintenance of county pupils under this section, but in the event of their inability to agree with respect to such amount either party may refer the matter in dispute to the county judge, who shall have power to settle the same. Where the county judge is a member of the high school board, or where he is unable for any reason to act as referee, the junior county judge, if not a member of the high school board, shall act as referee, or if the junior judge is unable for any reason to act, or if there be no junior judge the senior judge of the adjoining county with the greatest population according to the last Dominion census shall act as referee. Any award made by the referee shall be binding on the parties thereto for the period of three years. (New).

(4) In all cases of dispute the trustees of the high school shall submit a detailed statement of the receipts and expenditures of their high school for maintenance for each of the preceding years under consideration, such statement to be certified by the auditors authorized under this Act to audit high school accounts; and also a statement of the names, residence and attendance of resident, non-resident and county pupils for the same time each year of a like period, such last mentioned statement to be certified by the chairman of the board. The chairman shall also certify as to the amount of the legislative grant received for the time under consideration, and the referee shall deduct the amount so certified from the whole cost of maintenance of each high school in determining the liability of the county for the maintenance of county pupils. (New).

(5) The costs of reference to the county judge shall be paid by the municipal council of the county and the trustees of the high school concerned, in the proportion which the county pupils bear to all the pupils enrolled in such high school. (New).

(6) The municipal council of every county shall levy and collect from the municipalities composing the county the sum or sums for which the county is annually liable for the proportionate maintenance of county pupils less the fees paid by county pupils as certified to the county treasurer by the high school board.

**32.** The municipal council or councils of every high school district shall levy and collect each year from their respective municipalities such sum or sums as the trustees of the high school may deem necessary for the maintenance of the high school in addition to that received from the county council and other sources under this Act, and a further sum, not exceeding five hundred dollars, in any one year, if required by the trustees for permanent improvements, and said sum shall be levied by one uniform rate over the whole district. (*New*).

#### GRANTS FOR PERMANENT IMPROVEMENTS.

**33.** All sums of money required by the trustees of any high school for permanent improvements exceeding five hundred dollars shall be raised by assessment on the rate-payers of the municipality or municipalities composing the high school district, on the application of the board of trustees to the municipal council or councils of the district, made on or before the first of August in each year, and in the event of the municipal council, where the high school district is composed of one municipality, or in the event of a majority of the municipalities composing the high school district approving of such application, the municipality within which the high school is situated shall issue debentures therefor in the manner provided for the issue of municipal debentures under *The Municipal Act* of 1887. R. S. O. c. 226, s. 35 (1). (*Amended*).

**34.**—(1) In the case of a high school district composed of one municipality, when the council thereof refuses, or when the high school district is composed of two municipalities, when the council of one municipality refuses, or when a majority of the municipalities composing the high school district refuse to raise or borrow such sum of money aforesaid by debentures, the said council or councils shall, on the request of the trustees, submit such application to the vote of the municipality or municipalities concerned, in the manner provided by *The Municipal Act* for the creating of debts, and in the event of the assent of a major-

ity of the electors in the high school district qualified to vote upon a by-law for creating debts being thereby obtained, it shall be the duty of the council of the municipality in which the high school is situated to raise or borrow such sum. R. S. O. c. 226, s. 35 (2). (*Amended.*)

(2) When the high school district is composed of more municipalities than one, the municipal council of each municipality composing the district shall pay to the council of the municipality in which the high school is situated such proportion of the loan raised for high school purposes as the equalized assessment of each municipality or part thereof belonging to the high school district, bears to the equalized assessment of the whole district. Provided always that nothing herein contained shall prevent the municipality within which the high school is situated from assuming the full cost of permanent improvements, or from undertaking to pay any debentures that may be issued for such purpose notwithstanding that such municipality forms only a part of the high school district. (*New.*)

(3) The municipal council or councils of any high school district, or a majority of them, may, if deemed expedient, without submitting the same to a vote of the ratepayers of the municipality or municipalities comprising the district, as required by *The Municipal Act*, for the creating of debts, pass a by-law or by-laws for the purpose of raising or borrowing money, on the application of the high school board for permanent improvements. R. S. O. c. 226, s. 35 (4). (*Amended.*)

(4) Any debenture for any loan of money for school purposes may be for such term of years, not exceeding thirty, as the municipal council may think fit, or the municipal council may in its discretion make the principal of such debt repayable by annual or other instalments, in the manner provided by *The Municipal Act*. R. S. O. c. 226, s. 35 (3). (*Amended.*)

**35.** The council of any municipality may raise by assessment in addition to that required to be raised by this Act, such further sums of money as may be deemed expedient by the council for the maintenance or permanent improvement of any high school. R. S. O. c. 226, s. 36. (*Amended.*)

**36.**—(1) All moneys raised under the authority of this Act, shall be paid over to the high school treasurer, entitled to receive the same, on or before the 15th day of December in every year.

(2) The treasurer of every high school board shall give security to the board appointing him for the due and faithful performance of his duties, and shall submit his accounts to the auditors of the municipality in which the high school is situated, whose duty it shall be to audit such accounts in the same way as the municipal treasurer's accounts are audited. R. S. O. c. 226, s. 37.

#### HIGH SCHOOL FEES.

**37.**—(1) County pupils shall pay to the treasurer of the high school board such fees as the municipal council of the county may deem expedient, provided always such fees shall be uniform and shall not exceed one dollar per month. The scale of fees so fixed shall take effect from the beginning of the high school term next ensuing after adoption thereof by the county council, and shall continue in force for three years. (*New*).

(2) Non-resident pupils shall pay to the treasurer of the high school board such fees as the board of trustees may deem expedient, provided always such fee shall not be greater than the cost of maintenance at such high school, nor less than the fees imposed by the council on county pupils. (*New*).

(3) Resident pupils shall pay to the treasurer of the high school board such fees as the trustees of the high school may deem expedient. (*New*).

#### ENTRANCE EXAMINATION.

**38.**—(1) A uniform entrance examination for the admission of pupils to high schools shall be held annually in every high school district according to such regulations as may be prescribed by the Education Department. Examinations may be held at such other places in every county as shall be recommended by the county council of which notice shall be given to the inspector by the county clerk. Such places shall be affiliated for the purposes of the examination with a high school in the same inspector's division. R. S. O. c. 226, s. 38. (*Amended*).

(2) Every high school district shall be under one board of examiners. The trustees of the public and separate schools of the city, town or incorporated village in which a high school is situated shall on or before the 1st day of June each appoint an examiner, for the purpose of such examination. The inspector or inspectors of public schools

of the inspectoral district within which the high school is situated and the principal of the high school shall be *ex-officio* members of such board.

(3) The persons qualified to be appointed examiners shall be persons holding certificates as first class teachers actually engaged in teaching, provided always that any person actually engaged in teaching who is the holder of a second class provincial certificate and who has had five years' experience as a teacher may be appointed examiner, where a first class teacher is not available within such high school district.

(4) The Board of Trustees and the Board of Examiners may agree upon the sum to be paid annually for the examination of such pupils, but in the absence of any agreement, examiners shall be allowed the sum of one dollar per pupil for conducting such examination and this allowance shall include the travelling expenses of the examiners, presiding at the examination reading and valuing the papers of candidates and reporting the results to the Education Department. (*New*).

(5) The board of education or the trustees of the high school district within which the examination is held shall on the requisition of the chairman of the board of examiners pay all the expenses of the examination at such high school, and such expenses shall be deemed to be part of the cost of maintenance of such high school. At affiliate schools the travelling and other expenses of the presiding examiner shall be paid by the county council.

(6) Any pupil passing the entrance examination may be admitted to a high school provisionally, but it shall be competent for the Minister of Education to consider the appeal of any candidate with regard to the reading and valuation of his papers or on the report of the high school inspectors, to confirm or disallow the admission of any pupil or to require of any pupil further tests of proficiency in any of the prescribed subjects of examination. R. S. O. c. 225, s. 41. (*Amended*).

(7) County pupils whose examination has been confirmed by the Minister of Education shall have the right to attend any high school aided by the council of the county in which their parents or guardians reside. Non-resident pupils may attend any high school at the discretion of the trustees of such school.

## HIGH SCHOOL TEACHERS.

**39.**—(1) No person shall be appointed principal of a high school unless he is a graduate in Arts of some University within the British Dominions, and furnishes satisfactory evidence to the Minister of Education of his knowledge of the science and art of teaching, and of the management and discipline of schools; but any person legally qualified and employed as principal in any high school before the twenty fourth day of March, 1874, shall be deemed qualified notwithstanding this section.

(2) No person shall be appointed assistant teacher in any high school who does not possess the qualifications required by the Education Department. (*New*).

(3) Every teacher of a high school shall, in the organization, discipline, management and classification of the pupils be subject to such regulations as may be prescribed by the Education Department.

(4) The provisions of *The Public Schools Act*, respecting superannuation shall apply to teachers of high schools. R. S. O. c. 226, ss. 44, 48, 49.

## AGREEMENTS.

**40.**—(1) Every teacher of a high school who enters into an agreement with any board of trustees for one year and who serves under such agreement for three months or over, shall be entitled to be paid his salary for the authorized holidays occurring during the period of such service, and also for all other holidays in the calendar year in the proportion which the number of days during which he has taught in the calendar year bears to the whole number of teaching days in such year.

(2) Every teacher shall be entitled to his salary during sickness, certified by a physician, for a period not exceeding four weeks for the entire year; this period may be increased at the pleasure of the trustees. R. S. O. c. 226, s. 47.

(3) Any teacher who enters into an agreement with a board of trustees, as teacher, and who wilfully neglects or refuses to carry out such agreement, shall, on the complaint of any board of trustees, be liable to the suspension of his certificate by the Education Department. (*New*).

**41.**—(1) All matters of difference between trustees and teachers of high schools in regard to salary or other remuneration, shall be decided in the Division Court, by

the Judge of the County Court, in each county: provided always, that the decision of any County Judge in such cases may be appealed from, as provided for in *The Public Schools Act*.

(2) In pursuance of a judgment or decision given by a County Judge in a Division Court, under the authority of this section, and not appealed from, execution may issue from time to time to recover what may be due of the amount which the Judge may have decided the plaintiff entitled to, in like manner as on a judgment recovered in a Division Court for a debt, together with all fees and expenses incidental to the issuing thereof and levy thereunder. R. S. O. c. 226, ss. 45, 46.

## TERMS.

**42.** The academic year of every high school shall consist of three terms; the first shall begin on the last Monday of August and end on the twenty-second day of December; the second term shall begin on the third day of January and end on the Thursday before Easter Sunday; the third term shall begin on the second Monday after Easter Sunday and end on the thirtieth day of June. Every Saturday, every public holiday and every day proclaimed a holiday by the council of the municipality in which the high school is situated shall be a holiday in such high school. R. S. O. c. 226, s. 50. (*Amended*).

## LEGISLATIVE GRANT.

**43.** Any sum of money appropriated by the Legislative Assembly for high school purposes shall be apportioned by the Minister of Education on the basis of salaries paid to the teachers, the character and equipment of the school buildings and appendages, and the average attendance of pupils, according to the regulations of the Education Department, and all moneys so apportioned shall be payable half-yearly to the treasurer of each high school board in such manner as may be determined by the Lieutenant-Governor in Council, and notice of such apportionment shall be given to the county clerk. R. S. O. c. 226, s. 52. (*Amended*).

**44.** No high school which is not conducted according to this Act, and the regulations prescribed by the Education Department, shall be entitled to receive any part of the high school fund. R. S. O. c. 226, s. 53. (*Amended*).

**45.** It shall be lawful for the Lieutenant-Governor in Council to prescribe a course of elementary military instruction for high school pupils, and to appropriate out of any money granted for the purpose a sum not exceeding \$50 per annum to any school employing a competent drill instructor, and in which school a class of not less than twenty-five pupils has been taught for a period of at least six months. Such classes and instruction shall be subject to such inspection and oversight as the Lieutenant-Governor in Council may direct. R. S. O. c. 226, s. 54.

**46.** No high school trustee shall enter into any contract, agreement, engagement or promise of any kind, either in his own name, or in the name of another, and either alone or jointly with another, or in which he has any pecuniary interest, profit, or promised or expected benefit, with the corporation of which he is a member, or have any pecuniary claim upon or receive compensation from such corporation for any work, engagement, employment, or duty on behalf of such corporation, and every such contract, agreement, engagement or promise shall be null and void, and such trustee shall also *ipso facto* vacate his seat, and a majority of the other trustees shall declare the same vacant forthwith, and notify the clerk of the municipality, or board of trustees having authority to appoint such trustee accordingly. R. S. O. c. 226 s. 57.

**47.** If a trustee of any high school is convicted of any felony or misdemeanor, 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 a resident within the county or municipality for which he is a trustee, such trustee shall *ipso facto* vacate his seat, and the remaining trustees shall declare his seat vacant forthwith, and notify the clerk of the county or municipality or board of trustees having authority to appoint such trustee accordingly. R. S. O. c. 226, s. 58.

**48.** Any person who wilfully interrupts or disquiets any high school established and conducted under the authority of this Act, by rude or indecent behaviour, or by making a noise either within the place where such school is held, or so near thereto as to disturb the order or exercises of the high school, shall, for each offence, on conviction thereof before a Police Magistrate or Justice of the Peace, on the affidavit of one credible witness, forfeit and pay for high

school purposes to the trustees of the high school district within which the offence was committed, such sum, not exceeding \$20, together with the costs of conviction, as the said Police Magistrate or Justice may think fit. R. S. O. c. 226, s. 59.

## AUTHORIZED BOOKS.

**49.** No teacher shall use or permit to be used as text books any books in a high school, except such as are authorized by the Education Department, and no portion of the legislative or municipal grant shall be paid to any high school in which unauthorized books are used. R. S. O. c. 226, s. 60.

**50.** Any authorized text book in actual use in any high 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, 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. 226, s. 61.

**51.** 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, as the case may be, be liable to a penalty not exceeding \$10, payable to the municipality for high school purposes, together with costs, as the Police Magistrate or Justice may think fit. R. S. O. c. 226, s. 62.

**52.** Chapter 226 of the Revised Statutes of Ontario, 1887, chapter 37 of the Acts passed in the fifty-first year of Her Majesty's reign and chapter 72 of the Acts passed in the fifty-third year of the said reign are repealed.

## AN ACT RESPECTING SEPARATE SCHOOLS.

(*Cap. 227, R. S. O. 1887*).

(CONTINUED).

### SUPERANNUATION.

**68.** 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. 49 V. c. 46, s. 69.

**69.** On the decease of any teacher or inspector, 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. 49 V. c. 46, s. 70.

**70.**—(1) Every teacher or inspector who, while engaged in his profession, contributed 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, public school board or board of education, 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 has not heretofore contributed to the said fund. 49 V. c. 46, s. 71.

**71.** 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 by furnishing to the Education Department from time to time, in addition thereto, satisfactory evidence of his being disabled. 49 V. c. 46, s. 72.

**72.** Every teacher 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 an authorized head master of a high school or collegiate institute, shall, in addition to the 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 head master of a high school or collegiate institute. 49 V. c. 46, s. 73.

**73.** 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. 49 V. c. 46, s. 74.

**74.** 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. 49 V. c. 46 s. 75.

**75.** In case any pensioned 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. 49 V. c. 46 s. 76.

**76.** 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. 49 V. c. 46 s. 77.

**77.** In the case of those teachers or inspectors who may not avail themselves of the provisions of sections 68 or 78 of this Act, the provisions of sections 69 to 78 inclusive

shall apply so far as relates to all sums of money already paid into the fund for the support of superannuated teachers. 49 V. c. 46, s. 78.

**78.** 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 in by him or her to the fund, through the public school inspector, or otherwise. 49 V. c. 46, s. 79.

#### HOLIDAYS.

**79.**—(1) The separate school year shall consist of two terms: the first shall begin on the 3rd day of January, and end on the 1st day of July; the second shall begin on the third Monday of August, and end on the 23rd day of December. Every Saturday, every statutory holiday, and every day proclaimed a holiday by the municipal authorities in which the school section or division is situated, shall be a holiday in the separate schools.

(2) In the case of cities, towns and incorporated villages the school terms shall be the same as the terms prescribed for high schools. 49 V. c. 46, s. 80.

#### PENALTIES AND PROHIBITIONS.

**80.** 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 separate school trustees of the city, town, village or school section for its use. 49 V. c. 46, s. 81.

**81.** No trustee of a separate school shall hold the office of separate school inspector, or be a master or teacher in the separate school of which he is a trustee: nor shall the master or teacher of any public, high or separate school hold the office of trustee of a separate school nor shall an inspector be a teacher or trustee of any separate school while he holds the office of inspector. 49 V. c. 46, s. 82.

**82.** Any trustee who is convicted of any felony or misdemeanor, 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 a resident within the school municipality for which he is a trustee, shall *ipso facto* vacate his seat, and the remaining trustees shall declare his seat vacant, and forthwith order a new election. 49 V. c. 46, s. 83.

**83.** 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 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 the remaining trustees, or a majority of them, shall declare the seat vacant, and forthwith order a new election. 49 V. c. 46, s. 84.

**84.** 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 separate school established and conducted under its authority, or other school, by rude or indecent behaviour, or by making a noise, either within the place 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 separate school purposes to the school section, city, town or village within which the offence is committed, a sum not exceeding \$20, together with the costs of the conviction, as the said Judge may think fit. 49 V. c. 46, s. 85.

**85.** If a person chosen as trustee refuses to serve, he shall forfeit the sum of \$5. 49 V. c. 46, s. 86.

**86.** 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 by any person whatsoever for its use, as authorized by this Act. 49 V. c. 46, s. 87.

**87.** If the trustees of a separate 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. 49 V. c. 46, s. 88.

**88.** If the trustees of a separate school 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. 49 V. c. 46, s. 89.

**89.** If any part of the separate 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. 49 V. c. 46, s. 90.

**90.**—(1) No secretary-treasurer appointed by the trustees of a separate school, 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 trustees 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 following three sections of this Act.

(2) Upon application to the Judge of the County Court, by a majority of the trustees, or by any two supporters of the separate school, 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.

(3) 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. 49 V. c. 46, s. 91.

**91.** 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. 49 V. c. 46, s. 92.

**92.** In the event of a non-compliance with the terms specified in the order, or any, or either of them, the Judge shall order such 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 is 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. 49 V. c. 46, s. 93.

**93.** No such proceeding shall impair or affect any other remedy which the 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. 49 V. c. 46, s. 94.

**94.** The trustees, or their secretary-treasurer in their behalf, shall not refuse to furnish the auditor, of any accounts of a separate school, 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 separate school supporter, shall be punished by fine or imprisonment, as provided by this Act. 49 V. c. 46, s. 95.

**95.—(1)** In case the trustees of a separate school neglect to transmit to the Minister of Education, 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.

(2) The trustees so neglecting shall be personally responsible for the amount of the loss of such apportionment. 49 V. c. 46, s. 96.

**96.** In case the trustees of a separate school neglect to prepare and forward the aforesaid annual report to the Minister of Education 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 any supporter of such separate school and collected and applied in the manner provided for by this Act. 49 V. c. 46, s. 97.

**97.**—(1) If a trustee of a separate school knowingly signs a false report, or if a teacher of a separate 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 board of separate school trustees for the purposes of the separate school 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 separate school. 49 V. c. 46, s. 98.

**98.**—(1) The trustees of every separate school shall be personally responsible for the amount of any school moneys forfeited by or lost to the separate school 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. 49 V. c. 46, s. 99.

#### HOW FINES AND PENALTIES MAY BE RECOVERED.

**99.**—(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 separate school, 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. 49 V. c. 46 s. 100.

NOTE.—By 55 Vic. c. 60, s. 4, "No municipal by-law hereafter passed for exempting any portion of the rateable property of a municipality from taxation in whole or in part, shall be held or construed to exempt such property from school rates of any kind whatsoever." See Public Schools Act, s. 103, s-s. 5; also s. 113; see B. N. A. Act, 1867, s. 98, s-s. 2, 3.

## MISCELLANEOUS.

POWERS OF DOMINION AND PROVINCIAL PARLIAMENTS  
UNDER THE B. N. A. ACT, 1867.

**91.** It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

1. The Public Debt and Property.
2. The regulation of Trade and Commerce.
3. The raising of money by any mode or system of Taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The Census and Statistics.
7. Militia, Military and Naval Service and Defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the establishment and maintenance of Marine Hospitals.
12. Sea coast and inland Fisheries.
13. Ferries between a Province and any British or Foreign country or between two Provinces.

14. Currency and Coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings' Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

*Exclusive Powers of Provincial Legislatures.*

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the Public Lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for Provincial, local or municipal purposes.
10. Local works and undertakings other than such as are of the following classes,—
  - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province :
  - b. Lines of steam ships between the Province and any British or foreign country :
  - c. Such works as, although wholly situate within the Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces.
11. The incorporation of companies with Provincial objects.

12. The solemnization of marriage in the Province.
13. Property and civil rights in the Province.
14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.
15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
16. Generally all matters of a merely local or private nature in the Province.

*Education.*

**93.** In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union.
2. All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
3. Where in any Province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

4. In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

*Uniformity of Laws in Ontario, Nova Scotia and New Brunswick.*

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces; and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

*Agriculture and Immigration.*

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

## JUDICATURE.

**96.** The Governor-General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

**97.** Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

**98.** The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

**99.** The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

**100.** The salaries, allowances and pensions of the Judges Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

**101.** The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a general Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada.

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NOTE.—Over 300 amendments have been made in the Municipal and Assessment Acts in the Province of Ontario since the year 1887, thereby rendering the last Revised Statutes of Ontario of but little use to the legal profession,

members of councils, magistrates, or others interested in obtaining information respecting the laws by which they are more directly affected, unless they severally examine the Statutes of each successive Session of the Legislature, and by erasures and interpolations endeavour to consolidate within the pages of the R. S. O. the existing law. The object of the Canadian Municipal Journal is to so consolidate the various Acts and explain the more abstruse or apparently conflicting sections, whereby the laws, as amended, may be readily understood and acted upon by any person, whether in a private or official capacity.

The recurrent repeals and amendments to said Acts are sometimes beneficial; but, while admitting the improvement in many cases, the question arises whether most of the changes made during the last five years could not have been originally inserted in the R. S. O. if the matters under consideration had been properly understood. The assertion can scarcely be refuted that very many of the changes in the Municipal, Assessment and other Acts have been made, from time to time, through the information derived from City and County Councils throughout the Province. This being the case, such Councils should have a proportionate representation in the deliberations of the Legislative body.

To suggest that the mayors and wardens of the several cities and counties in the Province should compose and constitute the Legislature, would, although saving the expense of a Legislative election, be considered too sudden a departure from the system of electing lawyers, doctors, and enriched speculators, who, by devious ways, secure an election through the nomination of a party, to the exclusion of less presumptuous but oftentimes wiser men. In case it was provided that, in addition to the usual qualification required in a candidate for legislative honors, he should have served as alderman or county councillor for a certain term of years, a double purpose would be accomplished, namely: that of having men of superior talent striving to

attain such a qualifying position, and, at the same time, placing in the Legislature men who would be competent to deal with all matters relating generally to the chief interests of the people.

*(To be continued.)*

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ERRATUM :

In note to sec. 279, Municipal Act, read " sec. 278" instead of " 271."