

*Laws of Her Majesty's Province of United Canada*, passed in the year 1851. Quebec: Stewart Derbshire and George Desbarts, 1852.

16 Victoria – Chapter 181

**An Act to amend the Municipal Acts of Upper Canada. Assented to 14th June, 1853.**

Whereas it is expedient further to amend the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, and the Acts amending the same, and to supply some provisions which have been found wanting in the said Acts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the twenty-second, thirty-third, sixty-fifth, eighty-third, eighty-fourth, ninety-fourth, one hundred and third, one hundred and ninth, one hundred and fifteenth, one hundred and twenty-eighth, one hundred and thirty-second, one hundred and thirty-fifth, one hundred and forty-sixth, one hundred and forty-seventh, one hundred and fiftieth, one hundred and sixty-eighth, one hundred and eighty-fifth, one hundred and eighty-eighth, one hundred and ninety-fifth, and two hundred and fourth Sections of *The Upper Canada Municipal Corporations Act of 1849*, with the amendments made to any of the said Sections by *The Upper Canada Municipal Corporations Law Amendment Act of 1850*, or by *The Upper Canada Municipal Corporations Law Amendment Act of 1851*, or by both the said last mentioned Acts, shall be and the same are hereby repealed, and the several sections hereinafter substituted for them respectively shall make part of the said *Upper Canada Municipal Corporations Act of 1849*, which shall after the time when this Act shall come into force and effect, be read, construed and take effect as if the said substituted Sections had been originally inserted therein in the place and stead of the Sections for which they are hereby substituted respectively: Provided always, nevertheless that neither the repeal of the Sections hereby repealed nor the substitution of other enactments or provisions for those contained in the said Sections, shall render void or affect in any way any thing done or any right acquired or any penalty, forfeiture or liability incurred before this Act shall come into force and effect, but the same shall be considered, enforced, adjudged upon and dealt with as if such repeal and substitution had not taken place.

Townships.

II. And be it enacted, That in every case where any New Township hath been or shall be constituted out of a part or parts of any Old Township or Townships, or where any Township united to any other Township or Townships shall be separated therefrom, (such Township so separating for the purpose of this section to be considered a New Township) it shall be the duty of the Returning Officer for such New Township, at any Election of Councillors to be held in the same during the first year after it shall have been constituted, to procure a correct copy or copies of the Collector's Roll or Rolls for such Old Township or Townships for the year next before that in which such Election shall be holden, so far as any such Roll contains the names of Male Freeholders and

Householders rated upon such Roll, in respect of rateable real property, lying in such New Township, with the amount of the assessed value of such real property for which they shall be respectively rated on any such Roll, and each such copy shall be verified by the affidavit or affirmation of the Collector or other person having the legal custody of the original Roll for the time being, and also by that of the Returning Officer, to be appended to or endorsed upon such copy, which affidavit or affirmation shall be taken respectively before any Justice of the Peace for the County, or other Officer having authority to administer an oath or affirmation for any purpose under the said Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, and shall be to the effect that such copy is a true copy of such Roll as far as the same relates to such New Township, and to all Male Freeholders and Householders rated upon such Roll, in respect of rateable real property lying in such New Township, with the amount of the assessed value of the real property for which they are so rated respectively; and the persons qualified to be elected as Councillors for such New Township or to vote at the election of such Councillors shall be those and those only who shall appear by such Roll or Rolls to be rated in respect of real property lying in such New Township, and who shall be respectively qualified, by the nature, value and tenure of such real property, to be elected as Councillors, or to vote at elections of Councillors, as the case may be, under the provisions of the twenty-second section of the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, as amended by the Upper Canada Municipal Corporations Law Amendment Act of one thousand eight hundred and fifty-one or by this Act.

III. And be it enacted, That whenever any junior Township of any Union of Townships as provided for by the said Municipal Acts, shall have within it one hundred resident freeholders and householders on the Collector's Roll, it shall and may be lawful for the Municipal Council of the county in which such Township shall lie, by a By-law to be passed for that purpose within the first nine months of the year next following the making up of such Roll, to fix the place for holding the first election of Councillors for such Township, and to appoint a Returning Officer for holding the same, and otherwise to provide for the due holding of such election according to law on the first Monday in January of the year next but one following the making up of such Roll.

IV. And be it enacted, That within three months after the first meeting of the Municipal Council of such former junior Township, such Municipal Council shall enter into an agreement with the Municipal Council of the Township or Union of Townships to which such junior Township was united, for the adjustment and settlement of the portion, if any, of any debt due by such Union of Townships before such separation, and which it may be just that such junior Township on its separation from such Union should take upon itself, with the time or times of payment thereof; and every such agreement so entered into shall both in law and equity be and continue to be binding upon such junior Township and the Township or Townships from which it shall be separated. Provided always, that in default of the said Municipal Councils entering into any such agreement, the proportion of such debt to be assumed by such junior Township, shall be settled by the award of three Arbitrators or the majority of them, to be appointed as follows, that is to say, one by the Municipal Council of such senior Township or Union of Townships, and the other by the Municipal Council of such junior Township, and the third by such two Arbitrators thus appointed: or in the event of such two Arbitrators omitting to appoint such third Arbitrator within

ten days next after their own appointment, then by the Warden of the County within which such Townships are situate. Provided also, secondly, that in case either such Municipal Council shall omit for one calendar month after they shall have been called upon for that purpose by the other of such Councils, to appoint an Arbitrator on their part as above provided, it shall and may be lawful for the Warden of the County to appoint an Arbitrator on the part and behalf of such Municipal Council so neglecting or omitting to appoint such Arbitrator, who shall in such case have all the powers as if he had been appointed by such Municipal Council: And provided also, thirdly, that every such submission and award shall be subject to the jurisdiction of either of Her Majesty's Superior Courts of common law for Upper Canada, in like manner as if the same were by bond with an agreement therein that such submission might be made a Rule of either of those Courts. And provided also, fourthly, that the portion, if any, of such debt so agreed upon or settled, shall be a debt due from such junior Township to the Township or Townships from which it shall have been disunited, and shall bear legal interest from the day on which the Union shall be actually dissolved, as by law provided, and its payment shall be provided for by the Municipal Council of such junior Township after the dissolution of such Union, in like manner as is or shall be required by law, with respect to other debts due by such Municipal Council, in common with others, and in default thereof, may be sued for and recovered as any of such other debts.

V. And be it enacted, That upon the dissolution of any such Union of Townships as aforesaid, such junior Township shall remain liable to all the debts and loans created or contracted by the Township or Union of Townships from which such junior Township shall have been separated, according to the provisions of the one hundred and seventy-seventh section of the Municipal Corporations Act of one thousand eight hundred and forty-nine, and of the amendments thereof, to the like extent and in the like manner as a junior County, on its separation from the County or Union of Counties with which it was united, remains liable to the similar debts and loans of such union; and all the several provisions of the eighteenth, nineteenth and twentieth sections of the Upper Canada Municipal Corporations law amendment Act of one thousand eight hundred and fifty-one, shall apply between such junior Township and the Township or Union of Townships from which it is separated, as between a junior County and the senior County or Counties from which it shall have been separated.

VI. And be it enacted, That it shall be lawful for a majority of the freeholders and householders of any Township or Union of Townships, for the year next previous to that in which the application shall be made, to apply by Petition in writing to the Municipality of such Township, praying that such Township or Union of Townships, if not then already divided into Rural Wards, may be so divided, or if such Township or Union of Townships be then so divided, then praying that such division into Rural Wards may be abolished, or that alterations to be specified in such Petition may be made in such division into Wards: And in every such case it shall be the duty of such Municipality to pass a By-law in the former case, dividing such Township or Union of Townships into Rural Wards in the manner prescribed in and by the fourth section of the Municipal Corporations Act of one thousand eight hundred and forty-nine, and in the latter case abolishing or altering pursuant to such Petition, the then existing division of such Township or Union of Townships into Wards: Provided always, nevertheless, firstly, that every such By-law made in pursuance of this section, shall contain a recital of the Petition on which it was founded, and of the

same having been passed in compliance with the prayer of such Petition and the directions of this Section: And provided also, secondly, that every such By-law shall contain a clause limiting the same to take effect and come into operation on the First day of December next but one after the same shall have been passed, and in case of the proceedings being taken for dividing, abolishing, or altering the division into Wards, such By-law shall not be passed, nor such division, abolition or alteration take place, unless a majority of the freeholders and householders of such Township or Union of Townships entitled to vote at the General Annual Municipal Election for such Township or Union of Townships, at the General Annual Municipal Election for the same to be held for the year in which such By-law shall be so limited to take effect and come into operation, shall, in addition to all other votes given by them at such Election, vote for such dividing into Wards, or the abolishing of the dividing into Wards, or the altering of the same, as hereinafter provided: Provided also, thirdly, that it shall not be obligatory upon any such Municipality to pass any such By-law in compliance with such Petition, unless such Petition shall be signed by a majority of the freeholders and householders appearing on the Collector's Roll of such Township or Union of Townships for the year preceding that in which the same shall be presented: And provided also, fourthly, that such By-law need not be passed by a vote of four fifths of the Members for the time being of such Municipality, as required by the eighth section of the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, but by a majority thereof.

VII. And be it enacted, That it shall be the duty of the Town Reeve of every such Township or Union of Townships, the Municipality of which shall have passed any such By-law as is mentioned in the next preceding section of this Act, to cause a certified Copy of such By-law to be delivered to the Returning Officer, or if such Township or Union of Townships shall be divided into Wards, then to each of the Returning Officers whose duty it shall be to hold the General Annual Municipal Elections for such Township or Union of Townships, for the year in which such By-law is so limited to take effect as aforesaid; And it shall thereupon be the duty of every such Returning Officer to insert appropriate columns in his Poll Books, headed: "For the division into Wards;" "For the alteration of the division into Wards;" "Against the division into Wards;" "Against the alteration of the division into Wards;" "For the abolishing of Wards;" "Against the abolishing of Wards;" as may be necessary, and while the Poll for the election of Township Councillors shall remain open, according to law, to receive and record the votes of those entitled to vote for Township Councillors at such Election, for and against such project, as the same may be tendered to him in that behalf: Provided nevertheless, firstly, that when such By-law shall be for dividing such Township or Union of Townships into Wards, or for the alteration of the Division into Wards, it shall be the duty of every such Returning Officer to have fair copies of such By-law put up in at least four conspicuous places in and about the place where such Poll shall be held, so that the same may be open to the inspection of the public: And provided always, also, that in every such case, it shall be the duty of the Town Reeve of such Township or Union of Townships, within one month after his election, to examine the Returns of such Poll as respects the votes for and against such proposition, and to give public notice of the result, that such By-law will or will not take effect accordingly on the first day of December then following, according as he shall find that there was a majority of votes for or against such proposition.

VIII. And be it enacted, That after any such By-law as is referred to in the two next preceding sections, shall have taken effect in the manner therein provided, it shall not be in the power of the Municipality of such Township or Union of Townships to repeal or alter the same, except by a By-law to be passed upon a similar petition from a majority of the freeholders and householders whose names are on the Collector's Roll of such Township or Union of Townships, nor unless such proposed repeal or alteration shall be approved of by the votes of a majority of the Municipal Electors of such Township or Union of Townships at a general annual Municipal Election for the same, agreeably to the provisions of the said two sections hereinbefore provided with respect to such original By-law for dividing or abolishing of divisions into Wards respectively.

IX. And be it enacted, That in addition to the powers now possessed by the Municipalities of the several Townships in Upper Canada, they shall have the power and authority from time to time to make a By-law or By-laws for each, all and every of the following purposes, that is to say:

Firstly. For levying by assessment on all of the rateable property within a particular part or portion of the Township, to be described by metes and bounds in such By-law, in addition to all other taxes rated on such property, such sum of money as may be sufficient to defray the expense of constructing, improving or repairing any Road, Bridge, or other Public improvement within the portion of the Township the limits of which are to be described as aforesaid; but no such By-law shall be passed unless upon an application in writing under the hands of at least two thirds of the resident Free-holders and Householders rated on the Assessment-Roll of such Township, representing in value at least one half of the rateable property within the limits to be affected by such By-law; and that a printed notice of such application, with the names of the signers thereto, describing the limits within which the By-law is to be in force, shall be given for at least one month, by putting up the same in four different places within such limits, and at the place for holding the sittings of the Township Council for such Township, whether it be within such limits or not, and also by inserting the same weekly, for at least four weeks in some newspaper published within the County.

Secondly. For levying, collecting and appropriating a rate, to be assessed equally on the whole rateable property of such Township, for raising such moneys as may be considered necessary for the support of any indigent, infirm or helpless persons resident in such Township. But no By-law for such purpose shall be made or passed unless upon a written request to that effect signed by a majority of the Freeholders and Householders on the Assessment-Roll of the Township for the year in which such request shall be made, nor unless for at least one month previous to the passing of such By-law, printed copies of such request, with the names of the signers thereto, shall have been put up in at least four public places within such Township, and at the usual place for holding the meeting of the Township Municipality, and also by inserting the same weekly for at least four weeks in some newspaper published within the county.

Thirdly. For preventing the excessive beating or cruel and inhuman treatment of animals on the public highways of such township.

Fourthly. For settling and paying a rate at which the Township Councillors forming such Municipal Council, shall be remunerated for their attendance at such Council: Provided always, nevertheless, that no By-law to be passed for that purpose after the year of our Lord, one thousand eight hundred and fifty-four, shall be valid unless the same shall, by the terms of it, be limited to take effect at the end of two whole years at least from the passing thereof, and not before.

Fifthly. For granting authority to any Company now or hereafter to be incorporated for supplying any City or Town with water or gas, to lay down pipes or conduits for the conveyance of such water or gas-under any of the highways of the Municipality, subject to such restrictions, limitations and regulations as to such Municipal Council may seem meet.

Sixthly. For granting authority to any Railway Company to make any branch Railway within the Municipality, which such Company may by law be authorized to make with the consent of the Municipality, and for authorizing such branch to be constructed upon any property of the Municipality, or upon any public highway within the same, under such conditions and limitations as to the Council of such Municipality may seem meet.

X. And be it enacted, That the following section shall be substituted for the repealed twenty-second section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That it shall be the duty of the Returning-Officer for every such Township or Rural Ward to procure a correct copy of the Collectors Roil for such Township or Ward for the year next, before that in which the Election shall be holden, so far as such Roil contains the names of all male Freeholders and Householders ruled upon such Roll, in respect of rateable real property lying in such Township or Ward, with the amount, of the assessed value of the real property for which they shall be respectively rated on such Roll, which copy shall be verified by the affidavit or affirmation of such Collector, or of such other person as may have the legal custody of the original Roll for the time being, and also by that of such Returning Officer, to be appended to or endorsed upon such copy, and which affidavit or affirmation shall be taken respectively before any Justice of the Peace for the County, or other Officer having authority to administer an oath or animation for any purpose under this Act, and which affidavit or affirmation snail be to the effect, (but if made by a Returning Officer, may be so far varied as to state the same according to the best of his knowledge and belief,) that such copy is a true copy of such Roll, as far as the same relates to such Township or Ward, and that it contains the names of all male freeholders or householders rated upon such Roll in respect of rateable real property lying in such Township or Ward, with the amount of the assessed value of the real property for which they are so rated respectively; and no person shall be qualified to be elected a Township Councillor, at any such Election who shall not be a Freeholder or Householder of such Township at the time the assessment was taken, and at the time of such Election seized or possessed of real property held in his own right or that of his wife as proprietor or tenant thereof, which shall be rated in his name on such Collector's Roll, in the case of a freeholder to the amount of One Hundred Pounds or upwards, and in the case of a householder to the amount of Two Hundred Pounds or upwards; and the persons entitled to vote at such election shall be the Freeholders and Housholders of such Township or Ward, whose names shall be entered on the said Roll as rated for rateable real property, held in their own right or that of their wives respectively, as proprietors or tenants thereof, and who at the time of such

election shall be resident in such Township or Ward; Provided always, nevertheless, firstly, that the occupant of a house built of logs whether hewn or unhewn, shall be considered a Householder within the meaning of this Act, in case he shall be rated therefor as a Householder upon such Collector's Roll as aforesaid. Provided also, secondly, that the occupant of any separate portion of a house, having a distinct communication with a public road or street by an outer door, shall also be considered a Householder within the meaning of this Act, in case he shall in like manner be rated therefor as a Householder upon such Collector's Roll as aforesaid: Provided also, thirdly, that whenever both the owner and occupant of any such real property shall be so rated in respect of such rateable real property, the owner and the occupant shall both be deemed rated within the meaning of this section: And provided also, fourthly, that where any such real property shall be owned or occupied jointly by more than one person, and the amount at which the same shall be so rated, shall be sufficient, if equally divided between them, to give a qualification to each, then and in every such case, every male Freeholder or Householder whose name shall appear on such Roll as one of the joint owners or occupants of such real property, shall be deemed a person rated within the meaning of this section; but if the amount at, which such real property shall be so rated, shall not be sufficient, if so divided, to give a qualification to each of such joint owners or occupants, then, none of such owners or occupants shall be deemed a person rated within the meaning of this section."

XI. And whereas in some parts of Upper Canada Junior Townships, having more than fifty and less than one hundred resident freeholders and householders rated on the Assessment-Roll of such Junior Township, are so situated with reference to streams, water-courses or other natural obstructions, that the inhabitants thereof cannot conveniently unite with any adjoining Township for managing their Municipal affairs: Be it therefore enacted, That whenever a majority of at least two thirds of the freeholders and householders, rated on the Assessment-Roll, resident within any Junior Township in Upper Canada, having within it at least fifty resident freeholders and householders on such Roll, shall petition the Municipal Council of the County within which such Township is situate, stating their desire to be formed into a separate Municipality, it shall be lawful for such County Municipality, by any By-law to be passed for that purpose, to separate such Junior Township from any other Township to which it may be united, and to declare that such separation shall come into force and take effect from and after the first day of January next after the end of three calendar months from the passing of such By-law, and from the said first day of January after the passing of such By-law, such Township, and that to which it shall have been so united, shall thenceforth, to all intents and purposes whatsoever, be held and considered as separate Townships: And the Municipality of such County shall, by the same By-law, appoint the Returning Officer to hold the first election in such Township (Junior), and name therein the place at which it shall be held on the first Monday in January next after the passing of such By-law; Provided always, that the By-laws of the senior Township shall, in so far as they may be applicable in such junior Township, remain in force therein notwithstanding its becoming a separate Municipality, until they shall be respectively repealed or altered by the Municipal Council of such junior Township.

Counties.

XII. And be it enacted, That any person charged with any indictable offence, who at the time of the disuniting of any Junior County from any Senior County under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act for abolishing the Territorial Division of Upper Canada into Districts, and for providing for temporary Unions of Counties for Judicial and other purposes, and for the future dissolutions of such Unions, as the increase of wealth and population may require*, or of any other Act of the Parliament of this Province, shall be imprisoned on such charge in the Gaol in such Senior County, or be under bail or recognizance to appear for trial at any Court in such Senior County, may be indicted, tried, sentenced and punished either in such Senior County or such Junior County, as to the Court before whom such person shall be tried shall seem meet.

XIII. And be it enacted, That the following section shall be substituted for the repealed thirty-third section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That the Town Reeves and Deputy Town Reeves of the several Townships, Villages and Towns within each County, shall constitute the Municipal Council for such County: Provided always, nevertheless, firstly, that no Town Reeve shall be entitled to take his seat in. such Municipal Council until he shall have filed with the Clerk of such Municipal Council a certificate under the hand and seal of the Town Clerk of the Township, Village or Town for which he shall be entitled to sit in such Municipal Council, of his having been duly elected and taken the oath of qualification and office as such Town Reeve: And provided also, secondly, that no Deputy Town Reeve shall be entitled to take his seat in such Municipal Council until he shall have filed a similar certificate with the Clerk of such Municipal Council, and also an affidavit or affirmation of the Collector or of such other person as shall have the legal custody of the Collector's Roll or Rolls of such Township, Village or Town for the previous year, and sworn or affirmed before some Justice of the Peace for the County, to the effect that such Roll or Rolls contains or contain the names of at least five hundred resident Freeholders and Householders in such Township, Village or Town as they appear upon such Roll or Rolls."

XIV. And be it enacted, That in addition to the powers now- possessed by the Municipal Councils of Counties and Unions of Counties in Upper Canada, the Council of any such Municipality shall have power to make a By-law or By-laws for levying by assessment on all the rateable property within any particular parts or portions of two Townships, to be described by metes and bounds in such By-law, in addition to all other taxes rated on such property, such sum of money as shall be sufficient to defray the expense of making, maintaining, repairing or improving any Road, Bridge or other public work lying between such parts or portions of such two Townships, and by which the inhabitants of such parts or portions will be more especially benefited; but no such By-law shall be passed except upon the application in writing under the hands of at least two thirds or the resident rate-payers, representing at least one half in value of the rateable property within those parts or portions of such two Townships which are to be affected by such By-law: and that a printed notice of such application, with the names of the signers thereto, describing the limits within which such By-law is to be in force, shall be given for at least one month, by posting up such notice in four different places within such limits, and at the places for holding the sittings of the Township Council for each of the Townships interested, and also by inserting the same weekly for



at least four weeks in some newspaper published in the County, if any there be, and if not, then in some newspaper published in some adjoining County.

#### Towns and Cities.

XV. That the Common Council of each of the Cities, and the Town Councils of each of the Towns now or hereafter to be incorporated in Upper Canada, shall, in addition to the powers they now possess, have further power and authority to make By-laws for each of the following purposes:

Firstly. To fix an annual rent upon the drainage of any house, cellar, yard or land into any common sewer, and to charge the property so drained for the payment of such rent, during the time it shall be so drained into such sewer.

Secondly. For raising, levying and appropriating at and upon the petition of two thirds or upwards of the freeholders and householders resident in any particular street, square, alley or lane of the said Town or City, representing in value at least one half of the rateable property situate in such street, square, alley or lane, such sum or sums as may be necessary to defray the expense of lighting with gas, oil or other substances, such street, square, alley or lane, by means of a special rate, to be assessed equally on the whole rateable property in such street, square, alley or lane.

Thirdly. For granting authority to any Company now or hereafter to be incorporated for the purpose of supplying water or gas for the use and convenience of the inhabitants of such City or Town, to lay down pipes or conduits for the conveyance of such water and gas under any of the streets or public squares of the Municipality, under such restrictions, limitations and regulations as to such Municipal Council may seem meet.

Fourthly. For subscribing for or purchasing any number of Shares in the Capital Stock of any Company incorporated for the purpose of supplying such City or Town with Water or Gas, or for lending any sum of money to such Company, or guaranteeing the payment of any sum of money borrowed by such Company from any Corporation or person, or for endorsing or guaranteeing the payment of the principal or interest of any Debenture to be issued by the Company for any money by them borrowed, or for assessing and levying from time to time upon the whole rateable property of the Municipality, a sufficient sum or sums to discharge the debt or engagement so contracted, or for issuing Debentures for the like purpose payable at such times and for such sums respectively not less than Twenty-Five Pounds currency, and bearing or not bearing interest, as such Corporation may think meet: Provided firstly that any such subscription for or purchase of Shares in such Company as aforesaid, may be made on behalf of the Municipality by any Municipal Officer or person thereunto authorized by any By-law, and that any such Debenture issued, endorsed or guaranteed under any such By-law as aforesaid, shall be valid and binding upon the Municipality, if signed or endorsed and countersigned by such Municipal Officer or person and in such manner and form as shall be directed by any By-law; Provided secondly, that no Municipal Corporation shall subscribe for or purchase stock of any such Company as aforesaid, or incur any debt or liability in respect of any such Company, unless and until a By-law authorizing such subscription or purchase, or the incurring of such debt or liability, shall have been duly made

and adopted with the consent first had and obtained of a majority of the qualified Municipal Electors of the Municipality, to be ascertained in such manner as shall be determined by a By-law to be made for that purpose, after public notice containing a copy of the proposed By-law or of every material provision thereof, inserted at least four times in each newspaper printed within the limits of the Municipality, (or if none be printed within the limits of the Municipality, then in some newspaper or newspapers printed in the neighbourhood of such Municipality and circulated therein,) and also posted up in at least four of the most public places in the Municipality; And provided thirdly, that the Mayor of any such Municipality as aforesaid, subscribing for and holding stock in any such Company, to the amount of Two Thousand Five Hundred Pounds, or upwards, shall be and continue to be ex officio one of the Directors of the Company, in addition to the other Directors thereof, and shall have the same rights, powers and duties as any of the Directors of the Company, and the Mayor for the time being shall also be allowed to vote on the shares owned by the said Municipality at any Election of Directors.

XVI. And be it enacted, That if the Taxes assessed in any year upon any male inhabitant of any City or incorporated Town or Village, of the age of twenty-one years and upwards, and not over sixty years of age, (and not otherwise exempted by law from performing statute labour, except by being rated on the Assessment-Roll of such City, Town or Village,) do not amount to ten shillings currency, he shall instead of such laborer be taxed ten shillings yearly, to be levied and collected in the same manner as other local Taxes, to the use of the Corporation of the place.

XVII. And be it enacted, That the following section shall be substituted for the repealed sixty-fifth section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That it shall be the duty of the Returning Officer for each Ward of every such incorporated Town, to procure a correct copy of the Collector's Roll for such Ward for the year next before that in which the Election shall be holden, so far as such Roll contains the names of all male freeholders and householders rated upon such Roll in respect of real property lying in such Ward, with the amount of the assessed value of such real property for which they shall be respectively rated on such Roll, which copy shall be verified in like manner as the copies of Collector's Rolls for Township Elections, as hereinbefore provided; and no person shall be qualified to be elected a Town Councillor at any such Election, who shall not be a freeholder or householder of such town, seized or possessed of real property held in his own right or that of his wife as proprietor or tenant thereof, which shall be rated in his name on such Collector's Roll or on the Collector's Roll or Collector's Rolls for some one or more of the other Wards of such Town for such next preceding year, in the case of a freeholder to the amount of Twenty Pounds per annum or upwards, and in the case of a householder to the amount of Forty Pounds per annum or upwards, and who shall not be seized or possessed to his own use or that of his wife of the real property for which he shall be so rated, either in fee or freehold, or for a term of one year or upwards, situate within such Town; and the persons entitled to vote at such Election shall be the freeholders and householders of the Ward for which such Election shall be held, whose names shall be entered on the Collector's Roll thereof for such next preceding year as rated for rateable real property, held in their own names or that of their wives respectively, as proprietors or tenants thereof, to the amount of Five Pounds per annum or upwards, and who at the time of such Election shall be resident in such Town; and no person shall vote more than once at any such Election, and if

resident in the Ward for which he was assessed shall vote in that Ward: Provided always, nevertheless, firstly, that it shall not be necessary that the property qualification of such Town Councillors or Voters shall consist wholly of freehold or wholly of leasehold property, provided the aggregate amount at which both shall be assessed shall be sufficient as above required: Provided also, secondly, that the occupant of any separate portion of a house, having a distinct communication with a public road or street by an outer door, shall also be considered a householder within the meaning of this Act, in case he shall in like manner be rated therefor as a householder upon such Collector's Roll as aforesaid: Provided also, thirdly, that whenever both the owner and occupant of any such real property shall be so rated in respect of such rateable real property, the owner and the occupant shall both be deemed rated within the meaning of this section; And provided also, fourthly, that where any such real property shall be owned or occupied jointly by more than one person, and the amount at which the same shall be so rated shall be sufficient, if equally divided between them, to give a qualification to each, then and in every such case every male Freeholder or Householder whose name shall appear on such Roll as one of the joint owners or occupants of such real property shall be deemed a person rated within the meaning of this section; but if the amount at which such real property shall be so rated shall not be sufficient, if so divided, to give a qualification to each of such joint owners or occupants, then none of such owners or occupants shall be deemed a person rated within the meaning of this section."

XVIII. And be it enacted, That the following section shall be substituted for the repealed eighty-third section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That for each Ward of every such City there shall be two Aldermen and two Councillors, to be elected as hereinbefore provided with respect to Town Councillors, which Aldermen and Councillors shall together constitute the Common Council of such City, and which City and the Mayor and Common Council thereof shall have and exercise all and singular the same rights, powers, privileges and jurisdiction in, over and with respect to such City and the liberties thereof, as are hereinbefore given, granted or conferred upon, or as shall, by virtue of this Act or otherwise, belong to incorporated Towns in Upper Canada, the Mayors, Councillors and Common Councils thereof, and all the rules, regulations, provisions and enactments contained in this Act, as applied to such incorporated Towns, the Mayors and the Councillors thereof, and their election, and those by whom such election is to be made, and to the Town Council thereof, either by way of reference to those provided for Incorporated Villages or otherwise, shall apply to each of the said Cities and the Mayor, Aldermen and Councillors thereof and their election, and to the Common Council thereof; Provided always, nevertheless, firstly, that the Mayor of every such City shall be elected by the Aldermen and Councillors of such City from among the Aldermen thereof; And provided also, secondly, that no person shall be qualified to be elected an Alderman for any Ward of such City, who shall not be a freeholder or householder of such City seized or possessed of real property held in his own right or that of his wife as proprietor or tenant thereof, which shall be rated in his name on the Collector's Roll of the Ward for which he shall be elected, or on the Collector's Roll or Collector's Rolls for some one or more of the other Wards of such City for the year next preceding his election, in the case of a freeholder to the amount of Forty Pounds per annum or upwards, and in the case of a householder to the amount of Eighty Pounds per annum or upwards, and who shall not be seized or possessed to his own use or that of his wife of such real property either in fee or freehold, or for a term of one year or upwards, situate within such City or

the liberties thereof. And provided also, thirdly, that no person shall be qualified to be elected a Councillor for any Ward of such City, who shall not be a freeholder or householder of such City seized or possessed of real property held in his own right or that of his wife as proprietor or tenant thereof, which shall be rated in his name on the Collector's Roll of the Ward for which he shall be elected, or on the Collector's Roll or Collector's Rolls for some one or more of the other Wards of such City, for the year next preceding his election, in the case of a freeholder to the amount of Twenty Pounds per annum or upwards, and in the case of a housholder to the amount of Forty Pounds per annum or upwards, and who shall not be seized or possessed to his own use or that of his wife of such real property either in fee or freehold, or for a term of one year or upwards situate within such City or the liberties thereof. And provided also, fourthly, That the persons entitled to vote at the elections of such Aldermen and Councillors, shall be the freeholders and householders of the Ward for which such election shall be held, whose name shall be entered on the Collector's Roll thereof for such next preceding year, as rated for rateable real property held in their own names or that of their wives respectively, as proprietors or tenants thereof, to the amount of Seven Pounds Ten Shillings per annum or upwards, and who at the time of such election shall be resident in such City or the liberties of the same; but no person shall vote at more than one Ward in such City, and if assessed in the Ward in which he resides, shall vote only at the election for that Ward."

XIX. And be it enacted, That the following section shall be substituted for the repealed eighty-fourth section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That whenever any of the said Towns incorporated or to be incorporated as aforesaid, shall be found by the census returns to contain more than ten thousand inhabitants, then, on petition from the Town Council of such Town, it shall and may be lawful for the Governor of this Province, by an Order in Council, to issue a Proclamation under the Great Seal of the Province, erecting such Town into a City, declaring the name of such City, setting forth the boundaries of the same and of the liberties thereof respectively, with the portions of the liberties to be attached to each of such Wards respectively, and including with in such boundaries any portion of the Township or Townships adjacent, which from the proximity of streets or buildings therein or the probable future exigencies of such City, it may appear desirable in the opinion of the Governor in Council should be attached to such City or the liberties thereof; and to make new divisions of such City into Wards, in like manner as is provided in the case of the said Towns; and the first Election in such place as a City shall take place on the first Monday of the month of January next after the end of three calendar months from the teste of such Proclamation. Provided always nevertheless, that when and so often as it shall be deemed desirable for the greater convenience of the citizens of any of the Cities incorporated or to be incorporated as aforesaid, that the area forming such City and the liberties thereof, (either with any portion of the Township or Townships adjacent, which from the proximity of streets or buildings therein or the probable future exigencies of such City, it may appear desirable should be attached to such City or the liberties thereof, or without such portion of such Township or Townships) or any part thereof, should be re-divided into wards, and the expediency of such re-division shall have been affirmed by a majority of the Common Council of such City consisting of at least two thirds of the members thereof, in the month of February in two successive years, it shall and may be lawful for the Governor of this Province, by an Order in Council, to issue a Proclamation under the Great Seal

thereof, re-dividing such City or such part of such City into wards, with liberties attached to such wards respectively, as to him shall seem expedient. And on, from and after the first day of January next after the end of three calendar months from the teste of such Proclamation, such re-division shall take effect to all intents and purposes, as if such had been the original division of such City into Wards, or of the part thereof so re-divided, in and by Act of Parliament or Proclamation in the first instance. And provided also, secondly, that in every such re-division, it shall and may be lawful, in and by such Proclamation, to include within the boundaries of such City or the liberties thereof, any portion of the Township or Townships adjacent, which from the proximity of streets or buildings therein, or the probable future exigencies of such City, it may appear desirable, in the opinion of the Governor in Council, should be attached to such city or the liberties thereof."

XX. And be it enacted, That the following section shall be substituted for the repealed ninety-fourth section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That the said Recorder's Court shall hold four Sessions in each year, which Sessions shall commence on the first Monday in the months of January, April, July and November in each year."

XXI. And be it enacted, That: the following section shall be substituted for the repealed one hundred and third section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That, the Clerks of the Common Councils of the said Cities, or such other persons as the Corporations of such Cities shall appoint for that purpose, shall be Clerks of the Recorder's Courts, and perform the same duties and receive the same emoluments as now appertain to the Clerks of the Peace in Upper Canada."

#### Miscellaneous.

XXII. And be it enacted, That the following section shall be substituted for the repealed one hundred and ninth section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That the Head of every such Municipal Corporation as aforesaid, and the Town Reeve of every Town and the Deputy Town Reeve of every Township and Town, shall ex officio be Justices of the Peace in and for the County within or on the borders of which the Township, Village, Town or City, to which they shall respectively belong, shall be situate, and shall have within every such County, as well as within the limits of the Jurisdiction of the Municipal Corporation over which such person presides, or to which they shall respectively belong, all and singular the powers and jurisdiction as well civil as criminal which belong to the office of Justice of the Peace."

XXIII. And be it enacted, That the following section shall be substituted for the repealed one hundred and fifteenth section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That it shall and may be lawful for the Governor of this Province by any Order in Council, made upon the petition of the Municipal Corporation of any Town or Village, by Proclamation under the Great Seal of the Province, to add to the boundaries of such Town or Village, and to make a new division of the Wards of any such Town, and to alter the boundaries and number of such Wards, but so that there be not less than three Wards therein, and that no Ward shall by such division contain less than the number of inhabitants contained in the least populous Ward of such Town by the first Census taken after the first erection of such Town; and

the first election, under such enlargement or new division of such Town or Village, shall take place on the first Monday of January next after the end of three calendar months from the date of such Proclamation.”

XXIV. And be it enacted, That the following clause shall be substituted for the repealed one hundred and twenty-eighth section of the Act first above cited, and shall be read as part of the said Act: “And be it enacted, That the Head of every Municipal Corporation, erected or to be erected under the authority of this Act, shall be sworn or affirmed into office by the Highest Court of Law or Equity, whether of general or only of local jurisdiction, which shall at the time be sitting within the limits of such Corporation, or by the Chief Justice or other Justice or Judge of such Court at his Chambers, or if there be no such Court, Justice or Judge within the Limits or at the place of meeting of such Corporation at the time, then before the Recorder or Police Magistrate or Mayor, (in case he shall not be the person to be sworn in) of such City or Town, or any Justice of the Peace of the County or Town in or over which such Corporation shall have jurisdiction, or in the case of Townships and Villages, by any Justice of the Peace for the County in which such Township or Village shall be situated, or in case there shall be no such Court, Justice, Judge or Justice of the Peace within such limits at the time, then before the Clerk of such Municipal Corporation, in the presence of a meeting of such Corporation, which several Courts, Justices, Judges, Recorders and Police Magistrates, Mayors, Justices of the Peace, and Clerks, are hereby severally authorized and required to administer such oath or affirmation, and to give the necessary Certificate of the same having been duly taken and subscribed.”

XXV. And be it enacted, That the following clause shall be substituted for the repealed one hundred and thirty-second section of the Act first above cited as amended, and shall be read as part of the said Act: “And be it enacted, That no Judge of any Court of civil jurisdiction, no Naval or Military Officer on full pay, and no person receiving any allowance from the Township, County, Village, Town or City, (except in the capacity of Town Reeve or Deputy Town Reeve, or Township Councillor, or in capacities incident thereto,) and no person having by himself or partner any interest or share in any contract with or on behalf of the Township, County, Village, Town or City in which he shall reside, shall be qualified to be or be elected Alderman or Councillor for the same or for any Ward therein.”

XXVI. And be it enacted, That the following section shall be substituted for the repealed one hundred and thirty-fifth section of the Act first above cited, and shall be read as part of the said Act: “And be it enacted, That each and every Justice of the Peace for any of the said Towns, shall be qualified in the same amount of property, and shall take the same oaths as are required of other Justices of the Peace. But no Warden of any County, Mayor, Recorder, Police Magistrate, or Alderman of any City, Mayor or Police Magistrate, Reeve or Deputy Reeve of any Town, Town Reeve, or Deputy Town Reeve of any Township or Village, shall require any property qualification to enable him lawfully to act as a Justice of the Peace, nor shall any other oath be required of him than his oath of office as such Warden, Mayor, Recorder, Police Magistrate, Alderman, Town Reeve or Deputy Town Reeve, and the oath of qualification for such office; any law to the contrary notwithstanding.”

XXVII. And be it enacted, That the following section shall be substituted for the repealed one hundred and forty-sixth section as amended of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That at the instance of any Relator having an interest as a Municipal Voter in or for any Township or Village, or in or for any Ward of any Township, Town or City, for which any election shall be held under the authority of this Act, or having such interest as a candidate at such election, a Writ of Summons in the nature of a *quo warranto* shall lie to try the validity of such election, and also where it shall be alleged by such Relator that himself or some other person was duly elected and ought to have been returned at such election, then to try as well the validity of the election complained against as the validity of the alleged election of such Relator or other person, both which objects shall be embraced in the same Writ, which Writ shall issue out of either of Her Majesty's Superior Courts of Common Law at Toronto, upon an Order of such Court in term time, or upon the Fiat of a Judge of either of such Courts or of the Judge of the County Court having jurisdiction over the Municipality within which such election shall have taken place in vacation, upon such Relator shewing upon affidavit to such Court or Judge, reasonable grounds for supposing that such election was not conducted according to Law, or that the party elected or returned thereat, was not duly or legally elected or returned, and upon such Relator entering into a recognizance before the said Court or any Judge thereof, or before any Commissioner for taking bail in either of such Courts himself in the sum of fifty pounds, and two sureties to be allowed as sufficient upon affidavit by such Court or Judge, or Judge of the County Court as aforesaid, in the sum of twenty-five pounds each, conditioned to prosecute with effect the Writ to be issued upon such Order or Fiat, or to pay to the party against whom the same shall be brought, his executors or administrators, all such costs as shall be adjudged to such party against him the said Relator, thereupon such Writ shall be issued accordingly out of the office of the Clerk of the Crown and Pleas of each of said Superior Courts of Common Law at Toronto, and out of the offices of their Deputies in the several Counties in Upper Canada, who shall be provided with such Writs for that purpose; and the said Writ shall be returnable upon the eighth day (as on Friday where service shall have been made on the Thursday of the preceding week,) or such further day to be named in the said Writ, and which shall not be less than eight days after that on which it shall be served on such party by the delivery of a copy thereof to him personally or in the manner hereinafter provided for, before some one of the Judges of either of the said Courts at Chambers or before the Judge of such County Court at a place to be mentioned in the said Writ, any one of which Judges shall have power, upon proof by Affidavit of such personal or other sendee, and he is hereby required to proceed in a summary manner upon statement and answer and without formal pleadings, to hear and determine the validity of the Election complained against, and where the sufficiency or legality of such other Election shall have been so alleged as aforesaid, then the validity of such last mentioned Election, and in case of such first mentioned Election being adjudged invalid and such last mentioned Election being adjudged valid, then by a Writ adapted to that purpose to cause the person returned upon such invalid Election to be removed, and the person lawfully elected and who ought to have been returned to be admitted in his place, and in case of neither of such alleged Elections being adjudged valid, then by a like Writ to cause the person returned upon such invalid Election to be removed and a new Election to be held to supply the vacancy thus created, in all which cases it shall and may be lawful for such Judge, whether of the County or Superior Courts as aforesaid, if the facts in evidence before him render it proper so to do, to make the Returning Officer at such Election a party to such

proceedings by a Writ of Summons to be served upon him for that purpose in the same manner as the Writ of Summons hereinbefore mentioned; and it shall and may be ' lawful for such Judge, and he is hereby required in disposing of every such case, to award costs for or against the Relator or Defendant upon such Writ, or for or against the Returning Officer when he shall be so made a party to such proceedings as aforesaid, as to such Judge shall seem just; Provided always, nevertheless, firstly, that all Elections of Mayors, Wardens, Town Reeves and Deputy Town Reeves shall be deemed Elections within the meaning of this section; And provided also, secondly, that whenever the grounds of objection against any such Election shall apply equally to all or any number of the Members of any such Municipal Corporation, it shall and may be lawful for the Relator to proceed by one Writ of Summons against all such Members; and in case of the Elections of all the Members of any such Municipal Corporation being adjudged invalid, the Writ for the removal of the Members so adjudged to have been illegally elected and returned and the admission of those so adjudged to have been legally elected, shall be directed to the Sheriff of the County or Union of Counties within the limits of which the locality in or over which such Municipal Corporation shall be situated, who for the purpose of causing an Election to be held under the authority of this Act, shall have all the powers and authority hereby conferred upon Municipal Corporations for supplying such vacancies as are occasioned by death; And provided also, thirdly, that all such original Writs of Summons shall be applied for within six weeks after the Election complained against, or within one month after the person whose Election is questioned shall have accepted the office, and not afterwards; And provided also, fourthly, that no costs shall be awarded against any person against whom any such Writ of Summons in the nature of a *quo warranto* shall be brought, who shall within one week after having been served with such writ, transmit postpaid through the Post Office, directed to the Clerk of Judges' Chambers, at Osgoode Hall, Toronto, when such writ shall be returnable there, or to the Judge of the County Court when it is made returnable before such Judge, a Disclaimer of the Office in the terms or to the effect following, that is to say: "I, A. B., upon whom a Writ of Summons in the nature of a *quo warranto*, has been served for the purpose of contesting my right to the Office of Township Councillor (or as the case may be) for the Township of \_\_\_\_\_ in \_\_\_\_\_ the County of \_\_\_\_\_ (or as the case may be) do hereby disclaim the said Office and all defence of any right I may have to the same," unless it shall have been proved to the satisfaction of such Court or Judge, that such person had been a consenting party to being put in nomination as candidate for such Election, in which latter case such costs shall be in the discretion of such Court or Judge. And provided also, fifthly, that it shall be the duty of every such last mentioned person to deliver a duplicate of such Disclaimer to the Clerk of the Municipal Corporation the seat in which shall be contested, who shall forthwith communicate the same to the other Members of such Municipal Corporation; And provided also, sixthly, that in any such case, it shall be lawful for the Judge before whom such Writ of Summons is returnable, to afford reasonable time and opportunity for the said Municipal Corporation, or to any person entitled as a Municipal voter of such Corporation, to intervene and defend the said Election and return, in every which case such intervening party shall be liable and entitled to costs as any other party to such proceeding."

XXVIII. And be it enacted, That the following section shall be substituted for the repealed one hundred and forty-seventh section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That on the first day on which the Court out of which such Writ shall issue,



shall sit after such judgment shall be given by any such Judge, whether of either of the said Superior Courts or of the County Court as aforesaid, whether such day shall be in the same or the following term, the said Judge shall deliver or cause to be delivered such Writ and judgment with all things had before him touching the same into such Court, there to remain of record as a judgment of the said Court, as other judgments rendered therein, and such judgment shall thereupon be enforced by peremptory *Mandamus* and by such Writs of Execution Tor the costs awarded by such judgment, as occasion shall or may require.”

XXIX. And be it enacted, That the following section shall be substituted for the repealed one hundred and fiftieth section of the Act first above cited, and shall be read as part of the said Act: “And be it enacted, That it shall be lawful for every such Judge to cause the Collector’s Rolls, Poll Books and any other Records of such Election to be brought before him by Certiorari; and upon the trial of the validity of such Election upon any such Writ, such Judge shall enquire into the facts to be established, by personal evidence either by affidavit or affirmation, or by oral testimony taken before him as at nisi prius, or at the sittings for Trials of the County Court, or by issues to be framed by him for that purpose, and to be sent to be tried by Jury by Writ of Trial to be directed to such Court of Civil Jurisdiction as shall be named by such Judge for that purpose, or by one or more of those methods of inquiry as such Judge shall deem the ends of justice to require.”

XXX. And be it enacted, That the following section shall be substituted for the repealed one hundred and sixty-eighth section of the Act first above cited, and shall be read as part of the said Act: “And be it enacted, That at any session or meeting of any Municipal Corporation under this Act, a majority of the whole number of those who shall by law form such Corporation, shall be a quorum for the dispatch of business; and if the person who ought to preside at any such meeting shall be absent, it shall and may be lawful for those present to appoint from amongst themselves a Chairman to preside at such meeting, and the Chairman so appointed shall have the same functions and authority in presiding at such meeting as the person who, if present, would preside at such meeting; and all votes, resolutions and proceedings of such meetings shall be carried by the majority of votes of the persons composing such meeting, other than the person presiding, who, in case of an equality of votes, shall have the casting vote: Provided always, that the concurrent votes of at least three Members of any Municipal Corporation shall be necessary to carry a vote, resolution or proceeding at any meeting of such Corporation, where the whole number of Members constituting such Corporation shall be five, and the person presiding at such meeting shall always be allowed to vote when any of the five Members constituting the Corporation shall be absent, but shall not then be entitled to a double or casting vote.”

XXXI. And be it enacted, That the following section shall be substituted for the repealed one hundred and eighty-fifth section of the Act first above cited, and shall be read as part of the said Act: “And be it enacted, That all persons committing any offence against any By-law lawfully made by any Municipal Corporation, under the authority of this Act or of any other Act of the Legislature of this Province passed or hereafter to be passed, and with regard to prosecutions for which no other provision is made, may be prosecuted in a summary way before any one or more Justices of the Peace having jurisdiction within the locality in which the offender shall be resident, or within that in which the offence was committed, and such Justice or Justices or other authority before

whom any conviction for any such offence shall be had (and any such offender may be convicted on the oath or affirmation of any competent witness other than the prosecutor or informer) shall have full power and authority to award the penalty or the imprisonment, as the case may be, imposed by the By-law under which the conviction shall be had, with the costs of prosecution, against the offender, and to commit the offender to the Common Gaol if the offence be punishable by imprisonment, and to cause the penalty to be levied with costs if not forthwith paid, by distress and sale of the goods and chattels of the offender, by Warrant under the hand and seal of such Justices or one of them, or of the Chairman or Presiding Officer of the Court before whom such conviction was had; and one moiety of any such pecuniary penalty shall go to the informer or prosecutor, and the other moiety shall be paid to the Treasurer or Chamberlain of the Corporation against the By-law whereof the offence shall have been committed, and shall form part of the funds at the disposal of such Corporation: Provided always, firstly, that any such prosecution may be brought in the name and on the behalf of such Corporation as aforesaid, and in that case the whole of such pecuniary penalty shall be paid to the Treasurer or Chamberlain of such Corporation, and form part of such fund as aforesaid; And provided also, secondly, that any member of the Municipal Corporation under the By-law whereof any such prosecution as aforesaid shall be brought, being ex officio or otherwise a Justice of the Peace within such locality, may act as such with regard to such prosecution."

XXXII. And be it enacted, That the following section shall be substituted for the repealed one hundred and eighty-eighth section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That on the alteration of any Road under the authority of this Act, where the Road thus altered shall not have been an original allowance for Road, or where the same shall lie within any Incorporated Village, Town or City or the liberties thereof, the site of such old Road shall and may be sold and conveyed by the Municipal Corporation under whose authority the alteration was made, to the party or parties next adjoining to whose land or lands the same shall have run, or in case of his, her or their refusal to become the purchaser or purchasers thereof, at such price or prices respectively as such Municipal Corporation shall think reasonable, then to any other person or persons whomsoever: Provided always, nevertheless, that it shall not be lawful for any such Municipal Corporation to sell and convey any such old Road or any part thereof to any other than the person or persons first mentioned at any given price, until such first mentioned person or persons shall have refused to become the purchaser or purchasers thereof at such price; and in case the person or persons now in possession of any concession Road or side line may have laid out streets in any City, Town or Village without any compensation therefor, he or they shall be entitled to retain the land within such City, Town or Village, originally set apart for such concession Road or side line, in lieu of the street set apart by him in place of the said Concession Road or side line; and the Municipal Corporation of such City, Town or Village may convey such land so retained in fee to the person or persons so entitled" to retain possession, or to his or their heirs and assigns for ever."

XXXIII. And be it enacted, That the following clause shall be substituted for the repealed one hundred and ninety-fifth section of the Act first above cited, as amended, and shall be read as part of the said Act: "And be it enacted, That upon the passing of any By-law by any Municipal Corporation erected or to be erected under the authority of this Act, for the purpose of

authorizing the opening of any road, street or other public thoroughfare, or of changing, widening or diverting any road, street or public thoroughfare, so as to cause the same or any part thereof to go through or be placed upon or injuriously to affect the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property, to name an Arbitrator and give notice thereof in writing to the Clerk of such Corporation, and the Head of the Corporation shall, within seven days after such notice, name an Arbitrator on behalf of such Corporation and give notice thereof to the person or persons owning the said property and appointing such Arbitrator as aforesaid, or if within one calendar month after service of a copy of such By-law, certified to be a true copy under the hand of the Clerk of such Corporation on the person or persons owning such property, such person or persons shall omit to name an Arbitrator and give notice thereof as aforesaid, it shall and may be lawful for the Head of such Corporation to name an Arbitrator on behalf of such Corporation, and to give notice thereof to the person or persons owning the said property, and such person or persons shall within seven days after such notice name an Arbitrator on his or their behalf, and upon such two Arbitrators being so named as aforesaid, they shall within seven days thereafter appoint a third Arbitrator, and the said three Arbitrators, or the majority of them, shall have power to determine upon and award the amount of damages, if any, to be paid to such person or persons as aforesaid, and their award shall be binding on such person or persons and on the said Corporation respectively, so as such award be made in writing within thirty days after the appointment of the third Arbitrator as aforesaid: Provided always, That if any such owner or occupier shall neglect to name an Arbitrator for the space of seven days, after having been notified so to do, or if the said two Arbitrators do not within the space of seven days after their appointment, agree upon such third Arbitrator, or if any one of the said Arbitrators shall refuse or neglect within the space of seven days after his appointment, to take upon him the duties thereby imposed, then upon the application of the Head of the Corporation or of the other party, it shall be lawful for the Judge of the County Court, to nominate any disinterested competent person or persons, from any Township other than the Township in which such land shall be situate, to act in the place of such Arbitrator or Arbitrators so refusing or neglecting as aforesaid, and that every Arbitrator so appointed by the Judge of the County Court, as aforesaid, shall and he is hereby required to hear and determine the matter to be submitted to him, with all convenient speed, after he shall have been so nominated as aforesaid, and any award made by a majority of the said Arbitrators, shall be as binding as if the three Arbitrators had concurred in and made the same: And provided also, secondly, That every such submission and award shall be subject to the jurisdiction of Her Majesty's Superior Courts of Common Law for Upper Canada, in the same manner and to the same extent for all purposes whatsoever, as if there had been a submission of the matters in difference by Bond between the parties containing an agreement that such submission should be made a rule of either of such Courts."

XXXIV. And be it enacted, That the following section shall be substituted for the repealed two hundred and fourth section of the Act first above cited, and shall be read as part of the said Act: "And be it enacted, That each of the Towns mentioned in the second division of the said Schedule marked D, shall be and continue a part of the Township or Townships within which the same shall be respectively situate, and shall be and continue subject to the jurisdiction of the Municipality or Municipalities of such Township or Townships, as if the same was an unincorporated Village or Hamlet; and that when by the Census returns, it shall appear that any of such last mentioned

Towns and any portion of a Township or Townships which may conveniently be attached to such Town, shall together contain one thousand inhabitants or upwards, it shall and may be lawful for any number of the resident Freeholders or Householders of such Town, not less than one hundred, to petition the Governor of this Province that the inhabitants of such Town may be incorporated, and upon such petition it shall be lawful for the Governor of the Province, by an Order in Council, to issue a Proclamation under the Great Seal of the Province, setting forth the boundaries of such Town, and including within such boundaries any such portion or portions of the said adjacent Township or Townships as may conveniently be attached to such Town as aforesaid; and the inhabitants of such Town as embraced within such new and extended boundaries, shall on, from and after the first day of January next after the end of three calendar months from the teste of such Proclamation, be incorporated apart from the Township or Townships in which it is situate, and shall no longer be subject to the jurisdiction of the Municipality or Municipalities of such Township or Townships, and as such Corporation shall have perpetual succession and a Common Seal, with all such powers within the limits of such Town as are by this Act conferred upon the inhabitants of any incorporated Village, and the powers of the Corporation of such Town shall be exercised by, through and in the name of the Municipality of such Town; and all the provisions of this Act and of all other Acts hereafter to be passed applicable to incorporated Villages in general, and the Municipalities thereof, shall apply to such Town and the Municipality thereof as if the same were mentioned in the Schedule to this Act marked A.”

XXXV. And be it enacted, That the Municipal Corporation of any incorporated Village, Town or City, shall have full power and authority to cause any Common Sewer or Drain which they may consider necessary for the health, cleanliness or convenience of the Inhabitants of such Village, Town or City, or of any part thereof, to be opened, made and kept in repair, and for that purpose to take without the consent of the owner, and without such consent to enter upon, trench, and break up, any land or property which they might without such consent take for opening a new street, and to lay upon such land all materials and implements and perform all such work as may be necessary for opening, making or keeping in repair any such Common Sewer or Drain as aforesaid, or any part thereof: Provided always, that upon the passing of any By-law by any such Municipal Corporation authorizing the opening, making or repairing of any such Common Sewer or Drain, so as to cause the same to go through or be placed upon, or to render it necessary that the said Municipal Corporation should take, enter upon, or use the land or other real property of any person or persons, it shall and may be lawful for the person or persons who own such property to name an Arbitrator and give notice thereof in writing to the Clerk of such Corporation, and the Head of the Corporation shall within three days after such notice name an Arbitrator on behalf of such Corporation, and give notice thereof to the person or persons owning the said property, and appointing such Arbitrator as aforesaid, and every such notice shall express clearly what powers the said Corporation intend to exercise in respect to the land or real property (describing it) of the person or persons to whom it is addressed; and the two Arbitrators shall within three days thereafter appoint a third Arbitrator, and the said three Arbitrators or a majority of them shall have power to determine upon and award the amount of damages (if any) to be paid to such person or persons as aforesaid, and their award shall be binding on such person or persons and on the said Corporation respectively, so as such award be made within one calendar month after the appointment of the third Arbitrator as aforesaid: Provided always nevertheless,

firstly, that every such submission and award shall be subject to the jurisdiction of the Superior Courts of Common Law at Toronto, in the same manner and to the same extent for all purposes whatsoever, as if there had been a submission of the matters in difference by bond between the parties containing an agreement that such submission should be made a Rule of Court: And provided also, secondly, that such award shall cover only such damages (if any) as must, in the opinion of the Arbitrators making the same, necessarily result to the owner or owners of the lands in question, from the exercise by the Corporation of the powers mentioned in the notice given to such owner or owners as aforesaid, and the Arbitrators may if they think proper, define and describe the nature of the damage which must in their opinion necessarily result from the exercise of such powers, or may reserve the right of such owner or owners for any further damage of any kind to be mentioned in such award, or may in any other way which they may think conducive to justice, define the damages intended to be covered by the award, or those for which (should they occur) the said owner or owners will be entitled to recover further damages; and if any damage not covered by such award should thereafter be suffered by the owner or owners of such property, or by the finding of the Jury as hereinafter provided, whether by reason of the exercise by the Corporation of the powers which in such notice as aforesaid they shall have declared their intention to exercise, or of any further power, such owner or owners shall be entitled to recover the amount of such damages from the said Corporation, notwithstanding the payment of the sum awarded by the said Arbitrators, or found by such Jury: And provided also, thirdly, that if the Head of such Corporation shall neglect to appoint an Arbitrator for the Corporation within such time as aforesaid, or the said two first mentioned Arbitrators shall be unable to agree or shall not agree upon and appoint a third as aforesaid, or the said three Arbitrators or the majority of them shall be unable to agree or shall not agree upon an award within the time aforesaid, then and in every such case it shall be lawful for such person or persons so interested as aforesaid, to institute a special action on the case at law against the Municipal Corporation by which such By-law shall have been passed, and such action shall be sustainable whether any entry shall be made under such By-law or not, or whether any use shall be made of such property under such By-law or not, and if no such entry or use other than for the purposes of survey shall be proved at the trial of such action, then the Judge who shall try the same shall certify the want of such proof upon the record, and in such case it shall and may be lawful for such Municipal Corporation, at any time after such trial, and until four calendar months after the rendering of judgment upon such verdict, to repeal such By-law, or so much thereof as relates to or affects the property in question, and to withdraw the notice given to the owner or owners thereof, and to tender and pay to the Plaintiff in such action or to the Plaintiff's Attorney the taxed costs of the said Plaintiff in such action, and from or after such tender or payment the Municipal Corporation against whom such action shall be brought shall be discharged from the damage which shall be assessed in such action, and the land or other real property aforesaid shall be and remain as if no such By-law had been passed, and no entry or other use of such land or other real property for the purposes of such first mentioned By-law, shall be lawful after the assessment of such damages by the Jury, until the amount of the damages assessed and the costs of the Plaintiff in such action shall have been levied by the Sheriff or paid or discharged or lawfully tendered to the Plaintiff or the Attorney for the Plaintiff in such action: and the Jury trying any such case may give a special verdict defining the damages which such verdict shall or shall not cover, as hereinbefore provided with respect to the award of

Arbitrators, and in such manner as they shall deem most conducive to justice as regard both parties to the action.

XXXVI. And be it enacted, That it shall be lawful for all Corporations and persons whatsoever, tenants in tail or for a life or lives, guardians, committees and trustees, not only for and on behalf of themselves their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, femmes covert, or other persons who shall be seized, possessed of or entitled to or interested in any lands or real property which under the next preceding Sections, or any provision or enactment of the Upper Canada Municipal Corporation Acts, or any of them, may be taken by any Municipal Corporation without the consent of the owner thereof, to contract for, sell and convey to such Municipal Corporation such land or real property or any part thereof, or to agree with such Corporation for the sum to be paid for the damages arising from the exercise of any power by such Municipal Corporation in respect of such land or real property which could be exercised by such Corporation in respect of the same without the consent of the owner thereof, or to be validly served with any notice from such Municipal Corporation in respect, of the taking of such land or other property, or the exercise of any such power as aforesaid in respect of the same under any By-law, and to appoint any arbitrator who ought to be appointed, or to bring any action which may lawfully be brought, in respect of such land or real property and in consequence of such By-law or Notice; and if in any case there be no person who can act as aforesaid in respect of any such land or other real property, then it shall be lawful for the Judge of the County Court for the County in which such land or property is situate, to appoint a person to act in respect of the same, under this section, on the application of the Municipal Corporation: and any contract, agreement, sale, conveyance, assurance or appointment to be made, and any tiling done in any such action under the provisions of this Section shall be valid and effectual in law to all intents and purposes whatsoever, and any Corporation or person acting under the authority of this Section, is hereby indemnified for what he or it shall do in pursuance thereof; Provided always, that in any such case as aforesaid, when the party conveying such land or other real property, or appointing such Arbitrator, or bringing such action as aforesaid, has not the absolute estate in such land or other real property, the sum agreed upon or awarded to be paid for the same or for any damages thereto, shall not be paid to such party, but the interest thereof only at six per cent per annum shall be so paid, and the principal shall remain in the hands of the Municipal Corporation, to be paid to the party entitled to the absolute estate in such lands or real property whenever such party shall claim the same and execute a valid acquittance therefor, unless such Municipal Corporation shall in the meantime be directed by the Court of Chancery, or other Court having equitable jurisdiction in such cases, to pay over the same to any party, which direction such Municipal Corporation shall obey; and such Municipal Corporation shall not be bound to see to the application of any interest paid as aforesaid or of any sum paid under the direction of the Court of Chancery or other Court as aforesaid; Provided always, that all sums of money agreed upon or awarded under the two next preceding Sections or this Section, as the price of or as compensation for damages to any land or other real property, shall stand in the place thereof, and shall whether in the hands of the Municipal Corporation or of any party to whom the same shall have been paid, be subject to all such limitations and charges to which such land or other real property was subject, and from which the Municipal Corporation shall be discharged.

XXXVII. And be it enacted, That wherever any person rated on the Assessment-Roll of any Municipality or place shall object to the passage of any By-law, the passing of which is to be preceded by the application of a certain number or portion of the rateable inhabitants of such Municipality or place to be affected by such By-law, he shall, on petition to the Township or other Municipal Council to that effect, be at liberty to attend before such Council (or a Committee thereof appointed for the purpose of hearing evidence,) at the time at which such proposed By-law is intended to be passed, and to produce evidence before such Council or Committee, to show that any of the signatures to the application for such By-law are not genuine, or have been obtained upon false or incorrect statements or representations, or that the necessary and proper notice of the application has not been given, and that the proposed By-law and the objects thereby intended to be carried out are contrary to the wishes of the persons whose signatures have been so obtained, and that the remaining signatures do not amount to the number, nor represent the amount of property necessary to authorize the passing of such By-law: And whenever the Council of the Township or other Municipality, before which such person shall have appeared, shall be satisfied upon the evidence adduced, that the application for the By-law does not contain the names of a sufficient number of persons, obtained without fraud and in good faith, representing the requisite amount of property, who are desirous of having such By-law passed, or that the due and sufficient notice required bylaw has not been given, then it shall not be lawful for the Council of such Township or other Municipality to proceed any further on such application, nor to pass any such By-law.

XXXVIII. And be it enacted, That it shall and may be lawful for any Member of the Municipal Corporation of any City, Town, Township or incorporated Village in Upper Canada at any time, by and with the consent of the majority of the Members of such Municipal Corporation, signified by such consent being entered on the Minutes of their proceedings, to resign his situation as a Member of such Corporation, and the vacancy occasioned by such resignation shall be filled as in the case of the natural death of such Member.

XXXIX. And be it further enacted, That none of the provisions of the fourth or sixteenth Sections of "The Upper Canada Municipal Corporations Law Amendment Act of 1851," shall be held to affect or apply to any By-law or Bylaws passed or enacted, or to be passed or enacted, by any Municipality or Municipal Corporation in Upper Canada, under the authority of or for any of the purposes mentioned in the Act of the Legislature of this Province passed in the Session of the said Legislature holden in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to enable Municipal Corporations in Upper Canada to contract debts to the Crown in the purchase of Public Works, without imposing a special rate or tax for the payment of the same*, or to any debts, bonds, deeds, covenants or other securities, contracted, made or executed to Her Majesty, Her Heirs or Successors, under the provisions of the last mentioned Act, or for any of the purposes therein mentioned.

XL. And be it enacted, That in this Act the word "Township" shall include any union of Townships forming a single Municipality, and the word "County" shall include any union of Counties forming a

single Municipality, except where such interpretation would be inconsistent with the context of the enactment wherein the word occurs.

XLI. And be it enacted, That this Act shall come into force and effect upon, from and after the first day of July one thousand eight hundred and fifty-three, and not before.