

1967 Bill 50

Fifth Session, 15th Legislature, 15 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

An Act respecting Municipal Government

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

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BILL 50

1967

An Act respecting Municipal Government

(Assented to _____, 1967)

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

1. This Act may be cited as *The Municipal Act*.

PART 1

INTERPRETATION

2. In this Act,
 1. "by-election" means an election held pursuant to Part 4 to fill a vacancy in the office of mayor or councillor at a time other than a general election;
 2. "business" includes business, trade, profession, occupation, employment or calling and the providing of goods and services;
 3. "conditional owner" means a person who is a lessee, licensee or permittee from the Government of Canada or the Province, of land or other property if the land or property is not exempt from assessment and taxation by reason of *The Municipal Taxation Act*;
 4. "elector" means a person qualified to vote at an election or at the taking of a vote, as the case may be;
 5. "general election" means an election held pursuant to Part 4 for all the members of a council;
 6. "hawker" or "pedlar" means any person who, whether as principal or agent,
 - (i) goes from house to house selling or offering for sale any merchandise or services, or both, to any person, and who is not a wholesale or retail dealer in such merchandise or services, and not having a permanent place of business in the municipality, or
 - (ii) offers or exposes for sale to any person by means of samples, patterns, cuts or blueprints, merchandise or services, or both, to be afterwards delivered in and shipped into the municipality, or

- (iii) sells merchandise or services, or both, on the streets or roads or elsewhere than at a building that is his permanent place of business, but does not include any person selling,
 - (A) meat, fruit or other farm produce that has been produced, raised or grown by himself, or
 - (B) fish of his own catching;
- 7. "hospital" means a hospital approved by the Minister of Health under *The Alberta Hospitals Act*;
- 8. "judge" means a judge of the Supreme Court of Alberta or a judge of the district court in the judicial district within which a municipality is wholly or mainly situated;
- 9. "land" means land, tenements, hereditaments or any estate or interest therein and, without restricting the generality of the foregoing, includes growing timber but does not include minerals;
- 10. "Local Authorities Board" means the Board established by *The Local Authorities Board Act*;
- 11. "Minister" means the Minister of Municipal Affairs;
- 12. "mobile home" means
 - (i) any vacation trailer or house trailer, or
 - (ii) any structure whether ordinarily equipped with wheels or not, that is constructed or manufactured to be moved from one point to another by being towed or carried and to provide living accommodation for one or more persons;
- 13. "money by-law" means a by-law which by this Act must be advertised and may be required to be submitted to a vote of the proprietary electors;
- 14. "municipality" means a city, town, village, summer village or municipal district;
- 15. "official" means a municipal commissioner, manager, secretary, treasurer, assessor, solicitor, auditor, comptroller, engineer and any other official appointed by resolution or by by-law of the council and who is required by this Act to make and subscribe to the official oath prescribed by *The Oaths of Office Act*;
- 16. "owner" means
 - (i) in the case of land, any person who is registered under *The Land Titles Act* as the owner of land, or
 - (ii) in the case of property other than land, any person who is in legal possession thereof;

17. "parcel" means
- (i) any unsubdivided block or any lot, or any part of such a block or lot in any area of land of which a plan of subdivision is registered in a land titles office, or
 - (ii) in any case where a building has been erected on two or more lots or parts thereof, all such lots, or
 - (iii) where there is no such plan of subdivision, a quarter section of land according to the system of surveys under *The Alberta Surveys Act* or any other area the description of which has been approved by the proper land titles office, or
 - (iv) all the land forming part of any railway, irrigation or drainage right of way;
18. "premises" includes the store, office, warehouse, factory, building, enclosure, yard or other place occupied, or capable of being occupied, by any person for the purpose of any business;
19. "prescribed" means prescribed by the Minister;
20. "proprietary elector" means
- (i) a person who is a resident of the municipality and entitled to vote at an election under this Act and whose name appears on the assessment roll in respect of land liable to assessment and taxation, and
 - (ii) a person who is not a resident of the municipality but who is entitled to vote at an election under this Act and whose name appears on the assessment roll in respect of land liable to assessment and taxation;
21. "public utility" means any municipal revenue work or utility, and includes the municipal
- (i) telephone system,
 - (ii) waterworks,
 - (iii) street railways, bus lines or other transportation system,
 - (iv) irrigation ditches,
 - (v) waterways and ferries,
 - (vi) systems for the distribution of gas, whether natural or artificial,
 - (vii) electric or other artificial light or power systems,
 - (viii) heating systems,
 - (ix) airport, and
 - (x) sewers,
- and includes the service or commodity supplied by any public utility;

22. "purchaser" means any person who has purchased or otherwise acquired land or other property within the municipality, whether he has purchased or otherwise acquired the same direct from the owner thereof or from another person, and has not become the owner thereof;
23. "ratable property" means the total amount of the assessment of lands, buildings, improvements, including pipe lines and power lines and special franchises;
24. "shop" means any building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail or public auction, and includes barber shops and ladies hairdressing, manicuring and beauty parlors, garages, filling stations and service stations;
25. "special franchise" means every right, authority or permission whether exclusive or otherwise, to construct, maintain or operate, within a municipality, in, under, above or on or through or across any highway, road, street, lane, public place or public water within the jurisdiction of the municipality of any poles, wires, pipes, tracks, conduits, buildings, erections, structures or other things for the purpose of bridges, railways, street railways, bus lines or other transportation systems or for the purpose of conducting steam, heat, water, natural gas or electricity or any property, substance or product capable of being transported, transmitted or conveyed for the supply of water, heat, light, power, transportation, telegraphic, telephonic or other services;
26. "Tribunal" means the Municipal Appeal Tribunal established under Part 10.

3. (1) Where by this Act a certain day is fixed on which or by which certain things are to be done or proceedings had or taken and the day so fixed is a Sunday or other holiday, the things or proceedings shall be done, had or taken on or by the next day that follows the fixed day and is not a holiday.

(2) If any thing to be done by a council or an official or employee of a municipality within a number of days or at a time fixed by or under this Act, cannot be or is not so done, the Minister, by order, from time to time, may appoint a further or other time for doing it, whether the time at or within which it ought to have been done has or has not arrived or expired, as the case may be.

(3) Any thing done at or within the time specified in the order is as valid as if it had been done at or within the time fixed by or under this Act.

(4) Where by this Act a certain day is fixed on or by which certain things are to be done or proceedings taken, if it appears that the date was fixed having regard to an earlier fixed date on or by which certain other things are to be done or proceedings taken then, notwithstanding anything in this Act, if default is made in respect of the earlier date a like delay is allowed in respect of the later date.

4. Where a question or by-law is to be submitted or some other thing is to be done which council desires to submit to the electors at the time of a general election or by-election and it becomes unnecessary to hold a general election or by-election, then the council

- (a) may defer the submission of the question or by-law to the next general election or by-election, or
- (b) may submit the question or vote at such other time as the council fixes.

5. (1) When the boundary of a municipality is wholly or partly described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, then, unless the description otherwise specifies, the side of the road allowance upon which monuments or posts are placed under any survey made pursuant to any Act of Canada or Alberta relating to surveys is the boundary, except in the case of correction lines, when the south side of the road allowance is the boundary.

(2) Where a street, lane or roadway situated in a municipality is the boundary of the municipality and the municipality acquires land for the widening of the street, lane or roadway, the land so acquired shall be deemed to be within the boundaries of the municipality.

(3) A road allowance between an Indian Reserve and a municipality shall be deemed to be in the municipality, notwithstanding anything to the contrary in this section.

6. In addition to the powers vested in a corporation by section 14 of *The Interpretation Act, 1958* every municipality incorporated under this Act or continued as a corporation by this Act has for any purpose of a municipality authorized by this or any other Act power to acquire real property by purchase, gift or otherwise and to hold, mortgage, lease, sell or otherwise alienate real property.

7. (1) Where this Act provides for the doing of any thing by petition, the petition shall consist of one or more pages each of which shall contain an accurate and identical statement of the purpose and objectives of the petition and

- (a) each signature thereto shall be witnessed by an adult person, who shall take an affidavit that to the best of his belief the persons whose signatures he has witnessed are qualified to vote at a general election, and

- (b) the address and occupation of each signator thereto shall be set out opposite his signature, and
 - (c) in any petition restricted to proprietary electors, the legal description of the property or other qualifications entitling that person to be a proprietary elector shall be set out opposite his signature.
- (2) In computing the number of petitioners on a petition there shall be excluded the name of any person
- (a) whose signature appears on a page of the petition which does not contain an accurate statement of the purpose and objective of the petition identical to the statement contained on all the other pages of the petition, or
 - (b) whose signature is not witnessed, or
 - (c) whose address and occupation, or either, are not set out or are incorrectly set out, or
 - (d) in the case of a petition restricted to proprietary electors,
 - (i) who is not a proprietary elector, or
 - (ii) whose property or other qualification as a proprietary elector is not or is incorrectly described or set out,
 or
 - (e) in the case of a petition restricted to electors, who is not an elector.
- (3) Every petition shall have attached to it a signed statement of a person whose name appears upon the petition, stating that he represents the petitioners and that he is the person to whom the municipality may direct any enquiries with regard to the petition.

8. When determining the residence of any person for the purpose of establishing the responsibility of a municipality under

- (a) *The Public Welfare Act*, or
- (b) *The Child Welfare Act, 1966*, or
- (c) *The Juvenile Court Act*, or
- (d) *The Alberta Hospitals Act*,

residence shall be deemed not to have been acquired in the municipality by virtue merely of residence within a military area or camp under the jurisdiction of the Department of National Defence (Canada) and within the municipality.

9. All the provisions of this Act, except where inconsistent with the order forming a summer village or any subsequent order or regulation applies to a summer village, except that unless varied by any order or regulation:

- (a) the persons entitled to vote at any election held after a first election are,

- (i) every person of the full age of 19 years whose name appears upon the assessment and tax roll and upon the voters list, and
 - (ii) the spouse of any person whose name appears upon the assessment and tax roll and upon the voters list, if the spouse is of the full age of 19 years;
 - (b) the proprietary electors of the summer village are the persons whose names appear on the assessment roll of the summer village in respect of land liable to assessment and taxation, and who are of the full age of 19 years;
 - (c) an annual meeting for the discussion of village matters shall be held on the Saturday immediately preceding the first Monday in August, which shall also be nomination day, and the election of councillors shall take place on the second Saturday in August, from the hour of 12 o'clock noon until the hour of nine o'clock in the evening;
 - (d) nominations shall be received during the time the annual meeting is being held, for a period of one hour to be named in the notice of the meeting;
 - (e) the councillors shall be sworn in and assume office at the first meeting to be held on the first Saturday in September at 7:30 p.m. at a place to be fixed by the secretary, and shall continue in office until their successors are sworn into office;
 - (f) the appointment of an auditor shall be made at the first meeting in September in each year;
 - (g) in order to qualify as an elector or councillor, no person is required to be a resident of the summer village.
- (2) If in any particular or in any case it appears to the Minister to be difficult or impossible to apply the provisions of this Act to summer villages, the Minister may, in his discretion alter any dates prescribed by this Act for the doing of any matter or thing, and may give such order or directions as are required in the circumstances.
- (3) For the purpose of any other Act applying or having reference to a village, a summer village shall be deemed to be a village and the provisions of that Act apply to a summer village accordingly.

10. (1) The Lieutenant Governor in Council may make regulations dealing with any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

(2) The Minister may make regulations prescribing forms to be used under this Act.

PART 2

FORMATION, ALTERATION AND DISSOLUTION

11. (1) Every municipality in existence immediately prior to the commencement of this Act is hereby continued as a body corporate and politic

(a) as a city, town, village, summer village or municipal district, as the case may be, and with the same status, name and number, if any, and

(b) with all the powers, duties, rights and functions of a municipality under this Act,

as if incorporated under this Act.

(2) Any corporation that

(a) was incorporated for any specified purpose by or under a special or general Act governing a municipality, and

(b) was in existence immediately prior to the commencement of this Act,

is hereby continued as a corporation with the same powers, duties, rights and functions until lawfully altered.

12. (1) The Lieutenant Governor in Council, by order, may:

(a) form into a municipal district any part of Alberta not included in a city, town, new town, village, summer village, county or municipal district;

(b) either of his own motion or upon receipt by the Minister of a petition

(i) signed by at least 50 per cent of the proprietary electors thereof, and

(ii) accompanied by a plan showing the proposed boundaries of the proposed summer village,

form any summer resort into a summer village if the area that would be included in the summer village contains not less than 75 separate buildings, each of which has been occupied as a dwelling;

(c) either of his own motion or upon receipt by the Minister of a petition

(i) by at least 50 per cent of the persons who would be proprietary electors of the village, if a village were formed, and

(ii) accompanied by a plan showing the proposed boundaries of the proposed village,

form any part of Alberta into a village if the area that would be included in the village contains not less than 75 separate buildings each of which has been continuously occupied as a dwelling for a period of not less than six months immediately prior to the receipt of the petition;

- (d) form a village into a town
 - (i) if the village contains over 1,000 inhabitants, and
 - (ii) if the council of the village has, by resolution, requested the change in status;
- (e) form a town into a city
 - (i) if the town contains over 10,000 inhabitants, and
 - (ii) if the council of the town has, by resolution, requested the change in status;
- (f) form a city into a town or a town into a village
 - (i) if the population in the municipality warrants such a change, or
 - (ii) if a majority of the proprietary electors of the municipality voting upon the question as to whether or not the status of the municipality should be changed are in favour of the change, or
 - (iii) if there has been a failure to elect a council, or
 - (iv) if the municipality has failed to carry out the requirements of this Act, or
 - (v) for any other reason considered adequate by the Lieutenant Governor in Council.

(2) Upon receipt of a request to form a municipal district, village or summer village, the Minister may cause a notice in the prescribed form to be posted up in three conspicuous places within the proposed municipality and to be published in two issues of a newspaper having a general circulation within the proposed municipality.

(3) Any person may, within 30 days from the date of the notice, file with the Minister objections to the formation of the proposed municipal district, village or summer village, but if during the period of 30 days, no objections are filed or if in the opinion of the Lieutenant Governor in Council any objections that are filed do not disclose sufficient reason against the formation of the municipality, the Lieutenant Governor in Council by order may form the municipal district, village or summer village.

(4) When an order is made forming a municipal district, the Lieutenant Governor in Council may by that or any subsequent order divide the municipal district into electoral divisions.

(5) Where an order is made forming a municipal district, village or summer village, the Minister, immediately upon the order being published, shall appoint a suitable person to act as returning officer at the first election of councillors, who is authorized to call and hold an election as set out in this Act.

13. (1) The order forming a municipality

- (a) shall describe the boundaries of the municipality formed,
- (b) shall give a name to the municipality in one of the following forms:
 - (i) "The Municipal District of No.....";
 - (ii) "The Village of";
 - (iii) "The Summer Village of";
 - (iv) "The Town of";
 - (v) "The City of";whichever is applicable to the class of municipality formed,
- (c) shall state the date upon which the order becomes effective, and
- (d) in the case of the formation of a municipal district, village or summer village, shall fix the date for nomination and election of the first council thereof and the holding of the first meeting of the council.

(2) The order shall be published in the *Gazette* and publication of the order is conclusive proof of the legal formation of the municipality and of the fulfilment of all conditions precedent thereto.

(3) Any misnomer, misdescription or omission or other error in any order forming a municipality may be corrected by subsequent order, and the correcting order may be made effective as of the date of the original order or upon such other date as the subsequent order may specify.

14. A municipality formed under this Act is a body corporate and politic consisting of all persons who are electors of the municipality.

15. When the order forming a municipality (hereinafter referred to as the "new municipality") is changing the status of an existing municipality (hereinafter referred to as the "old municipality") from one class of municipality to another:

- (a) the mayor of the old municipality continues as the mayor of the new municipality until his office becomes vacant;
- (b) each other member of the council of the old municipality continues as a member of the council of the new municipality until his office becomes vacant;
- (c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality otherwise directs;
- (d) all by-laws and resolutions of the old municipality continue as the by-laws of the new municipality, in

so far as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality;

- (e) all taxes due to the old municipality shall be deemed to be arrears of taxes due to the new municipality and may be collected and dealt with by the new municipality as if it had imposed the taxes;
- (f) all rights of action and actions by or against the old municipality may be continued or maintained by or against the new municipality;
- (g) all property vested in the old municipality becomes vested in the new municipality and may be dealt with by the new municipality in its own name subject to any trusts or other conditions applicable thereto;
- (h) all other assets, liabilities, rights, duties, functions and obligations of the old municipality become vested in the new municipality and may be dealt with by it in its own name.

16. (1) The Lieutenant Governor In Council may by order dissolve a village, summer village or municipal district and may include in the order provision for all matters necessary for the winding up of the affairs of the village, summer village or municipal district, including powers for the disposal of assets, the settling of liabilities, the collection of taxes and the administration of the area, which may include the appointment of a permanent or provisional administrator or the transfer of the whole or part of the administration to another municipality or municipalities.

(2) An order made under this section shall be published in the *Gazette*.

(3) Upon the date specified in the order, the members of the council of the village, summer village or municipal district, and all officers and employees thereof, cease to have any further authority.

17. No misnomer, misdescription or omission in any order altering or dissolving a municipality suspends or impairs in any way the operation of this Act with respect to the matter misnamed, misdescribed or omitted and it may be corrected at any time by the authority making the order, and a correction so made is effective upon such date as is specified in the correcting order and may be made effective upon the date of the original order.

18. (1) The Lieutenant Governor in Council may, subject to *The Geographical Names Act*, alter the name or number, if any, of a municipality upon the petition of a majority of the council.

(2) A notice of the alteration shall be published in the *Gazette*.

(3) The seal used by the municipality before the alteration of its name or number continues to be the seal, until changed by the council.

(4) No change of name or number affects any obligation, right, action or property, incurred, established, done or acquired prior to the change of name or number.

(5) No proceedings, agreements, notices or documents are invalid or defective because of any incorrect use of mistaken designation of the name of the municipality so long as the name used indicates with reasonable certainty the municipality in question.

19. (1) Where a petition is presented to the Local Authorities Board,

(a) by a majority of the owners of any territory adjacent to a municipality, or

(b) by the council of a municipality with respect to any territory adjacent to the municipality,

requesting that the territory be annexed to the municipality, the Board by order may annex the territory, or any part thereof, to and make it a part of the municipality.

(2) The Local Authorities Board may, without a petition and of its own motion, by order

(a) annex to any municipality, any territory adjacent thereto, and

(b) annex any portion of a municipality to an adjoining municipality.

(3) An order for annexation takes effect on such date and on such terms and conditions as the Local Authorities Board may provide.

(4) Every order made under this section shall be published in the *Gazette* and the publication is conclusive proof of the fulfilment of all conditions precedent to the making of the order.

(5) Any misnomer, misdescription, omission or error in any order may be corrected by subsequent order and the correction so made is effective upon such date as is specified in the correcting order and may be made effective upon the date of the original order.

(6) In making any order under this section the Local Authorities Board may deal with and make any order respecting any conflicting by-laws for the protection of any rights of any person in the annexed area.

20. No order made under section 19 affects or abrogates any existing contract or any existing right of or held by any municipality or person for the production, transmission, delivery or furnishing of water, gas, heat, sewer service, light, power, telephone or transportation to or for inhabi-

tants or businesses in the annexed or excluded territories, as the case may be, but the council of the area affected by the order is upon a renewal of the utility contract being proposed, subject to the provisions of this Act respecting utility renewal or purchase.

21. Where all the lands within the boundaries of a municipality are annexed to or amalgamated with lands within the boundaries of another municipality,

- (a) the council of the municipality so annexed or amalgamated ceases to have or exercise any jurisdiction, power, duty or function, and
- (b) the term of office of the mayor and councillors of that municipality terminate,

upon the effective date of the annexation or amalgamation.

22. (1) When under this Act a municipality, hereinafter referred to as the “old municipality”, is included in another municipality, hereinafter referred to as the “new municipality”, either at the time of the formation of the municipality or subsequently thereto, the property, rights and liabilities of the old municipality, including all taxes then due, pass to the new municipality and all remedies that were available for the collection of any such taxes due to the old municipality are available to the new municipality in all respects as though the taxes or arrears had originally been due to it.

(2) All questions arising over the division or apportionment of the property, rights and liabilities or otherwise of the old municipality, shall be decided finally and without appeal by the Local Authorities Board, unless other provisions for the settlement or adjudication thereof have been made in this or any other Act or by order in council and the Local Authorities Board may make such orders and directions as are necessary to give effect to its decision.

(3) This section is subject to the provisions of *The Tax Recovery Act* relating to the transfer of land from one municipality to another.

(4) Nothing in this section in any way prejudices the rights of the debenture holders.

PART 3

THE COUNCIL

23. (1) Every municipality shall have a council, the members of which shall be elected in accordance with Part 4.

(2) The council of a municipality is a continuing body notwithstanding any general or other election.

24. (1) Except as otherwise provided in this Act:

- (a) the council of a municipal district shall consist of such number of councillors as the Lieutenant Governor in Council, by order, specifies, one of whom shall be mayor;
- (b) the council of a summer village shall consist of three councillors, one of whom shall be mayor;
- (c) the council of a village
 - (i) shall consist of three councillors, or
 - (ii) if the council of a village having a population of at least 750 persons so authorizes, by by-law, shall consist of five councillors, one of whom shall be mayor;
- (d) the council of a town shall consist of a mayor and six councillors;
- (e) the council of a city shall consist of a mayor and
 - (i) six councillors, or
 - (ii) such greater number of councillors, not exceeding 20, as the council, after the first election in the city, authorizes by by-law.

(2) Where the number of councillors has been increased in a village or city

- (a) the number of councillors in a village may, by by-law, be decreased to three, and
- (b) the number of councillors in a city may, by by-law, be decreased to a number being not less than six.

(3) Where the number of councillors for a city or village has been increased or reduced,

- (a) if the by-law is finally passed more than 30 days prior to nomination day for the next ensuing general election the by-law applies to the next ensuing general election, but
- (b) if the by-law was finally passed 30 days or fewer days prior to nomination day for the next ensuing general election, the by-law does not apply to that general election.

(4) When a by-law increasing or decreasing the number of councillors becomes applicable, the councillors then in office continue to hold office until the first meeting of the council held after the general election to which the by-law is applicable.

25. Notwithstanding anything in this Act,

- (a) a councillor of a city may also be referred to as an alderman, and
- (b) the mayor of a municipal district may also be referred to as the reeve,

and any such reference is for all purposes valid.

26. (1) In a city or town, the mayor shall be elected by the vote of the electors of the entire municipality.

(2) In a village or summer village, the mayor shall be elected by the councillors from among their own number.

(3) In a municipal district,

(a) the mayor shall be elected by the councillors from among their own number, or

(b) the council of any municipal district may, by a by-law, provide for the election of the mayor by the vote of the electors of the entire municipal district.

27. Where in a municipality no electoral divisions or wards are established, the councillors shall be elected by the vote of the electors of the entire municipality.

Electoral Divisions

28. (1) In a municipal district where electoral divisions are established, the councillors shall, subject to subsection (2), be elected to represent the divisions as provided in the order establishing the divisions.

(2) The council of a municipal district may by by-law provide for the nomination of candidates for councillor by electoral divisions and for the election of the councillors

(a) by the vote of the electors of the entire municipal district, or

(b) by the vote of the electors resident in the electoral division for which each candidate was nominated.

Ward System

29. (1) A council

(a) may, of its own motion, or

(b) shall, on receipt of a petition signed by such number of electors as represent at least

(i) 2 per cent of the population in a municipality having a population of 10,000 or more persons, or

(ii) 4 per cent of the population in a municipality having a population of less than 10,000 persons but more than 1,000 persons, or

(iii) 6 per cent of the population in any other municipality,

submit to a vote of the electors a proposal to have councillors elected by and to represent different areas of the municipality.

(2) Where on the vote of the electors a majority of the electors voting vote in favour of the proposal, the council shall, by by-law, declare the ward system to be in effect.

(3) The by-law shall not be given effect to until the general election next following the year in which the by-law was finally passed.

- 30.** (1) The council shall by the by-law under section 29
- (a) divide the municipality into not less than three nor more than eight areas, to be known as wards, in such a manner that the number of electors residing in each ward is substantially equal, and
 - (b) specify the number of councillors, being not less than two, to be elected to represent each ward.
- (2) The by-law shall state a name or number by which each ward is to be known.
- (3) Subject to subsection (1) the council may by by-law
- (a) alter the boundaries of any or all wards or increase the number of wards, and
 - (b) alter the number of councillors to be elected to represent any or all wards.

31. No person is eligible to be elected councillor in a ward unless he has resided within the boundaries of the ward for 12 consecutive months immediately preceding the date of nomination and is otherwise eligible for election.

32. Only a resident of a ward for which a candidate for councillor is being nominated may sign the nomination of the candidate.

33. (1) Where a ward system has been established in a municipality, the electors of the municipality may petition the council to submit to the electors a proposal to abolish wards and to revert to a system of nomination and election of councillors by the vote of the electors of the entire municipality.

(2) Upon receipt of a petition which meets the requirements of clause (b) of subsection (1) of section 29, the council shall forthwith submit the proposal to abolish wards to a vote of the electors.

(3) Where a majority of the electors voting on a proposal of abolishing wards vote in favour of the abolition of the ward system, the council shall repeal the by-law establishing the ward system.

(4) Where the ward system is abolished, all councillors then holding office continue to hold office in accordance with this Act until their offices become vacant.

Qualifications for Mayor and Councillors

- 34.** (1) A person is not qualified to become or remain a member of the council of a municipality unless he
- (a) is able to speak, read and write English,
 - (b) is of the full age of 21 years,
 - (c) is a Canadian citizen,

- (d) is resident in the area of the municipality and had been a resident therein for the 24 consecutive months immediately preceding nomination day,
- (e) in a municipality in which there are electoral divisions or wards, is resident in the area of the electoral division or ward for which he is nominated and had been resident therein for the 12 consecutive months immediately preceding nomination day, and
- (f) is eligible to vote as an elector at the election for which he is nominated.

(2) A person who has been convicted of an indictable offence is not qualified to become a member of a council until after two general elections have occurred following the date of his conviction.

35. A person is not qualified to become or remain a member of the council of a municipality at the same time as he

- (a) is a judge of a court of civil jurisdiction, or
- (b) is an undischarged bankrupt, or
- (c) is a surety for an officer or employee of the municipality, or
- (d) is the auditor of or an officer or employee of the municipality, or
- (e) is indebted to the municipality for taxes or respecting any other obligation exceeding \$50, excluding therefrom
 - (i) any indebtedness for current taxes, and
 - (ii) any indebtedness for arrears of taxes for which he has entered into a consolidation agreement with the municipality, if he is not in default in the payment of any sum payable under the agreement.

36. (1) A person is not qualified to become or remain a member of the council of a municipality at the same time as he

- (a) is a party to a subsisting contract with the municipality under which money of the municipality is payable or may become payable for any work, service, matter or thing, or
- (b) has a pecuniary interest, whether direct or indirect, in any subsisting contract with the municipality under which money of the municipality is payable or may become payable for any work, service, matter or thing, or
- (c) is a party to a contract for the purchase or lease of real or personal property from the municipality.

(2) Subsection (1) does not apply to a person by reason only

- (a) of his being a shareholder in a corporation having a contract or dealings with the council,

- (i) unless he holds or there is held by himself and spouse, parents, children, brothers and sisters, more than 25 per cent of the issued capital stock of the corporation, or
 - (ii) unless the contract or dealings are for the building, construction or repair of a public work of the municipality.
- or
- (b) of his contracting with the council for the supplying to him of a service, utility or commodity that the council has statutory authority to supply, or
 - (c) of his being interested in a publication in which official advertisements of the council appear or that is supplied to the council thereof at the usual rates, or
 - (d) of his selling or leasing to the council, land or interest in land that the council has authority to expropriate, or
 - (e) of the sale of goods, merchandise or services to the municipality or to persons contracting with the municipality and made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business, or
 - (f) of services that are rendered by a medical man to indigents who are residents of the municipality and for which the municipality is or may become liable to pay, or of services rendered by a medical man or veterinarian where the municipality has provided a subsidy to secure his services, or
 - (g) of his being employed as medical health officer of the municipality, or
 - (h) of his being appointed to a position under *The Civil Defence and Disaster Act*, or
 - (i) of professional services rendered by a barrister and solicitor to the municipality, if the charges for the services have been taxed under the Consolidated Rules of the Supreme Court of Alberta, or
 - (j) of the receipt by him of a gratuity or allowance for services on a committee or board appointed by or responsible to the council, or
 - (k) of his being a member of a co-operative association, or
 - (l) of his being the vendor or purchaser or assignor or assignee of land bought or sold under *The Farm Purchase Credit Act, 1963*.

37. A member of a council ceases to be qualified to remain a member of the council if he

- (a) is convicted under this Act of making a false statement in his acceptance of nomination, or

- (b) is convicted of an indictable offence, or
- (c) uses information gained through his official position as a member of a council to make a personal profit either directly or indirectly, or
- (d) absents himself, without being authorized by resolution of the council to do so, from the meetings of the council for two consecutive months.

38. (1) A member of a council ceases to be qualified to remain a member of the council if he fails to comply with subsection (2) or (3).

(2) A member of a council shall not vote in the council

- (a) on any question
 - (i) affecting a private company of which he is a shareholder, or
 - (ii) affecting a public company in which he holds more than 1 per cent of the number of shares issued, or
 - (iii) affecting a partnership or firm of which he is a member, or
 - (iv) affecting a company of which he is a director,
- or
- (b) on a contract for the sale of goods, merchandise or services to which he is a party, or
- (c) on a question affecting his selling or leasing of land or interest in land to the municipality, or
- (d) on any question in which he has a direct or indirect personal interest.

(3) When a member of a council is not entitled to vote by virtue of subsection (2), he shall so declare before discussion of the question and shall not participate in the debate and the abstention shall be recorded.

39. Where a member of a council is not qualified under sections 34 to 38 to be a member of the council

- (a) the member shall forthwith resign his seat on the council, and
 - (b) if he does not so resign, the council shall, by resolution declare him to be disqualified,
- and thereupon his seat on the council becomes vacant.

40. (1) Upon the *ex parte* application of an elector who

- (a) files an affidavit showing that a member of a council never was or has ceased to be qualified as a member of the council, and
- (b) pays into court the sum of \$50 as security for costs to abide the event of the application,

a judge of the Supreme Court may direct that there be served upon that member notice of an application for an order declaring him to be disqualified to be a member of the council.

(2) Upon hearing the application and such evidence, either oral or by affidavit, as he requires the judge

(a) may, by order, declare the member to be disqualified, or

(b) may refuse the order,
and, in either case, with or without costs.

(3) Where a judge declares a member of a council disqualified his seat on the council thereupon becomes vacant.

(4) Where a judge declares a member of a council disqualified for a breach of clause (c) of section 37, he may order the disqualified member to pay the total amount of any profit so made to the municipality.

41. (1) Where a person is declared disqualified pursuant to section 39 or 40 and appeals therefrom he remains disqualified until the final determination of the appeal.

(2) If, upon the final determination of the appeal, the disqualification is set aside,

(a) the Court shall reinstate the member of the council for any unexpired portion of the term of office for which he was elected and require any person who had been elected to fill the balance of that term to vacate the office, but

(b) if the term of office for which the member was elected has expired, he shall not be reinstated, but he is eligible to be elected at the next ensuing election in the municipality, if otherwise qualified.

42. (1) A person having been a member of a council

(a) who resigned his seat on the council, or

(b) who was declared by the council or a judge to be disqualified

because of any matter or thing mentioned in sections 35 to 38 disqualifying him as a member of the council is not eligible to become or remain a member of the same council until after two general elections have occurred following the date on which he resigned or was declared disqualified.

(2) A person having been a member of a council at a time when he was disqualified as a member of the council because of any matter or thing mentioned in sections 35 to 38, but

(a) who did not resign his seat on the council, or

(b) who was not declared disqualified by the council or judge

because of that matter or thing is not eligible to become or remain a member of the same council until after two general elections have occurred following the date on which he ceased to be disqualified because of that matter or thing.

Term of Office

43. (1) At a general election in a municipality the mayor and councillors shall be elected for a three year term to hold office

- (a) commencing at the first meeting of the council following that general election, and
- (b) unless their office is sooner vacated, continuing to the first meeting of the council following the next ensuing general election.

(2) A person elected to a council to fill a vacancy caused otherwise than by the effluxion of time holds office for the balance of the period his predecessor would have held office, had the predecessor continued in office.

(3) The terms of office of persons elected to the council at the first election in a newly formed municipal district, village or summer village expire at the first meeting of the council following the first general election in the municipal district, village or summer village.

Meetings of Council

44. The first meeting of a newly elected council shall be held

- (a) one week following the day of the first election or the general election, as the case may be, or
- (b) if all the members of the council were elected by acclamation, one week following nomination day.

45. The first meeting of the council shall be held at a time and place which shall be fixed by the municipal secretary, and the secretary shall forthwith after the result of an election has been officially declared, give written notice of the meeting to each person elected a member of the council.

46. Every member of a council shall make and subscribe the official oath prescribed by *The Oaths of Office Act* before entering upon the duties and shall deposit the oath with the returning officer who shall deliver it to the municipal secretary.

47. (1) A council shall hold as many meetings in each year as are considered necessary to adequately deal with the business of the municipality.

(2) A council at any meeting at which all the members of the council are present, may decide to hold regular meet-

ings of the council and the resolution shall state the day, hour and place of every such meeting and no notice of any such meeting is necessary.

48. (1) In the case of a city or town, the mayor may call special meetings of the council whenever he considers it expedient to do so, and he shall do so when requested in writing by a majority of council.

(2) In the case of a village or summer village, a special meeting shall be called by the secretary when required to do so by the mayor or a majority of the members of the council.

(3) In the case of a county or municipal district, a special meeting shall be called by the secretary when required to do so by the reeve or a majority of the members of the council.

(4) Written notice of a special meeting stating the time and place at which it is to be held and stating in general terms the nature of the business to be transacted thereat, shall be given to each councillor

(a) in the case of a city, town or village by delivering the notice to the council member at his residence or place of business not less than 24 hours prior to the meeting, and

(b) in the case of any other municipality by mailing the notice to the council member's address at least six clear days before the day of the meeting or by personally delivering the notice to him or in his absence from his residence, to any adult person thereat, at least three clear days before the date of the meeting.

(5) The council may by unanimous consent waive notice of a special meeting and hold a special meeting at any time if every member of the council is present and has signed a waiver of notice of the special meeting.

(6) No business other than that stated in the notice shall be transacted at any special meeting of council, unless all the members of the council are present, in which case, by unanimous consent any other business may be transacted.

49. (1) The council shall hold its meetings openly and no person shall be excluded therefrom except for improper conduct.

(2) The person presiding at any meeting may cause to be expelled and excluded any person who has been guilty of improper conduct at the meeting.

(3) Notwithstanding subsection (1), where a majority of the members present are of the opinion that it is in the public interest to hold a committee meeting of the whole or part of the council on any subject in private, a council may, by resolution, exclude any person or persons from the meeting, but it has no power at such a committee meeting to pass

any by-law or resolution apart from the resolution necessary to revert back to an open meeting.

50. (1) The mayor or other member presiding at any meeting of the council may vote with the other members on all by-laws and resolutions except where he is disqualified to vote by reason of a direct or indirect pecuniary interest.

(2) The mayor, when present, and every councillor present shall vote on every matter upon which a recorded vote is demanded by a member of the council,

(a) unless the mayor or councillor is excused by resolution of the council from voting, or

(b) unless disqualified from voting by reason of interest or otherwise,

and the secretary shall upon request of any member of the council record in the minutes the name of each member of the council present and whether the member voted for or against the matter.

(3) Any by-law or resolution upon which there is an equality of votes shall be deemed to be decided in the negative.

Remuneration

51. (1) A council, by by-law, may provide for the payment to the members of the council of an allowance, at such rates as the by-law provides, for attending the meetings of the council and the committees thereof or for assuming or performing any additional duties.

(2) A council may, by resolution, provide for the payment of reasonable allowances for travelling and for subsistence and out of pocket expenses incurred in attending meetings affecting the municipality, which shall be paid to members in the manner and at the rates provided by the resolution.

Duties of Mayor

52. (1) The mayor shall

(a) preside at all meetings of the council whenever he is present,

(b) cause the laws governing the municipality to be executed,

(c) supervise and inspect the conduct of all officials of the municipality in the performance of their duties,

(d) cause all negligence and carelessness and violation of duty to be prosecuted and punished, as far as it is within his power to do so, and

(e) communicate from time to time to the council all such information and recommend such measures that he considers will better the finances, health, security, cleanliness, comfort, ornamentation and prosperity of the municipality.

(2) The mayor is *ex officio* a member of all boards, associations, commissions, committees or other organizations to which the council has the right to appoint members, pursuant to this Act and the mayor when in attendance, possesses all the rights, privileges, powers and duties of other members, whether elected or appointed.

Vacancies

53. (1) The mayor or any councillor may resign his seat in the council at any time by giving written notice to the municipal secretary who shall place the resignation before the next meeting of the council.

(2) A resignation takes effect and the seat becomes vacant upon the date the resignation is received by the municipal secretary.

54. (1) When the office of mayor becomes vacant by death, resignation, forfeiture or otherwise, the council shall forthwith, by vote of the members, appoint one of the councillors to fill the position until the next general election, but no vacancy shall be deemed to occur among the councillors by reason of the appointment unless the number of councillors remaining is reduced to the point where a by-election is required, in which event the appointment of a councillor to the position of mayor is temporary until a by-election is held at which the vacancy in the office of mayor and any other vacancy on the council are filled.

(2) When a councillor is elected by the council to fill the office of mayor pursuant to subsection (3), and

(a) upon a mayor being elected by the electors, or

(b) upon the former mayor being reinstated in the office of mayor,

the councillor so appointed reassumes his office as councillor if the term of his office has not then expired.

55. (1) When in a municipality having a council of six or more members a seat or seats in the council become vacant by death, resignation, forfeiture or otherwise, the council may make provision to fill the vacancy or vacancies by the holding of a by-election for that purpose.

(2) Notwithstanding subsection (1),

(a) during the two years immediately following a general election a by-election may not be held if there is only one vacancy on the council, and

(b) during the third year following a general election a by-election may not be held unless the number of vacancies on the council reduces the council to a number less than one more than the quorum of the council.

56. In a municipality having a council of five members or less, the council shall provide for the filling of all vacancies which occur prior to the last six months of the term.

PART 4

ELECTIONS AND VOTING

57. In this Part,

- (a) "by-law" includes a resolution upon which the opinion of the electors is to be obtained;
- (b) "elector" means a person entitled to vote at the municipal elections, except in the case of a money by-law or other by-law upon which only the proprietary electors can vote, in which case it means a proprietary elector.

58. Where in this Part there is reference to a municipal secretary in connection with any election and the council has appointed some other person to perform any of those duties, the reference shall be deemed to be a reference to that other person.

DIVISION A

Applicability of Part

Council Elections

59. (1) The election of mayors and councillors shall be held in accordance with this Part.

(2) The provisions of this Part respecting a general election apply to every by-election, except where otherwise provided, and if the provisions cannot conveniently be applied to a by-election the Minister may make orders governing the time, conduct and procedure relating to the by-election.

(3) Where there are electoral divisions or wards in a municipality, the provisions of this Part respecting the election of councillors apply to every election respecting an electoral division or ward, unless specifically varied herein.

(4) The Minister, in the event of the by-law establishing wards or electoral divisions does not provide for any matter may by order give direction as to any other matter or thing requisite to the proper conduct of an election therein.

60. (1) In a newly formed municipal district or village

- (a) nominations for members of the council, and
- (b) the first election of the members of the council, if an election is required,

shall be held on the dates fixed by the order in council forming the municipality and the persons elected hold office until the first meeting of the council following the next ensuing general election in the municipality.

(2) The Minister may give directions as to any matter or thing requisite in connection with the first election of the council and except as otherwise provided by or under this section, this Part applies, *mutatis mutandis*, with respect to that first election.

(3) After the first election in a newly formed municipal district or village a general election shall be held in the municipality on the same date and in the same years as, by this Act, a general election is required to be held in all municipalities.

61. (1) Commencing in 1968 a general election shall be held in each municipality once every three years.

(2) The terms of office of all persons who are members of the council of any municipality on the first day of October, 1968 expire at the time of the first meeting of the council following the 1968 general election, notwithstanding that they may have been elected for a longer term.

62. Polling day for a general election in a municipality shall be held three weeks following nomination day for that election.

63. (1) In all elections and voting required under this Act, unless the council otherwise specifically provides by resolution, the municipal secretary

- (a) is the returning officer,
- (b) shall appoint such deputies, poll clerks, constables and other officials as may be required, and
- (c) shall provide all necessary means and do all acts that may be required for the purpose of holding the election or taking the votes.

(2) The council may by resolution appoint a returning officer for the purpose of carrying out matters relative to municipal elections or votes and may delegate to him all or any of the powers and duties necessary for this purpose.

(3) No candidate for the office of mayor, reeve, councillor or school trustee, shall be appointed as an election officer.

64. The council of any municipality may, by by-law divide the municipality into polling divisions and may from time to time alter the boundaries of any or all polling divisions by subsequent by-law.

Voting on By-laws and Questions

65. Where this or any other Act provides for a by-law or question being submitted to the electors or proprietary electors for their assent or approval, the by-law or question shall be submitted to a vote in accordance with this Part.

66. If the council considers it advisable a vote on a by-law or question may be held on the day appointed for the election of councillors pursuant to this Act, and in that event it is not necessary to appoint a separate returning officer or separate deputy returning officer to take the vote.

67. (1) When a by-law or question is to be submitted to a vote of the electors at a time different from a general election, the council by resolution, hereinafter called a procedural resolution, shall

- (a) appoint the time for holding a vote on the by-law or question,
- (b) appoint a returning officer,
- (c) provide for polls at which the voting will take place, or in the case of an electoral division or a portion or portions of a municipality voting only on the by-law or question, provide for a poll within such electoral division, or portion or portions of a municipality,
- (d) assign a number for each poll,
- (e) appoint a deputy returning officer for each poll, and
- (f) appoint the time and place when and where the returning officer is to sum up the votes given for and against the by-law or question.

(2) When two or more by-laws or questions are to be submitted on the same date, it is sufficient to pass one procedural resolution applying to all the by-laws or questions to be submitted.

(3) The resolution appointing a date for the holding of voting on a by-law or question shall be passed not less than 30 clear days before the date so appointed.

(4) The procedural resolution shall fix the date and time when the mayor will be in his office for the appointment of agents to attend at the various polling places and at the final summing up of votes by the returning officer on behalf of the person interested in promoting or opposing the passing of the by-law, or voting in the affirmative or negative on the question.

68. (1) The council may by the procedural resolution also appoint a poll clerk or other officials for each poll, or may designate that the returning officer make the appointments.

(2) If for any reason the person who has been appointed returning officer, becomes incapable of carrying out his duties, the mayor may by writing under his hand, appoint another person in the place of the person becoming incapable.

(3) If a person who has been appointed deputy returning officer or poll clerk for any reason becomes incapable of carrying out the duties, the returning officer may appoint another person in the place of the person becoming incapable.

69. (1) At any time fixed by the procedural resolution or, if the vote is to be held in conjunction with a general election, at the time fixed by the council, the mayor shall attend at his office, and if requested, shall appoint in writing signed by him, two agents to attend at the final summing up of the votes, one agent to attend at each polling place on behalf of the persons interested in the promoting of the passing of the by-law or voting in the affirmative on the question and a like number on behalf of the persons interested in opposing the passage of the by-law or voting in the negative on the question.

(2) Before any agent is so appointed, he shall make and subscribe before the mayor or the returning officer, a declaration in the prescribed form.

70. (1) The returning officer, before the date set for the voting on a by-law or question shall cause to be issued a notice of the voting on the by-law or question in the prescribed form.

(2) The returning officer shall publicize the notice of the voting by causing it to be posted up at least 14 clear days before voting day in at least one conspicuous place in each polling division, if any, in which a vote on the by-law or question is to be held or, in the case of electoral divisions, in at least four widely separated conspicuous places in each electoral division, and causing it to be

- (a) mailed at least 16 clear days before voting day to each resident proprietary elector entitled to vote on the by-law or question, or
- (b) published in an issue of a newspaper circulating within the municipality once a week for two successive weeks, the last of which shall be published not less than seven clear days prior to voting day.

71. (1) The notice of the voting shall

- (a) give a correct statement of the question to be submitted, or in the case of a by-law, a concise statement of its object,
- (b) the date, time and place for the appointment of agents to attend the polling places and of the final summing up of votes by the returning officer,
- (c) the date and hours for taking the vote, and
- (d) the number and description of the polling divisions and the location of each polling place.

(2) In the case of a money by-law, a statement shall also show

- (a) the amount of the debt or liability to be created or the money to be raised,
- (b) how the same is to be payable, and

- (c) the amount to be raised annually for payment of the debt and interest or the instalments if the debt is to be paid in instalments.

(3) In case of a by-law granting a special franchise, the proposed by-law shall be published in full.

(4) Where more than one by-law or question is to be submitted at the same time, summaries of all or any number of them may be included in one notice.

72. (1) To each notice so published shall be appended an additional notice over the printed signature of the returning officer, stating

- (a) that the above is a correct statement of the question submitted, or a correct summary of the proposed by-law that has been introduced,
- (b) that, in the case of a by-law, it will be finally passed by the council in the event of the assent of the electors being obtained thereto, within three months of the voting thereon, and
- (c) the hours during which voting will take place on the date and at the place or places fixed for taking the votes of the electors.

(2) When the notice of the voting summarizes more than one by-law or question, the additional notice required under this section may refer in general terms to all the by-laws and questions so summarized.

73. (1) In any vote on a money by-law, unless 10 per cent of the proprietary electors entitled to vote thereon do in fact vote, the vote is of no effect, notwithstanding anything in this section.

(2) In the case of a by-law or question submitted to the electors, other than a money by-law, if more than 50 per cent of the electors voting vote in favour of the by-law or affirmatively on the question, the by-law or question shall be deemed to be assented to by the electors.

(3) In the case of a money by-law,

- (a) if two-thirds of the proprietary electors voting thereon, when the total number of proprietary electors voting on the by-law is not more than 50 per cent of the total number of proprietary electors entitled to vote thereon, vote in favour of the by-law, or
- (b) if the majority of the proprietary electors voting thereon when the total number of proprietary electors voting on the by-law is more than 50 per cent of the total number of proprietary electors entitled to vote thereon, vote in favour of the by-law,

the money by-law shall be deemed to be assented to by the proprietary electors.

74. (1) Any by-law assented to by the electors shall be finally passed by the council within three months of the voting thereon without any alteration being made therein, affecting the substance thereof.

(2) Notwithstanding subsection (1), the Local Authorities Board, on application by the council made on or before or after the expiration of the period of three months may extend the time for passing a by-law that requires the approval of the Board beyond the period of three months, and in that case the by-law shall be passed within the extended time.

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of voting has been declared, or if within that period an order for a recount has been made until the result of the recount has been certified by the judge.

(4) The time that intervenes between the making of an application for recount and the final disposition of it shall not be reckoned as part of the two weeks.

School Trustee Elections

75. Subject to *The School Act*, the election of the school trustees and the separate school trustees in city and town school districts only shall be held in accordance with this Part.

76. (1) All the provisions of this Act respecting the election and qualification of councillors and the qualification of electors apply, the necessary changes being made, to the election of school trustees, except that where a school district extends beyond the limits of a municipality a person residing in the extended portion and qualified as an elector in the school district is eligible to be nominated and to vote at an election of school trustees, notwithstanding that he is not qualified to vote for councillors, if the person subscribes to the declaration in the prescribed form.

(2) Notwithstanding subsection (1), a paid official or employee of the municipality is eligible to be elected and entitled to sit and vote as a school trustee.

77. (1) In any municipality where the election of public and separate school trustees is held concurrently with the municipal election, the board of public and separate school trustees in the municipality shall give notice to the municipal secretary on or before the first day of September in each year, of the number of vacancies required to be filled to make the school boards complete.

(2) When the notice has been given to the municipal secretary, nomination and election of school trustees shall be held at the same time and place and by the same officers and shall be conducted in the same manner as the nomination and election of mayor and councillors.

78. At each election the returning officer shall prepare a separate set of ballot papers which shall contain the names of the candidates nominated for school trustees and the ballot papers shall be prepared in the same form as those used for the election of councillors, except that the words

(a) "Public School Trustees", or

(b) "Separate School Trustees",

as the case requires, shall be substituted for the word "Councillor" thereon.

79. At a poll, a deputy returning officer shall only deliver

(a) a ballot paper for public school trustees to a person who is a public school supporter, and

(b) a ballot paper for separate school trustees to a person who is a separate school supporter.

DIVISION B

Qualification of Electors

80. (1) A person is qualified to vote as an elector for mayor and councillors at an election of a municipality if he is of the full age of 19 years

(a) whose name appears upon the last revised assessment roll prior to nomination day in respect of land or business liable to taxation, or

(b) whose name does not appear on the last revised assessment roll, but who is a Canadian citizen having continuously resided in the municipality for 12 months immediately preceding polling day.

(2) Subsection (1) does not apply to a person who resides within a military area or camp which is under the jurisdiction of the Department of National Defence (Canada) and partly or wholly within the area of an electoral division in a municipal district.

81. (1) A person is qualified to vote as a proprietary elector on any matter upon which the opinion of the proprietary electors is to be obtained if he is of the full age of 19 years and is

(a) a person who is the registered owner of land liable to taxation for general municipal purposes, and to which there is no purchaser, whose name appears upon the last revised assessment roll,

(b) a purchaser who is entitled to the possession of land and liable to taxation for general municipal purposes, whose name appears upon the last revised assessment roll, or

(c) a person who is the owner of a majority interest in a private corporation registered and in good standing, which appears upon the last revised assessment roll of the municipality as owner, conditional owner

or purchaser of land that is not exempt from taxation, or is liable for business tax, or

- (d) a person who is a conditional owner of land whose name appears on the last revised assessment roll and who is entitled to possession thereof, or
- (e) a person who is liable to a business tax with respect to a business, whose name appears on the last revised assessment roll, or
- (f) any public corporation or any church or any other religious organization whose name appears upon the last revised assessment roll as the owner, conditional owner or purchaser of land that is not exempt from taxation, which vote may be given to a resident who is authorized to vote by the corporation, church or other religious organization.

(2) A person voting under clause (c) or (f) of subsection (1) shall be of the full age of 19 years and before voting shall produce a certificate executed by the corporation, church or other organization authorizing him to vote and he may be required to take an oath or affirmation in the prescribed form before his vote is accepted.

(3) Notwithstanding anything in this Act, except section 9, when the names of two or more non-resident persons appear on the assessment roll in respect of one parcel, only one of those persons is a proprietary elector in respect of that parcel and entitled to vote as such and in case of a dispute the person whose name appears first on the assessment roll is the one entitled to cast the vote.

82. (1) Where wards or electoral divisions have been established in a municipality, every elector resident in a ward or division and qualified in respect of land therein, may vote only in the ward or division in which he is resident and qualified.

(2) Where wards or electoral divisions have been established in a municipality, every elector not coming within the terms of subsection (1), whether resident in the municipality or not, may vote only in the ward or division in which the land in respect of which he is qualified as an elector is situated.

(3) When an elector is qualified in respect of land in more than one ward or electoral division, he may vote only in the ward or electoral division in which his assessment is higher than in any other ward or division.

(4) In the case of equality of assessment an elector may vote only in that ward or division that bears the lowest designated number.

(5) A person who is qualified to vote otherwise than in respect of land may vote in the ward or electoral division in which he resides.

83. For the purposes of Part 3 and this Part, the place of residence is governed by the following rules, as far as applicable:

- (a) the residence of a person is the true, fixed, permanent home or lodging place to which, when he is absent, he has the intention of returning;
- (b) a person does not lose his residence by leaving his home for a temporary purpose;
- (c) if a person leaves the municipality with the intention of making his residence elsewhere, he loses his residence within the municipality;
- (d) the place where a person's family resides shall be deemed to be his place of residence unless he takes up or continues his abode in some other place with the intention of remaining there, or elects such other abode as his residence, in which case he shall be deemed to be a resident of this other place;
- (e) the residence of a single person is the place where he occupies a room as a regular lodger, or to which he habitually returns not having any other permanent lodging place;
- (f) no person shall be deemed to have residence in more than one municipality;

and in the event of a person maintaining residences in more than one municipality, he shall be required to elect one residence for the purpose of this Act.

DIVISION C

Preparation of Voters List

84. In this Division "voters list" means list of the proprietary electors prepared pursuant to this Division.

85. Where a vote on a money by-law is to take place the municipal secretary shall prepare the voters list of the proprietary electors from the latest revised assessment roll and may with respect thereto, up to and including the day fixed for voting, and upon satisfactory proof,

- (a) strike from the list the name of a person who has ceased to have the necessary qualifications, and
- (b) add to the list, the name of a person who has acquired the necessary qualifications.

86. (1) When a voters list has been prepared, the municipal secretary shall write immediately after the last name on the list of each polling division or electoral division the words "certified correct" followed by his signature and the date upon which the certificate was made.

(2) The municipal secretary shall retain a voters list in his possession, until after the preparation of the next following voters list.

87. (1) When a voters list has been prepared, the municipal secretary shall post up one copy of the list in his office and one copy in each of two other conspicuous places in the municipality.

(2) The municipal secretary shall also post up a copy of that part of the voters list that contains the names of the persons entitled to vote in a polling division or electoral division

(a) in a conspicuous place in each polling division or electoral division, or

(b) when a suitable conspicuous place is not available in a polling division, then in a conspicuous place close to the polling division.

(3) The municipal secretary shall also publish in a newspaper or newspapers having circulation in the municipality, a notice that the voters list has been prepared and posted for inspection, stating the places where they are posted.

88. (1) Any proprietary elector

(a) who is otherwise qualified, but whose name does not appear on the voters list, or

(b) in regard to the entry of whose name there has been an inaccuracy, or

(c) whose name has been omitted from the assessment roll,

may by himself or his agent and not later than the eighth day before polling day apply to have the voters list amended upon giving the municipal secretary satisfactory proof of entitlement to vote.

(2) Any person making a false statement in an application under this section is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and to imprisonment for a term not exceeding 30 days, or both fine and imprisonment.

(3) The municipal secretary, in order to verify the qualifications of any applicant, may require him to furnish satisfactory proof thereof and may take the affidavit or statutory declaration of the applicant, or of such other person as he considers proper.

89. (1) If the municipal secretary is satisfied the applicant is qualified to have his name added to the voters list, he shall add the name to the list in the proper polling division or electoral division and shall notify the applicant of the addition.

(2) If the municipal secretary is satisfied that the applicant is not qualified to have his name added to the voters list, he shall reject the application and shall notify the applicant of the rejection and the reason therefor.

(3) When a person has disposed of the property in respect of which he was qualified as a voter, or when a person named on the voters list is wrongfully included on the voters list, the person is liable to have his name struck off the voters list as being disqualified, and the name of the proper person, if any, substituted therefor.

90. (1) The voters list, as revised by the municipal secretary, is usable in connection with the approval of a by-law or the determination of a question.

(2) The revised list prepared by the municipal secretary shall be certified by him to be correct copies of the voters list, and shall be posted within his office at least six days before the date fixed for any voting.

(3) When a revised voters list has been certified it is final and conclusive as to the right to vote as a proprietary elector.

DIVISION D

Nominations

91. (1) Nomination day for a general election in a municipality shall be the fourth Wednesday in October in every third year, commencing in 1968.

(2) Where a by-election is required to fill a vacancy on a council, nomination day shall be such day as the council, by resolution, fixes.

92. The returning officer shall receive nominations at the office of the municipality between the hours of 10 o'clock in the morning and 12 o'clock noon on nomination day.

93. The returning officer shall, at least six clear days prior to nomination day, give notice of the nomination meeting,

- (a) in a city by publishing a notice in the prescribed form, in a newspaper circulating within the city, and
- (b) in a town and village by posting of notices in the prescribed form in at least three conspicuous places in the town or village,
- (c) in a municipal district, by causing a notice in the prescribed form
 - (i) to be posted up in at least four widely separated and conspicuous places in each electoral division in which an election is required,
 - (ii) to be published in an issue of a newspaper which is sent by the municipal district to each proprietary elector, and
 - (iii) to be published in a newspaper circulating within the municipal district.

94. (1) Every nomination of a candidate for an elective office shall

- (a) be in writing signed by at least five electors and shall be in the prescribed form,
 - (b) be accompanied by a written acceptance signed by the person nominated, stating
 - (i) that he resides in and has continuously resided in the municipality for the 24 months immediately prior to nomination day and that he is qualified to be elected to the office, and
 - (ii) that he will accept the office if elected,
 - and
 - (c) if a by-law so requires, shall be accompanied by a cash deposit in the amount fixed by the by-law.
- (2) A council may, by by-law, require every nomination to be accompanied by a cash deposit, not exceeding \$100, and prescribe the conditions under which the deposit may be refunded.
- (3) Where a ward system is in effect, only a resident of the ward for which a candidate for councillor is being nominated may sign the nomination of the candidate.

95. (1) A person is not eligible to be nominated or elected as mayor or councillor if, on nomination day, he is not qualified under Part 3 to be a member of the council.

(2) A person is not eligible to be nominated for or elected to more than one office on a council.

(3) A member of a council is not eligible to be nominated for or elected to the same or any other office on the council

- (a) unless his term of office is expiring, or
- (b) unless he has resigned his office with effect, on or before nomination day where his term of office is not expiring.

96. (1) When the number of persons nominated for any office is less than the number required to be elected, the nomination meeting

- (a) shall stand adjourned to the next day at the same place, at the hour of 10 o'clock in the morning and the adjourned meeting shall remain open until 12 o'clock noon for the purpose of receiving further nominations for the office in respect of which the required number of nominations has not been received, and
- (b) shall continue to be adjourned in like manner from day to day until the required number of candidates has been nominated or the period of seven days has elapsed.

(2) Where sufficient nominations are not received to fill all vacancies, the municipal secretary shall immediately notify the Minister who may recommend a reduction in the status of the municipality or its dissolution or such other action as he considers necessary in the circumstances.

97. (1) Where more than the required number of candidates for any particular office are nominated, any person so nominated may at any time with 24 hours from the close of the nomination period, withdraw his name as a candidate for the office for which he was so nominated, by filing with the returning officer, a withdrawal in writing.

(2) If after one or more candidates have withdrawn, it appears that the number of remaining candidates does not exceed the number of vacancies to be filled, the returning officer shall refuse to accept further withdrawals and shall forthwith proceed under section 95.

98. (1) When the number of persons nominated for any office is equal to and does not exceed the number required to be elected, the returning officer shall declare the persons so nominated to be elected for the office for which they were nominated.

(2) Forthwith after having declared any person elected pursuant to this section the returning officer in writing, signed by him, shall notify the municipal secretary of the names of the persons so elected and of the offices for which they were elected.

(3) The municipal secretary upon being notified of the election of any persons shall forthwith advertise the fact

- (a) in a city, by inserting a notice in a newspaper circulating in the city, and
- (b) in all other municipalities, by posting notices in at least three conspicuous places or by inserting a notice in a newspaper circulating in the municipality.

99. (1) If more than the required number of persons are nominated for any office, the returning officer shall declare that an election shall be held for filling that office.

(2) When an election is required, the returning officer shall after the expiration of the 24 hours referred to in section 90, give notice of the election

- (a) in a city or town by posting in the city hall or municipal office and by publishing in one or more newspapers circulating in the city or town, at least once in each of the two weeks immediately preceding polling day, a notice in the prescribed form,
- (b) in a village by posting in at least three conspicuous places in the village, a notice in the prescribed form at least 14 clear days before polling day, and

- (c) in a municipal district,
 - (i) by posting in at least four widely separated conspicuous places, in each electoral division where an election is to be held, a notice in the prescribed form, at least 14 clear days before polling day, and
 - (ii) by publishing a notice in the prescribed form in one issue of a newspaper circulating in the municipal district not sooner than 30 clear days and not later than 14 clear days before polling day.

DIVISION E

Establishment and Operation of Polling Places

Location

100. (1) The council from time to time may designate the locations at which polling places shall be opened when a vote is required.

(2) In the absence of the designation of polling places by the council, the returning officer shall designate the various polling places in each polling division, if any.

(3) When a polling place designated by the council is not available, the returning officer shall designate an alternative place in the vicinity and shall, by notice posted at the original polling place, direct the electors to the alternative polling place.

(4) Except in the case of the advance poll, or hospital poll, every polling place for a ward or electoral division shall be situated within the boundaries of the ward or electoral division.

Compartments

101. (1) The returning officer shall ensure that each polling place is furnished with one or more compartments, so arranged that an elector is screened from observation and may mark his ballot paper without interference or interruption.

(2) In each compartment there shall be provided for the use of the electors in the marking of ballot papers, a table, desk or shelf with hard surface and a suitable black lead pencil which shall be kept sharpened during the hours of voting.

Ballot Boxes

102. (1) The municipal secretary shall provide as many ballot boxes as appear to be required for each polling division.

(2) The ballot boxes shall be made of some durable material, be provided with a lock and key and constructed so that the ballot papers can be deposited therein and cannot be withdrawn therefrom unless the box is unlocked.

103. When it becomes necessary for the purpose of an election to use the ballot boxes, the municipal secretary shall provide them for the returning officer who shall deliver the required number of ballot boxes to each deputy returning officer appointed for the purpose of the election, not later than one hour before the opening of the poll.

104. (1) The deputy returning officer or other person presiding at a poll, shall immediately after the opening of the poll, show the ballot box to such persons as are present in the polling place so that they may see that it is empty.

(2) The deputy returning officer or other person presiding at the poll shall then lock the box and place a seal upon it in such a manner as to prevent its being opened without breaking the seal, and shall thereupon place it in his view for the receipt of ballot papers and shall keep it in full view of all present, and locked and sealed during the hours of polling.

Ballots

105. Forthwith after the date of an election or the taking of a vote on a by-law or question has been fixed, the returning officer shall cause to be printed at the expense of the municipality, the number of ballot papers sufficient for the purpose of the election or vote, as the case may be.

106. (1) The names of the candidates for:

- (a) the office of mayor shall be placed on a separate ballot paper which shall be in the prescribed form;
- (b) the offices of councillors shall be placed on a separate ballot paper which shall be in the prescribed form.

(2) Every ballot paper used in an election for councillor shall contain a brief explanatory note stating the maximum number of candidates who can be voted for to make the ballot valid.

(3) Every ballot paper used in an election for mayor shall contain a brief explanatory note stating that the ballot paper shall not be marked for more than one candidate.

107. (1) Every ballot paper shall contain

- (a) the name of each nominated candidate, arranged alphabetically in order of surnames and if there are two or more candidates with the same surname, in order of their given names, and
- (b) the occupation of each candidate, or if he has no occupation, his status.

(2) Notwithstanding subsection (1), a council by by-law, passed before the first day of September in any year, may provide that the following provisions shall govern the form of ballot papers:

- (a) ballot papers shall be printed in as many lots as there are candidates for the office;
 - (b) in the first lot the names of the candidates shall appear in alphabetical order;
 - (c) in the second lot the names shall appear in the same order, except that the first name in the first lot shall be placed last;
 - (d) in each succeeding lot, the order will be the same as that of the preceding lot, except that the first name in the preceding lot shall be placed last;
 - (e) tablets of ballot papers to be used at several polling places shall be made up by combining ballot papers from the different lots in regular rotation so that no two electors will receive ballot papers from the same lot so that each candidate's name will appear first and in each other position substantially the same number of times on the ballot papers used.
- (3) A by-law passed under subsection (2) remains in force from year to year, until repealed.

108. (1) The ballot paper for a vote on a by-law or question shall be in the form determined by the council.

(2) Where a by-law is submitted to the electors for the repeal of an existing by-law, the council may by resolution determine the form of the ballot paper.

(3) The council, when more than one by-law is to be submitted to the electors, may prescribe by resolution the forms of ballot papers for the voting on all such by-laws.

109. Before the opening of the poll, the returning officer shall cause to be delivered to each deputy returning officer the ballot papers prepared for use in the polling division in which the deputy returning officer has been appointed to act, and such other materials as are necessary in order to enable the electors to mark their ballot papers.

Other Election Material

110. The municipal secretary shall deliver to the returning officer and the returning officer shall deliver to every deputy returning officer, at least one hour before the time fixed for the opening of the poll, a correct copy

- (a) of the list of electors, certified by the municipal secretary to be a correct copy, as is required for each polling division, and
- (b) when different lists are required for the voting on any by-law or question, of such additional lists as are necessary,

certified as being correct by the municipal secretary, together with a blank poll book, in the prescribed form, in which to record the names and qualifications of the electors who vote.

111. (1) The returning officer before the opening of the poll, shall cause to be delivered to each deputy returning officer, such number of printed directions for the guidance of voters that he considers sufficient.

(2) The directions, in the case of an election, shall be printed in conspicuous characters in the prescribed form.

(3) Such directions in the case of a by-law or question, shall be printed in conspicuous characters in the prescribed form.

112. The deputy returning officer shall, before the opening of the poll or immediately after he has received the printed directions from the returning officer, if he did not receive them before the opening of the poll, shall cause the said directions to be posted outside the polling place in which he is appointed to act and also in every polling compartment of the polling place and shall ensure that they remain posted until the close of the poll.

113. (1) The returning officer prior to every election or the voting on any by-law or question shall furnish each deputy returning officer with at least two copies of sections 190 and 191.

(2) The deputy returning officer shall post the copies in a conspicuous place in the polling place and ensure that they are so kept posted during the polling hours.

Officials

114. (1) The returning officer on request of any elector who has been appointed deputy returning officer or poll clerk or constable to attend at any polling place other than the one where he is entitled to vote, shall give to him a certificate that he is entitled to vote at the polling place where he is to be stationed during the polling day.

(2) On the production of the certificate, the deputy returning officer, poll clerk or constable may vote at the polling place where he is stationed during the polling day, instead of the polling place where he would otherwise have been entitled to vote, and the returning officer shall attach the certificate to the list of electors.

(3) No certificate entitles the elector to vote at a polling place unless he has been actually engaged as a deputy returning officer, polling clerk or constable at that polling place during the whole of the day of polling.

(4) If a deputy returning officer votes at the polling place to which he has been appointed as such, the poll clerk appointed to act at the polling place, or in the absence of the poll clerk, any elector authorized to be present, may administer to the deputy returning officer any of the oaths required by law to be taken by voters.

115. (1) The deputy returning officer, by writing under his hand, may appoint a poll clerk who in the absence of the deputy returning officer, or in the case of his illness or inability to fulfil the duties required of him by this Act, has the powers of the deputy returning officer who appointed him.

(2) The deputy returning officer, with the approval of the returning officer may also appoint a constable to maintain order at the polling place, or he may summon to his assistance in the polling place, any peace officer or any other male person for the purpose of maintaining order, preserving the public peace or preventing any breach thereof or of removing any person, who in the opinion of the officer presiding at the poll, is obstructing the polling or wilfully contravening this Act.

116. Every returning officer, deputy returning officer, poll clerk, constable, candidate or agent authorized to be present at any polling place, shall before exercising at any polling place any of the rights of his office for which he has been appointed, take and subscribe before a justice of the peace, the municipal secretary, or commissioner for oaths, or in the case of a poll clerk or constable, before the deputy returning officer at whose polling place he is appointed to act, an oath in the prescribed form.

117. The officer presiding at a polling place, and a poll clerk when acting in the place of the officer presiding or appointed to preside at a polling place, is by virtue of his office authorized to administer an oath to a person making a declaration, affidavit or other statement under oath, that is authorized or required by this Act to be made in the course of the holding of an election, or of the taking of a vote pursuant to this Act.

Agents

118. (1) Any person at any time producing to the deputy returning officer, or person in charge of a poll, a written authority to represent a candidate as his agent at a polling place, shall be recognized as such by the officer.

(2) The officer shall not permit a candidate to have more than one agent representing him to be present at any one time in a room in which voting is taking place.

(3) A candidate personally may undertake the duties that his agent might have undertaken, or he may assist his

agent in the performance of his duties and may attend any place that his agent is authorized by this Act to attend.

(4) When, in the sections of this Act relating to the election of mayor, reeve or councillors, expressions are used requiring or authorizing an act or thing to be done or implying that an act or thing is to be done in the presence of an agent or a candidate or candidates, such expression shall be deemed to refer to the presence of such agents as are authorized to attend and, as have in fact attended at the time and place where that act or thing is being done and if the act or thing is otherwise properly done, the non-attendance of any agent at such time and place does not invalidate it.

119. (1) Every agent appointed in respect of a vote on a by-law or question shall

(a) before being admitted to the polling place, or

(b) before the summing up of the votes,

as the case may be, produce his written appointment to the deputy returning officer presiding at the poll, or the returning officer, as the case may be.

(2) In the absence of any agent authorized to attend at the polling place in the final summing up of the votes, any elector in the same interest as the agent so absent may, upon subscribing before the deputy returning officer or the returning officer a declaration, in the prescribed form, be admitted at the polling place to act for the agent so absent.

Advance Polls

120. (1) Any municipality may, by by-law, provide for holding of an advance poll on any vote at an election or on a by-law or question.

(2) No advance poll shall be held within 24 hours of the time fixed for the opening of the regular polls.

(3) All proceedings that, in the opinion of the council, are necessary or expedient to give full effect to this section shall be deemed to be authorized notwithstanding any inconsistencies that may arise between the following sections and any other portion of this Act.

121. Notice of the time and place fixed for an advance poll shall be published at least once in each of the two weeks preceding the advance poll in a newspaper circulating in the municipality.

122. (1) Where an advance poll is authorized, the returning officer shall establish an advance polling booth which shall be centrally located so as to suit the convenience of the electors.

(2) Where there are wards or electoral divisions in a municipality, the advance poll shall be held at one centrally located place, except that the deputy returning officer in charge of the poll shall maintain separate ballot boxes for each ward or electoral division in the municipality.

(3) Except as otherwise provided, the poll held at any advance polling booth shall be conducted in the same manner as is provided for the conduct of other polls in an election, except that upon the ballot box being locked at the opening of the first day of the advance poll, it shall remain locked at all times until opened for the counting of ballots, which will not take place until after the close of the polls on election day.

123. The persons authorized to vote at an advance poll are the electors

- (a) who have reason to believe that they will be absent from their place of residence during the whole time fixed for the election or for voting on a by-law or question, or
- (b) who by reason of physical disability find it impossible or extremely difficult to attend at the regular polling place.

124. (1) Every person applying to vote at an advance polling booth, before being permitted to do so, shall be required by the deputy returning officer in charge of the poll to make and sign an affidavit or affirmation, in the prescribed form, which shall be kept by the deputy returning officer with the other records of the poll.

(2) The returning officer, or deputy returning officer may take the affidavit or affirmation, and any person who signs it, knowing that any statements therein are false, is guilty of an offence and liable on summary conviction to a fine of not less than \$25 and not more than \$100.

125. The returning officer shall forthwith after the last day of the advance poll cause to be delivered to the deputy returning officer,

- (a) a corrected list of electors on which the names of electors or proprietary electors who are entitled to vote in his division and who have voted at the advance poll have been struck out, or
- (b) a list of all electors or proprietary electors who are entitled to vote in his division and who have voted at the advance poll,

and in the latter case the deputy returning officer or other presiding officer shall strike off his list the names of persons having so voted.

Hospital Poll

126. (1) For the purpose of taking the votes of any electors

(a) who on the day fixed for the holding of an election may be confined to any hospital in the municipality, and

(b) who are in consequence unable to go to the polling place at which they are qualified to cast their votes, the returning officer may appoint such sufficient number of deputy returning officers and polling clerks as he considers necessary to take the votes of those patients, but of no other persons whomsoever.

(2) All proceedings that, in the opinion of the returning officer, are necessary or expedient to give full effect to the provisions of this section shall be deemed to be authorized notwithstanding any inconsistencies that may arise between this section and any other portion of this Act.

127. (1) When a hospital poll is provided for, the returning officer shall appoint the times on election day at which the votes in the hospitals shall be taken, and the deputy returning officers and polling clerks so appointed, accompanied by an officer of the hospital, shall attend, with a ballot box, upon such patients as the superintendent or other person having charge of the hospital certifies to the deputy returning officer to be *bona fide* patients in the hospital and to be well enough to vote, and take the votes of any such patients who wish to vote.

(2) Where there are wards or electoral divisions in a municipality, the hospital poll shall be held in accordance with subsection (1), except that the deputy returning officer in charge of the poll shall maintain separate ballot boxes for each ward or electoral division of the municipality.

128. Every hospital at which a poll is taken is a polling place and all the provisions of this Act apply, so far as they are applicable, to the holding of the poll, and to all proceedings in connection therewith or incidental thereto.

129. Other than the officers, candidates, poll clerks, constables or agents authorized to attend at the polling place and the electors who are for the time being actually engaged in voting, no person is entitled to be present, nor shall any person be permitted to be present in the polling place during the time appointed for polling.

DIVISION F

Voting Procedure

130. Every polling place shall be kept open on polling day from 10 o'clock in the morning until eight o'clock in the evening.

131. (1) An employee who is an elector shall, while the polls are open on polling day, have two consecutive hours for the purpose of casting his vote.

(2) If the hours of the employee's employment do not allow for two consecutive hours, his employer shall allow him such additional time for voting as may be necessary to provide him the two consecutive hours, but the additional time for voting shall be granted at the convenience of the employer.

(3) No employer shall make any deduction from the pay of any employee nor impose upon him or exact from him any penalty by reason of his absence from his work during the two consecutive hours or additional time.

132. (1) An elector may vote once only for mayor and for such number of councillors as he chooses, not exceeding the number of councillors to be elected, and all such votes shall be cast in the same polling division and a ballot containing votes for more than the number of councillors to be • elected is void.

(2) An elector or proprietary elector may vote once only on a by-law or question.

(3) Notwithstanding subsection (2) an elector or proprietary elector who is also a personal representative of a corporation or church or other religious organization, may vote once in his personal capacity, and once on behalf of the corporation, church or other religious organization.

133. Voting shall be by secret ballot.

134. (1) At an election, the deputy returning officer or person in charge of the poll, or poll clerk shall record in the poll book the name of each person who declares that he is entitled to vote, and upon recording the qualifications shall require the person to sign the entry in the poll book, declaring that his representations are true and upon the applicant signing the poll book he shall be handed such ballot papers as by reason of his qualifications he is entitled to mark.

(2) Any person signing his name to a poll book is required to satisfy himself that all matters recorded are true, and when any such recorded matter is untrue, he is guilty of an offence and liable upon summary conviction to a fine of not more than \$500 and in default of payment thereof to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

135. (1) When an election for school trustees is being held in conjunction with a municipal election and when the name of a person is being recorded in the poll book pursuant to section 134, the deputy returning officer

- (a) shall enquire of the person whether he is a supporter of the public or separate schools, and
- (b) if the person acknowledges, orally or otherwise, that he is a supporter of the separate school, shall cause the letters "SS" to be recorded in the proper column of the poll book.

(2) When a person presents himself for the purpose of voting and it is found that another has voted in his name, he is entitled to vote if he otherwise establishes his identity to the satisfaction of the deputy returning officer and signs the poll book.

136. When the right of any person to vote is objected to by a candidate or his agent, the deputy returning officer shall enter the objection or cause it to be entered in the poll book and the person entering it shall write his initials opposite the name of the voter in the column headed "objected to" noting at the same time by which candidate or on behalf of which candidate the objection has been made by adding after his initials those of the candidate.

137. Where a person desiring to vote has been required to sign the poll book and refuses to do so, the deputy returning officer shall enter or cause to be entered opposite the name of that person in the proper column of the poll book the words "refused to sign" and the vote of that person shall not be taken or received.

138. The deputy returning officer shall place or cause to be placed in the columns of the poll book headed "mayor", "councillor", "school trustee", "separate school trustee", "money by-law", "by-law" or "question" or such as are applicable to the voting, a check mark opposite the name of every person receiving a ballot paper at the time he receives it to denote that the voter has received a ballot paper for mayor, councillor, school trustee, separate school trustee, money by-law, by-law or question, as the case may be.

139. The deputy returning officer

- (a) may, and
- (b) upon request shall,

either personally or through his poll clerk, explain to a voter as concisely as possible the proper method of voting.

140. Upon receiving the ballot papers he is entitled to receive from the officer presiding at the poll, the voter shall forthwith proceed into the compartment provided for the purpose and shall mark

- (a) a ballot paper for mayor, councillors or school trustees by placing a cross (thus: X)

- (i) on the right hand side opposite the name of any candidate, or
- (ii) within the division on the paper containing the name of any candidate,
for whom he desires to vote, and
- (b) a ballot paper for a money by-law, by-law or question by placing a cross (thus: X) within the division of the paper marked
 - (i) "for" or "yes", or
 - (ii) "against" or "no",
whichever way he desires to vote.

141. While a voter is in the voting compartment for the purpose of marking his ballot paper, no person shall be allowed to enter the compartment or to be in any position from which he can observe the mode in which the voter marks his ballot paper.

142. (1) After marking the ballot papers, the voter shall fold the ballot paper across so as

- (a) to conceal the names of the candidates and the mark upon the face of the ballot paper, and
- (b) to expose the initials of the officer presiding at the poll,

and immediately after leaving the compartment shall without delay and without showing the front to anyone, deliver the ballot paper so folded to the officer presiding at the poll.

(2) The officer presiding at the poll shall, without unfolding the ballot paper or in any way disclosing the names of the candidates or the marks made by the voter upon the ballot paper or papers, verify his own initials and in the presence of all persons who are entitled to be present and are present in the polling place, deposit the ballot paper or papers at once in the ballot box.

(3) After his ballot papers are deposited in the ballot box, the voter shall forthwith leave the polling place.

Special Cases

143. (1) When an elector

- (a) is incapacitated by blindness or other physical cause from marking his ballot paper, or
- (b) claims to be unable to read,

the deputy returning officer shall obtain from the elector an oral oath or solemn declaration in the prescribed form.

(2) If an incapacitated elector, as referred to in subsection (1) is accompanied by a friend, the deputy returning officer, if required to do so by the elector, shall permit

that friend to accompany the elector into a voting compartment for the purpose of marking the elector's ballot paper and the ballot paper when marked shall be delivered by the elector or the friend to the deputy returning officer to be placed in the ballot box.

(3) Except as provided by subsection (2), the deputy returning officer in the presence of the agents, if any, of the candidates, shall mark the votes of the electors referred to in subsection (1), on their ballot papers in the manner directed by those electors, and shall immediately place the ballot paper in the ballot box.

(4) No candidate shall be present at the marking of a ballot paper under this section.

(5) The deputy returning officer shall enter or cause to be entered in the poll book, opposite the name of a person voting under this section in the "remarks" column of the poll book, that the vote of the person is marked pursuant to this section and the reason why it is so marked.

144. (1) Where an elector does not understand the English language, the deputy returning officer may allow an interpreter to translate the oath as well as any lawful question necessarily put to the elector, and the elector's answers thereto.

(2) Before acting as an interpreter, the interpreter shall take an oath in the prescribed form.

145. (1) An elector, who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper, may,

(a) on returning to the deputy returning officer the ballot paper so inadvertently dealt with, and

(b) on proving the fact of the inadvertence to the satisfaction of the deputy returning officer,

receive another ballot paper in the place of the ballot paper so returned.

(2) The deputy returning officer shall immediately write the word "spoiled" upon the returned ballot paper and shall preserve it.

146. Where an elector returns a ballot paper stating that he is declining to vote, the deputy returning officer

(a) shall record in the poll book in the remarks column opposite the elector's name an entry to the effect that he has declined to vote, and

(b) shall write the word "declined" on the returned ballot paper and shall preserve it.

147. (1) No person who has received a ballot paper from the deputy returning officer shall take the ballot paper out of the polling place.

(2) Any person who, having received a ballot paper from the deputy returning officer, leaves the polling place without first delivering it to the deputy returning officer in the manner prescribed, thereby forfeits his right to vote at that election and the deputy returning officer shall record in the poll book in the remarks column opposite that person's name an entry to the effect that the person left the polling place without first delivering the ballot paper.

148. (1) Promptly at eight o'clock in the evening on a polling day, the deputy returning officer shall declare the poll closed.

(2) If, when the poll is closed, there is an elector in the poll who desires to vote, he shall be permitted to do so, but no other person shall be allowed to enter the poll for that purpose.

DIVISION G

Proceedings after Closing the Poll

149. (1) In every polling place the deputy returning officer shall immediately after the close of the poll and in the presence

(a) of the poll clerk, if any, and

(b) of such candidates or their agents as are present, open the ballot box and proceed to count the votes.

(2) The deputy returning officer shall not permit more than one agent of any candidate or more than one representative of either side on a vote on any by-law or question to be present at the same time in any polling place during the counting of the votes.

150. (1) The deputy returning officer shall examine all the ballot papers and every ballot paper,

(a) that does not bear the initials of the deputy returning officer on the reverse side, or

(b) on which more votes are cast than an elector is entitled to cast, or

(c) on which anything is written or marked by which an elector can be identified, or

(d) that has been torn, defaced or otherwise dealt with by an elector so that he can thereby be identified, or

(e) on which no vote has been cast by an elector, is void and shall not be counted.

(2) On the back of a ballot paper the deputy returning officer shall

(a) endorse "rejected" if he rejects it as void, and

(b) endorse "rejection objected to" if any objection is made to his decision,

and shall initial each endorsement.

151. (1) The deputy returning officer shall take a note of any objection made by a candidate or his agent or in the case of a by-law or question by any person authorized to attend, to any ballot paper found in the ballot box and shall decide any question arising out of the objection.

(2) Every objection shall be numbered and a corresponding number shall be placed on the back of the ballot paper and initialled by the deputy returning officer.

152. (1) The deputy returning officer shall then count the votes given for each candidate upon the ballot papers not rejected, and shall prepare a written statement in words as well as in figures of the number of votes given for each candidate and of the total number of ballot papers rejected and not counted.

(2) The written statement shall be made up under the following heads:

- (a) the name of the municipality;
- (b) the name and number of the polling division;
- (c) the date of the election;
- (d) the number of persons who voted at the polling place;
- (e) the number of votes for each candidate;
- (f) the number of valid papers supplied to him;
- (g) the number of rejected ballot papers;
- (h) the number of unused and cancelled ballot papers and ballot papers marked "oath refused".

153. (1) In the case of a vote on a by-law or question, the deputy returning officer shall count the number of votes for and against the by-law, or in the affirmative and negative on the question, and shall prepare a written statement in words as well as figures of the number of votes given for and against the by-law, or in the affirmative or negative on the question, of the total number of ballot papers rejected and not counted on the by-law or question.

(2) The written statement shall be made up under the following heads:

- (a) the name or number of the polling division, and day of the voting;
- (b) the name of the municipality;
- (c) the number of votes for the by-law, or in the affirmative on the question;
- (d) the number of votes against the by-law, or in the negative on the question;
- (e) the total number of rejected ballots;
- (f) the total number of spoiled ballots;
- (g) the total number of ballots supplied to him;

and the deputy returning officer shall certify forthwith under his hand the percentage of the voters voting on the by-law or question who voted in favour thereof.

(3) In calculating the percentage required under subsection (2) all ballots which are not counted shall be excluded from the total ballots.

154. (1) The written statement shall be signed by the deputy returning officer, the poll clerk, if any, and such of the candidates or their agents as are present and desire to sign it.

(2) A deputy returning officer, upon being requested to do so, shall deliver to each of the persons authorized to attend at the polling place, a certificate

- (a) of the number of votes given at the polling place for each candidate, and the number of rejected ballot papers, or
- (b) the number of votes given for or against the by-law, or in the affirmative or negative on the question, and of the total number of ballot papers rejected on the by-law or question.

155. Every deputy returning officer, at the close of the poll, shall certify under his signature on the poll book, in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside.

156. (1) At the completion of the counting of the votes and in the presence of the candidates or the agents of the candidates, or authorized representatives on a by-law or question, the deputy returning officer shall make up into separate packets,

- (a) the used ballot papers that have not been objected to and have been counted,
- (b) the used ballot papers that have been objected to, but that have been counted,
- (c) the rejected ballot papers,
- (d) the spoiled ballot papers,
- (e) the ballot papers given to voters who afterwards returned them declining to vote,
- (f) the unused ballot papers,
- (g) the notes taken of objections made to ballot papers found in the ballot box, and
- (h) the voters list, if any, and poll book together with the oath in the prescribed form.

(2) Before making up the packet containing the poll book and voters list, if any, the deputy returning officer shall make and subscribe before the returning officer, a justice of the peace, a person authorized to administer oaths, or before the poll clerk, his declaration under oath that the list

and poll book were used in the manner prescribed by law and that the entries required by law to be made therein were correctly made.

(3) The declaration shall be made in the prescribed form and shall thereafter be attached to the voters list, if any.

157. (1) Each packet shall be sealed with the deputy returning officer's own seal and with seals of such candidates or agents of candidates, or persons authorized to attend as desire to affix their seals and each packet shall be marked upon the outside with

- (a) a short statement of the contents of the packet,
- (b) the date of the election,
- (c) the name of the deputy returning officer, and
- (d) the polling division name or number.

(2) The deputy returning officer shall then place all the packets containing ballot papers in the ballot box and the ballot box shall be locked and sealed with the seal of the deputy returning officer and with the seals of such candidates as desire to affix their seals.

158. After making up the packets and in the presence of such candidates or their agents as are present, the deputy returning officer shall prepare a ballot paper account

- (a) indicating the date of the election, the name of the deputy returning officer, the polling division name or number, and
- (b) accounting for the ballot papers received by him by showing
 - (i) the total number of ballot papers received by him,
 - (ii) the number of counted ballot papers,
 - (iii) the number of rejected ballot papers,
 - (iv) the number of spoiled ballot papers,
 - (v) the number of ballot papers given to electors who afterwards returned the same declining to vote,
 - (vi) the ballot papers taken from the polling place, and
 - (vii) the unused ballot papers.

159. (1) The deputy returning officer personally shall forthwith deliver to the returning officer,

- (a) the ballot box containing the packets,
- (b) the ballot paper account,
- (c) the poll book and voters list, if any, and
- (d) the written statements made under sections 152 and 153.

(2) If, owing to illness or other causes, the deputy returning officer is unable to deliver the items referred to in subsection (1) personally to the returning officer, he shall deliver them to a person chosen by him for the purpose, and shall write on the outside of each of the items the name of the person to whom the same has been delivered and shall take a proper receipt therefor.

(3) The person mentioned in subsection (2) to whom the items referred to in subsection (1) are addressed shall personally deliver them to the returning officer forthwith and obtain a receipt therefor.

160. (1) If there is only one polling place the returning officer, immediately after he has counted the ballot papers shall declare the result of the voting and subsequently on the second day after the day of the polling at the municipal office, he shall declare publicly that the candidate having the highest number of votes for each office to be filled, is elected.

(2) The returning officer shall post up in some conspicuous place a statement under his hand showing the number of votes polled for each candidate and shall forward a copy thereof to the municipal secretary, together with a statement of the candidates declared to be elected.

161. (1) If there is more than one polling place, then on the second day after the polling day at the municipal office, the returning officer shall in the presence of such of the candidates or their agents as may be present, sum up the result of the voting as shown by the duplicate statements furnished to him by each of the officers presiding at the polling places and including his own.

(2) If a candidate is dissatisfied with the result of the voting as shown by the duplicate statement of the officer presiding at any polling place, and shows reason for his dissatisfaction, then the returning officer shall

- (a) break the seals of the ballot box delivered to him by the officer presiding at that polling place, and
- (b) proceed to count the ballot papers contained therein in the same manner as the officer presiding at the polling place is directed to do.

(3) After making any such recount, the returning officer shall

- (a) make such corrected statement as may be necessary,
- (b) place in the ballot box the corrected statement together with all the documents contained therein at the time he broke the seals, and
- (c) lock the ballot box and seal it with his seal, and with the seal of any candidates who desire to affix their seals.

(4) The returning officer shall thereupon post up in some conspicuous place in the municipal office, a statement under his hand showing the number of votes polled for each candidate.

162. (1) In the case of a vote on a by-law or question, where there is only one polling place, the returning officer shall declare the result of the poll immediately after he completes the counting of the ballot papers.

(2) In the case of a vote on a by-law or question, if there is more than one polling place, the returning officer after he has received the ballot boxes from all of the polling places and, without opening any of the sealed packets of ballot papers, shall calculate the number of votes for and against the by-law, in the affirmative and negative votes on the questions, from the written statement of the number of votes given, and shall then and there declare the result.

(3) In the case of a vote on a by-law or question, the returning officer shall at the time and place where he has declared the result in the presence of the persons authorized to attend at the polling place, or before such of them as may be present, certify to the council under his hand the percentage of electors who have voted on the by-law or question and approved it, and in making such calculations shall exclude from the total number of ballots, all ballots as have not been counted.

163. If it appears upon the calculation of the votes that two or more candidates for any office have an equal number of votes, the returning officer shall write the names of those candidates separately on blank sheets of paper of equal size and of the same color and texture, and after folding them in a uniform manner and so that the names are concealed, deposit them in a receptacle and direct some person to withdraw one of the sheets and the returning officer shall declare to be elected the candidate whose name appears on the sheet thus drawn.

164. Forthwith after the election the returning officer shall deliver to the municipal secretary the ballot boxes, packets and returns, and the municipal secretary is thereafter responsible for their safekeeping and for their delivery when required.

165. The municipal secretary, unless otherwise ordered by a judge, shall retain for two months the ballot boxes with their seals unbroken and then, unless otherwise ordered by a judge, shall cause the ballot boxes to be opened and the packets to be burned in the presence of two witnesses, with the exception of the voters list, if any, and attached declaration and the poll books which shall be retained, and each of the two witnesses shall take an affidavit that he has witnessed the destruction of the ballot papers, forms and other documents.

166. (1) The voters list, poll book, and attached declaration may be inspected at any time, in the presence of the municipal secretary, by any electors.

(2) Except as provided in subsection (1), no person shall be allowed to inspect any ballot papers in the custody of the municipal secretary, except on order of a judge, which may be granted on satisfactory evidence on oath that the inspection or production of the ballot paper is required for the purpose of maintaining a prosecution for an offence in relation to the election, or for the purpose of taking proceedings under this Act, to contest an election return, or to prepare an application for a recount.

(3) The order shall state the time and place for inspecting the papers and shall name the persons to be present at the inspection and shall be made subject to such conditions as the judge thinks expedient.

DIVISION H

Judicial Recounts

167. (1) At any time within 15 days from the time of the declaration of the result of an election by the returning officer, any elector may apply to a judge by notice of motion for a recount, after the elector has

- (a) filed an affidavit with the clerk of the court, that the returning officer or a deputy returning officer or other officer, in counting the votes given at the election improperly counted or rejected ballot papers, and
- (b) deposited with the clerk of the court the sum of \$300 as security for the payment of costs and expenses.

(2) The deposit of \$300 shall not be paid out by the clerk without the order of the judge.

168. At least three days prior to the application, a copy of the notice of motion and the affidavit filed shall be served by the elector on the municipal secretary, the returning officer and all candidates or such candidates as the judge may direct.

169. Upon the hearing of the application the judge shall appoint a time and place to recount the votes and cause a notice in writing to be given to the municipal secretary, the candidate or candidates who may be affected thereby and to such other person as the judge may direct of the time and place at which he will proceed to recount the votes.

170. (1) The judge, the clerk or deputy clerk of the court, the municipal secretary with the ballot papers and each candidate notified to attend the recount and his aides

or his solicitor, and representatives of the press, and no other persons except with the sanction of the judge, are entitled to be present at the recount.

(2) The municipal secretary shall be present at the recount with the sealed packet of ballot papers and duplicate statements used at the election.

171. (1) At the time and place appointed, the judge shall proceed to recount or cause to be recounted all the ballot papers received by the municipal secretary and the returning officer as having been cast in the election complained of, and he shall in the presence of the parties in attendance, open all the seals of the packets containing the ballot papers.

(2) In recounting the votes care shall be taken that the mode in which any particular elector has voted shall not be disclosed.

172. (1) The judge shall, as far as practicable, proceed continuously with the recount except during such hours as may be excluded by the judge.

(2) During the excluded time the judge shall place the ballot papers and other documents relating to the election under his own seal and the seals of such others of the parties who have desired to affix their seals and shall otherwise take precaution for the security of the papers and documents.

173. (1) The judge shall proceed to examine such ballot papers as are disputed and recount the votes.

(2) Any ballot paper

- (a) that does not bear the initials of the deputy returning officer on the reverse side, or
- (b) on which votes are cast for more candidates than are to be elected for the office in question, or
- (c) on which anything is written or marked by which the voter can be identified, or
- (d) that has been torn, defaced or otherwise dealt with by an elector so that he can thereby be identified,

is void and shall not be counted.

(3) No word or mark written or made or admitted to be written or made by the deputy returning officer on a ballot paper affects the vote.

(4) The judge shall take a note of any objection made by a candidate or by his agent to a ballot paper, and shall decide any question arising out of the objection, and the decision of the judge thereon is final.

174. (1) The judge shall then count the votes given for each candidate upon the ballot papers not rejected, and

shall make up a written statement in words as well as in figures, of the number of votes given for each candidate, and of the number of ballot papers rejected and not counted by him.

(2) The written statement shall be made under the several heads as follows:

- (a) the names of candidates;
- (b) number of votes for each candidate;
- (c) ballot papers lacking initials of deputy returning officer;
- (d) ballot papers rejected as marked for more candidates than were to be elected;
- (e) ballot papers rejected as having upon them a writing or mark by which an elector can be identified or as torn, defaced or otherwise dealt with by an elector so that he can thereby be identified;
- (f) ballot papers rejected as unmarked or void for uncertainty.

(3) If the ballot box for a poll has been lost or destroyed the judge shall use the duplicate statement and allow the candidates named therein the number of votes respectively shown, thereby as given for such candidates.

175. (1) If two or more candidates for the same office have been allowed the same number of votes, by the judge, he shall write the names of those candidates separately on blank sheets of paper of equal size and of the same color and texture, and after folding them in a uniform manner and so that the names are concealed, deposit them in a receptacle and direct the clerk of the court or some other person to withdraw one of the sheets, and the judge shall declare to be elected the candidate whose name appears on the sheet thus withdrawn.

(2) Subsection (1) does not apply where the candidates having an equal number of votes also had an equal number of votes at the time of the casting up of the votes by the returning officer, and in that case the judge shall declare to be elected the candidate who previously has been declared elected.

176. Upon the completion of the recount or as soon as he has ascertained the result of the voting, the judge shall seal up all the ballot papers in separate packets and shall forthwith certify the result to the municipal secretary who shall thereupon, by notice to be posted in his office, declare elected the candidate having the highest number of votes.

177. (1) All costs, charges and expenses of and incidental to an application for a recount, and to the proceedings consequent thereon, shall be defrayed by the municipality and the parties to the application, or any of them, in such manner and in such proportion as the judge determines

regard being had to any costs, charges or expenses that, in the opinion of the judge, have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the applicant or the respondent.

(2) The costs may, if the judge so orders, be taxed in the same manner and according to the same principles as costs are taxed between solicitor and client.

178. The payment of any costs ordered by the judge to be paid may be enforced by execution, to be issued upon filing the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment thereof.

179. Nothing in this Division prevents or affects any other remedy that any person may have had under this Act, or by proceedings in the nature of *quo warranto* or otherwise.

DIVISION I

Offences and Penalties

180. (1) Any municipal secretary

- (a) who knowingly enters or permits to be entered in a voters list the name of any person who has no right to be included therein pursuant to this Act, or
- (b) who refuses or wilfully neglects or omits
 - (i) to prepare any voters list required by this Act, or
 - (ii) to enter upon a voters list the name of a person whose name appears upon the assessment roll, or
 - (iii) to enter upon a voters list any particulars as required by this Act or by the council, or
 - (iv) to revise a voters list in accordance with any of the requirements of this Act,

is in respect of the entry, refusal, neglect or omission guilty of an offence and liable on summary conviction to a fine of not more than \$50.

(2) For the purpose of this section, the expression "voters list" includes any copy thereof that the municipal secretary is required to prepare by this Act.

181. (1) Any person

- (a) who, without the consent of the returning officer, takes down a voters list, or
 - (b) who covers up, mutilates or defaces a voters list,
- is guilty of an offence and liable on summary conviction to a fine of not more than \$100, and in default of payment to imprisonment for a term not exceeding six months.

(2) A copy of subsection (1) shall be reproduced on the face of every voters list.

182. (1) No person shall

- (a) without due authority supply a ballot paper to any person, or
- (b) fraudulently put into a ballot box any paper other than the ballot paper that he is authorized by law to put in, or
- (c) fraudulently take a ballot paper out of the polling place, or
- (d) without due authority, destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purpose of an election, or
- (e) apply for a ballot paper in the name of some other person, whether such name is that of a person living or dead, or of a fictitious person, or advise or abet, counsel or procure any other person to do so, but this prohibition shall not be construed as including a person who applies for a ballot paper believing that he is the person intended by the name entered on the list of electors in respect of which he so applies, or
- (f) having voted once and not being entitled to vote again at an election, apply at the same election for a ballot paper in his own name, or vote again or advise or abet, counsel or procure any other person to do so.

(2) No person shall

- (a) vote, knowing that he has no right to do so, or
- (b) take a false oath, or
- (c) induce or procure or aid or abet any other person to vote or attempt to vote knowing that such person has no right to vote.

(3) No person shall

- (a) print or distribute or cause to be printed or distributed in any newspaper or in any circular, card, poster, bill or other paper, a form of ballot paper printed by the returning officer, indicating or showing the same to be marked for any candidate or candidates, or
- (b) without due authority from the other candidates, print or distribute or cause to be printed or distributed, for the purpose of influencing or soliciting votes for any candidate, any circular, card, poster, bill or other election material in connection with the names of any other candidates.

(4) Notwithstanding anything in this section, the municipal secretary or the returning officer may at any time

after nomination day, if so directed by the council, cause a facsimile of the ballot for mayor and for councillor and for school trustees to be published as often as may be desired in a local newspaper for the information of the voters.

(5) No person shall attempt to commit any offence specified in this section.

(6) A person who contravenes this section is guilty of an offence and liable on summary conviction,

- (a) if he is the returning officer, to imprisonment for a term not exceeding two years, or
- (b) if he is any other person, to imprisonment for a term not exceeding six months or to a fine of not more than \$500, or to both fine and imprisonment.

183. If a deputy returning officer

- (a) takes or receives a vote in contravention of this Part, or
- (b) refuses or wilfully omits to sign his initials upon the back of any ballot paper,

he is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

184. Every returning officer, deputy returning officer, or poll clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act is guilty of an offence and liable on summary conviction, in addition to any other penalty to which he may be subject, to a fine of not more than \$200.

185. (1) Every officer, clerk and agent 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, agent or other person shall interfere with, or attempt to interfere with a voter when the voter is marking his ballot paper, or shall otherwise attempt to obtain at the polling place information as to the candidate or candidates for whom any voter at that polling place is about to vote or has voted.

(3) No candidate, agent or other person shall, in the polling place, canvass or solicit votes or make any communication to a voter otherwise than through the deputy returning officer.

(4) No person shall display at the polling place or distribute or post therein, a specimen ballot paper marked for a candidate or any other material purporting to explain to the electors how to vote, or leave or post a ballot paper or other material in a voting compartment other than the material that is required to be posted in accordance with this Act.

(5) No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate or candidates for whom any voter at such polling place is about to vote or has voted.

(6) Every officer, clerk and agent 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 candidate or candidates for whom any vote is given.

(7) No person shall directly or indirectly induce a voter to display his ballot paper, after he has marked it, so as to make known to any person the name of any candidate for whom he has or has not marked his ballot paper.

(8) Any person who acts in contravention of this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine of not more than \$500, or to both fine and imprisonment.

186. A candidate for elective office who signs a candidate's acceptance that contains a false statement, is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

187. (1) Every printed or other advertisement, hand bill, placard, poster, dodger, circular or circular letter having reference to an election or vote upon a by-law shall bear the name and address of its printer, or of its printer and publisher.

(2) Any person printing, publishing, distributing or posting up, or causing to be printed, published, distributed or posted up any such document unless it bears such name and address, is guilty of an offence and liable on summary conviction to a fine of not less than \$25 and not more than \$200.

(3) Notwithstanding subsection (1) an advertisement published in a newspaper does not have to bear the name of the printer.

188. No person who has voted at an election shall, in any legal proceedings to question the election or returns or otherwise relating thereto, be required to state for whom he has voted.

PART 5

CONTROVERTED ELECTIONS

189. In this Part,

(a) "bribery" means bribery within the meaning of section 190;

- (b) "court" means the district court having jurisdiction in the judicial district within which the municipality is wholly situated, or if portions of the municipality are situated in two or more judicial districts the district court having jurisdiction in any such district;
- (c) "voter" means
 - (i) a person entitled to vote at an election or upon a money by-law, as the case may be, in a municipality, or
 - (ii) a person actually voting at an election or upon a money by-law;
- (d) "undue influence" means undue influence within the meaning of section 191.

190. A person shall be deemed to have committed the offence of bribery:

- (a) who directly or indirectly by himself or by any other person on his behalf
 - (i) gives, lends or agrees to give or lend or offers or promises money or valuable consideration, or gives or procures or agrees to give or procure offers or promises an office, place or employment to or for a voter or to or for a person on behalf of a voter or any person, in order to induce a voter to vote or to refrain from voting at an election or to vote or refrain from voting upon a money by-law or to vote for or against a candidate at an election or for or against a money by-law, or
 - (ii) corruptly does such an act because the voter has voted or has refrained from voting at an election or upon a money by-law;
- (b) who directly or indirectly by himself or by any other person on his behalf makes a gift, loan, offer, promise or agreement as aforesaid to or for any person in order to induce that person to procure or defeat or endeavour to procure or defeat
 - (i) the return of a person to serve in the council, or
 - (ii) the passing of a money by-law, or
 - (iii) the vote of any voter at an election or at the voting upon a money by-law;
- (c) who in return for a gift, loan, offer, promise or agreement procures or defeats or engages or promises or endeavours to procure or defeat
 - (i) the return of any person in an election, or
 - (ii) the passing of a money by-law, or
 - (iii) the vote of any voter at an election or at the voting upon a money by-law;

- (d) who
 - (i) advances or pays or causes to be paid money to or to the use of any other person with the intent that the money or part thereof be expended in bribery at an election or at a voting upon a money by-law, or
 - (ii) knowingly pays or causes to be paid any money to a person in discharge or repayment of any money wholly or in part expended in bribery at an election or at the voting upon a money by-law;
- (e) who, being a voter, before or during an election or before or during the voting on a money by-law directly or indirectly by himself or any other person on his behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person for
 - (i) voting or agreeing to vote, or
 - (ii) refraining or agreeing to refrain from voting, or
 - (iii) voting or agreeing to vote for or against a particular candidate or by-law, at an election or at the voting upon a money by-law;
- (f) who after an election or the voting upon a money by-law directly or indirectly by himself or any other person on his behalf receives any money or valuable consideration because some person
 - (i) has voted or refrained from voting, or
 - (ii) has induced any other person to vote or refrain from voting, or
 - (iii) has voted for or against or has induced any other person to vote for or against a candidate or a money by-law, at an election or at the voting upon a money by-law;
- (g) who
 - (i) hires an automobile, horse, team, carriage or other vehicle to convey a voter or voters to or from the polls, or
 - (ii) receives pay for the use of an automobile, horse, team, carriage or other vehicle to convey a voter or voters to or from the polls.

191. A person shall be deemed to have committed the offence of undue influence who

- (a) directly or indirectly by himself or by any other person on his behalf
 - (i) makes use of or threatens to make use of any force, violence or restraint, or

- (ii) inflicts or threatens the infliction by himself or by or through any other person of any injury, damage, harm or loss, or
- (iii) in any manner practices intimidation, upon or against any person in order to induce or compel any person to vote or refrain from voting, or to vote for or against a particular candidate, or a money by-law, at an election or at the voting upon the by-law, or on account of any voter having voted or refrained from voting thereat, or
- (b) by abduction, duress or any fraudulent device or contrivance impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter or thereby compels, induces or prevails upon a voter to give or refrain from giving his vote, or to vote for or against a candidate or a money by-law, at an election or at the voting upon the by-law.

192. The following expenses shall be held to be lawfully incurred and the payment thereof is not a contravention of this Part, namely,

- (a) the actual personal expenses of the candidate,
- (b) his expenses for actual professional services performed, and
- (c) *bona fide* payments for the fair cost of printing and advertising.

193. When upon a motion in the nature of a *quo warranto* a question is raised relating to whether the candidate, voter or other person has been guilty of bribery or undue influence, *viva voce* evidence shall be used to prove the offence and evidence by affidavit shall not be used to prove the offence.

194. A candidate elected at an election who is found guilty by a judge upon the hearing of a motion in the nature of a *quo warranto*, of an act of bribery or of using undue influence,

- (a) forfeits his seat,
- (b) is ineligible to be nominated as a candidate until after two general elections have taken place following his conviction, and
- (c) is disqualified from voting at an election or upon any by-law until after two general elections have taken place following his conviction.

195. (1) A person adjudged guilty of bribery or undue influence shall incur a penalty of \$100 which shall be paid to the municipality by which the election was conducted,

(2) The judge shall direct that in default of payment of the penalty within the time fixed by him, the person adjudged guilty of bribery or undue influence be imprisoned for such period as the judge directs not exceeding 30 days or until the penalty is paid.

(3) If the person adjudged guilty of bribery or undue influence fails to pay the penalty within the time fixed by the judge, the judge shall issue a warrant for his arrest and imprisonment.

196. (1) The judge who finds a person guilty of bribery or undue influence shall report his finding forthwith to the municipal secretary.

(2) The municipal secretary shall enter in a book to be kept for that purpose the names of all persons who have been reported to him by the judge pursuant to subsection (1).

197. A witness is bound to attend before the judge

- (a) upon being served with a notice signed by the judge or by the solicitor of either party directing his attendance, and
- (b) upon payment of the proper conduct money on the district court scale, and in default thereof he may be punished for contempt of court.

198. (1) No person shall be excused from answering any questions put to him

- (a) upon the hearing of a motion in the nature of a *quo warranto*, or
- (b) in a proceeding touching or concerning an election or the voting upon a by-law or the conduct of a person in relation thereto,

on the ground that the answer to the question will tend to incriminate him.

(2) No answer to any such question shall be used in proceedings under this Act against that person if the judge gives him a certificate that he made full and true answers to the judge's satisfaction.

(3) No person who has voted at an election or upon a by-law shall be required to state in evidence in any legal proceedings whether he has voted for or against a particular candidate or by-law.

199. No proceedings against a person for bribery or undue influence may be commenced after six weeks from the day of the election or the voting upon the by-law in respect of which the offence is alleged to have been committed.

200. (1) No pecuniary penalty or forfeiture imposed by this Act is recoverable for an act of bribery or undue influence at an election or at the voting upon a by-law if it appears

- (a) that the person charged and another person or other persons were together guilty of the act charged either as giver or receiver or as accomplices, or otherwise, and
- (b) that the person charged has previously *bona fide* prosecuted the other person or persons or any of them for that act.

(2) Subsection (1) does not apply where the judge before whom the person claiming the benefit thereof is charged certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence charged and was in fact the principal offender.

201. (1) Where the validity of an election of a member of a council or his right to hold the seat is contested the issue may be tried by a judge.

(2) The issue may be raised before the courts by

- (a) a candidate at the election, or
- (b) a qualified voter who gave or tendered his vote thereat, or
- (c) any voter
 - (i) in case the right to sit by acclamation, or
 - (ii) in case the right to sit is contested on the grounds that a member of the council has become disqualified or has forfeited his seat since his election.

202. (1) If within six weeks after an election or a voting upon a money by-law the person raising the issue shows by affidavit to a judge reasonable grounds

- (a) for supposing that the election was not legal or was not conducted according to law or that the person declared thereat was not duly elected,
- (b) for contesting the validity of the election of a member of the council, or
- (c) for supposing that the voting upon a money by-law was not legal or was not conducted according to law,

the judge may grant his fiat authorizing the person raising the issue, upon entering into a sufficient recognizance as provided in subsection (3), to serve a notice of motion in the nature of a *quo warranto* to determine the matter.

(2) If at any time the person raising the issue shows to a judge by affidavit reasonable grounds for supposing that a member of the council has become disqualified since his

election and has not resigned his seat, the judge may grant his fiat authorizing the person raising the issue, upon entering into a sufficient recognizance as provided by subsection (3), to serve a notice of motion in the nature of a *quo warranto* to determine the matter.

(3) The recognizance to be allowed as sufficient by the judge shall be entered into before the judge or before a commissioner for taking affidavits by

- (a) the person raising the issue in the sum of \$200, and
- (b) two sureties upon affidavits of justification each in the sum of \$100,

and shall be conditioned to prosecute the motion with effect to pay to the party against whom the motion is made, herein called "the respondent", any costs that may be adjudged to him against the person raising the issue.

(4) When the sufficiency of the sureties has been determined and the recognizance has been allowed as sufficient by the judge he shall note or endorse thereon and upon the fiat allowing service of the notice of motion the words "recognizance allowed" and shall initial it.

203. (1) The notice of motion may either state

- (a) the return day of the motion, being not less than seven clear days after the day of the service thereof, or
- (b) that the motion will be made on the eighth day after the day of service of the notice excluding the day of service.

(2) The person raising the issue shall in his notice of motion set forth his name in full, his occupation, his place of residence and the interest, as a candidate, voter or otherwise, that he has in the election or the voting on the money by-law and shall also state specifically under distinct heads

- (a) all the grounds of objection to the validity of the election or the voting upon the by-law complained against,
- (b) if the person raising the issue claims that he or any other person or persons should have been declared elected, the grounds in favour of the validity of the election of the person raising the issue or of the other person or persons,
- (c) the grounds of forfeiture or disqualification of the respondent,
- (d) if the person raising the issue claims that the result of the voting on the by-law should be reversed, the grounds in support of that contention, and
- (e) if the person raising the issue makes any other claims, the grounds therefor.

204. Before serving his notice of motion the person raising the issue shall file all affidavits and material upon which he intends to rely, except where *viva voce* evidence is to be taken, and in that case he shall name in his notice the witnesses whom he proposes to examine.

205. (1) The notice shall be served upon such persons and in such manner as the judge may direct.

(2) Service of the notice of motion shall be made within two weeks from the date of the fiat granted by the judge unless otherwise ordered by the judge.

206. When the person raising the issue alleges that he himself or some other person or persons has or have been elected, the motion shall be to try the validity both of the election complained of and of the alleged election of the person raising the issue or other person or persons.

207. Where any of the grounds of objection apply equally to two or more persons declared elected the person raising the issue may proceed by one motion against all such persons.

208. (1) Upon the hearing of the motion the person raising the issue shall not be allowed

- (a) to object to the voting upon the money by-law, or
- (b) to object to the election of the respondent, or
- (c) to attack the respondent's right to sit, or
- (d) to support the election of any person alleged to have been elected,

upon any ground not specified in the notice of motion.

(2) Notwithstanding subsection (1), the judge in his discretion may entertain any substantial ground of objection to or any substantial contention in support of

- (a) the voting upon the money by-law, or
- (b) the validity of the election or of the right to sit of either or any of the parties who may appear in evidence before him.

209. The judge may require the municipal secretary to produce before him such ballot papers, books, lists of electors and other lists and such other records of the election and papers in his possession and connected with the election as the judge considers necessary.

210. The judge may if he thinks proper at any stage of the proceedings make an order adding the returning officer, deputy returning officer or any other person as a party thereto.

211. The judge may allow any person mentioned in subsection (2) of section 200 to intervene in the proceedings and to prosecute or defend and may grant a reasonable time for that purpose, and an intervening party is as liable to pay and as entitled to receive costs as any other party to the proceedings.

212. (1) The judge shall in a summary manner without formal pleadings hear and determine

(a) the validity of the voting upon the money by-law or of the election, or

(b) the right of the respondent to sit, and may inquire into the facts on affidavit or affirmation or by oral testimony.

(2) Where the validity of an election or of a voting upon a money by-law is contested before a judge on the grounds of

(a) non-compliance with or contravention of this Act or of any other Act applicable to

(i) the election, or

(ii) the holding of the polls, or

(iii) the counting of the votes, or

(b) a mistake in the use of any of the forms required in connection with the election or the voting, or

(c) any other irregularity,

the judge, in his discretion, may adjudge the election or the voting to be invalid.

(3) Where the validity of an election or of a voting upon a money by-law is contested before a judge on the grounds mentioned in subsection (2) and it appears to the judge that the election or the voting was conducted substantially in accordance with the requirements of this Act, and that the non-compliance, violation, mistake or irregularity did not materially affect the result of the election or the voting, he may adjudge the election or the voting upon the by-law to be valid.

213. (1) Where the election complained of is adjudged invalid, the judge shall by the judgment order the respondent to be removed and his seat is *ipso facto* vacated, and if the judge determines that any other person was elected the judge shall forthwith order the other person to be admitted to the office.

(2) Where the voting upon a money by-law complained of is adjudged invalid, the judge by his judgment shall declare the voting on the by-law invalid and may order a new vote to be held or make such order as he considers just having regard to all the circumstances.

- (3) If the judge determines
 - (a) that the election of all members of a council is invalid, or
 - (b) that all members of a council have become disqualified,

he shall forthwith order a new election to be held and the order shall be directed to the municipal secretary, who has all such powers in connection with the holding of the election as are conferred by law upon the council for filling vacancies in the council.

(4) Notwithstanding subsection (3), the Minister may make such regulations for the conduct of the elections not inconsistent with any Act as he considers proper and the municipal secretary shall conform in all respects to such regulations.

214. Where an election or a voting upon a money by-law has been held invalid owing to the improper refusal of a returning officer or deputy returning officer to receive ballot papers tendered by qualified voters or to give ballot papers to qualified voters, the judge may in his discretion order the costs of the proceedings to unseat the person declared elected, or to declare the by-law invalid or any part thereof, or any other costs to be paid by the returning officer or deputy returning officer.

(2) Nothing in subsection (1) shall be deemed to affect any right of action against a returning officer or deputy returning officer or relieve such returning officer or deputy returning officer from any other penalty or punishment to which he may be liable.

215. Where it appears to the judge that an election or a voting upon a money by-law is invalid by reason of any act of non-feasance or misfeasance on the part of

- (a) the returning officer, or
- (b) any deputy returning officer, or
- (c) any poll clerk,

the judge may in his discretion order that the costs of the proceedings to unseat the person declared elected, or to declare the voting upon the by-law invalid, or any part thereof, or any other costs be paid by the municipality in and for which the election or voting was held.

216. After the adjudication upon the case an order shall be drawn up in the usual manner which shall state concisely the ground and effect of the decision, and the order

- (a) may at any time be amended by the judge in regard to any matter or form, and
- (b) has the same force and effect as a writ of *mandamus* formerly had in the like case.

217. (1) The judge, immediately after his decision, shall return his order with all things had before him touching it to the proper office of the court in which the proceedings are instituted, there to remain of record as a judgment of the court.

(2) The judgment of the court may be enforced in the same manner as an ordinary order of *mandamus* of the court and a writ of execution may be issued thereunder to recover any costs awarded by the judgment.

218. (1) A person

(a) whose election is complained of, unless the election is complained of on the ground of bribery or undue influence on the part of that person, or

(b) whose seat is attacked on the ground that he has become disqualified,

may within one week after service on him of a notice of motion as aforesaid transmit by prepaid registered mail directly to the clerk of the court and also to the person raising the issue, or his solicitor, or he may cause to be delivered to the clerk and to the person raising the issue, or his solicitor, a disclaimer signed by him in the form or to the effect following:

"I, A.B., upon whom notice of motion in the nature of a *quo warranto* has been served for the purpose of contesting my right to the office of mayor (or councillor, *as the case may be*) of (*name of municipality*) do hereby disclaim that office and all defence of any right I may have to it.

Dated this.....day of....., 19.....
(Signed) A.B."

(2) The disclaimer or the envelope containing it shall be endorsed on the outside with the word "disclaimer".

219. A person declared elected may at any time after the election and before his election is complained of, deliver to the municipal secretary a disclaimer signed by him as follows:

"I, A.B., do hereby disclaim all right to the office of mayor (or councillor, *as the case may be*) of (*name of municipality*) and all defence of any right I may have to it.

Dated this.....day of....., 19.....
(Signed) A.B."

220. (1) A disclaimer delivered before

(a) the election, or

(b) the person disclaiming is complained of,
relieves the person making it from all liability to costs.

(2) A disclaimer transmitted or delivered under this Act operates as a resignation and the vacancy so created shall be filled in the manner provided by this Act.

221. A person disclaiming after service upon him of notice of motion in the nature of *quo warranto* shall deliver a duplicate of his disclaimer to the municipal secretary and the secretary shall forthwith communicate it to the council.

222. An appeal against the decision of a judge lies to the Appellate Division of the Supreme Court and the proceedings appertaining thereto shall be as nearly as possible the same as in an appeal in other cases from a decision of a judge of the district court.

223. The Lieutenant Governor in Council may make rules

- (a) for regulating the form of any writs, notices, orders or other proceedings to be issued, given, made or taken under this Part, and
- (b) respecting the practice
 - (i) generally in hearing and determining the validity of elections in municipalities and of voting on money by-laws, or
 - (ii) in hearing and determining the question of the right of any person to sit in a council, and may fix a tariff of costs to be applicable thereto.

PART 6

OFFICERS AND EMPLOYEES

Municipal Secretary

224. (1) Every council shall, at its first meeting after the formation of the municipality or as soon thereafter as may be practicable, by by-law appoint a municipal secretary and prescribe his duties.

(2) When a vacancy occurs in the office of secretary, the council shall forthwith make arrangements to fill the vacancy.

(3) When a municipal secretary is appointed the mayor shall forthwith advise the Minister in writing of the appointment.

225. Notwithstanding any other duties of a municipal secretary, every municipal secretary shall

- (a) keep in the minute book a full and correct record in the English language of the proceedings of every meeting of the council and ensure that the minutes of each meeting are signed by the mayor, or other presiding officer, when they have been adopted and confirmed as correct by the council,

- (b) enter in the minutes of every meeting the names of the members of the council present at the meeting and, if required by the council, record the name of every member voting and whether for or against any question coming before the council,
- (c) transcribe into a suitable register and have custody of all by-laws and having seen to their proper completion, shall preserve and keep safe the originals thereof,
- (d) take charge of and keep on record all other books, papers, accounts, assessment rolls, tax rolls, plans, maps, correspondence and any other documents committed to his charge by the council during his term of office and deliver them to his successor or such other person as the council may designate upon his ceasing to hold office,
- (e) faithfully prepare and transmit to the Minister such statements and reports and such other information in regard to the municipality as may from time to time be required by the Minister and in such form as the Minister may direct,
- (f) call special meetings or other meetings of the council in the manner provided in this Act,
- (g) when required to do so by an inspector of the Department of Municipal Affairs, produce the minute and other books and all papers and records of whatsoever kind in his possession, and
- (h) advise the Minister of the names and addresses of the persons elected as councillor and mayor within five days of the holding of any general or special election.

Treasurer

226. (1) The council shall appoint a person to be treasurer and may, if it considers it advisable, combine the duties of treasurer with those of another office.

(2) The municipal treasurer shall carry out the duties prescribed by the council and in addition to these and any other duties prescribed by this Act he shall

- (a) collect, receive and safely keep all moneys belonging to the municipality,
- (b) daily or as often as the council may direct, deposit to the credit of the proper fund of the municipality in some chartered bank, treasury branch or other similar institution designated by the council, all moneys received by him,
- (c) submit for the consideration of the council all accounts and charges against the municipality,
- (d) pay all accounts and jointly with the mayor or such other person as the council may from time to time appoint, sign all necessary cheques,

- (e) give or cause to be given receipts for all moneys received by him on behalf of the municipality,
- (f) keep in a cash book or such books of record as the Minister may from time to time prescribe for the class of municipality, of which he is treasurer, a complete and detailed record of all the financial transactions of the municipality,
- (g) keep on file vouchers of expenditures,
- (h) prepare before the 15th day of each month a statement of moneys received during the previous month and the disposition thereof and submit the statement to the council at its next meeting using the form that may be prescribed by the Minister for the class of municipality of which he is treasurer or in the absence of any prescribed form on the form in the manner and at the times approved and required by the council,
- (i) when called for by the council, auditor, comptroller, inspector or other competent person, produce all books, vouchers, papers and money belonging to the municipality and deliver them to his successor or such other person as the council may direct upon his ceasing to hold office, and
- (j) complete and make ready for the auditor not later than March 31st in each year the books and accounts of the immediately preceding year and prepare or cause to be prepared the annual financial statement in the form prescribed by the Minister.

Auditor

227. (1) The council shall in each year pass a resolution providing for the appointment of an auditor or auditors to audit the accounts of the municipality and of every other administrative body handling municipal funds for which no statutory audit provision is made.

(2) Every resolution providing for the office of auditor shall contain the provision "and it shall be a term of employment of any auditor pursuant to this resolution that the said auditor or auditors shall make an annual audit and shall certify an annual financial statement on the form and containing the information that may be prescribed from time to time by the Minister".

(3) Each member of council is jointly and severally responsible for any loss or damage sustained in permitting an auditor to assume any duties until a resolution has been passed as required by subsection (2), except that no councillor shall be responsible who appears by the minutes of the council to have attempted to have such a resolution passed in conformity with this section and who has attempted to prevent an auditor from being appointed in contravention of this section.

(4) In any resolution appointing an auditor or auditors, the council may provide for such auditor or auditors performing such additional duties of an accounting nature as may be agreed upon.

228. (1) The auditor shall make such examination as is consistent with good auditing practice of the records, including the books, documents, accounts, vouchers, receipts, investment securities, debentures, and matured debentures paid, of the municipality or relating to any matter or thing under the jurisdiction or control of the council or of any other administrative body handling municipal matters or funds.

(2) The auditor has at all times the right of access to any and all of the records mentioned in subsection (1), and to any others, of the municipality or other administrative body.

(3) The auditor is entitled to require from members of the council or other administrative body, and from officials of the municipality or other administrative body, and from any other person, any information or explanation necessary for the performance of his duties.

(4) The auditor shall make a report to the council on the records examined by him and on the balance sheet and statement of revenue and expenditure of the municipality and of any other administrative body handling municipal funds, and the report shall state

- (a) whether or not he has obtained all the information and explanations required;
- (b) whether in his opinion the balance sheet and the statement of revenue and expenditure referred to in the report are properly drawn up so as to exhibit truly and correctly the state of the affairs and the results of the operations of the municipality as at the 31st day of December and for the year then ended, according to the best of his information and explanations given to him and as shown by the books of the municipality;
- (c) whether the several forms of accounts in use or the accounting procedures and financial controls followed by the officials of the municipality and other administrative bodies are inadequate and in what respect they are inadequate.

(5) The auditor shall further report to the best of his knowledge and ability

- (a) in what respects he finds the books, documents, accounts, or vouchers incorrect, unvouched, or lacking proper authority under this or any other Act, or under any by-law or resolution adopted or passed thereunder;

(b) in what respect any disbursement, expenditure, liability or transaction is without apparent authority.

(6) In addition to the examination and reports required by this section, the Minister or the council may at any time require such further examinations and reports from the auditor as may be considered necessary, or the auditor may on his own initiative make any further examinations or reports as he considers advisable, and in any such case the provisions of this section apply *mutatis mutandis*.

229. (1) The auditor shall report in writing to the council and to the Minister every defalcation or similar irregularity dealing with the assets, liabilities, accounts, funds and financial obligations of the municipality and of any other administrative body of the municipality, with the name of any person, or persons considered to be responsible, and shall likewise report any sum which ought to have been but is not brought into account by any person or persons.

(2) On application by any person named, the auditor shall state in writing his reasons for that part of his report concerning the named person.

(3) The council shall promptly upon receipt of any report under subsection (1), institute proceedings for prosecution or institute proceedings for recovery, or both, depending on the circumstances involved.

(4) If no action at the suit of the municipality has been taken within 14 days from the receipt by the municipality of the auditor's report, action at the suit of the Attorney General may be taken for prosecution or recovery, or both, and any moneys so recovered, less costs of suit, shall be paid to the treasurer of the municipality, to be placed to the credit of the fund or funds involved.

230. (1) It is the duty of the auditor in the event that any contemplated expenditure which, having been brought to his attention, is considered by him to be lacking of proper authority under this or any other Act to forthwith notify the mayor and any other person he thinks proper, of the lack of authority for the proposed expenditure.

(2) A mayor or officer or other person with knowledge that the proposed expenditure has been pronounced to be lacking of proper authority who permits or is a party or privy to the expenditure of that money

(a) is guilty of an offence and liable on summary conviction to a fine of \$200, and

(b) is liable to an action at the suit of the municipality or of the Attorney General for double the amount of such unauthorized expenditure, and

(c) if he is a member of the council, is disqualified from holding any municipal office for a period of five years from the date of his conviction, and any moneys so recovered, less costs of suit, shall be paid to the treasurer to be placed to the credit of a fund or funds according to the direction of the court.

231. A council, on or before the 31st day of May in each year, shall cause the annual financial statement or an abstract, or synopsis thereof to be published

- (a) in a newspaper published or circulated in the municipality, or
- (b) in a pamphlet form for distribution by mail or otherwise for distribution to the ratepayers, or
- (c) in such other manner as the council considers advisable in order to give such information to the ratepayers, concerning the financial affairs of the municipality as the council considers reasonable and proper.

232. (1) The council shall make provision for the proper maintenance of all books of account, for the examination of all municipal accounts and the reporting with respect thereof to the council on a weekly or monthly basis.

(2) To carry out the requirements of subsection (1) the council may appoint a comptroller, or may charge the treasurer with the responsibility therefor.

(3) The person appointed under subsection (2) shall

- (a) supervise the accounting system of all municipal departments,
- (b) report to the council all expenditures made contrary to law or to by-law or resolution of the council, and
- (c) carry out such other accounting and supervision procedures as the council may require.

(4) The council may enter into an arrangement with the municipal auditor to perform or carry out the whole or any part of the duties prescribed by this section.

Municipal Engineer

233. If a council appoints an official with the title of municipal engineer, he shall be a member of the Association of Professional Engineers of the Province of Alberta.

Municipal Solicitor

234. (1) A council may retain a member of the Law Society of Alberta, in good standing, as the municipal solicitor on a fee basis, or may appoint a member of the Law Society of Alberta, in good standing, as the municipal

solicitor on a full time basis, in which event it may determine his duties and remuneration and the terms of his employment.

(2) Notwithstanding that the remuneration of the municipal solicitor is paid wholly or partly by salary, the municipality is entitled to tax and collect lawful costs in all actions and proceedings to which the municipality is a party.

Assessor

235. (1) The council of every municipality shall provide for the appointment of an assessor and may

- (a) by resolution appoint a permanent assessor and the person so appointed shall be the assessor of the municipality and shall hold office at the pleasure of the council, or
- (b) by resolution passed not later than the first day of April in each year, appoint an assessor who shall be the assessor of the municipality for the ensuing year, or
- (c) by resolution passed not later than the first day of April in each year, requisition the Chief Provincial Assessor to appoint an assessor to carry out all or any part of the assessment of the municipality.

(2) When an assessor is appointed pursuant to clause (a) or (b) of subsection (1), the municipal secretary shall forthwith in writing advise the Minister of the appointment.

Appointment of Other Officials

236. (1) The council may by by-law appoint or provide for the appointment and in that or subsequent by-laws, designate the duties of a comptroller, a municipal engineer, a chief of police, police constables, a fire chief, firemen, a medical officer of health, licence and other inspectors, as the council considers necessary for carrying into effect the provisions of this Act, or any other Act affecting the municipality, or any municipal by-law, together with such further or other officials and employees as are required.

(2) A person may be appointed to more than one office but shall be required to fulfil all requirements of each office to which he is appointed, and the positions of the municipal secretary and the treasurer may be combined into one office in which event, the person holding the combined office shall be required to fulfil all the requirements respecting both the secretary and the treasurer.

(3) No person appointed as auditor shall hold any other office in any municipality.

(4) The council may by resolution designate a person as the assistant to any official referred to in subsection (1), and the assistant has

- (a) all such powers and duties as may be delegated to him by that official, and
- (b) all the powers of the official during his absence or inability to act.

237. (1) The council may by resolution appoint some person to act in place of any official who is absent or is incapable of performing his duties, or during a temporary vacancy in the office.

(2) When an official is absent or incapable of performing his duties or during a temporary vacancy in the office, the municipal commissioners or the manager, if any, or the mayor may, in writing, appoint some person to act in place of any official until the next meeting of the council.

(3) During the period of the absence, incapability or vacancy, a person appointed under subsection (1) or (2) has all the powers of the official.

238. A municipal official shall hold office during the pleasure of the council, according to the terms expressed in the by-law or resolution by which he is appointed, and in addition to the duties assigned to him by this Act, or by the general law of Alberta, shall perform such other duties as may be required of him by the by-laws or resolutions of the council and upon his services being terminated except for cause, the council shall grant to such official one month's notice or one month's pay in lieu of notice and may grant up to three months' notice or three months' pay in lieu of notice and in the event such official has served for a period of at least 15 years, may grant him up to 12 months' or one year's pay.

239. (1) The council shall require an official or employee to give such security as is deemed expedient for the faithful performance of his duties.

(2) During the month of January in each year all such securities shall be produced to the mayor and shall be laid by him before the council.

(3) The bonds or policies of guarantee of a corporation with power to grant securities, being bonds or policies for the integrity and faithful accounting of public office or servants or persons occupying positions of trust, may be accepted instead of or in addition to the personal bond of an official or employee and any premiums payable in respect of bonds and policies of guarantee shall be paid by the municipality.

(4) All the members of a council that permits a municipal treasurer or any other official which the council has required to furnish a bond, to enter upon his duties or discharge his duties at a time when he is not bonded or guaranteed are, to the extent of the sum in which the

treasurer or other official should have been bonded or guaranteed, jointly and severally liable for any default of the treasurer or other official, except only those councillors who appear by the minutes of the council to have voted in favour of a resolution prohibiting the treasurer or such other designated official from entering upon or discharging his duties at a time when he is not bonded.

240. Each official, employee and agent of the municipality is personally liable for damage arising from his actions or defaults or from his failure to discharge the duties imposed upon him by law, by this Act, or by the by-laws and resolutions of the council, in addition to any other penalties otherwise imposed for those actions or defaults.

241. No member of the council is eligible for appointment to any municipal office other than that of mayor or deputy mayor or acting mayor.

242. The council shall not call for tenders from applicants for any office.

243. All employees appointed by the council shall hold office during the pleasure of the council or as expressed in their appointment.

244. (1) Every official of the municipality shall, before entering upon the duties of his office, make and subscribe the official oath prescribed by *The Oaths of Office Act*.

(2) The official oath subscribed shall within eight days be deposited in the office of the municipal secretary who shall preserve it among the municipal records.

245. (1) The mayor may suspend any municipal official or employee, other than a municipal commissioner or municipal manager, and he shall forthwith report the suspension and the reasons therefor to the council not later than the next meeting thereof.

(2) The council may reinstate the official or employee suspended or may for just cause dismiss the official or employee.

(3) When the suspended official or employee is dismissed by council, the employee or official shall not receive any salary or remuneration from the date of his suspension by the mayor unless the council, by resolution, otherwise determines.

(4) The council may by resolution, suspend a municipal manager or commissioner, but shall give such official a written statement of the reasons therefor and afford such official with a reasonable opportunity to be heard before the council in person, or through his solicitor or agent.

(5) No municipal manager, commissioner, secretary, treasurer, secretary-treasurer or department head shall be discharged without first being furnished with a written statement of the reasons therefor and the council shall afford such person a reasonable opportunity to be heard before the council in person, or through his solicitor or agent.

246. (1) The municipal secretary or other official when requested to do so by an inspector of the Department of Municipal Affairs, shall produce for inspection any minutes, books or other records and papers of any kind in his possession or in the possession of the municipality.

(2) The municipal secretary or other official shall prepare and submit to the Minister of Education such statements, reports and information as may be required from time to time by the Minister of Education, and in such form as the Minister may direct.

247. A copy of any book, record, document or account certified under the hand of the secretary and the municipal seal shall be received in all courts without proof of the seal of the municipality or of the signature or official character of the person appearing to have signed the same, unless the court orders a check thereof.

248. (1) Unless a municipality has appointed a different official to maintain the municipal tax roll in which event such official shall be charged with the provisions herein, the municipal secretary, if required, shall make a search of the tax roll in respect of any assessable parcel of land and, on receipt of a fee of \$1, shall give a certificate under his hand showing whether or not all taxes in respect of the parcel have been paid and, if not, the amount of current taxes and arrears payable against the parcel.

(2) The named official or the municipal secretary, if no such official is named, on receipt of a further fee of \$1, shall include in the certificate a detailed statement of the arrears indicating the portions attributable to each year respectively.

(3) Each such fee shall form a part of the general revenue of the municipality.

Municipal Commissioners or Manager

249. (1) A council may, by by-law, provide for the delegation of any or all of its executive and administrative duties and powers to one or more municipal commissioners or to a municipal manager.

(2) The municipal commissioners or the municipal manager, as the case may be, are subject to the legislative jurisdiction of the council and shall exercise the powers and

duties set out in this Act, and such other powers and duties as may from time to time be vested, confirmed or delegated by by-law or by resolution of the council.

250. Where a by-law provides for the appointment of commissioners or a manager they shall be appointed by and hold office during the pleasure of the council and shall not be dismissed except upon a two-thirds majority vote of all the members thereof.

251. The mayor is *ex officio* a commissioner in addition to those appointed by the council.

252. (1) No person having an interest in a contract with the municipality shall be appointed municipal commissioner or municipal manager, and neither the municipal manager nor municipal commissioner shall during his term of office, have an interest, direct or indirect in such contract.

(2) If a municipal commissioner or municipal manager, as the case may be, knowingly acquires such an interest, he may be immediately dismissed without notice and without compensation.

(3) No person is disqualified from holding the office of municipal commissioner or municipal manager by reason of his being a user or consumer of a public utility supplied by the municipality, or by reason of any dealing or contract with the municipality with reference to the supply of any public utility to him.

253. The council shall fix the annual salary and fringe benefits, including pensions, sick leave or other prerequisite, to be paid or provided for each of the municipal commissioners or to the municipal manager, as the case may be, and in the case of termination of the appointment of a municipal commissioner or the municipal manager, except for cause or pursuant to subsection (2) of section 252, he shall receive three months' notice, or in lieu thereof, one quarter of his annual salary, provided that in the case of such official having served for a period exceeding 15 years, he may be granted not more than 12 months' notice or salary in lieu of notice, as the council may decide.

254. When a municipal commissioner or municipal manager, as the case may be, is incapable through illness, absence or other cause, of performing the duties of his office, the council may appoint a substitute who during that illness, absence or other incapacity has and may exercise all the powers of the commissioner or manager.

255. Unless the context otherwise requires, wherever in this Act or any other Act there is a reference to municipal commissioners or to their powers, the reference shall be

deemed to be a reference to the municipal manager, or to the municipal commissioners, as the case may be, if any, and if there is no by-law providing for either municipal commissioners or a municipal manager, the reference shall be deemed to be a reference to the mayor.

Board of Police Commissioners

256. (1) A council, by by-law, may provide for a board of police commissioners consisting of one or more persons to be appointed by the council.

(2) In case of inability to act for over two months due to absence from the municipality or illness of any person appointed by the council under subsection (1), the council may appoint a person to act during the inability of the member.

(3) The council may provide for the payment of a reasonable remuneration to each member of the board for his services, or to any person appointed under subsection (2) to fill a vacancy.

257. (1) The council by by-law may prescribe

(a) the powers and duties to be exercised by the board, and

(b) the rules and regulations governing the proceedings of the board and the conduct of its meetings,

and the board shall have sole charge and control of the powers and duties delegated by the council to the board.

(2) The by-law passed by the council may provide

(a) that the police force shall consist of a chief of police and as many constables and other officers and assistants as may be considered necessary from time to time by the board,

(b) that the board shall appoint the members of the police force, who shall hold office during pleasure,

(c) that the board shall have sole charge and control of the force and of the police department, and

(d) that the board from time to time may make such regulations as it may consider expedient for the government of the force, for preventing neglect or abuse and for rendering the force efficient in the discharge of its duties.

258. (1) If authorized to do so by by-law of the council, the board may pass by-laws in respect of all matters within its powers, and any such by-law shall be deemed to be sufficiently authenticated by the signature of the chairman.

(2) A copy of any such by-law, either written or printed, purporting to be certified a true copy by a member of the board shall be received in evidence in all courts without proof of the signature or official character of the member who signed the same.

(3) Where the board has authority to make by-laws it may in and by such by-laws attach penalties for the infraction thereof, and such penalties may be recovered by way of summary conviction before a magistrate of the municipality or before a justice of the peace residing in or near the municipality.

259. Each member of the police force, before entering upon his duties, shall take and subscribe the official oath prescribed by *The Oaths of Office Act*.

260. Subject to the paramount authority of the board, the members of the police force shall obey all lawful directions, and be subject to the orders of the chief of police, and shall be charged with the duty of preserving the peace, apprehending offenders and generally with the performance of all duties that by law devolve upon constables and peace officers.

261. (1) A member of the force may be suspended by the chief of police, who shall forthwith report the suspension to the board, or if there is no board, to the council.

(2) A member who is suspended or dismissed is entitled to be heard in person or through his solicitor before the board or the council, as the case may be.

(3) The board or the council, as the case may be, may dismiss or reinstate any member of the force suspended by the chief of police.

262. (1) The board or the council, as the case may be, may investigate the conduct of any member of the police force either of its own motion or in connection with a charge of negligence or misconduct or in case of suspension.

(2) For the purpose of the investigation the board or the council, as the case may be, has all the powers and authority for compelling witnesses to attend and testify under oath concerning the subject matter of the investigation, for preserving order and for punishing for contempt that may be exercised by a magistrate or justice of the peace in respect of criminal or quasi-criminal matters being heard before him.

263. (1) Subject to the prior approval of the Lieutenant Governor in Council, the council of a municipality may enter into arrangements with the Government of Canada for the use or employment of the Royal Canadian Mounted Police, or any portion thereof, in policing the municipality and in enforcing the laws of the municipality, and may, in any such arrangement, agree upon and determine the amount of money to be paid by the municipality for such services.

(2) Where a municipality enters into such arrangements the provisions of sections 256 to 262 do not apply.

PART 7

POWERS AND DUTIES OF THE COUNCIL

264. (1) The powers and duties imposed or conferred upon a municipality by this or any other Act are vested in and are exercisable by the council of the municipality.

(2) Except as provided in this or any other Act, a council may exercise and perform the powers and duties imposed or conferred on it either by resolution or by by-law.

(3) A council may exercise or perform by by-law any power or duty that is stated in this or any other Act to be exercisable by resolution.

265. The jurisdiction of a council is confined to the territorial limits of the municipality and to any property owned, controlled or managed by the municipality outside its limits, except where further jurisdiction beyond the limits is expressly given to a council by this or any other Act.

266. Except as otherwise provided in this Act, every resolution or by-law shall be passed by a majority vote of the members present at any duly constituted meeting of the council.

267. A by-law or resolution that is inconsistent with any Act in force in the Province or with the regulations made pursuant to such an Act has no validity in so far as it is so inconsistent.

268. (1) Every by-law shall be under the seal of the municipality and shall be signed by the mayor or person presiding at the meeting at which the by-law is finally passed and by the municipal secretary or by the person acting as municipal secretary at the meeting.

(2) In the event of the inability, neglect or failure of one or both of the parties named in subsection (1) to sign, the council by resolution in any particular case, may authorize such persons as it designates in the resolution to sign the by-law.

269. Every by-law shall have three distinct separate readings before it is finally passed, but not more than two readings of a by-law shall be had at any one meeting unless the members present unanimously agree to give the by-law third reading.

270. (1) Every by-law is valid and binding, notwithstanding any lack of compliance with the provisions of this Act either in substance or in form, or in the proceedings prior thereto, or in the manner of passing thereof.

(2) Notwithstanding subsection (1), in the case of a by-law requiring assent of the electors, where the by-law has not been submitted to, or has not received assent of the electors, an application to quash the by-law may be made at any time.

271. Where any council has authority to direct by by-law that any matter or thing be done by any person, the council may also by the same or another by-law, direct that in default of its being done by the person, the matter or thing shall be done at the expense of the person in default, and the municipality may recover the expenses thereof with the costs, by action in any court of competent jurisdiction or in like manner as municipal taxes.

272. (1) A by-law or resolution passed by council in the exercise of any of the powers conferred and in accordance with this Act, and in good faith, is not open to question, nor shall it be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them, nor shall it be quashed, set aside or declared invalid unless the by-law or resolution clearly exceeds the jurisdiction of the council, and the rules of construction hereinafter set out in this section shall apply.

(2) No by-law or resolution shall be quashed, set aside or declared invalid unless the provisions thereof are clearly beyond all of the powers granted to a municipality by this Act and in the interpretation thereof the widest construction shall be placed upon any general provision setting out the powers of a municipality, and the powers granted by this Act shall be conclusively deemed to include all ancillary powers necessary to the operation of any by-law or resolution passed pursuant to the general authority and the powers granted to the municipality by this Act, and the powers granted to a municipality shall include the power to delegate any matter to any municipal official or employee.

(3) No by-law or resolution shall be quashed, set aside or declared invalid because this Act has not specifically granted power to enact such a by-law or resolution, so long as the subject matter of the by-law or resolution comes within the general authority and powers granted by this Act and for the purpose hereof, the provisions of this Act shall be construed in the widest terms and shall be conclusively deemed to include any matters which may be ancillary to any general or specific power, including the right to delegate authority unless specifically prohibited or restricted by the provisions of this Act.

(4) Any by-law or resolution purporting to be passed pursuant to any of the specific or general provisions of this Act shall, unless clearly contrary to any prohibition stipulated by this Act, or by any other Act shall not be quashed,

set aside or declared invalid unless the tribunal hearing the application is satisfied beyond any doubt that it clearly exceeds, on the widest interpretation thereof, the powers or authority granted by the provisions of this Act.

(5) In the exercise of any of the powers granted by this Act, no municipality shall by by-law, resolution or otherwise discriminate against any person, nor shall any private rights of any person be invaded without the person having the right to apply to the Appeal Tribunal for such compensation or other redress as the Appeal Tribunal in its absolute discretion may consider justified.

(6) No by-law or resolution shall be quashed, set aside or declared invalid because of a defective wording or because of any error or omission therein or because of any failure to comply with any procedural or other requirement of this Act pertaining to by-laws or resolutions until the Appeal Tribunal has first given the council a reasonable opportunity to rectify the defect, error or omission and upon it being rectified as directed, the by-law or resolution shall be pronounced valid and shall not thereafter be open to attack, but if the council fails to rectify the by-law or resolution as directed, the Appeal Tribunal may quash, set aside or declare the by-law or resolution invalid.

273. (1) The council may repeal or amend any by-law, but when the by-law has received the assent of the electors the repeal or amendment shall be similarly assented to.

(2) Notwithstanding subsection (1), a by-law that has received the assent of the electors may be amended without reference to the electors, if the amendment does not materially affect the by-law in principle or in substance.

(3) No by-law relating to the procedure of the council when in session shall be repealed, amended or suspended, except so far as the terms thereof themselves permit, unless it is repealed, amended or suspended

- (a) by a by-law unanimously passed at a regular or special meeting of the council at which all the members thereof are present, or
- (b) by a by-law passed at a regular meeting of council, pursuant to a notice in writing given and openly announced at the next preceding meeting of the council and setting out the terms of the substantial effect of the proposed by-law.

274. (1) The council may by any by-law

- (a) impose a penalty not exceeding \$1,000, exclusive of costs, for breach of any provision of any by-law and provide for reasonable punishment by imprisonment for any period not exceeding six months in case of non-payment of the fine and costs imposed

for any such breach, unless the fine and costs including the costs of committal are sooner paid,

- (b) provide that where the conviction is for the non-payment of any licence fee payable to the municipality under any by-law, the magistrate or justice may adjudge payment thereof in addition to the penalty,
- (c) enact that where any person is convicted of an offence relating to any provision of any by-law of the municipality with respect to the use of a bicycle or motor cycle or motor scooter within the municipality, the magistrate or justice may in addition to any penalty imposed in respect of any such offence, order and direct the impounding by the police of the bicycle, motor cycle or motor scooter concerned in the commission of the offence for a period of time not exceeding 60 days,
- (d) enact that if by reason of the breach or non-observance by a person of any provision of any by-law relating to traffic, any expense has been incurred by the municipality for or in connection with the moving or storage of a vehicle, or obstruction removed from a highway, public place, civic or private parking lot or private property, the amount of expense so incurred shall be added to the amount of the fine or penalty imposed in respect of the breach or non-observance, or added to the amount fixed in lieu of prosecution pursuant to the provisions of clause (e) and that the person concerned shall be required to pay the amount of the expense in addition to the fine, penalty or amount so fixed, as the case may be,
- (e) enact the procedure for payment to the municipal treasurer or other person designated by the council of an amount fixed by by-law, being an amount which may be accepted by the municipality in lieu of proceeding with any punishment by way of prosecution for breach of any provision or provisions of any by-law of the municipality designated by the council, and
- (f) provide for the regulation or prohibition of the parking of any vehicle on private property.

(2) The council may enact a general penalty by-law for a breach of a provision of any by-law or of any number of specified by-laws, and may impose a fine and costs and imprisonment in the case of non-payment of the fine and costs as set out in clause (a) of subsection (1) and of the payment in addition to the penalty as set out in clause (b) of subsection (1).

275. A penalty and licence fee imposed under this Act, unless provision is specially made in respect thereof, may be

recovered and enforced with the costs of summary conviction before a justice of the peace or magistrate.

276. A penalty or fine under any by-law of a municipality if no other provision is made respecting it, belongs to and forms part of the general revenue of the municipality.

277. Where a person is committed to gaol by reason of a breach of a by-law of the municipality, there shall be charged to the municipality such part of the expenses paid by the Province for the transport of the person to gaol, and for his maintenance while there as may be designated by the Lieutenant Governor in Council.

Jurisdiction of Municipalities

278. The council may pass such by-laws as are deemed expedient and as are not contrary to this or any other Act,

- (a) for the peace, order and good government of the municipality,
- (b) for promoting the health, safety, morality and welfare thereof, and
- (c) for governing the proceedings of the council, the conduct of its members and the calling of meetings.

279. the council may by by-law make provision for the regulation or prohibition of or requiring compliance with any matter or thing for the protection of life or property on public or private property as the council considers proper.

280. The council may pass by-laws for the regulation of conduct in public places, the preservation of peace and order and for the preservation of decency and morality in public places, not inconsistent with the *Criminal Code* or any Act of Canada or of Alberta.

281. A council may pass by-laws for the regulation of children in public places including the right to prohibit children being in public places after a designated hour, or at all.

282. The council of a municipality may pass by-laws:

- (a) for the prevention or extinguishing of fires, the preservation of life and property and the protection of persons from injury or destruction by fire;
- (b) for the prevention of prairie or running fires and the enforcement of the provisions of *The Forests Act, 1961* in that behalf;
- (c) for the entering into agreements with other municipalities for the joint use, control and management

of fire extinguishing apparatus and equipment and the setting up of districts within which a fire protection is provided;

- (d) for the purchase and operation of apparatus and equipment for extinguishing fires and preserving life and property and for the recovery of the costs thereof by a levy of a special tax on all assessed property;
- (e) for the charging of the cost to the owner or occupant of land, and for the recovery of such cost as the by-law may provide where costs have been incurred with respect to extinguishing fires and preserving life and property from injury or destruction by fire on lands in the municipality or situated outside the boundaries of the municipality;
- (f) for the appointment of a fire marshall, firemen or other officials charged with the responsibility for inspection of private and public property for protection against fire and investigation of fires.

283. The council of a municipality may pass by-laws for

- (a) prohibiting the keeping of animals or poultry or of certain types thereof in the municipality or in specific areas of the municipality,
- (b) the regulation, control, licensing and protection of animals and poultry and the prevention and control of animal and poultry diseases,
- (c) all matters pertaining to *The Domestic Animals (Municipalities) Act*, and
- (d) the appointment of poundkeepers and the establishment of pound districts, including all regulations necessary for the operation thereof, including the right to dispose of impounded animals and to fix fees and damages payable by owners of impounded animals.

284. The council of a municipality may by by-law provide for the regulation, prohibition, destruction or control of nuisances, insects or pests and for the collection from the owner or occupier of any lands of any charges incurred in the extermination or prevention of insects or pests.

285. All sums of money charged to a municipal district under Part II of *The Agricultural Pests Act, 1960* relating to grasshopper control, shall be levied and collected as a tax upon all assessable land within the municipal district.

286. (1) The council of a municipality may pass by-laws preventing and compelling the abatement of nuisances generally and the regulation and prohibition of untidy or unsightly conditions on any premises, and may in such a by-law

- (a) list and describe all manner of things or conditions which constitute a nuisance or untidy or unsightly condition,
- (b) provide for the methods and procedures to be adopted in the abatement of any nuisance, untidy or unsightly condition, including the right to enter private property and premises to inspect them,
- (c) provide for the imposition of fines or penalties,
- (d) provide for the recovery of costs and expenses either as a debt or by assessment against the lands involved, and
- (e) make such other provisions as the council in its discretion considers necessary to carry out the purposes of the by-law.

(2) Any person required to abate any nuisance, untidy or unsightly condition shall be served with a notice by registered mail of such requirement not less than 10 days before the date upon which such notice requires the nuisance, untidy or unsightly condition to be abated.

(3) In the event a person fails to comply with a notice ordering him to abate a nuisance or remedy an untidy or unsightly condition, the council may by its servants and workmen, cause the nuisance to be abated or the untidy or unsightly condition to be remedied and may enter upon private property for that purpose.

(4) Any owner, agent, lessee or occupier who receives a notice, order or direction requiring him to abate a nuisance, untidy or unsightly condition, or to remedy any condition that constitutes a nuisance, untidy or unsightly condition, or that contravenes or fails to comply with a by-law passed under this section and who thinks himself aggrieved may appeal within 10 days of the receipt of the notice referred to in subsection (2) to the Appeal Tribunal which, if satisfied that the council has acted unreasonably or unjustly or in a manner contrary to the intent and meaning of the by-law may set aside, vary or modify the notice, order or direction of the council or may prohibit the collection of any expense incurred by the municipality or may approve the notice given.

287. (1) If in the opinion of the council, a building, structure, erection, excavation or hole is by reasons of its ruinous, dilapidated or unprotected condition, dangerous to the public safety or health, or an unoccupied building is because of its unsightly condition detrimental to the surrounding area, the council may make an order respecting the building, structure, erection, excavation or hole.

(2) Any such order may require the owner within a period of time which shall not be less than one month from the date of the making of the order,

- (a) to remedy the condition in the manner and to the extent directed in the order, or

(b) to demolish or remove the building, structure or erection or fill the excavation or hole and level the site thereof.

(3) If the owner does not remedy the condition within the period specified within the order, or the building, structure or erection has not been demolished or removed at the expiration of the period specified in the order, the building inspector or other authorized person shall remedy the condition to the extent directed in the order or cause the unoccupied building, structure or erection to be demolished or removed or the excavation or hole to be filled and the site thereof levelled.

(4) The removal may be done by way of selling the building, structure or erection, in which case the net proceeds realized from the sale shall be paid to the owner, mortgagee or other person entitled thereto, unless there are any taxes or other charges owing in respect of the building, structure or erection or the land on which it is situated, in which case the amount of the tax or other charge shall be set off against the net proceeds of the sale of the building, structure or erection and any amount in excess thereof shall be paid to the owner, mortgagee or other person entitled thereto.

(5) If the proceeds from the sale of the building, structure or erection, after deduction of taxes or other charges owing thereon are insufficient to meet the costs of the demolition or clearance of the site, or if no proceeds are realized from the demolition and removal of the building, structure or erection, the council may charge the costs of the work done against the owner of the land on which the building, structure or erection was located, and recover the costs as a debt due to the municipality or charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

(6) The council shall cause not less than two weeks' notice to be sent by registered mail to the registered or assessed owner of the land upon which the unoccupied building, structure or erection stands, specifying the date, time and place at which the making of such order will be considered and that such owner will be given an opportunity of appearing and being heard by the council at such meeting before the making of the order.

(7) Any person who thinks himself aggrieved by an order of the council made under this section may apply to the Appeal Tribunal within 30 days from the date of the making of the order and if the Tribunal is satisfied that

(a) the proper procedure as set forth in this section has not been followed, or

(b) that the council has acted in a manner contrary to the intent or meaning of this section,

may set aside, vary or modify the order of the council as it considers just.

(8) In order to effect a demolition or removal of any building pursuant to this section, the council may cause the occupants of the building to be removed by force.

288. (1) Notwithstanding section 287, if a building, structure or erection is unoccupied and in the opinion of the council is so ruinous or dilapidated as to be dangerous or likely to cause injury to a person, then the council may promptly take such reasonable emergency action as required to eliminate or minimize the hazard.

(2) When such emergency action has been taken, the municipality shall promptly advise the owner of the property by registered mail of the action of the municipality and its intention to charge the cost thereof to the property and invite him to appear before the council for the purpose of disputing the justification of the council having acted under this section and of contesting the intention of the municipality to charge the costs of the emergency action against the land.

(3) If an owner fails to appear before the council, the provisions of subsections (4) and (5) of section 287 apply, but if the owner or his agent appears before the council and is dissatisfied with the disposition of the matter he may appeal to the Appeal Tribunal.

289. (1) A council may pass by-laws for the control and eradication of noxious weeds and provide therein for all matters incidental thereto.

(2) The municipal secretary shall forthwith notify the field crops commissioner of the Department of Agriculture of the appointment of weed inspectors, of their post office addresses, and of the territory assigned to each.

(3) Where an inspector destroys noxious weeds upon lands in a municipality pursuant to *The Noxious Weeds Act* the council may charge the owners of the land a sum to be fixed by council.

(4) In this section,

- (a) "occupant" means a person occupying or having the right to occupy any land;
- (b) "owner" includes every person who has an estate or interest in land, or who has the right to be vested with such an interest or estate.

290. (1) A council may pass by-laws for the regulation, control and all other matters pertaining to railways within the municipality, subject to the provisions of any Act of Canada or of Alberta, or of any order of the Board of Transport Commissioners of Canada.

(2) In any proceedings taken for infraction of by-laws passed under this section, service of necessary documents upon any resident employee of the railroad is good service upon the owners of the railroad.

(3) Any of the persons in charge of the engine, car, truck or train as well as the railroad company are liable to the fine provided in the by-law and proceedings may be taken against either or any of them.

Advertising in Public Places

291. A council may pass by-laws

- (a) prohibiting the posting or exhibition of placards, play-bills, posters, writing or pictures or the writing of words, or the making of pictures or drawings that are indecent or that may tend to corrupt or demoralize, on any wall or fence or elsewhere on or adjacent to a highway or public place,
- (b) preventing and controlling throughout the municipality or in any specified part thereof, the erection and use of billboards, signboards or other advertising devices of any kind, whether the notices are printed or otherwise displayed, and
 - (i) requiring a permit from the council or an official designated for the purpose, as a condition of erecting any signboard, billboard or other advertising device,
 - (ii) imposing an annual licence fee in respect of each billboard, signboard or other advertising device,
 - (iii) authorizing the removal and destruction of signboards or billboards or other advertising devices erected or maintained without permit or licence, and
 - (iv) requiring the licensee to pay a proportionate share of the cost of a bond of indemnity indemnifying the municipality and all concerned against claims, demands, actions, proceedings and costs for loss, damage or injury to persons or property arising by reason of the erection, maintenance, use or existence of any such billboard, sign or other advertising device,
- (c) regulating and licensing billposters and preventing the pulling down and defacing of signboards and billboards or printed or other notices lawfully affixed and preventing the defacing of private or other property by printed or other notices, and
- (d) prohibiting or controlling and regulating the use of loudspeakers or other devices for the amplification of sound on any street or other public place or in any building or premises.

292. The council of a municipality may pass by-laws for

- (a) the acquisition, construction, maintenance, repair of public highways, roads, streets, lanes, ditches, side-

walks, culverts, squares or other public places, including the control of all structures above, overhanging or underneath them, and

- (b) purchasing, housing and maintaining of all such machinery and equipment as may be considered necessary for the construction and maintenance of all public works undertaken by the municipality,

293. (1) Where a municipality acquired by purchase or otherwise any land abutting on a street, road, lane or public highway, and such land is acquired for the purpose of becoming part of the street, road, lane or public highway, then until the land is incorporated in the street, road, lane or public highway, the municipality may grant to an adjoining land owner an annual licence or permit to occupy that land under such terms and conditions and subject to such annual payment or licence fee as the council may fix.

(2) The person who has been granted a privilege under subsection (1) shall indemnify the municipality in full against any claim for damage sustained by reason of the privilege.

(3) Any land occupied under a licence or permit pursuant to subsection (1) shall be deemed to be a part of the adjoining street, road, lane or public highway for the purpose of this Act.

294. (1) Every public road, street, bridge, highway, square, alley or other public place that is subject to the direction, management and control of the council including all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done therein, or thereon, by the municipality or any other person with the permission of the council shall be kept in a reasonable state of repair by the municipality, having regard to the character of the road, street, bridge, highway, square, alley, public place or work made or done therein or thereon, and the locality in which it is situated or through which it passes, and if the municipality fails to keep it in reasonable state of repair, the municipality is civilly liable for all damages sustained by any person by any reason of its default, in addition to being subject to any punishment provided by law.

(2) This section does not apply to any road, street, bridge, alley, square, crossing, culvert, sidewalk or other work made or laid out by a private person until it has been established as a public work by by-law or otherwise assumed for public use by the municipality.

(3) The Lieutenant Governor in Council may by order direct that any highway, bridge or stream partly within the municipal limits, or any part of such highway, bridge or stream shall be subject to the direction, management and control of the council for the public use of the municipality.

295. (1) The title to every public highway, road, street, lane, alley, boulevard, park, square, bridge or other public place in every city, except as far as excluded by a special act or agreement, is vested in the city.

(2) The title to all road allowances transferred to the Crown in right of Alberta by *The Saskatchewan or Alberta Roads Act*, being chapter 180 of the Revised Statutes of Canada, 1927, and to all public travelled roads or trails are vested in the Crown in right of Alberta, by reason of that Act and if situated within a city, is vested in the city.

(3) The title to all public roads, highways, streets, lanes in a municipality other than a city are vested in the Crown in right of Alberta.

(4) Subject to *The Public Highways Development Act*, *The Water, Gas, Electric and Telephone Companies Act*, *The Pipe Line Act*, 1958 and any other Act, every public road, highway, street and lane is subject to the control and management of the council of the municipality in which it is situated.

(5) Subsection (4) shall be deemed to have reference only to the property in the surface of a public road, highway, street, or lane and in so much of the actual soil below and the air above the surface, as reasonably may be required for the control, protection and maintenance of the public road, highway, street and lane for use of the public.

(6) Notwithstanding anything contained in this Act, a street railway company or other electric railway company subject to such regulations, and subject to any other specific directions as may from time to time be made and given by any municipality, Act or regulations of the Province of Alberta, may put down, take up, relay, connect disconnect, repair and maintain its track and wiring for the transmission of electricity, or may operate its railway along, over and across every such public road, highway, street, and lane, bridge, watercourse, stream or public place of every and any description whatsoever.

296. (1) The Minister of Highways has at all times the right to enter any municipality for the purpose of constructing, erecting, maintaining or repairing a highway, as defined in *The Department of Highways Act*.

(2) The Minister of Public Works has at all times the right to enter any municipality for the purpose of constructing or erecting, maintaining or repairing a public work as defined by *The Public Works Act*.

(3) The Minister of Telephones has at all times the right to enter a municipality for the purpose of constructing, expanding, erecting, maintaining or repairing any part of the Alberta Government Telephone System or systems or any appliance used in connection therewith.

(4) For all purposes mentioned in subsections (1), (2) and (3), all public roads, highways or other public places or parts thereof where such work is being carried on shall, until the work is completed, be under the direction, control and management of whichever of the Ministers is in charge of the work.

297. A council may, by resolution, name or number the street and avenues, and change the names and numbers of any of the streets and avenues now existing or hereafter laid out by the municipality, and whenever it is expedient to do so, the council, by resolution, may for municipal purposes change the name of any subdivision or district or part of a subdivision or district without regard to the name shown on the plan registered in the land titles office for the subdivision or district, and without the necessity of having the name shown upon the registered plan changed, if all particulars of any change are recorded on a plan filed with the municipal secretary, who shall make the plan available to the public.

298. (1) The council may grant to any person owning land adjacent to a highway or public place, the privilege of erecting a structure overhanging the highway or public place or any part thereof, or of excavating under the highway or public place for a cellar, area-way or other purpose under such terms and conditions and subject to the payment of such annual rental as the council may fix.

(2) A person who has been granted a privilege under subsection (1) shall indemnify the municipality in full against any claim for damage sustained by reason of the existence of the privilege.

(3) The annual rental for the privilege shall be added to or deemed to be part of the taxes of the adjacent land to which it is pertinent and the provisions of *The Tax Recovery Act* are applicable thereto.

299. (1) The council of a city may pass by-laws for the purpose of closing and selling, leasing or holding the whole or any portion of any street, road, lane or public highway, and the council of any other municipality may do so with the approval of the Minister of Highways.

(2) No such by-law shall be passed

(a) until any necessary approval has been given, and

(b) unless at least two weeks before the date fixed for the passing of the by-law, notice of the intention of the council to pass the by-law

(i) has been served to the persons registered or assessed as the owners of the land abutting upon the portion of the highway so proposed to be closed, or

- (ii) has been mailed by registered mail to the persons assessed or registered as owners of the abutting land at the address as shown by the last revised assessment roll, or by the records of the land titles office for the registration district in which the land is situated, or
- (iii) has been published once a week for at least two successive weeks in some newspaper circulating in the municipality, the last of such publication to be at least two weeks before the date fixed for the passing of the by-law.

(3) Before the passing of the by-law, a person who claims that the land in which he is interested as owner, occupier or otherwise will be affected prejudicially by the by-law, shall be afforded an opportunity to be heard by the council either by himself or by his agent.

(4) Any person who occupies, owns or is otherwise interested in land that sustains damages through the closing of the street, lane, road or highway shall be compensated for such damages as hereinafter provided.

(5) Where a claim is made for compensation for damages by the owner or occupier or other person interested in lands alleged to have been injuriously affected by the exercise of any powers of the council under this section, if the council is not able to agree with the claimant as to the amount of compensation or damages, the compensation or damages shall be settled and determined by the award of the Public Utilities Board.

(6) When it appears that the amount of compensation after deducting the selling price in case a sale is contemplated, would be so large that the amount ought not to be paid out of current revenue, the by-law shall, with the approval of the Local Authorities Board, be subject to section 472, and if finally passed, the amount necessary to be raised to pay the compensation and any costs, may be raised by the issue of debentures for the amount payable, on such terms and at such rate of interest as the council by by-law determines.

(7) Nothing in this section shall be deemed to restrict or prevent the exercise of the Local Authorities Board in any case where the municipality makes application to that Board, of any power or jurisdiction contained in any Act conferring power or jurisdiction upon the Local Authorities Board to close the highway in whole or in part, or to alter or divert it, as incidental to dealing with a replanning scheme, cancellation of a plan of subdivision or the re-subdivision of land or otherwise, pursuant to *The Local Authorities Board Act*, *The Planning Act* or any other Act.

300. (1) The council may pass a by-law for the opening and maintaining of a temporary road or right of way for public purposes, across private property for a term not

exceeding two years, when in the opinion of the council the condition of the public road in the neighborhood makes the action necessary or expedient.

(2) The council that passes a by-law under this section shall make provision therein for funds for paying compensation for the use thereof in every instance to the occupier or owner of the land upon which the temporary road has been opened, as may be mutually agreed upon between the council and the person interested, or in the event of disagreement the compensation as may be determined by the Public Utilities Board.

301. A council may pass by-laws for the regulation, control and enforcement of provisions the council considers necessary for the removal of snow, ice, dirt and obstructions from streets and sidewalks and any matters pertaining thereto.

302. (1) A council may pass by-laws for the regulation, the prohibition and the removal of trees, hedges, shrubs, fences, walls or other objects or structures on private property, or for the control and limitation of the size thereof, as the council considers necessary to provide adequate visibility for the safe flow of traffic at all intersections and for such purposes may make an order for the removal or the reduction in size thereof.

(2) No order shall be made and no act shall be permitted under the by-law until the owner, purchaser, agent, lessee or occupier has received at least 14 days' notice thereof by registered mail, and in the event that any owner, purchaser, agent, lessee or occupier thinks himself aggrieved by the terms of any such notice, he may appeal by notice of motion within 30 days to the Appeal Tribunal who if satisfied that the council has acted unreasonably or that the application of the by-law in the particular case is unreasonable, may set aside, vary or modify the notice, order or direction given thereunder or may approve it.

303. (1) A council by by-law may prohibit the construction, placing or laying, either above or below the ground, of

- (a) power transmission poles, lines or cables,
- (b) telegraph poles, telephone poles, lines or cables, and
- (c) wells,

closer than 101 feet from the centre line of a secondary road established pursuant to *The Public Highways Development Act*.

(2) A council by by-law may prohibit the construction or placing of

- (a) buildings and shelter belts,
- (b) farm dugouts, and

(c) cesspools or disposal fields,
closer than 125 feet to the centre line of any public road,
highway or street.

(3) In lieu of or in addition to prohibiting the construction, laying or placing of any works or things as provided in subsections (1) and (2), the by-law may permit such construction, laying or placing within a specified distance of the centre line of a specified district highway, road, highway or street, or any part thereof, upon such terms and conditions as may be set out in the by-law.

(4) A by-law made pursuant to this section

(a) shall provide for the payment from municipal funds of compensation by the municipality to any person who suffers damages as a result of the by-law,

(b) may prescribe a fine not exceeding \$200, with imprisonment for a term not exceeding 30 days for default in payment of the fine for failure

(i) to comply with a by-law passed pursuant to subsection (1) or (2), or

(ii) to comply with any of the terms or conditions of the construction, laying or placing of any of the works or things referred to in a by-law passed pursuant to subsection (3),
and

(c) may authorize the removal, at the expense of the owner, of any works or things that were constructed, laid or placed in contravention of the by-law.

(5) Where there is a disagreement between a council and a person who claims to have incurred damage or loss as a result of a by-law under this section, compensation shall be determined by the Public Utilities Board.

304. (1) A council may pass a by-law for the acquiring of lands, buildings, structures or objects for any purpose authorized by this Act.

(2) The acquisition may be made by purchase, lease or licence, or by expropriation under the provisions of *The Expropriation Procedure Act*, and subsection (5) of section 25 of *The Expropriation Procedure Act* shall apply in all cases, notwithstanding that the municipality is not a city, and the acquisition may by the terms thereof be permanent, temporary or conditional, either within or without the municipality.

(3) Notwithstanding subsection (1), before acquiring any land or interest in land, buildings or other structures situated outside the boundaries of the municipality, the council shall obtain the approval of the council of the municipality in which the land, buildings or other structures are situated.

(4) If the approval of the council of the municipality in which the lands, buildings or structures are situated cannot be obtained, the council of the municipality shall submit the matter to the Local Authorities Board for its approval, which may be given under such terms and conditions as the Board may decide.

(5) If the Local Authorities Board refuses to give approval, the council may not acquire the land, buildings or other structures.

(6) A council may acquire by gift, either

- (a) from the Crown in right of Canada, in right of Alberta, or from the Soldiers' Settlement Board, or from the Department of Veterans' Affairs, any land situated within or without the municipality, and
- (b) from any other person lands that are situated within or without the municipality, and free at the time of transfer from all encumbrances whatsoever.

(7) Where a council acquires a cemetery under the provisions of this section it has all the powers and duties exercised by trustees and directors pursuant to *The Cemetery Companies Act*.

(8) Subject to the provisions of this Act respecting the acquisition of land outside a municipality, the council may by by-law authorize the acquisition of

- (a) lands within or without the municipality for the purpose of subdivision and building sites,
- (b) subdivided lands within or without the municipality for resale as building sites, and
- (c) lands previously used as military establishments by purchase or lease from the Government of Canada or the Government of Alberta.

(9) The council may, under an order from the Local Authorities Board cancelling plans of subdivision, acquire land situated within the boundaries of the municipality.

(10) Any parcel of land acquired pursuant to subsection (6) shall continue to be assessed from the date of acquisition by the municipality and the taxes payable to the municipality and to any school district that collects its own taxes in respect thereof, shall continue to be charged against the parcel of land, and in case the parcel is sold or leased, the proceeds of the sale or lease shall be dealt with and distributed in the manner prescribed by *The Tax Recovery Act*.

(11) Lands acquired pursuant to this section may be sold, leased or otherwise disposed of in such manner and at such times and under such terms and conditions as the council by resolution from time to time may prescribe.

305. When through agreement with the owner, a council acquires land for the purpose of a highway, road, street, bridge, culvert, drain or ditch, title to the land acquired by a municipality in the case of a city shall be vested in the city, and in the case of any other municipality shall be vested in the Crown in right of Alberta, upon filing in the proper land titles office,

- (a) plans of survey, and
- (b) an affidavit of the municipal secretary setting forth a description of the land, and that an agreement has been reached by all the owners thereof as to the land to be acquired and the price to be paid,

and it is not necessary to register a transfer of the land.

306. For the purpose of providing accommodation for indigent residents of the municipality, the council may by by-law authorize

- (a) the purchase or lease of land and buildings,
- (b) the alteration and repair of any building on any land acquired pursuant to this section,
- (c) the erection of any buildings on any land acquired under this section,
- (d) the furnishing of any premises so acquired,
- (e) provision for the management of such premises, and
- (f) all other acts and things considered necessary or advisable to have the premises conducted and managed successfully and economically as a place of public accommodation.

307. A council may

- (a) authorize the construction of any building or buildings required for any municipal purpose, including the housing of any municipal official or employee, or for any business or other operation which the municipality may be authorized to conduct,
- (b) construct or acquire a building or buildings with floor space which is greater than is necessary for the accommodation of the municipal services required and may lease or rent any surplus floor space not required for the municipal services, and
- (c) rent, lease or purchase any buildings for the purpose of providing public rest and reading rooms or other public accommodation and shall, in the event of so doing, make regulations for the conduct and maintenance of them.

308. When it is proposed by by-law that any expenditure or liability has been made or incurred under section 305, 306 or 307 and the expenditure or assumption of

liability under any of these sections is to be an amount greater than an amount equal to five mills on the net total assessment of the municipality upon which taxes are levied, section 472 shall apply, and notice of the proposed by-law shall be given in the manner provided by that section.

309. Where moneys received under an insurance policy are used to restore the property originally covered by the insurance policy or where money received by way of gift or grant for a specific purpose is used for that purpose, the spending of the money shall not be deemed to be an expenditure within the meaning of section 308.

310. On such terms, at such prices and for such payment as the council may by by-law determine, the council may act as agent or dealer, or establish or appoint an agency to act as agent or dealer to provide to farmers resident or operating in a municipality, any formula, chemical preparation or commodity used for the destruction of brush or noxious weeds or for the destruction of animals, insects or other pests.

311. To encourage a veterinarian to practice in a municipality, the council of the municipality may annually, by by-law, authorize the payment to the veterinarian of a grant not exceeding a sum equal to one-quarter mill on the total net assessment upon which taxes are levied in the municipal district or \$4,000, whichever is greater.

312. A council may purchase membership or buy shares in a co-operative association organized under *The Co-operative Associations Act* and may accept patronage dividends from such co-operative.

313. (1) Where a person petitions a council for the provision of a road through any land and the council is of the opinion that the desired road is necessary for the convenience and benefit of the petitioner but is not required in the interest of the public generally, the council may require the petitioner to deposit with the municipal secretary or treasurer such sum as the council considers sufficient to cover the cost of providing the road and paying compensation in connection therewith.

(2) When the deposit is made the council by by-law

- (a) may provide for the desired road or such other road as in the opinion of the council will be substantially of equal convenience to the petitioner, and
- (b) may provide for the acquisition of any land required for the purpose thereof.

(3) For the purpose of acquiring land required for the provisions of any such road, the council has the power to acquire the same by expropriation or otherwise.

(4) When the road asked for in the petition is provided or when any other road that in the opinion of council is substantially of equal convenience and benefit to the petitioner is provided, the sum deposited shall be applied toward expenses incurred by the council in providing the road and for any compensation payable in connection therewith and the surplus thereof, if any, shall be repaid to the person or persons depositing the same.

314. (1) A council may, in cases of emergency or where no privately owned equipment is available, authorize the use of municipal equipment for snow plowing or road building or road maintenance, when these services are requested by a resident or ratepayer of the municipality or by another municipality.

(2) Any municipality or ratepayer requesting such service shall pay for the use of the machinery at the same rate as is paid by the Government of Alberta for rental of similar equipment.

(3) Notwithstanding subsections (1) and (2), a council may authorize the use of municipal equipment for snow plowing, road building or road maintenance on an Indian Reserve situated within the boundaries of the municipality on such terms and conditions as may be mutually agreed upon between the council and the governing authority of the reserve.

315. (1) Where a council proposes to enter into an agreement with the Minister of Highways under *The Public Highways Development Act* for the construction of a highway and to defray the municipality's portion of the cost of the construction out of its yearly revenues, the council may pass a by-law authorizing the agreement and payment of the amount to be expended thereunder in not more than 15 yearly instalments.

(2) If the council desires to enter into any such agreement and to raise money by the issue of debentures for the purpose of defraying the expenses payable by the municipality under the terms of the agreement, it shall pass a by-law for that purpose.

(3) Any such by-law

(a) shall be subject to the approval of the Local Authorities Board, and

(b) shall be under the seal of the municipality and is governed by section 472 relating to money by-laws.

316. (1) Notwithstanding the provisions of this or any other Act, the council upon request from a person who is an

owner, purchaser or lessee of land may by by-law authorize such person to construct a Texas gate across a municipal road at such place and according to such specifications and conditions as may be contained in the by-law.

(2) A Texas gate shall be constructed and kept in a reasonable state of repair by the person receiving permission to construct it.

(3) If such person does not keep the Texas gate referred to this section in repair such person and not the municipality is liable for damages sustained by any person by reason of default.

317. (1) A council shall make adequate provision for

- (a) the drainage of all roads, streets or lanes and highways constructed or maintained by the council, and
- (b) the disposition of any water collection in a drainage ditch or other artificial depression created by the council or on or contiguous to the road allowance forming the site of the highway, streets, roads or lanes in such a manner as to prevent the flooding of other land.

(2) A person who is the owner or occupant of land in the vicinity of a highway, street, road or lane mentioned in subsection (1) and who claims damage due to a default made by the council in performing the duty cast upon it by subsection (1) may lodge his complaint before the council.

(3) No complaint that a default has been made by a council in performing a duty imposed upon the council by subsection (1) shall be lodged after the expiration of two years from the date the alleged default occurred.

(4) A complaint made under this section shall be served upon the municipal secretary or forwarded by registered mail and the council shall, within 60 days of receipt of the notice, deal with the complaint and shall advise the complainant by registered mail of its decision or of the deferral of its decision to a later date.

(5) A complainant who is dissatisfied with the decision of the council may appeal to the Appeal Tribunal, which may vary, modify, amend or approve the decision of the council or award damages with respect thereto or defer the hearing for such period as the Tribunal considers reasonable.

(6) If the council refuses to comply with any order made by the Tribunal, the complainant is entitled to commence action in any court of competent jurisdiction.

318. (1) The council by agents, workmen and servants

- (a) may enter upon any land abutting on a road in the district for the purpose of erecting snow fences on

that land to prevent the road from becoming blocked,

- (b) may erect snow fences upon that land, and
- (c) may from time to time enter upon that land to maintain, repair, replace or remove snow fences.

(2) If any loss or damage is caused to the person in occupation of the land through the placing or maintaining of snow fences, such person may file a claim and Part 10 applies thereto.

(3) If a snow fence erected pursuant to subsection (1) is not removed from the land by the council on or before the 15th day of April in any year, the person in occupation of the land may remove the snow fence and may recover from the council the cost of the removal.

319. (1) A council by by-law may authorize the expenditure of municipal funds for the purpose of implementing an agreement

- (a) for the construction and operation of a seed cleaning plant, or
- (b) for such other approved program as can be entered into under *The Agricultural Service Board Act*.

(2) When it is proposed by by-law that any expenditure or liability be made or incurred under this section to be in excess of an amount equal to five mills on the net total assessment of the municipality upon which taxes are levied, section 472 applies.

320. A council by by-law may authorize the purchase, either separately or jointly with any other municipality or municipalities of any equipment considered necessary for the construction or maintenance of roads, streets, bridges or other public works within the municipality or municipalities.

321. (1) The council by by-law may acquire and equip a motor vehicle or vehicles for the purpose of providing an ambulance service in the municipality.

(2) For the purpose of encouraging the establishment and maintenance of an ambulance service in the municipality, the council may annually by by-law authorize the payment to the owner of an ambulance of a grant not exceeding a sum equal to one-quarter mill levied on the total net assessment upon which taxes are levied in the municipality or \$4,000, whichever is the greater.

322. (1) Subject to the other provisions of this Act, a council may pass a by-law authorizing the making of an agreement with the council of any other municipality, the board of trustees of a school district or division or the Minister on behalf of any improvement district or special

area, for the joint construction, ownership, maintenance, operation and use of a public work or building, or for the performance of any matter or thing considered by all the councils or boards, or the Minister concerned to be a benefit to their respective municipalities, school districts, school divisions, improvement districts or special areas, and may enter into an agreement as to the joint control and management of anything that concerns their respective municipalities, school districts, school divisions, improvement districts or special areas.

(2) Where an agreement is entered into pursuant to subsection (1), the council may in the by-law

- (a) appoint one or more of its members to be members of a joint committee with members appointed by the board of trustees of a school district or school division or by the councils of other municipalities or the appointee of the Minister on behalf of any improvement district or special area, and
- (b) delegate to such joint committee power to construct, maintain, control and manage such undertaking, including the power to disburse the proceeds of debentures or other funds used for the purpose of such undertaking.

(3) A committee established pursuant to subsection (2) may in each year requisition the council of each municipality, the board of trustees of a school district or school division or the Minister for the proportionate share of the cost of operating the undertaking and expend any sums so requisitioned for the control, management, upkeep and operational expenses of the undertaking.

(4) A committee established pursuant to subsection (2) shall in each year furnish the council of each municipality, board of trustees of a school district or school division concerned or the Minister with an audited statement of its receipts and payments for the preceding year and shall also supply each council, board of trustees of a school district or school division or the Minister with such information regarding its management and operation as is considered necessary.

323. Subject to this Act, a council may pass a by-law authorizing the making of an agreement with the Province for the maintenance, operation and use of a public work, building or campsite or for the performance of any matter or thing considered by the council and the Province to be a benefit to both parties.

324. A council, by by-law, may authorize the mayor and the municipal secretary to guarantee on behalf of the municipality the due repayment of money loaned for the erection of any structure required in the municipality for community purposes, but no such by-law and no such guarantee

has any effect until it has been approved by the Local Authorities Board and has been advertised, and section 472 applies.

325. A council may pass a by-law authorizing the acquisition of rights of way or easements or other similar interests in land for the use of the municipality.

326. (1) In this section "owner" and "occupant" have the same meaning as in *The Drainage Districts Act*.

(2) The council by by-law may make provision for the establishment within the municipality, or with other municipalities, of a drainage district subject to the approval of the Minister charged with the administration of *The Water Resources Act*.

(3) Before constructing a ditch or drain under the provisions of this section, the council shall obtain the approval of the Minister in charge of the administration of *The Water Resources Act*, as provided in section 67 of that Act.

327. (1) If the council desires to acquire land, either within or without the municipality for any purpose authorized by this Act, or required for municipal public use or in connection with any plan of development whether undertaken solely by the municipality or in conjunction with any person or for the purpose of preventing the working of any mine within, upon or under any portion of the land within the municipality or for the purpose of improving any land owned by the municipality, the municipality shall first negotiate with the owners and occupiers of such land or other persons interested therein for the acquisition of the land by agreement and in case it cannot acquire the land at an acceptable price by agreement, the municipality may take steps to acquire the land by expropriation pursuant to *The Expropriation Procedure Act*, except that in the case of lands being acquired for the purposes of subdivision or building sites or the resale thereof, subsection (5) of section 25 of *The Expropriation Procedure Act* will apply respecting any municipality.

(2) In this Act "plan of development" means a development scheme pursuant to *The Planning Act* but does not include an urban renewal scheme under *The Alberta Housing Act*.

328. (1) Where a street or any part thereof has been or is being widened by means of an equal contribution from the lots thereon abutting, no compensation is payable to the owners or other persons interested therein, nor are they entitled to damages except for the value of buildings and improvements demolished or the cost of removal of the same, unless the Public Utilities Board or the council is of the opinion that because of special circumstances of the case, or because the widening is for the benefit of the public the owner is entitled to damages or compensation.

(2) To provide for uniform assessment of damages only one hearing shall be held in respect of the street or part thereof to be widened and the Public Utilities Board has power to make one or more awards as it sees fit.

(3) If in the opinion of the Public Utilities Board the taking of any portion of any lot or lots could be unfair, unjust or discriminatory with respect to the owner thereof the Board may require that the municipality take the entire parcel and pay compensation therefor.

(4) Where the council is of the opinion that the municipality can obtain at a more reasonable price or obtain greater advantage by acquiring the whole or a greater portion of any parcel, of which a part may be expropriated by the municipality, the municipality may take the whole or the greater portion of the parcel.

329. Any claim for compensation for lands taken or damages in respect of lands injuriously affected shall be deemed appurtenant to the land and passes by any transfer or conveyance thereof.

330. (1) No council has power

- (a) to grant a bonus or any other aid to any person, company or corporation for the construction, establishment or operation of any manufacturing, mill, railway or other business or concern whatever, or
- (b) to exempt from taxation any manufacturing, mill, railway or other business or concern, to subscribe for stock therein or to guarantee the bonds, debentures or other securities thereof.

(2) No council has power

- (a) to sell or lease land to a person at a price which represents less than the fair actual selling value thereof, or
- (b) to sell, distribute or deliver light, heat, power, water, gas, oil, electricity or coal to a person at a price that is less than the actual cost thereof to the municipality.

(3) If the council attempts to pass a by-law contrary to subsections (1) and (2), a member of the council voting in favor of the by-law is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$100, and in default of payment thereof to imprisonment for a term not exceeding 60 days and is disqualified from holding any municipal office.

(4) Nothing in this section deprives a municipality of the rights and privileges conferred thereon by any Act respecting the encouragement of industry, nor of assisting any project otherwise authorized by this Act.

331. (1) In all cases where claims are made against a municipality for compensation or damages, the council, in the event of the parties not being able to agree, may tender to a person making a claim such amount as it considers proper compensation for the damages sustained.

(2) In the event of non-acceptance by the claimant of the amount so tendered and if an award is obtained for an amount not greater than the amount so tendered, the order or award may direct that the whole or a portion of the costs of the proceedings be paid to the municipality and set off against any amount awarded against it.

332. (1) Where a claim is made for damages incurred by reason of the loss of or lessening of the use of land by the exercise of the power of the municipality in the erection or construction of a work or structure, if the council is not able to agree with the claimant as to the amount of compensation or damages, the compensation and damages shall be settled and determined by the Public Utilities Board, and the amount so awarded shall be paid to the claimant by the municipality.

(2) This section does not apply to any damage caused by

- (a) the construction of boulevards down the centre of a highway, street or lane for the purpose of channelling traffic, or
- (b) the restriction of traffic to one direction only on any highway, street or lane.

(3) The amount payable for damages under this section shall not exceed the amount of the difference between

- (a) the appraised value of the property prior to the exercise by the municipality of any of the powers conferred on it by this Act, and
- (b) the appraised value of the property after the exercise of the powers referred to,

together with an amount of not more than 10 per cent of the amount of the difference as so determined.

333. Except where coal mining rights are acquired to prevent the working of a coal mine within, upon or under any portion of land within the municipality, the municipality is not entitled to any mines or minerals whether solid, liquid or gaseous that may be found to exist within, upon or under the land vested in the municipality by expropriation proceedings and the title to mines and minerals is in no way affected by the registration of the conveyance or transfer of the land or of the order of the Public Utilities Board vesting title to the land in the municipality.

334. (1) Where the council is empowered to acquire title to any land or to any estate or interest therein either by purchase, expropriation, gift or other manner other than tax

recovery process, the council may hold, convey or dispose of such land or estate or interest in such land in any manner that the council may deem to be advisable or expedient.

(2) The disposal of any land or estate or interest in land as authorized by subsection (1) does not require the assent of the electors except that the council does not have power

- (a) to dispose of its estate in any landed property acquired for a public park, public recreation grounds or exhibition grounds, or
- (b) to sell to any person lands, buildings or portion thereof at any sum less than what is the fair actual value thereof at the time of sale, or
- (c) to rent or lease to any person any lands, buildings or portion thereof at a rent less than a fair rental value except where the leasing is to a school, welfare organization, community service club or other organization if, in the opinion of the council, the school, welfare organization, community service club or other organization is carrying out or proposes to carry out activities beneficial to the municipality, or
- (d) to dispose of or to devote to any other purpose lands, buildings or portion thereof that have been dedicated to the municipality by gift for a specific purpose, when such lands or buildings have been accepted by the municipality for that specific purpose

without advertising the disposition and complying with section 472.

(3) The proceeds of the sale of lands or the revenue from lands may be appropriated by the council as if the proceeds or revenue or money was raised by general rates for general municipal purposes.

(4) A council may sell, rent or lease to the Crown in right of Alberta, a municipality, a school district, school division, a public junior college, or a university, lands or buildings, or any portion thereof, at a sale price of less than the fair actual value thereof at the time of sale or at rental of less than the fair rental value thereof.

(5) Subject to *The Tax Recovery Act*, the council may provide for the selling, leasing or otherwise disposing of lands finally acquired by the municipality under the provisions of any statute that provides or provided for the recovery of taxes.

335. The council, subject to *The Public Health Act* and any regulations thereunder, may pass such by-laws as it considers necessary for the construction, maintenance, regulation and control of sewage, drainage, ditches, irrigation, garbage and sanitation together with all such matters pertaining thereto as the council considers necessary for the

protection of public health, and the sanitary conditions of the municipality including all buildings and structures of every kind or description, and including the right, on such conditions as the by-law may prescribe, to require the remedying of any situation or the destruction of any premises.

336. (1) If the owner, agent or occupant refuses or neglects to comply with any by-laws as provided in section 335, the medical health officer, whether before or after the occupants have left the premises, may affix to the building or structure a placard declaring it unfit for occupation and forbidding use of it.

(2) Any person removing or defacing such placard is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$100 and in default of payment thereof to imprisonment for a term not exceeding 30 days.

(3) Any owner, agent or person renting or allowing to be occupied or any person occupying such building, enclosure or structure or part thereof without the consent of the medical health officer is guilty of an offence and liable on summary conviction to a fine of not more than \$15 for each day the building, enclosure or structure is rented, allowed to be occupied or occupied and in default of payment to imprisonment for a term not exceeding six months.

337. (1) If the council passes a by-law establishing a system for the collection, removal or disposal of ashes, garbage, refuse or waste matter either as a municipal undertaking or by contract, all matter collected by the municipality or by the contractor becomes the property of the municipality and may be sold or disposed of as the council may direct.

(2) The council may provide for the collection of any manufacturing or trade waste or manure and it may be removed or disposed of under such terms and conditions as the council may direct.

338. A council may, subject to *The Public Health Act* and regulations thereunder pass a by-law or by-laws for the installation, maintenance, operation, control or supply of a water system and may make such regulations as council considers necessary for the operation or maintenance of any water system so installed.

339. The council subject to *The Public Health Act* and any other Act or regulations affecting the public health may pass by-laws

(a) providing for the health of the residents of a municipality against the spread of communicable diseases,

- (b) providing for the appointment of a health officer and assistants and defining their duties,
- (c) providing for the employment of doctors and nurses, technicians and all other personnel required, the subsidization thereof, and
- (d) making regulations with regard to all matters which the council may consider necessary to protect public health.

340. The council may pass by-laws providing for

- (a) the establishment of hospitals, clinics, medical and nursing services, and
- (b) the employment of every kind of personal required to deal with all matters pertaining to public health, hospital, medical and nursing services, subject only to such other legislation as may be applicable thereto.

341. The council may pass by-laws for the purpose of entering into any agreement approved by the council with any hospital for the hospitalization of residents of a municipality and for providing the manner in which it shall be paid for including the right to impose special taxes with respect to the cost thereof, for the establishment of hospitalization contracts, and for the control, regulation and operation of any such arrangements.

342. (1) Where an agreement in conjunction with another municipality has been made to provide medical, nursing, clinical or isolation care and attention for the residents of the whole or part or parts of each such municipality the proportionate share of the moneys payable by each municipality shall be determined according to the assessment of all property in each municipality comprised in the area covered in the agreement compared to the total assessment in the total area covered in the agreement.

(2) In any municipality other than a city no by-law providing for the entering into an agreement with another municipality for the providing of medical, hospital or other medical care shall be finally passed until it has been approved in writing by the Minister of Health.

(3) Where any municipal council has passed a by-law fixing a minimum tax for medical service, the council, by by-law, may provide that a resident of the municipality who is not assessed upon the assessment and tax roll may enter into a contract with the council for the purpose of enjoying the benefits of the medical service upon voluntary payment of the amount fixed by by-law as a minimum tax for the medical service and the by-law may provide that only a non-assessed person who has entered into such a contract is to be entitled to the benefits of the medical services.

343. A council by by-law may authorize the granting of aid for the erection and maintenance of hospitals within or without the municipality.

344. (1) The council by by-law may appoint a board of governors consisting of not less than two and not more than 15 members to manage, control and operate any hospital belonging to the municipality and may define the powers and duties of the board and fix the remuneration of any of the members.

(2) The members may be appointed by resolution of the council and shall hold office during the pleasure of the council.

(3) The council may on the petition of the governing body or persons operating any hospital other than a hospital belonging to the municipality, appoint a board for the hospital consisting of not less than two and not more than 15 members and may confer upon the board such powers not inconsistent with this Act as the council and the governing body or persons operating the hospital may agree upon.

345. Where a bequest, gift or devise whether made by a will, trust, deed or any other matter is hereafter made to a hospital belonging to a municipality and is subject to any annuity or other charge, the municipality upon payment of the bequest or gift or transfer of a property to the hospital may guarantee payment of the annuity or charge.

346. (1) The council may pass by-laws providing for grants

(a) to any hospital,

(b) to any charitable organization,

(c) to sufferers from any calamity anywhere in Canada, and

(d) to religious, educational or other organizations which the council may deem entitled to such grants, and may make all regulations, conditions and provisions with respect thereto.

(2) Subject to subsection (3), a council may make grants for any or all of the purposes mentioned in this section but in any one year the aggregate of all such grants shall not exceed a sum equal to one-half a mill on the net total assessment of the municipality upon which taxes are levied.

(3) No grant otherwise permitted by this section shall be made to any person

(a) if the grant provides for or is to provide membership in a society or organization to the municipality or to any person, or

- (b) if the society or organization in any manner provides or is to provide membership to any person as a result of the receipt of such a grant.

347. (1) The council by by-law may

- (a) authorize the drilling of a well and the provision of equipment therefor in any hamlet to provide a supply of water for the residents of the hamlet, and
- (b) recover the cost of the same by a levy of a special tax on all property in the hamlet appearing on the assessment roll of the municipality.

(2) The levy referred to in subsection (1) shall be made in the same manner, at the same time as, and in addition to the annual levy of taxes, and any tax so levied shall be added to and forms part of the municipal taxes for the year in which the levy is so made.

(3) The amount to be recovered pursuant to subsection (1) may be recovered by a single levy in the year following the year in which the expenditure was made, or in the discretion of the council may be recovered in not more than three instalments by levies made in not more than three consecutive years following the year in which the expenditure was made.

Advances for Commodities

348. The council of a municipality may pass a by-law authorizing the making of advances in such monetary sums as it considers necessary to supply any commodities

- (a) for the next ensuing spring seeding season, or
- (b) for the sustenance of stock, or
- (c) for any other good and sufficient reason,

to farmers who reside in the municipality and are owners, purchasers or lessees of land therein and who because of adverse conditions are unable to procure the required commodities from their own resources.

349. (1) Where necessary the council may pass a by-law authorizing the borrowing from a person, bank or corporation of such sums of money as the council considers necessary for the purpose of making the advances referred to in section 348.

(2) The municipality may repay any sum of money so borrowed to the lender together with interest at such rates not exceeding 7 per cent a year, and at such time or times, as is agreed upon between the municipality and the lender.

(3) The borrowing of any such sum of money shall not be for a longer period than three years and the borrowed sum or sums of money shall be repaid by annual payments equal to the sum obtained by dividing the principal by the number of years for which the loan is to run.

(4) There shall be paid out of the collection of taxes, current and arrears, in each of the years during which the loan is to run and as a first charge against the taxes the sum necessary to make the payment of principal together with such interest on the whole amount borrowed as is necessary, and consideration shall be given to the amount or amounts that have been repaid by the resident farmers who have obtained any such commodity.

350. No commodity shall be supplied to a purchaser or lessee of land without the consent in writing of the registered owner of the land.

351. A commodity shall be supplied only by the municipality or by an agent or agents of the municipality duly appointed for that purpose by resolution of the council.

352. The municipality shall charge the recipient of a commodity supplied such an amount and no more as it deems reasonably sufficient to cover the cost of the commodity and the expenses entailed by the purchase and distribution of the commodity.

353. (1) When the municipality advances a commodity the municipality shall take from the recipient thereof his note or notes for the price thereof.

(2) The notes mentioned in subsection (1)

(a) shall bear interest at the same rate as the rate of interest payable by the municipality in respect of borrowings made by the municipality for the purposes of this Act, and

(b) shall be payable on demand at the office of the treasurer of the municipality.

(3) A lien in the prescribed form shall be taken from the recipient of a commodity

(a) for a lien upon all crops grown or to be grown

(i) upon the land in respect of which the commodity is supplied, and

(ii) upon any other land farmed by the recipient, until all advances made pursuant to this Act together with interest thereon have been repaid, and

(b) for a charge

(i) upon the interest of the recipient in the land in respect of which the commodity is supplied, and

(ii) upon his interest in any other land.

354. Within 90 days of the making of an advance for the purpose of supplying a commodity to a person pursuant to this Act, the municipality

- (a) shall cause to be published in the *Gazette* a notice that an advance has been made for that person, and
- (b) shall register in the office of the proper land registration district the agreement for a lien.

355. The charge referred to in section 353 has precedence over all other encumbrances against the land except

- (a) taxes and sums that by law may be charged against the land in the same manner as taxes,
- (b) any mortgage
 - (i) that is a first registered encumbrance against the land at the time the lien is registered by the municipality, or
 - (ii) that, being registered at the time, subsequently becomes a first registered encumbrance by the discharge of previous encumbrances,
 and
- (c) sums remaining unpaid in respect of advances previously made under a statute providing for seed grain advances.

356. (1) Where within 90 days after the making of an advance pursuant to this Act the municipality causes to be published in the *Gazette* a notice to the effect that an advance has been so made and setting out the name and post office address of the recipient of the commodity there is created as from the date of the publication

- (a) a lien
 - (i) upon all crops grown from any seed supplied pursuant to this Act at any time within 12 months after the advance referred to in the notice, and
 - (ii) having priority over all claims and demands of whatsoever kind, nature or description, except liens that pursuant to *The Crop Liens Priorities Act* are prior to the lien created by this section,
 and
- (b) a lien
 - (i) upon all crops grown or to be grown
 - (A) upon the land in respect of which the commodity is supplied, and
 - (B) upon any other land farmed by the recipient,
 until all advances made pursuant to this Act together with interest thereon have been repaid, and

361. (1) Where the applicant for an advance for commodities pursuant to this Act is a person whose interest in the land that he farms is that of lessee or a homesteader or a purchaser under an agreement for sale, the municipality may require that the applicant give to the municipality a mortgage upon his livestock and its increase to secure the repayment of the amount of the advance with interest.

(2) *The Bills of Sale Act* applies to a mortgage mentioned in subsection (1)

- (a) except that the time for registration of the mortgage is 60 days instead of 30 days as prescribed by that Act,
- (b) except that section 13 of *The Bills of Sale Act* does not apply to the mortgage, and
- (c) except that no fee is payable upon the registration of the mortgage.

362. Where a mortgage is taken under this Act to secure an advance of feed or fodder for the feeding of any livestock that is subject to a prior mortgage, charge or encumbrance the mortgage has priority over every prior mortgage, charge or encumbrance upon the livestock.

363. An advance made pursuant to sections 348 to 366 shall be made to the recipient in kind and not otherwise and under no circumstances shall any money be advanced to the recipient instead of or in addition to the commodity supplied.

364. (1) Upon payment in full of the amount secured by the lien agreement the secretary-treasurer if so requested shall give a discharge of the lien agreement in the prescribed form.

(2) The discharge may be registered with the Registrar in the land titles office in which the agreement was registered.

365. A Registrar of land titles shall, without fee or charge,

- (a) receive and file a lien agreement delivered to him for filing pursuant to this Act,
- (b) make all necessary entries and memorandum with reference thereto, and
- (c) register each lien agreement and each discharge thereof.

366. No complaint shall be made and no information shall be laid with respect to an offence under sections 348 to 365 except within 12 months from the time when the matter of complaint or information arose.

367. (1) The council of a municipal district may pass a by-law for the purpose of entering into an agreement with any person for the provision of weather modification services to the municipal district or to a part or parts of the municipal district.

(2) No agreement made pursuant to subsection (1) is operative until the by-law authorizing the agreement has received the assent of

- (a) two-thirds of the proprietary electors of the municipal district or part thereof voting thereon in the manner provided in Part 4, when the total number of proprietary electors voting on the by-law is not more than 50 per cent of the total number of proprietary electors to vote thereon, or
- (b) a majority of the proprietary electors of the municipal district or part thereof voting thereon in the manner provided in Part 4, when the total number of proprietary electors voting on the by-law is more than 50 per cent of the total number of proprietary electors entitled to vote thereon.

(3) The expenses incurred under the agreement pursuant to subsection (1) shall be met by the levy and collection of a mill rate tax upon the physical land liable to assessment and taxation in that part or parts of the municipal district covered by the agreement.

(4) The rates shall be levied in addition to and together with the rate authorized for ordinary municipal purposes and they shall be a lien upon the property subject to the same penalties and collectible in the same manner as taxes.

(5) A by-law passed pursuant to this section shall be submitted to the proprietary electors not more than once in each calendar year.

(6) Notwithstanding subsection (5), in one calendar year and in that year only, two by-laws may be submitted to the proprietary electors if the weather modification services specified in the second by-law are to be carried out in a different year from the year specified in the first by-law.

368. (1) The council may pass by-laws respecting all matters pertaining to the acquisition, establishment, construction, control and operation of parks, athletic and exhibition grounds, including provision for the acquisition, construction and control of structures, equipment, machinery and fittings as may be necessarily required.

(2) The council may impose special taxes for all purposes set out in subsection (1) and may provide for the charging of admissions or the raising of funds as the council may decide.

(3) The council may by by-law appoint a recreation board to exercise such powers as may be set out in the by-law.

(4) The council may by by-law appoint a parks board to exercise such powers as the by-law vests in the parks board.

369. (1) A council may pass a by-law providing for the acquisition of land, the construction of buildings and the operation, regulation, maintenance and control thereof and for all other matters pertaining to the establishment of and assistance to music, art, libraries, museums and zoos as the council may determine.

(2) A council may pass a by-law for the establishment, acquisition, construction, operation, maintenance and control of any civic centre in such manner as the by-law provides.

370. A council may pass a by-law for the acquisition, construction, operation, control and maintenance of public markets and scales.

371. Where a by-law passed pursuant to section 368, 369 or 370 provides for a debt or liability not payable out of the current year's revenue, section 472 applies.

372. (1) The council may control and regulate all businesses carried on within the municipality including the manner of operation, the nature of operation and the location thereof, and may license any or all such businesses,

- (a) whether or not the business is mentioned elsewhere in this Act, and
- (b) whether or not the business has a business premises within the municipality.

(2) For the purpose of this Act a business includes any business, trade, occupation, employment, calling, industry or service

373. (1) The council may by by-law do all things with respect to the regulation of any business or industry including the licensing thereof, the restriction and limitation of its operations and any other matter considered necessary with respect to such businesses or industry including the right to impose a penalty and to prohibit the carrying on of any business or industry.

(2) Such power extends within the municipality to persons who carry on any business or industry partly within and partly outside the municipality.

(3) A licence fee may be in the nature of a reasonable tax for the privilege conferred by the licence or for the purpose of raising revenue and may be computed in any manner accepted by the council.

(4) In fixing a licence fee the council of any municipality shall, where applicable, have regard for the business tax payable by similar businesses in the municipality.

374. (1) The council may refuse to grant or may revoke any licence if in its opinion there are just and reasonable grounds for the refusal of the application or revocation of the licence.

(2) The council may delegate to the medical health officer the power to revoke the licence of any person who sells food or drink for human consumption within the municipality but who neglects or refuses to comply with the rules, orders or regulations of the Minister of Health or the by-laws of the municipality relevant to such business.

375. (1) Where a licence is revoked or surrendered the licensee is entitled to a refund of part of the licence fee.

(2) The refunds to be granted may be prescribed by the by-law.

(3) If there is no by-law the amount of the refund shall be in proportion to the non-expired part of the term for which it was granted.

376. (1) A council may pass by-laws providing for the licensing of mobile homes situated in the municipality.

(2) The licence fee to be imposed in respect of mobile homes pursuant to a by-law under this section shall not exceed \$120 a year or \$10 a month for each calendar month during which the mobile home is within the boundaries of the municipality.

(3) Where the council has passed a by-law for the licensing of mobile homes then as soon as the mobile home is used as a residence in the municipality the full amount of the licence fee for that portion of the licensing year then unexpired thereupon becomes due and payable unless the municipality and the owner of the mobile home have entered into an agreement whereby the licence fee is made payable by instalments in advance.

(4) Where the owner of a mobile home has paid the full annual licence fee imposed pursuant to this section and the mobile home is moved from the municipality or ceases to be occupied as a residence the owner upon application therefor shall be refunded one-twelfth of the annual licence fee for each full calendar month remaining in the year and during which the mobile home is not within the municipality or the mobile home is not occupied as a residence.

(5) A licence shall not be required in respect of a vacation trailer occupied by a *bona fide* tourist.

(6) A mobile home licence pursuant to a by-law under this section is not liable to assessment and taxation pursuant to *The Municipal Taxation Act*.

(7) A licence fee payable pursuant to this section is collectible as a debt due to the municipality.

377. The imposing or collecting of licence fees shall in no case be held to prevent the assessment of land held or used by the licence holders or the collection of taxes imposed thereon.

378. No municipality or municipal official shall issue a licence to anyone

- (a) as owner of a motor vehicle, chauffeur, dealer in motor vehicles or keeper of a garage, or
- (b) as auctioneer, or
- (c) as hawker or pedlar, or
- (d) as owner, proprietor, lessee, manager, agent or person in charge of a menagerie, circus, wild west show, trained animal show or similar show, or
- (e) as owner, proprietor, lessee or manager of a theatre, moving picture theatre, opera house, concert hall, dance hall, assembly room or other place of public entertainment or film exchange, or
- (f) as itinerant exhibitor of moving pictures, moving picture operator or operator's apprentice,

or to any other person required by law to obtain a provincial licence until the applicant has first produced the proper provincial licence and no licence issued by a municipality without such production is valid.

379. Where, in any prosecution or proceeding under a by-law providing for the licensing of any business, or of persons carrying on the business or engaged therein, it is alleged that the person proceeded against, carried on or engaged in the business without having first obtained a licence to do so, proof of one transaction in the business is sufficient to establish that the person proceeded against, carried on or engaged in the business.

380. Where a by-law for licensing has been passed and a licence fee imposed by the by-law is unpaid, the licensing officer may give notice in writing to any person by whom the licensee is employed and by the notice require that person to pay the licence fee out of moneys payable by him to the licensee and upon receipt of the notice by that person the amount of the licence fee to the extent of the money so payable shall be held to be a debt due by such person to the municipality and may be recovered as a debt due to the municipality.

381. (1) Every person carrying on or engaged in any business in respect of which a licence is required under this Act, upon request of a licence inspector, shall give to the inspector all information necessary to enable him to carry out his duties.

(2) A person carrying on or engaged in any such business who fails to furnish such information within 10 days from the date on which the request is made, is guilty of an offence and liable on summary conviction to a fine of not more than \$5 for every day during which the default continues.

382. The council may pass by-laws respecting trades and occupations including the qualifications, licensing, inspection and regulation of any and all trades and occupations and for the provision of penalties for infractions of such by-law.

383. (1) The council may pass by-laws for the licensing, regulation and control of the taxi business or any aspect thereof including the right to impose penalties with respect thereto.

(2) Subsection (1) does not apply with respect to motor vehicles kept for the purpose of being rented without a driver and classified as "DU" vehicles for the purpose of licensing under *The Public Service Vehicles Act*.

384. The council of any municipality may pass by-laws respecting all matters pertaining to the vendors of food and drink including the right to provide for and enforce penalties with regard to breaches thereof.

385. The council, subject to *The Public Health Act*, may pass by-laws for the control and regulation of slaughter houses, dairies or other industries producing or keeping any food, drink or other materials intended for sale for human consumption, including the right to impose penalties with respect to breaches of the by-law.

386. The council may pass by-laws licensing and regulating all places of amusement, entertainment or athletic contests of every kind and description and may by by-law prohibit amusements, entertainment or athletic contests as deemed necessary in the public interest and may provide for penalties for breaches of any by-law passed under this section.

387. The council may pass by-laws licensing and regulating salesmen and the sale of goods of all kinds and description and may provide for the imposition of penalties with respect to breaches of such by-laws.

388. The council may by by-law make provision for the licensing, control and regulation of any public hotel or other place of public accommodation and may provide for the imposition of penalties with respect to breaches of any such by-law.

389. The council may by by-law provide for all matters or things relating to the days and hours wherein shops or any class of shops shall be permitted to remain open or shall be required to close and for such purpose may exempt shops or any class of shops or one or more classes of shops designated as to size or type from any of the provisions of such by-law and may designate by type the merchandise that may be sold or exposed for sale during the hours such shops are permitted to be open.

390. The council, by by-law, may require that during the whole or any part of a holiday as defined in *The Interpretation Act, 1958* or of a day proclaimed as a civic holiday, all shops, businesses and industries or any specified class or classes thereof be closed and remain closed.

391. The council, by by-law, may impose a penalty not exceeding \$100 exclusive of costs, for the breach of a by-law relating to the closing of shops, businesses or industries, and may provide for punishment by imprisonment for any period not exceeding 60 days in case of the non-payment of the fine and costs imposed for any such breach unless the fine and costs, including the costs of committal are sooner paid.

392. (1) Notwithstanding anything contained in this Act, the council by by-law may

- (a) prescribe the hours of any day of the week when the following business premises or any class of such premises, namely, garages, filling stations, service stations, machine shops and implement shops shall be and remain closed, and
- (b) provide that certain designated business premises selected by a system of rotation or otherwise may remain open during the time when all such premises, or the premises of a specified class, are required to be closed.

(2) The council by by-law may authorize sales in emergencies or in other prescribed conditions during the hours when premises, or the premises of a specified class, are required to be closed under the provisions of this section.

(3) The by-law authorizing sales in emergencies or in other conditions may

- (a) prescribe conditions on which gasoline, oil and grease may be sold in or by garages, filling stations and service stations and in or by any of them, and
- (b) prescribe conditions on which services, material and parts may be sold or supplied by garages, filling stations, service stations, machine shops and implement shops or by any of them.

(4) Notwithstanding anything contained in this Act or in any by-law, and notwithstanding any system of rotation,

the council, in the case of garages, filling stations and service stations may exempt one or more designated garages, filling stations or service stations from the application of any of the provisions relating to closing contained in this Act or in any by-law, or system of rotation, as the case may be.

393. Where a by-law is passed pursuant to section 389, 390 or 392, the council may in that or another by-law prescribe the manner in which premises are to be kept closed and the circumstances under which premises are to be deemed to be open and not closed.

394. Nothing contained in this Act or in any by-law relating to closing time,

- (a) shall be deemed to apply to the sale of beer, wine or liquor in licensed premises in a hotel, or
- (b) shall be construed as authorizing the sale upon Sunday of any merchandise, the sale of which on that day is prohibited by the *Lord's Day Act* (Canada) or other Act.

395. (1) The mayor of a municipality may declare by proclamation that any one day of the year or any two half days shall be civic holidays.

(2) The council may, of its own motion, also declare another one day or another two half days as civic holidays.

396. (1) The council of any municipality may pass by-laws to carry out the provisions of *The Planning Act* and to regulate in every way the construction of buildings and may provide for the classification, alteration, repair, demolition or removal of buildings within the municipality or any part thereof as the council may deem necessary.

(2) In any by-law relating to the construction, erection, sanitation or use of buildings or other similar by-law, the council may

- (a) provide for the creation of an appeal board to deal with and adjudicate upon any question that may arise under the provisions of the by-law,
- (b) prescribe the duties and powers of the board, and
- (c) fix their remuneration and tenure of office.

397. (1) The council may pass by-laws

- (a) providing for the issuance of building permits for all or any part of a building, erection or structure to be erected, altered or repaired,
- (b) prohibiting the commencement of the erection, alteration, repair, demolition or removal of any building, erection or structure except in conform-

ance with the regulations pertaining thereto and unless authorized by permit, and

- (c) providing that the granting of a building permit shall not entitle the grantee, his successors or assigns or anyone in his or their behalf, to erect any building, erection or structure that fails to comply with the requirements of any building restriction agreement affecting the site described in such permit.

(2) Neither the municipality nor any of its officials shall be held liable for damages or otherwise by reason of the fact that a building, erection or structure, the erection of which has been authorized by permit, does not comply with the requirements of any such building restriction agreement.

398. (1) The council of a municipality may pass a by-law or by-laws to

- (a) prescribe standards for the maintenance and occupancy of property and prohibit the use of property that does not conform to the prescribed standards, and
- (b) require property that does not conform to the prescribed standards to be repaired and maintained to comply with the standards or the land thereof to be cleared of all buildings and structures and left in a graded and level condition.

(2) The by-law may provide that the municipal planning commission or the development control officer of the municipality may be authorized to act on behalf of the council of the municipality in the administration of the by-law.

(3) The by-law is not enforceable with respect to property until notice has been sent by registered mail to or served on the assessed owner and all persons shown by the records of the land titles office to have an interest in the property and upon the occupant thereof, if any, stating that the property does not comply with the standards prescribed in the by-law, and that repairs are required to be made thereto, giving reasonable particulars of the repairs required to be made, or that the land must be cleared and left in a graded and level condition and stating the time within which the repairs are to be made or the clearing is to be done, which shall not be less than 30 days, and that, if the repair or clearance is not so done within the time specified, the municipality may carry out the repair or clearance, and the cost of the work done may be levied against the property as a debt due to the municipality or charged against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

(4) A person entitled to notice under subsection (3) may, within 10 days of the receipt of the notice, appeal

- (a) to the development appeal board of the municipality, or
 - (b) where no development appeal board is established, to the council.
- (5) A person affected by a decision of the development appeal board under this section may, within 10 days after the receipt by him of the decision, appeal the decision to the council.
- (6) The development appeal board or the council, as the case may be, shall hold a hearing of each appeal and in determining the appeal it
- (a) may confirm, reverse or vary the decision appealed from, and
 - (b) may grant an extension of not more than one year from the end of the time specified in the notice given under subsection (3) within which the repairs are to be made or the clearing is to be done,
- but no extension shall be granted unless the development appeal board or the council is of the opinion that a refusal of the appeal would result in undue hardship and not more than two extensions may be granted in respect of any property.
- (7) A person affected by a decision of a council under this section may, within 10 days after the receipt by him of the decision, appeal the decision to the Appeal Tribunal.

399. (1) A council may pass a by-law for the purpose of entering into an agreement with any irrigation district for a supply of water for irrigation purposes within the municipality, upon such terms and conditions as the council may deem proper.

(2) Where a municipality enters into an agreement under this section it has all necessary power and authority to construct, maintain and operate any and all ditches, culverts and other works deemed necessary for the conveyance of water along or across any streets, lanes, highways or other public places within the municipality for the purpose of making water available for irrigation to such public places and private lands within the municipality as the council considers expedient, but no ditch or work shall be constructed along the portion of a street, lane or highway that may be graded for vehicular traffic and when a ditch or work is carried across a street, lane or highway, the street, lane or highway shall be protected by a suitably covered culvert.

(3) No ditch for conveying water for irrigation purposes shall be constructed, maintained or operated along a street, lane or highway until not less than two-thirds in number of the persons whose names appear upon the assessment role as owners in respect of all property abutting or facing on the street, lane or highway have signed a request for the same or a consent thereto.

(4) When, under the provisions of this section, a municipality enters into an agreement for a supply of water for irrigation purposes the council, upon the request of the persons whose names appear upon the assessment roll as owners of any property abutting or facing on a street, lane or highway along which the water is being conveyed, may furnish to the property such supply of water as the council may think fit, under such terms and conditions as the council may prescribe under section 386.

(5) A municipality and any other person who is the owner of land upon which water is conveyed for irrigation purposes under an agreement made pursuant to this section, or under a provision thereof, is liable only for damages when they are occasioned by water from a ditch used for the conveyance of water as aforesaid and the water escapes by negligence from any such ditch of the municipality or of the other person, or from the land on which the same is located and runs over the surface upon surface of other land.

(6) No municipality or other person as aforesaid is liable under any circumstances for damage caused by seepage into the soil or saturation of the soil by water conveyed or used for irrigation purposes or by the escape of such water otherwise than over the surface of the land.

(7) A municipality is in no case liable for loss or damage unless the loss or damage is occasioned by the escape of water, through the negligence of the municipality, from a ditch, culvert or other work constructed, maintained or operated by the municipality or from land owned and occupied solely for municipal purposes.

400. The council may grant any officer or employee who has been in the service of the municipality for 10 years who, while in such service has become incapable through age or illness of officially discharging the duties of his office, a sum not exceeding his aggregate salary for the last three years of his service as a gratuity upon his dismissal or resignation.

401. (1) The council, by by-law, may set up, contract for and maintain a pension or superannuation plan or a benefit fund either alone or in conjunction with any national or provincial plan for the benefit of

- (a) civic employees or any group thereof, or
- (b) members of the police force, or
- (c) employees of the fire department, or
- (d) employees of the hospital board, or
- (e) employees of the library board, or
- (f) employees of the exhibition board or association, or
- (g) employees of any other board or commission authorized pursuant to this Act,

or all or any of them, and for the benefit of their dependants or any of them, may classify the employees affected or any group thereof, as to age or otherwise, as may be deemed expedient, and may make adherence and contribution to such plan or fund compulsory or optional as to all employees or any group or class thereof.

(2) Any such pension or superannuation plan or benefit fund may require such contributions on the part of the members or employees and on the part of the municipality, as the council in its discretion may provide in the by-law, and the council may deduct the contributions of the members or employees from their salaries.

(3) A by-law passed under this section shall not be deemed to be a money by-law.

402. (1) The powers conferred upon the council by section 401 may be exercised either alone or jointly with the boards of trustees of school districts situated wholly or partly within the municipality in respect of their non-teaching staffs, the library board, the hospital board, the exhibition board or other board or commission authorized pursuant to this Act or with any one or more of them, each of the parties acting for and assuming responsibility only in respect of its own employees.

(2) A joint agreement made pursuant to this section may provide that any party thereto may withdraw therefrom subject to such conditions as may be specified in the agreement.

403. (1) Where the municipality establishes a pension or superannuation plan or a benefit fund, the money payable therefrom to an employee or to his estate, whether by way of annuity, death benefit or otherwise

(a) is not assignable, and

(b) is not subject to garnishee proceedings or attachment or seizure, except in respect of failure of the employee to account for public money or to pay a debt due to the municipality.

(2) Subsection (1) does not apply in respect of

(a) a refund of money from a pension or superannuation plan, or

(b) a refund of money from a benefit fund, to an employee on termination of his employment with the municipality and before qualification for pension, superannuation or benefits.

404. (1) The council may invest any surplus money standing to the credit of the funds in any of the investments authorized for insurance companies by the *Canadian and British Insurance Companies Act (Canada)*, as amended from time to time, and may sell, assign or transfer such

securities and reinvest the proceeds thereof or any part of the proceeds in like securities.

(2) The council, by by-law, may appoint trustees to carry out the provisions of subsection (1) and to keep an account of the investments for and on behalf of the pension or superannuation plan or fund.

(3) The council or the trustees, as the case may be, may borrow from any person or bank such sums as the council or trustees may deem necessary to meet the obligations of the funds and may give as security for such loan any investments or other assets held to the credit of the funds.

405. (1) The council, by by-law, may set up, contract for or otherwise institute a scheme of insurance for the purpose of insuring all or any employees referred to in section 401 against sickness, accident or death, as the case may be.

(2) Any such scheme of insurance may require such contributions on the part of the members or employees, and on the part of the municipality, as the council in its discretion may provide in the by-law, and the council may deduct the contributions of the members or employees from their salaries.

(3) A by-law passed under this section shall not be deemed to be a money by-law.

406. Where power is given to the municipality under this or any other Act to perform services or sell goods or lands, it shall be deemed to have and to always have had the same right as a private individual to take security for any debt owing to it and arising out of matters transacted in the exercise of such power.

407. The municipality may acquire, hold and dispose of real or personal property offered or transferred to it in partial or complete settlement or payment of, or a security for, any lien or charge or any right to a lien or charge on any taxes, licence fee or other indebtedness owing to the municipality.

408. (1) The council by by-law approved by the Lieutenant Governor in Council may adopt a crest or coat of arms for the municipality.

(2) A person who, without the authority of the council, assumes or uses the crest and coat of arms of the municipality, or any heraldic emblem so nearly resembling the same as to be calculated to deceive, is guilty of an offence and liable on summary conviction to a fine of not more than \$50 for every day during which the offence continues.

409. The council may provide for taking the census of the municipality.

410. The council may provide for the submission to the electors or proprietary electors any municipal question or plebiscite not specifically authorized by this Act.

411. (1) The council may by by-law appoint any board, association, commission or other organization that is deemed desirable for the purpose of managing and operating or advising in the management and operation of any branch or department of the municipality's service and in the extension and improvement thereof.

(2) There shall not be delegated to any such board, association, commission or other organization the right to appropriate or expend any public moneys other than such moneys voted by the council as are necessary for the carrying on of the secretarial and other administrative functions of the organization.

(3) The constitution, duties, powers and functions of the board, association, commission or other organization and all necessary provisions with reference to administration may be prescribed in the by-law or by-laws appointing it.

(4) If it is reported to the council that any person appointed by the council as a member of any board, association, commission or other organization has been absent from three consecutive meetings of that organization, the council may terminate his appointment and may appoint another person in his stead, and council may terminate the appointment of any member at any time for cause.

412. (1) The council may, with the approval of the Local Authorities Board, exercise such powers of an insurance company pursuant to *The Alberta Insurance Act* as will enable the council to establish and maintain a plan of insurance to cover losses that may occur to the property of the municipality by reason of fire and other occurrences and to cover the municipality's legal liability to others arising out of accidents and occurrences, and to adjust and settle any loss, whether on a strictly legal basis or otherwise.

(2) The council may do all things necessary for the proper conduct and handling of the business of insurance, including re-insurance of any of such risks as may be covered by such plan with any insurance company lawfully authorized to deal in re-insurance risks.

(3) The council may make application for incorporation of a company to be known as "The Municipal Insurance Company Limited" or such other similar name as council may choose, and may provide for setting aside the necessary capital therefor from time to time and for depositing with the Government any money or security that *The Alberta Insurance Act* may require and for otherwise complying with all the provisions of *The Alberta Insurance Act*.

413. Where a municipality is the owner of any mineral, including gas and oil, the council may

- (a) test, explore, mine or drill for and recover such minerals, including gas and oil,
- (b) deal in, lease, sell or dispose of any such minerals in such manner as the council deems to be in the best interest of the citizens,
- (c) enter into agreements with any person to carry out, either in association with or on behalf of the municipality, any or all of the activities specified in clause (a),
- (d) enter into an agreement with any person owning mineral rights adjacent to mineral rights owned by the municipality for the joint conduct of operations to recover such minerals including gas and oil or with respect to the sharing of the proceeds of the minerals recovered from the adjacent parcels,
- (e) generally do all acts or things collateral or incidental to the exercise of any of the powers granted by this section, and
- (f) apply for the incorporation of a company, pursuant to *The Companies Act*, to be known as "The Minerals Rights Development Company Limited" or by such other name as the council may choose, to carry out any or all of the powers or purposes referred to in this section.

414. The council may pay for or towards the reception or entertainment of guests, travelling or other expenses incurred in respect of matters pertaining to or affecting the interests of the corporation or the celebration of events or matters of national interest or importance.

415. The council may pay for or towards the diffusion of information respecting the advantages of the municipality as a manufacturing, business, educational or residential centre.

416. A council, by by-law or resolution, may take all proceedings, make all expenditures and do all other things that may be necessary to implement the provisions of the *Veterans' Land Act* (Canada) for the establishment of veterans on land within the municipality, and for that purpose

- (a) may make all necessary agreements with the Government of Canada or of Alberta or any other person or corporation, and
- (b) may acquire any land or real property necessary therefor by purchase, gift or otherwise and by expropriation proceedings pursuant to *The Expropriation Procedure Act*.

417. The council may enter into an agreement with the council of any other municipality for the purpose of assisting such municipality in the administration or supervision of any matters of common concern, such as health, sanitation, fire protection, police protection, building restrictions or zoning, upon such terms and conditions as the council deems expedient, and any such agreement is valid and binding upon the municipality and upon any municipality entering into such an agreement.

418. When any personal property acquired by a municipality for any purpose authorized by this Act is no longer required, the municipality may dispose of it and until the property is sold, may rent or lease it.

419. No property owned by the municipality under the authority of this Act is liable to seizure by way of distress for rent.

420. The Minister may prescribe the forms used for a receipt, notice, return, statement or other form whatsoever used by a municipality and upon a form being prescribed the municipality shall use it.

421. (1) In the case of a municipal district the council shall as soon as practicable in each year prepare a detailed estimate in prescribed form of the probable expenditures of the municipal district for the year, and council

- (a) shall cause to be prepared a report or reports in the prescribed form setting out the works of a public nature that are recommended to be undertaken throughout the municipal district, and
- (b) for that purpose may appoint such person or persons as the council by resolution determines.

(2) Upon receipt of the recommendation, the council at its discretion shall determine the works that will be undertaken, and the amount that will be expended thereon, and by resolution shall authorize the location of the works and the amount of the expenditures in connection therewith.

(3) In determining the work to be undertaken and the amounts to be expended thereon the council shall consider the municipal district as a single unit, and shall not consider electoral divisions as a basis for the distribution of expenditures on public works and no accounts of a municipal district shall be charged or maintained against electoral divisions.

(4) Except in a case of sudden and urgent necessity, no public work shall be undertaken or expense incurred in connection therewith until the resolution authorizing the expenditure has been passed by the council as provided by subsection (2).

(5) No grant by the Province to a municipal district to be expended on public works therein shall be disbursed until a resolution as required by subsection (2) has been passed by the council, unless the Province is making the grant otherwise directs.

(6) A grant by the Province to a municipal district to be expended on public works therein

- (a) shall not be distributed for expenditure on the basis of electoral divisions,
- (b) shall be deposited in the general revenue fund of the municipal district, and
- (c) shall form a part of the funds estimated to be expended as provided by subsections (2) and (3).

422. A council may by by-law provide for the planting and protecting of trees, shrubs, grass and flowers on any highway or public place.

423. (1) The council by by-law may provide for the imposition of a tax on persons who are in legal possession of equipment when the equipment is engaged in the drilling of any well for which a licence is required under *The Oil and Gas Conservation Act* or in legal possession of equipment capable of or designed for drilling a gas or oil well when the equipment is engaged in servicing a gas or oil well.

(2) The tax shall be computed in accordance with a schedule which may be established by the Lieutenant Governor in Council.

(3) The treasurer in writing may require any owner, conditional owner or lessee of drilling equipment to supply such information as may be necessary to compute the tax.

(4) The tax may be imposed at any time during a calendar year and becomes due and payable upon cessation of the drilling or servicing operation and may be recovered with costs and with interest as a debt due to the municipality from the owners, conditional owners or lessees of the equipment.

(5) When taxes imposed by a by-law passed under this section remain unpaid for a period of 30 days after the cessation of the drilling or servicing operation the treasurer or any person appointed by him in writing may levy the taxes with costs by distress.

(6) This section does not apply in respect of any equipment licensable under *The Mobile Equipment Licensing Act*.

424. (1) Any municipal council may by by-law provide

- (a) for the authorization of one or more councillors together with such officials as may be designated to execute agreements or documents and to affix the

municipal seal thereto, and all such agreements or documents executed pursuant to such by-law shall be valid and binding upon the municipality as though passed and executed by the council,

- (b) for the appointment of one or more members of council together with such manager, commissioners or other officials as shall be named therein as an executive committee and may delegate to and empower such committee to carry out such duties as the by-law may specify with authority to make decisions, enter into contracts or make orders as such committee may decide upon and all decisions, contracts and orders so made shall be as valid and enforceable as if made by council,
- (c) for the appointment of such additional committees pursuant to clause (b) as council may from time to time provide,
- (d) for the appointment of a member of council, a manager, commissioner or other official or any one or more of them with authority to deal with any matter delegated by the by-law to such person or persons including the granting to such person or persons authority to act and make decisions and enter into contracts with respect thereto, and all actions, decisions or contracts made or entered into pursuant to such a by-law shall be as valid and binding upon the municipality as if made or entered into by the council, and
- (e) for the amendment of the proceedings of council, the procedures for carrying out the business of the council, and the delegation of authority to any councillor or councillors, any official or employee as the council may consider advisable, and any act, decision, order or agreement made pursuant to such by-law shall be as effective and valid as if passed by the council.

(2) Any by-law passed pursuant to this section may be amended or rescinded at any time but without affecting the validity of any act, order, decision or agreement made during the period when the by-law was in effect.

425. (1) The mayor when required by a resolution of council to do so shall call a meeting of the electors or proprietary electors, as required by the resolution, for the discussion of any question or matter that, in the opinion of the council, is of public importance.

(2) Except as provided in subsection (3), the mayor, if so requested at any time by a written petition of not less than

- (a) 2 per cent of the total population shown in the last census, in a municipality having a population of 10,000 or over, or

- (b) 4 per cent of the total population shown in the last census, in a municipality having a population of more than 1,000 but less than 10,000 persons, or
- (c) 6 per cent of the total population shown in the last census, in a municipality having less than 1,000 persons,

shall call a public meeting of the electors for the discussion of the matters for which such meeting was petitioned and shall announce by publication, poster or otherwise the purpose of such meeting and the time and place thereof.

(3) The date fixed in the notice for the meeting shall not be more than 30 days from the date of the receipt of the petition.

(4) The notices of such meeting shall be posted in at least three conspicuous places in the municipality or published in two issues of a newspaper having general circulation in the municipality at least seven clear days before the date fixed in the notice for the meeting.

(5) If, in the opinion of the mayor, the municipal matter in respect of which a meeting is requested pursuant to subsection (2) is not of general public importance or interest, he shall refer the petition to the council and if the council, by a majority of not less than two-thirds of the members present, votes against the calling of the meeting the meeting shall not be called.

426. The council in the case of a question or a by-law other than a money by-law

- (a) may, of its own motion, or
- (b) shall, on receipt of a petition signed by such number of the electors representing in total, on the basis of the latest census, at least
 - (i) 2 per cent of the population in a municipality having a population of 10,000 or more persons, or
 - (ii) 4 per cent of the population in a municipality having a population of less than 10,000 persons and more than 1,000 persons, or
 - (iii) 6 per cent of the population in any municipality having a population of less than 1,000 persons,

submit the question or by-law to a vote of the electors and the provisions of this Part apply to the taking of the vote thereon.

427. (1) Every city, town and every village shall at a place named by council have an office within the corporate limits of the city, town or village.

(2) Every county and municipal district shall have an office at a place selected by the council.

- 428.** (1) Any elector at all reasonable times can inspect
- (a) any contract, account or by-law,
 - (b) any report of the commissioners, or of any committee or of any official of the municipality after it has been submitted to the council, other than an opinion or report of the municipal solicitor or of any counsel engaged by the municipality,
 - (c) the minutes of council after they have been adopted by the council, and the municipal secretary shall within a reasonable time after demand by an elector, furnish him with copies of any such documents or parts thereof at the rate of 25 cents per 100 words, each figure to be counted as one word, and
 - (d) any audited financial report or abstract thereof, and such elector may by himself or his agent and at his own expense take a copy thereof or extracts therefrom.
- (2) The council may provide for supplying of a printed copy of the abstract or auditor's report and may provide for the sale of the same at such price as the council may fix.

PART 8

PUBLIC UTILITIES

- 429.** (1) A council may by by-law
- (a) build, erect, extend, buy or lease in whole or in part any public utility within its own boundaries or without the municipality with the approval of such other municipality and control and operate it subject to *The Public Health Act* with respect to any waterworks or sewage plant,
 - (b) build, erect, buy or lease any machinery, equipment or appurtenances or things needed in any way for any utility,
 - (c) authorize the mayor and the municipal secretary to enter into an agreement or agreements with any other municipality or person for the purpose of transmitting, distributing or collecting electric light, heat, power, water, sewerage, natural gas or gas, or the operation of these facilities between a plant operated pursuant to the by-law and a plant of such other municipality or person carrying on similar operations, and
 - (d) purchase stock in any incorporated company carrying on or formed for the purpose of carrying on any public utility.
- (2) A by-law passed pursuant to subsection (1) may provide

- (a) for the distribution within the boundaries of the municipality or any part thereof of electric light, heat, water, power, natural gas or gas and for operation of a sewerage system,
 - (b) for the delivering of an account of indebtedness and the collection of all accounts owing from all persons served therewith as debts owing to the municipality, and
 - (c) for the making of contracts by the council with such persons on such terms as the council considers proper.
- (3) In order to carry out any of the purposes referred to in subsection (1) when authorized, the council may acquire any lands, either within or without the municipality and enter into any contract necessary for the proper carrying on of the business to which the by-law refers.
- (4) In the case of a natural gas distribution system the council may enter into a contract for drilling for natural gas or to acquire a natural gas well either within or outside a municipality.
- (5) Before or immediately after the first reading of any by-law authorized by subsection (1), the by-law shall be submitted to the Public Utilities Board for approval.
- (6) The approval of the Public Utilities Board is a condition precedent to the final passing of the by-law .
- (7) If the by-law is approved by the Public Utilities Board it shall be proceeded with in the same manner as set out in section 472 with respect to advertisement of the by-law and the filing of a petition by the proprietary electors.
- (8) An extension, rehabilitation, re-equipment or improvement to a public utility acquired under this section may be proceeded with without the consent of the proprietary electors if the cost of the extension, rehabilitation, re-equipment or improvement involves an expenditure of not more than 50 per cent of the original cost thereof and is approved by a by-law passed by two-thirds of the members of the council and is approved by the Local Authorities Board.

430. Any public utility may be constructed, built, purchased, improved, extended, held, maintained, managed and conducted, either separately or as a distinct undertaking, or with one or more such works combined as one undertaking.

431. The municipality may sell, lease or dispose of all fittings, machines, apparatus, meters or other things used in connection with any public utility carried on by it together with every product, refuse or residue resulting from the conduct of any such public utility.

432. The municipality may employ superintendents, engineers, surveyors, technicians or other personnel as may from time to time in the opinion of the council be necessary or expedient to properly operate the utility.

433. (1) Subject to *The Public Utilities Board Act*, *The Gas Utilities Act* and *The Power Commission Act*, the municipality may supply any person outside the municipality with a public utility upon special terms, and may exercise all other powers necessary to the carrying out of its agreement with such person as well outside the municipality as within the municipality.

(2) Where the supply of a public utility is to be made in another municipality, no pipes poles or wires for that purpose shall be carried in, upon, through, over or under any highway or public street, lane, road or passage within the other municipality without the consent of the council of that other municipality.

(3) Where there is a dispute between the municipality and any other municipality in connection with any public utility construction work that is being carried on within the boundaries of that other municipality, the dispute may be submitted to the Public Utilities Board for an order upon such terms and conditions as to the Board seems proper.

(4) Where there is a dispute between the municipality and any other municipality in connection with the rates, tolls or charges, the dispute may be submitted to the Public Utilities Board for an order upon such terms and conditions as to the Board seem proper.

(5) Subsection (4) applies whether or not a public utility is subject to the control and order of the Public Utilities Board pursuant to section 102 of *The Public Utilities Board Act*.

434. (1) A council may pass by-laws

- (a) for the general maintenance or management or conduct of any public utility constructed or maintained, and of the officers and others employed in connection with them,
- (b) fixing in connection with public utilities, such rates, charges, tolls, fares and rents and the times and places where they will be payable and providing for such discount as the council considers expedient for prepayment or punctual payment, or an additional percentage charge not exceeding 10 per cent of the rates, tolls, fares or rents in arrears as the council considers advisable for failure to pay them until after the date fixed for payment,
- (c) providing for the rent of fittings, machines, apparatus, meters or other things leased to consumers,

- (d) providing for the collecting of the rates, charges, tolls, fares or rents in connection with any public utility, and
- (e) providing for enforcing payments of such rates, charges, tolls, fares or rents by all or any of the following methods, namely:
 - (i) by action in any court of competent jurisdiction, or
 - (ii) by shutting off the utility being supplied to the consumer or discontinuing the service thereof, or
 - (iii) by distress and sale of the goods and chattels of the person owing such rates, charges, tolls, fares or rents wherever they may be found in the municipality, or
 - (iv) by a lien against the property and subject to the same penalties and collectible in the same manner as taxes.

(2) Before proceeding under subclause (iv) of clause (e) of subsection (1), the municipality shall, by registered mail, give at least 10 clear days' notice to the person who is the owner or purchaser of the property of the intention of the municipality to charge unpaid utility accounts against the property and of the amount to be charged.

435. (1) The distress and sale for rates, charges or rents shall be conducted in the same manner as sales are conducted for arrears of taxes and the costs chargeable are those payable under *The Seizures Act*.

(2) An attempt to collect the rates or rents by any such process does not in any way invalidate any lien the municipality is entitled to upon the premises in respect of which the indebtedness is incurred.

436. A council may pass by-laws authorizing the discontinuance of a telephone service supplied by the municipality to any person while any toll or charge payable by the person to the Alberta Government Telephones for long distance telephone service remains unpaid.

437. Any user of a public utility being aggrieved respecting service charges, rates and tolls made to such user may by application appeal to the Public Utilities Board and the Board, if satisfied that such service charge

- (a) does not conform to the public utility rate structure established by the municipality, or
- (b) has been improperly imposed, or
- (c) is discriminatory,

may make an order varying, adjusting or disallowing the whole or any part of such charge.

438. For the purpose of any public utility, the municipality may sink and lay down pipes, wells, tanks and reservoirs and erect poles, wires, acquire or erect structures, and other conveniences together with shafts, dams, buildings and machinery as may be necessary or expedient and to alter all or any of the works both as to position and construction as it considers advisable.

439. (1) For the purpose of inspecting, repairing or placing meters upon any service pipe or connection within or without any house or building as is considered expedient, an official authorized by the municipality for that purpose shall have free access, at proper hours of the day and upon reasonable notice given and request made, or, in the case of the written authority of the mayor given in respect of the special case, without notice, to all parts of every building or other premises in which water, telephone, gas, electricity or heat is delivered and consumed or that is served by a sewer.

(2) For the purposes set out in subsection (1) or for the purpose of protecting or regulating the use of such meter, or other equipment, any official authorized by the municipality, may set or alter the position of it or of any pipe, wire connection or tap.

(3) The municipality may fix the price to be paid for the use of a meter and the times when and the manner in which the same will be payable, and may also charge for and recover the expenses of such alterations, and such price and expense of such alterations may be collected in the same manner as water rates.

440. Where any consumer discontinues the use of any public utility furnished by the municipality, or the municipality lawfully refuses to continue any longer to supply it, any authorized official or servant of the municipality may at all reasonable times enter the premises in or upon which such consumer was supplied with the public utility for the purpose of removing therefrom any fittings, wires, machines, apparatus, meters, pipes or other things that are the property of the municipality in or upon such premises and may remove it therefrom, but he shall do no unnecessary damage.

441. The municipality, its engineers, servants and workmen, from time to time and at such times as the council considers fit, may enter into and upon, take or use by expropriation under *The Expropriation Procedure Act*, the land of any person, bodies politic or corporate in the municipality or within 10 miles thereof, and may survey, set out and ascertain such parts thereof as are required for the purposes of any public utility that the municipality is empowered to construct or operate, and

may contract with the owners or occupants of the land and any person having a right or interest therein for the purchase or renting thereof, or of any part thereof, or of any privilege that may be required for the purpose of the public utility, at the option of the municipality.

442. (1) The municipality and the servants under its authority may, for the purposes set out in this Part, enter and pass upon and over any such lands, and may cut and dig up the lands, if necessary, and may lay down pipes, excavate ditches, erect poles and wires through the lands, and in, upon, through, over and under the highways, streets, lanes, roads, squares, bridges or other passages, whether it is within the municipality or not, and for such purposes may break up, dig and trench it.

(2) For the purpose of taking up, examining or repairing and otherwise maintaining any public utility, the municipality may exercise the same power as set out in subsection (1).

(3) Any power given to the municipality under this section may with regard to private property be exercised with the consent of the owner thereof.

443. (1) All lands not being the property of the municipality and all highways, streets, lanes, roads, squares, bridges or other passages so dug up or interfered with shall be restored to their original condition without unnecessary delay, or compensation shall be paid therefor.

(2) The municipality may enter upon, set out, ascertain, purchase, use and occupy such parts of the land as the municipality thinks necessary and proper,

- (a) for the making and maintaining of a public utility, and
- (b) for the taking up, improving, moving, altering or repairing it, and for enabling it to be used by the municipality or by the inhabitants thereof.

444. (1) Where different parts of a building belong to different tenants or lessees, the municipality may carry pipes or wires to any part of the building passing over the property of one or more proprietors, or in the possession of one or more tenants, to convey any public utility to the property of another or property in the possession of another.

(2) Such pipes or wires shall be carried up and attached to the outside of the building unless consent is obtained to carry the same inside.

Respective Rights and Duties of Municipality and Consumers

445. (1) Utility service pipes or sewers that may be required shall be constructed and laid down up to the outer

line of the street by the municipality and the municipality is solely responsible for keeping them in repair.

(2) Service connections from the outer line of the street into private property shall be made by the municipality to a point designated by the owner, on payment by the owner of the charges therefor and the owner becomes solely responsible for the repair and maintenance of the service connections that lie within his property.

446. Where vacant space intervenes between the outer line of the street and the wall of the building or other place into which the public utility is to be taken or with which the sewer is to be connected, the municipality may, with the consent of the owner, lay the service pipe or sewer connections across the vacant space and charge the cost thereof to the owner of the premises, or the owner himself may lay service pipes or sewers if it is done to the satisfaction of the municipality or person appointed by it in that behalf.

447. The expense incidental to the laying, connecting, disconnecting or repairing of service pipes or sewers when the work is done by the municipality beyond the outer limit of the street, or the expense of superintending the work when it is done by any other person, is payable by the owner on demand of the municipality, and if not paid may be collected forthwith in the same manner as water rates.

448. (1) All service pipes or sewers to the interior face of the outer walls of the building supplied, together with all branches, couplings, stop-cocks and apparatus placed therein by the municipality are under its control.

(2) If any damage is done to that portion of the service pipes or sewer or its fittings, either by neglect or otherwise, or if the sewer becomes obstructed in any manner between the inner surface of the wall of the building supplied and the outer line of the street, the occupant or owner of the land shall forthwith repair it to the satisfaction of the municipality.

(3) In default of his so doing, whether notified or not, the municipality may enter upon the lands where the service pipes or sewers are situated and by its officers, agents or servants repair it and charge the cost to the owner of the premises as hereinbefore provided.

449. A stop-cock placed by the municipality inside the wall of the building shall not be used by the public utility user except in cases of accident or for the protection of the building or the pipes or to prevent the flooding of the premises.

450. Persons supplied with water by the municipality may be required to place only such taps for drawing and shutting off the water as are approved of by the municipality.

451. (1) The municipality shall regulate the distribution and use of water in all places and for all purposes where it may be required.

(2) The municipality may erect such number of public hydrants and in such places as it considers fit and direct in what manner and for what purposes hydrants will be used, and may fix the rate or rent to be paid for the use of water from hydrants or fire plugs and by public buildings.

452. Where the municipality has constructed any public utility and where there is a sufficient supply thereof, the city shall supply, upon such terms as the council considers advisable, any building within the municipality and situated upon land lying along the line of the public utility, upon the supply being requested by the owner or occupant or other person in charge of the building.

453. (1) The council with the approval of the Public Utilities Board may enter into a contract with a person undertaking to provide the municipality or the residents of a municipality or in any specified part thereof with a supply of all or any of the following, namely: telephones, transportation, light, power, natural and artificial gas, water and heat, and confer a special franchise upon that person in respect of the subject matter of the contract or may let the contract without special franchise, and in either case a contract shall not be for any period in excess of 20 years.

(2) When a person undertakes to provide a community antenna television system to the residents of a municipality, then a contract may confer a special franchise upon the person for a period not in excess of 20 years.

(3) A by-law passed by a council under subsection (1) or (2) shall only be made operative upon section 472 being complied with.

(4) Where a municipality owns, controls, maintains and operates or conducts any public utilities for the supply of all or any of the services mentioned in subsection (1) or (2), the council with the approval of the Public Utilities Board may enter into a contract with any person to supply additional quantities of any such services for the use of the municipality and for the security and protection of service to its utility consumers for any period not exceeding 20 years.

(5) Without restricting the generality of subsection (4), any such contract may include provision for the supply of

- (a) standby service in the event of failure of the municipality's facilities,
- (b) peak or base load and reserve supply, and
- (c) interchange and ancillary services.

(6) If the by-law authorizing the execution of a contract for the supply of light, power, gas, natural gas or water only to persons resident in a specified part or parts of the municipality, then only the proprietary electors of the specified part or parts are entitled to petition for a vote or to vote on such by-law.

(7) The by-law and contract shall provide specifically that the municipality will be under no liability or obligation to do any act or thing whatsoever in relation to the privileges granted thereby that will cause any increase in the tax rate or any other levy which is made annually by the council.

(8) When pursuant to this or any other Act, a new town or village has reverted to the status of a hamlet, a special franchise with respect to the area, or a contract for the supply of light, power, natural gas or water to persons in the area, that has been conferred or entered into by the governing authority previously having jurisdiction in the area and that has become operative therein shall be deemed to have been conferred on and entered into on its original date by the council of the municipal district in which the hamlet is situated and to have become operative therein, and section 454 applies, the necessary changes being made, to the special franchise or contract.

454. (1) Application for the approval by the Public Utilities Board of any special franchise or other contract entered into pursuant to subsection (1) of section 453 or pursuant to a municipal charter, or any renewal thereof as hereinafter provided, shall be made to the Board prior to or forthwith after the first reading of the by-law.

(2) Any such contract, whether or not it contains an express provision to that effect, is subject to the following conditions, namely,

- (a) that at or before the expiration of the term thereof, and after the expiration of the term if the contract has been continued in force under subsection (3), the contract may be renewed for a period not exceeding 10 years from the date of the renewal and so on from time to time with such alterations, if any, as may be agreed upon by the parties and approved by the Public Utilities Board, and
- (b) that, if either party refuses to renew the contract, or if the parties fail to agree as to the conditions of the renewal, then the council, subject to the

consent of the Public Utilities Board, may purchase all the rights of the contractor in all matters and things under the contract and in all apparatus and property used for the purposes thereof, for such price and on such terms as may be agreed upon with the contractor in all matters and things under the contract and in all apparatus and property used for the purposes thereof, for such price and on such terms as may be agreed upon with the contractor, or failing such agreement, then for such price and on such terms as may be fixed and settled by the Public Utilities Board on the application of either of the parties.

(3) If any such contract is not renewed on or before the expiration of the original term, or of any renewal thereof, by express agreement of the parties as aforesaid, or if the council does not complete the purchase of the subject matter thereof as hereinbefore provided, then the contract continues in full force and effect until such time as either party terminates it on six months' written notice given to the other with the approval of the Public Utilities Board.

(4) When pursuant to this or any other Act, an area is or has been heretofore incorporated as, or annexed to, or included in a municipality, a special franchise with respect to the area, or a contract for the supply of light, power, natural gas or water to persons resident in the area, that has been conferred or entered into by the governing authority previously having jurisdiction in the area and that has become operative therein shall be deemed to have been conferred or entered into on its original date by the council of the new municipality and to have become operative therein and sections 453 and 454 apply, the necessary changes being made, to the special franchise or contract.

455. (1) A municipality may enter into an agreement with the holder of a special franchise whereby the municipality accepts payment of an amount equal to a fixed percentage of the gross revenue of the special franchise from such holder in lieu of taxing the special franchise, lands, improvements, pipe lines, works and transmission lines, machinery, equipment and apparatus belonging to and used by the special franchise holder in the operation of such special franchise.

(2) The provisions of *The Municipal Taxation Act* shall not be construed so as to abrogate the conditions of any subsisting special franchise agreement.

456. (1) The municipality shall do as little damage as possible in the execution of the powers granted to it by this Act and shall make reasonable and adequate satisfaction to the owners, occupants or other persons inter-

ested in the lands, waters, rights or privileges entered upon, taken or used by the municipality, or injuriously affected by the exercise of its powers.

(2) In the case of disagreement, the compensation or damage shall be ascertained by the Public Utilities Board subject to any provision of this Act.

457. The municipality is not liable for damages,

- (a) caused by the break of any public utility main, service pipe or attachment, or for the bursting of any ditch, or
- (b) caused by the interference of any supply of any public utility necessary in connection with the repair or proper maintenance of the public utility, or
- (c) generally for any accident due to the operation of any public utility,

unless such action has been shown to be directly due to the negligence of the municipality or its employees.

458. (1) Where the occupant is the owner or purchaser of a house, tenement, lot or part of a lot, the sum payable by him for the public utility supplied by the municipality to his or for his use and all rates, costs and charges imposed under any by-law passed under this Part are a preferential lien and charge on the house, tenement, lot or part of a lot and on the personal property of the debtor and may be levied and collected in like manner as municipal rates and taxes are recoverable.

(2) Where the occupant to whom the public utility has been supplied is a person other than the owner or purchaser of the house, tenement, lot or part of a lot, the sum payable by the occupant is a debt due by him and shall be a preferential lien and charge on his personal property and may be levied and collected with costs by distress.

459. (1) In the event of the rate or rent remaining uncollected and unpaid and continuing a lien upon the premises as aforesaid, the collector shall make a return showing the amount of the rent or rate so in arrears, together with all costs and charges in connection therewith.

(2) The return shall be made by the collector to the municipal secretary at least once in every year and on such day or days as may be fixed by the council or by the by-law in that behalf.

(3) The rate or rent, together with interest thereon at a rate which shall be fixed by the council and which shall not be greater than 10 per cent a year, shall be collected by the treasurer by the sale of land and premises in the same manner and subject to the same provisions as in the case of a sale of land for arrears of municipal taxes.

(4) Any public utility expenses, rates or rents that may be charged as taxes against a person may be entered on the assessment and tax roll at any time.

460. (1) The council may

- (a) employ the ordinary collectors and assessors and such other persons as in its opinion may be necessary to carry out the objects of this Part, and
- (b) specify their duties and fix their compensation.

(2) All such persons shall hold their offices at the pleasure of the council or as the council shall determine by by-law in that behalf.

(3) All such persons shall give such security as the council from time to time requires and any premium payable therefor shall be paid by the municipality.

(4) Such assessors and collectors, in the performance and enforcement of the matters committed to them, have the full powers that the assessors and collectors of the municipality may by by-law possess and enjoy in respect of municipal taxes.

461. Any municipality may, with the approval of the Public Utilities Board, extend its transportation system beyond the boundaries of the municipality.

462. (1) A municipality may, under a by-law of any adjoining municipality, exercise the like powers within the adjoining municipality as it may under this Part exercise within the municipality, upon such terms as may be agreed upon.

(2) The adjoining municipality may either require the municipality to pay a sum in gross or annually for the privilege, or may pay a sum to the municipality in gross or annually therefor.

463. (1) The council may make by-laws prohibiting any person who is a tenant, occupant or inmate of any house, building or other place supplied with water from the waterworks

- (a) from lending, selling or disposing of the water thereof, or
- (b) from giving it away or permitting it to be taken or carried, or
- (c) from using or applying it to the use or benefit of others or to any other than his own use and benefit, or
- (d) from increasing the usage of water beyond that agreed upon with the municipality, or
- (e) from wrongfully or improperly wasting the water.

(2) The by-law may provide that any person who contravenes the by-law may forfeit the right to be supplied with water and shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

464. No member of the council shall personally have or hold any contract in connection with any public utility under this Act or be directly or indirectly interested in it or any of them.

465. All persons who by themselves, their servants or agents, by act, default, neglect or omission occasion any loss, damage or injury to any public utility constructed under this Act or to any plant, machinery, fitting or appurtenance thereof, are liable to the municipality for or in respect of the damage, loss or injury, and damages in respect thereof may be recovered by the municipality in any court of competent jurisdiction.

466. If any person

- (a) wilfully or maliciously hinders or interrupts or causes or procures to be hindered or interrupted, the municipality or its contractors, servants, agents, workmen, or any of them, in the exercise of any of the powers and authorities relating to public utilities and authorized by or contained in this Act, or
- (b) wilfully or maliciously lets off or discharges water or gas or heat so that it runs waste or useless, or
- (c) not being in the employment of the municipality and not being a member of the fire department and authorized in that behalf, wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stop-cock, chamber pipe or hydrant chamber by placing on it any building material, rubbish or other obstruction, or
- (d) throws or deposits any injurious, noisome or offensive matter into the water or waterworks or upon the ice in case such water is frozen or in any way fouls the water or commits any wilful damage or injury to the works, pipes or water or encourages the same to be done, or
- (e) wilfully alters any meter placed upon any service pipe or connected therewith within or without any house, building or other place so as to lessen or alter the amount of water, gas, electricity or heat registered thereby, unless specially authorized by the municipality for that particular purpose and occasion, or
- (f) lays or causes to be laid or attached any pipe or main or wire or rod to communicate with any pipe or main or wire or rod of the public utility or in

any way obtains or uses any water, gas, electricity or heat thereof without consent of the municipality, or

(g) washes or cleanses cloth, wool, leather, skin or animals or places any nuisance or offensive thing within the distance of one mile above the source of supply for such waterworks, in any river, pond, creek, spring, source or fountain from which the water of the waterworks is obtained, or conveys, casts, throws or puts any filth, dirt, dead carcass or other noisome or offensive thing therein or within the distance as above set forth, or causes, permits or suffers the water of any sink, sewer or drain to run or be conveyed in the same or causes any other thing to be done whereby the water therein may be in any way tainted or fouled, or

(h) wilfully, and without authority from the proper officer of the municipality, hinders or interrupts the transmission of any communication over the wires or apparatus of the telephone system of the municipality, or interferes with, damages, taps or makes any authorized connection with any wires, equipment or apparatus belonging to or in the custody or under the control of the telephone department of the municipality,

he is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

467. The penalties in money under section 466 or any portion of them, which may be recovered shall be paid to the justice and by him paid to the treasurer of the municipality.

468. The council may pass by-laws to regulate and control, in any respect, the conduct of passengers on public vehicles.

469. All materials procured under contract with the municipality and upon which the municipality has made advances in accordance with such contract are exempt from execution.

470. All works, wells, pipes, poles, erections and machinery requisite for any public utility is vested in and is the property of the municipality.

PART 9

FINANCE

471. The financial year of the municipality shall begin on the first day of January and close on the 31st day of December.

472. (1) The council, by by-law, may authorize the mayor and treasurer to borrow, either before or after the passing of the by-law levying the taxes for the current year, such sums as the council considers necessary to meet the current expenditures and obligations of the municipality until the taxes levied for the year can be collected.

(2) The municipality may, as security for such loan, give treasury bills, temporary debentures, promissory notes or similar forms of obligation signed by the mayor and treasurer, and each such bill, debenture, promissory note or obligation is valid and binding upon the municipality according to its tenor.

(3) The council, by by-law or agreement, may designate the revenues of the municipality, if any, that shall be charged with the repayment of such treasury bills, temporary debentures, promissory notes or other obligations, and may in such by-law pledge as security for the payment of the money the whole or any part of all unpaid taxes and penalties on taxes assessed or levied in any prior years together with penalties thereon and the whole of the taxes for the current year or such part thereof as may be considered expedient and any other designated revenue for the current year.

(4) The council, from time to time during the year in which such moneys are borrowed and for two succeeding years, may pass by-laws for extending the loan and renewing or extending such bills, debentures, promissory notes or other obligations whether original or renewed.

(5) The amount so borrowed is, by way of additional security, a first charge upon the taxes that are collected for the purpose for which it is borrowed for the year in which the borrowing takes place, and the municipality shall retain out of the taxes a sum sufficient to repay the amount.

(6) The amount so borrowed shall not exceed the amount of the taxes levied or estimated to be levied for the current year.

(7) If the council authorizes the borrowing of any sum greater than that specified in subsection (6), every member of the council who votes therefor is disqualified for three years from holding any municipal office.

473. (1) Subject to the exception set out in this or any other Act, no by-law for creating a debt not payable within the current year has any effect until it has received the approval of the Local Authorities Board and the assent of the proprietary electors when such assent is required by this Act.

(2) The application to the Local Authorities Board for approval of a by-law shall be made before or forthwith after the first reading of the by-law and no further action,

including advertising and submission to a vote of the proprietary electors, shall be taken upon the by-law until authorization has been received from the Local Authorities Board, but the Board may grant approval to a by-law notwithstanding the failure of a municipality to comply with this subsection.

(3) Within 21 days from the date of the issuance of an order or as otherwise authorized by the Local Authorities Board approving a by-law referred to in subsection (1), a council shall publish a notice of the proposed by-law, in a form approved by the Local Authorities Board, once a week for two consecutive weeks in at least one newspaper circulating within the limits of the municipality.

(4) If a petition for a vote on a money by-law is received by the municipal secretary within 15 days of the last publication of the notice and if the petition is signed by at least

- (a) 5 per cent of the proprietary electors in a municipality having a population of 10,000 or more persons, or
- (b) ten per cent of the proprietary electors in a municipality having a population of less than 10,000 persons but more than 1,000 persons, or
- (c) 15 per cent of the proprietary electors in a municipality having a population of less than 1,000 persons,

the council shall submit the money by-law to a vote of the proprietary electors and Part 4 applies to the taking of the vote thereon.

474. The council has power, without a vote of the proprietary electors, to pass by-laws to borrow money for the construction of any work ordered under the authority of any statute by the Board of Railway Commissioners of Canada or by the Government of Canada or of Alberta and for the issue of debentures for the payment thereof.

475. (1) Notwithstanding section 473, a council by by-law may authorize the purchase of any equipment deemed necessary for the construction and maintenance of roads, bridges or other public works or for the fighting of fires within the municipality.

(2) Where a by-law passed under subsection (1) requires that a debt not payable out of the revenue of the current year be incurred, the by-law does not require the issue of debentures nor the approval of the proprietary electors if

- (a) the aggregate of all debts incurred in any one year under subsection (1) does not exceed an amount equal to five mills levied on the total assessment upon which taxes are levied, and

- (b) the debts are made payable within a period of not more than two years from the date they are incurred.

(3) It is not necessary to pass a by-law to authorize any purchases permitted under subsection (1) if the proposed expenditure is less than \$1,000.

476. (1) The council may pass by-laws for borrowing, by the issue of debentures upon the credit of the municipality at large, the money required to meet the whole or any part of the costs or estimated costs of any local improvement, but

- (a) the debentures shall mature within the probable lifetime of the local improvement,
- (b) it is not necessary to obtain the assent of the proprietary electors to the passing of
 - (i) a by-law for raising the cost or estimated cost of a local improvement to be levied by special assessment, or
 - (ii) a by-law for raising the cost or estimated cost for an extension of a system of sewerage or a water system originally constructed as a local improvement, or
 - (iii) a by-law for raising the cost or estimated cost of a local improvement, unless the share of the cost or estimated cost to be borne by the municipality at large is greater than 50 per cent of the cost or estimated cost of the local improvement,

and

- (c) nothing herein contained shall be construed as authorizing an extension of the general debt of the municipality beyond the limits thereof fixed by this Act.

(2) The council may pass by-laws for borrowing, by way of temporary loans without the issue of debentures but within the restrictions aforesaid, on the credit of the municipality at large the whole or any part of the cost of a local improvement.

(3) Debentures issued or money borrowed for the purpose of local improvements to the extent to which the sums are secured by special assessments therefor form no part of the general debt of the municipality within the meaning of this Act.

(4) It is not necessary to state the amount of the local improvement debt so secured by special assessment in any by-law for borrowing money and it is sufficient to state in any such by-law that the amount of the general debt of the municipality as therein set forth is exclusive of local improvement debts secured by special assessment.

477. (1) The moneys required to pay the cost of any local improvement may be borrowed under the authority of one or more by-laws.

(2) The portion payable by way of special assessment and the portion to be borne by the municipality at large may be provided for in one or more separate by-laws.

(3) Every by-law providing for the raising of that portion of the cost payable by way of special assessment or of any part thereof shall state by recital or otherwise,

- (a) the amount of the debt that the by-law is intended to create and in general terms the object for which it is to be created,
- (b) the total amount required to be raised annually for paying the debt and interest under the by-law and whether the whole or, if not, what portion thereof is payable by way of special assessment and the system of special assessment applicable, and
- (c) the total value of the land charged with the special assessment and if any portion of the debt created by the by-law is to be borne by the municipality at large the value of the whole ratable property of the municipality according to the last revised assessment roll.

(4) If in any year the amount realized from the special rate imposed to provide for the owner's portion of the cost and interest is insufficient to pay the amount falling due in that year in respect of so much of the debentures as represent the owner's portion of the cost, the council may pay the portion out of the general revenue of the municipality or may provide for the deficiency in the estimates for the following year, by levying and collecting the portion by a general rate, but this does not relieve the land specially assessed from the special rate thereon.

478. (1) In the case of local improvement debenture by-laws, the interest rate on the debentures issued thereunder may be different than the interest rate used in the calculation of the estimated cost of construction of the type of local improvement concerned for the purpose of fixing the unit rate.

(2) The total amount collectible from the special frontage assessment and special benefit assessment on the properties concerned during the lifetime of the local improvement shall be approximately equal to the total principal and interest payable on the debentures to be issued under the by-law.

(3) The debentures of an issue maturing in different years may bear different rates of interest.

(4) The amount collectible in any one year from the special frontage assessment or the special benefit assess-

ment on the properties concerned may be less than the amount payable in respect of the principal and interest payable on debentures in any such year.

479. (1) The council, by by-law, may authorize the mayor and treasurer

- (a) to borrow moneys required by the municipality for the operation of any utility or a hospital to an amount not exceeding the total amount of accounts owing to the municipality with respect to such utility, or hospital, whether by way of Government grant or for goods or services supplied by the municipality,
- (b) to execute any form of obligation in connection with the loan, and
- (c) to assign such grants or accounts, or both, as security for the loan.

(2) A by-law authorized by subsection (1) does not require the assent of the proprietary electors.

480. A person lending moneys to a municipality is not bound to establish the necessity for the borrowing nor to see that it is expended for the purpose for which it is borrowed.

481. Subject to the limitations and restrictions contained in this Act and in *The Local Authorities Board Act*, a council, by by-law, may borrow money for any purpose within the jurisdiction of the municipality whether under this or any other Act, and may issue debentures therefor.

482. (1) Notwithstanding any provision of this Act, a by-law to borrow money for the purchase, construction, maintenance or improvement of a public utility may make the debenture debt

- (a) a lien and first charge on the gross revenues of that public utility only and not on the taxes, rates or other revenues of the municipality, or
- (b) a lien and first charge on the gross revenues of that public utility in priority to a charge on the taxes, rates and other revenues of the municipality.

(2) The provisions of this Act relating to debenture by-laws apply *mutatis mutandis* to a by-law passed pursuant to this section but instead of providing a tax levy the by-law shall prescribe a utility rate sufficient to pay the principal and interest of the debentures.

(3) Whenever it appears that the utility rate specified in a by-law passed pursuant to clause (a) of subsection (1) is too low to produce sufficient revenue to pay principal and interest on the debentures, the council shall, by by-law increase the utility rate accordingly.

(4) Whenever it appears that the utility rate specified in a by-law passed pursuant to clause (b) of subsection (1) is too low to produce sufficient revenue to pay the principal and interest on the debentures, the council shall, by by-law, provide for the raising of the deficiency by an increase in the utility rate or by the levy of a tax or by both methods.

(5) Whenever it appears to the Local Authorities Board that a council has failed to comply with this section, it may refer the matter to the Public Utilities Board for investigation and the Public Utilities Board shall thereupon examine the records of the municipality respecting the utility, and shall make an order either approving the utility rates or directing such increases therein as are necessary to comply with the provisions of this section.

483. (1) Notwithstanding anything in this Act, a by-law to borrow money for the acquisition of land pursuant to subsection (8) of section 304 may provide that the debenture cost is to be

- (a) a lien and first charge on the gross sales or rental revenues of the lands acquired and not on the taxes, rates or other revenues of the municipality,
or
- (b) a lien and first charge on the gross sales or rental revenues of the lands acquired in priority to a charge on the taxes, rates and other revenues of the municipality.

(2) The provisions of this Act relating to debenture by-laws apply *mutatis mutandis* to a by-law passed pursuant to this section except that instead of providing a tax levy the by-law shall pledge the entire proceeds of the sale or lease of the land acquired.

(3) The proceeds from the sale or rental of the lands acquired shall be deposited in a special trust account out of which the annual instalments of principal and interest on the debenture shall be paid.

484. (1) By-laws for contracting debts that are not payable within the current year shall provide for the issuing of debentures and the levying of annual rates for the payment of the debts, and are subject to the provisions of this Act for the passing of a money by-law.

(2) A debt contracted pursuant to a by-law and not payable within the current year shall be made payable within a period not in any case to exceed 50 years from the date of the issue of debentures.

(3) The debentures or other securities authorized to be issued under any by-law of the municipality may be made payable as to principal and interest in the currency or currencies of such country or countries, and at such place

or places, either in Canada or elsewhere, as the council considers expedient.

485. (1) Where a municipality has constructed or acquired a storm sewer the council may pass a by-law for borrowing such further sums as may be necessary to extend the storm sewer.

(2) A by-law under subsection (1) is not required to be proceeded with in accordance with section 472 if

- (a) it is passed by a vote of two-thirds of all the members of the council, and
- (b) the cost of the extension does not exceed 50 per cent of the cost of construction of the existing storm sewer.

486. (1) The amount of the debenture debt of a municipality outstanding at any time shall not exceed 20 per cent of the total amount of the assessment of ratable property as shown on the last revised assessment roll and exclusive of

- (a) debts incurred by the board of trustees of any school district of which the municipality is a part,
- (b) debts incurred by the municipality on behalf of a municipal hospital district lying wholly or partly within the municipality,
- (c) debts incurred for local improvements to the extent to which the amounts are secured by special assessments, and
- (d) debts incurred by the issue of debentures on behalf of the purchase, construction, maintenance and improvement of the public utilities of the municipality.

(2) The amount of any funds or securities held in the sinking fund, to the extent required for redemption of the outstanding debenture debt of the municipality issued on the sinking fund plan of repayment, shall be deducted in calculating the total amount of the debenture debt of the municipality outstanding at any time.

(3) For the purpose of calculating the outstanding debenture debt of the municipality, debentures that are repayable in dollars of lawful money of the United States of America shall be computed as if repayable in the same number of dollars of lawful money of Canada.

487. (1) The by-law creating the debt shall state by recital or otherwise,

- (a) the amount of the debt intended to be created and in some brief and general terms the object for which it is to be created,
- (b) the period over which the indebtedness is to be spread and the amount of the instalments to be

- paid in each of the years or the period at the end of which it is to be paid,
- (c) the maximum rate of interest and whether it is to be paid annually or semi-annually,
 - (d) the amount of the equalized assessment in the municipality as last determined and fixed by Assessment Equalization Board,
 - (e) the amount of the existing debenture debt of the municipality and how much, if any, of the principal or interest thereof is in arrears, and
 - (f) that any consent or approval of the Minister, or of the Provincial Board of Health by *The Public Health Act*, has been obtained.
- (2) Every such by-law shall
- (a) authorize the issue of debentures for the amount of the debt to be created thereby,
 - (b) determine the amount or denomination thereof,
 - (c) fix the maximum rate or rates of interest payable thereon, and name the places where and the time when the principal and interest are payable,
 - (d) provide for the assessment and levy of an annual rate or rates sufficient to pay the principal and interest of the debentures, and
 - (e) generally be in such form and contain such further provisions as may be required by the Local Authorities Board.
- (3) The by-law shall name a day when it is to take effect.
- (4) If no day is named in the by-law it takes effect on the day of the final passing thereof.

488. (1) Subject to the approval of the Local Authorities Board, any such by-law may provide that all or any part of the debentures authorized thereby will be redeemable at the option of the municipality at any time or at such time or times in advance of maturity, as the by-law may prescribe.

- (2) The by-law shall specify
- (a) the place of redemption,
 - (b) the manner of publishing notice of intention to redeem, and
 - (c) the price or prices at which the debentures may be so redeemed, and the price or prices may include such premium or premiums, if any, on redemption as may be provided in the by-law.
- (3) The council may subsequently exercise the option to redeem all or any of such redeemable debentures and set a date for redemption in advance of the maturity thereof.
- (4) If notice of intention to redeem has been given as hereinafter set forth, the principal of every debenture so

to be redeemed becomes due and payable on the date set for redemption and from and after that date interest ceases to accrue on the debentures so to be redeemed.

(5) Notice of intention so to redeem shall be sent by post at least 30 days prior to the date set for such redemption to the person, if any, in whose name the debenture is registered, at the address shown in the debenture register, and the notice shall be published in such manner as may be set out in the by-law.

(6) Any debentures that are so redeemable shall contain a provision or bear an endorsement to the effect that they are issued subject to redemption and the provision or endorsement shall specify,

- (a) the place of redemption,
- (b) the price or prices at which the debenture may be redeemed, and
- (c) the manner of giving notice of intention to redeem.

(7) Where only a portion of the debentures issued under the by-law is to be redeemed at any time, the debentures to be redeemed shall comprise only the debentures having the earlier maturity dates so that no debenture issued under the by-law will be called for redemption in priority to any such debenture that has an earlier maturity date.

(8) When only a portion of the debentures of any one maturity are to be redeemed the debentures to be redeemed shall be selected by lot.

(9) Where a debenture is redeemed on a date prior to maturity, the redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, or the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof.

489. (1) A by-law providing for the issuance of debentures may

- (a) provide that the indebtedness shall be payable as to principal and interest in any manner that may be approved by the Local Authorities Board, and
- (b) provide for terms and conditions of the earlier redemption thereof as may be approved by the Local Authorities Board.

(2) The by-law shall provide for the raising in each year in which an instalment falls due, of a sum sufficient to pay both principal and interest when and as they become due.

(3) Notwithstanding anything in this Act any by-law including a consolidating by-law, that authorizes the issue of debentures that by the by-law are made redeemable in whole or in part in advance of maturity, and either with

or without a premium on redemption, may contain such provisions as the Local Authorities Board may approve, and in such case the municipality shall carry out such purchase or redemption of debentures accordingly and may effect any temporary loans that may be expedient or necessary for the purpose.

490. (1) A by-law may provide that the debentures and coupons shall be payable at any place or places in Canada or in any other country and may be payable in lawful money of Canada or pounds sterling or in the moneys of such place or country where the same are made payable.

(2) A by-law authorizing the issue of debentures for a certain amount with interest in lawful money of Canada shall be taken to authorize the issue of debentures, or any of them, according to this section, unless the by-law provides that this section shall not apply thereto.

(3) A by-law authorizing the issue of debentures for a certain amount with interest in lawful money of Canada shall be deemed to authorize the issue of debentures of a like amount of dollars in lawful money of the United States of America.

491. (1) In the case of a by-law heretofore or hereafter passed, the council, by by-law, without the assent of the proprietary electors, may authorize a change

- (a) in the mode of issue of the debentures, or
 - (b) in the place or places where they are payable, or
 - (c) in the manner of repayment as authorized by the Local Authorities Board,
- or in any one or more of those particulars.

(2) The by-law may also

- (a) provide that the debentures shall be issued with interest coupons instead of in amounts of combined principal and interest or *vice versa*,
- (b) change the interest from annual to semi-annual or *vice versa*, or
- (c) provide that the debentures may be issued in a different currency or may be in different amounts from those authorized by the original by-law.

492. (1) Where any debentures issued under a by-law have been sold, pledged or hypothecated, the council, upon again acquiring them or any part of them, or at the request of any holder of them may, by by-law, without the assent of the proprietary electors, authorize the cancellation of the debentures and the issue of one or more debentures in substitution therefor.

(2) The by-law may

- (a) make the new debentures payable by the same or

- a different mode and at the same or a different place or places, or
- (b) authorize any manner of repayment approved by the Local Authorities Board, or
- (c) change the interest from annual to semi-annual or *vice versa*, or
- (d) provide that they may be issued in a different currency, or
- (e) provide that they may be in different amounts from those of the original debentures.

493. In the case of a by-law passed pursuant to section 491, 492 or 500 neither the period over which the indebtedness was originally spread nor the term at the end of which it was made payable, as the case may be, nor the rate of interest, shall be increased or extended except as provided by section 496 and the amount of the principal of the new debentures shall not exceed the amount of the principal remaining owing upon the original debentures.

494. (1) In the case of a by-law heretofore or hereafter passed, the council, by by-law without the consent of the proprietary electors, may repeal the by-law as to all or any part of the debentures to be issued thereunder and as to all or a proportionate part of the amounts to be raised annually.

(2) The repealing by-law shall state the facts upon which it is founded and may provide for the treasurer withdrawing from the sinking fund amounts that may have been paid into that fund in respect of debentures that are not to be issued.

495. No by-law authorized by section 491, 492 or 494 takes effect until approved by the Local Authorities Board.

496. When

- (a) owing to a decline or advance in the rate of interest between the passing of a money by-law and the sale or other disposal of the debentures they or any of them cannot be sold or disposed of except at a heavy premium or at a discount involving a substantial reduction in the amount required to be provided, or
- (b) in the opinion of the council, with a view to the better marketing of the municipal securities, it is desirable
 - (i) that the whole or any part of the debentures authorized by such a by-law bear a rate or rates of interest differing from the rate or rates specified in the by-law, or
 - (ii) that the period over which the indebtedness

was originally spread or the term at the end of which it was made payable should be changed or extended,

the council, with the approval of the Local Authorities Board, and without submitting the matter to the proprietary electors, may pass a by-law to amend the money by-law providing for a different rate or rates of interest, or a different period over which the indebtedness will spread, or a different term at the end of which the indebtedness will be made payable, upon all or any of the debentures and for a corresponding change in the amount to be raised annually with respect thereto.

497. (1) A council that has passed a by-law for contracting a debt or incurring a liability or for borrowing money may apply to the Local Authorities Board for a certificate approving the by-law.

(2) A municipality that intends to apply for a certificate approving a by-law shall forward to the Board a copy of the by-law together with a copy of the proposed advertisement as required by section 472 before advertising the by-law.

(3) No certificate shall be granted while any action or proceeding in which the validity of the by-law is called in question or by which it is sought to quash it, is pending, nor until two months after the final passing of the by-law unless notice of the application is given in such manner and to such persons, if any, as the Board may direct.

(4) The Board may grant the certificate notwithstanding any defect or irregularity in substance or in form in the proceedings prior to the final passing of the by-law or in the by-law itself if, in the opinion of the Board, the provisions of the Act under the authority of which the by-law was assumed to be passed have been substantially complied with.

(5) The certificate may be in a form approved by the Local Authorities Board.

(6) A by-law approved by the certificate of the Board and any debenture that is issued or that may thereafter be issued in conformity with the provisions of the by-law is valid and binding upon the municipality and upon the property liable to the rate imposed by or under the authority of the by-law, and the validity of the by-law and of every such debenture is not thereafter open to question in any court.

498. (1) Where a by-law has been approved under this Act, the Local Authorities Board, upon the application of the council, may countersign the debentures that are issued or that may be issued under the authority of the by-law.

(2) Notwithstanding anything to the contrary in this Act, the countersigning by the Board is conclusive proof of the validity of the debentures and their validity is not open to question in any court.

(3) The countersigned debentures are valid and binding upon the municipality and upon the property liable to the rate imposed by or under authority of the by-law.

499. (1) Every by-law that complies with the requirements of section 472 shall be passed by the council within three months of the voting thereon but not thereafter.

(2) Notwithstanding subsection (1) the Local Authorities Board, upon application of the council made either before or after the expiration of the period of three months, may extend the time for passing the by-law beyond the period of three months and in that case the by-law may be passed within such extended time.

500. (1) The council, by by-law and without the assent of the proprietary electors, may consolidate the amount or any part of the amount of debenture debt created or authorized to be created under two or more existing by-laws, and authorize the issue of one or more debentures for any term of years not greater than the longest term provided by any of such by-laws and may provide for the payment of interest on the amount of the debt so consolidated at a rate not exceeding the highest rate stated in any of such by-laws.

(2) The consolidation of local improvement debentures does not affect the local improvement assessment or the liens on the property described in the local improvement by-laws.

(3) The consolidating by-law shall provide for the assessment and levy of an annual rate or rates sufficient to pay the principal and interest of the consolidated debentures.

(4) The debentures issued under a consolidating by-law as provided in subsection (1) may be made repayable as authorized by the Local Authorities Board and subject to subsection (1) may bear such rate or rates of interest and may be payable at such time or times and in such currency of payment as the council considers expedient, irrespective of the rate or rates of interest or the manner or time of payment or the currency of payment provided for in the by-laws authorizing the debenture debt to be consolidated, and the consolidating by-law may provide for raising annually during each year of the currency of the consolidated debentures by a special rate on all the ratable property in the municipality, the sums to be raised in each such year to pay the interest on and principal of the consolidated debentures that may be issued and sold to meet the property owners' share, actual or estimated, of the cost of local improvements, but in that case the sums to be raised

in any year as aforesaid shall be reduced by the amounts of the special assessments levied in that year against the properties specially assessed for local improvements.

(5) Where a debenture has been issued and the council considers it advisable to consolidate the unpaid balance of the debt created thereby with other debentures, whether issued or not, it may, with the consent of the holder of such debenture

(a) include such balance in the amount to be consolidated by the consolidating by-law, and the provisions of subsections (1) and (2) thereupon apply, or

(b) where such debenture is repayable on the sinking fund plan, cause to be paid to the holder thereof the amount of the sinking fund accrued to the credit of such debenture before proceeding with the consolidation of the balance remaining.

(6) The consent of the Local Authorities Board to the consolidation of debentures under this section and the terms of repayment of the consolidated debenture shall be obtained before the third reading of the consolidating by-law.

(7) The net amount realized by the issue and sale of consolidated debentures shall be applied for the purposes set forth in the separate by-laws in the same proportions as the respective principal amounts of debentures authorized by the separate by-laws bear to the principal amount of the consolidated debentures.

501. (1) The council, with the approval of the Local Authorities Board, may for the purpose of purchasing or redeeming in advance of the maturity thereof the whole or any part or parts of the outstanding debentures of the municipality, pass by-laws for contracting debts by borrowing money and for levying rates and taxes for the payment of such debts on the ratable property in the municipality.

(2) Notwithstanding anything in this Act or *The Local Authorities Board Act*, it is not necessary for any such by-law to be referred to or assented to by the proprietary electors, and section 486 does not apply to any by-law passed under this section.

502. (1) Where a municipality has constructed, purchased or acquired a public utility, sewer, sewerage works, paved street, concrete or bituminous walk, public building or other public works, a bridge or fire equipment, or an asphalt paving plant, or engineering equipment required for street or public utility improvements, the council may pass a by-law for borrowing such further sums as may be necessary to extend, rehabilitate, re-equip or improve it.

(2) In the case of a bridge, the borrowing may also be for the purpose of replacing the bridge.

(3) The extension, rehabilitation or improvement of a public work or paved street shall be deemed to include the construction of new traffic arteries including overpasses, underpasses, cloverleaves and flyovers.

(4) The extension, rehabilitation or improvement of a public utility sewer, sewerage works, paved street, concrete or bituminous walks, public buildings or other public works shall be deemed to include the acquisition of any necessary land.

(5) The by-law shall not be effective unless

- (a) it is passed by a vote of two-thirds of all the members of the council,
- (b) it is approved by the Local Authorities Board under *The Local Authorities Board Act*, and
- (c) it is passed as a money by-law under section 472.

503. (1) In this section "non-profit corporation" means a corporation whose net profits will accrue to the municipality and whose assets will, upon winding up or dissolution, be given or transferred to the municipality.

(2) A council may by by-law authorize the municipality to enter into an agreement with a non-profit corporation

- (a) whereby the municipality would undertake to guarantee the repayment of money borrowed by the corporation for the construction of parking facilities or parking structures for motor vehicles or other public structures on municipal land leased to the corporation for that purpose, or
- (b) whereby the municipality would undertake to pay any deficiencies in the repayment of any amounts borrowed by a corporation for the construction of parking facilities or parking structures for motor vehicles or other public structures on municipal land leased to the corporation for that purpose.

(3) A council may by by-law authorize the municipality to enter into a lease-back agreement with a non-profit corporation whereby the municipality would transfer land to the corporation for the construction of parking facilities and parking structures for motor vehicles or other public structures and lease the land from the corporation after the construction of the facilities or structures at an annual rental sufficient to repay the annual costs of the borrowing by the corporation for the construction of the parking facilities or structure.

(4) Where pursuant to a by-law under this section a municipality creates a liability, whether contingent or otherwise, that would extend over a period in excess of 25 years, the annual sums after the 25 year period that the

municipality would or might be liable to pay thereunder shall be considered a debenture debt for the purposes of section 486.

504. (1) Pending the issue or the sale of any debentures authorized by a by-law or in lieu of selling and disposing of them, the council may, by resolution, raise money by way of loan on the debentures, which shall not exceed 80 per cent of the par value of the debentures, and may hypothecate them for any such loan.

(2) The proceeds of every loan shall be applied to the purposes for which the debentures were issued and should the debentures be subsequently sold the proceeds thereof shall first be applied in repayment of the loan.

(3) The lender is not bound to ensure the application of the proceeds of the loan.

505. (1) Any debenture under this Act may be in such form as is approved by the Local Authorities Board.

(2) A debenture may be issued for the full amount or for a lesser amount than that mentioned in the by-law or a series of debentures aggregating the full amount or lesser amount than that mentioned may be issued.

(3) A debenture under this Act may be made payable in such manner that, for the first five years succeeding its date, interest only will be payable thereon or it may provide for the payment of principal and interest secured thereby in any other manner approved by the Board.

(4) Whenever a series of debentures of the same denomination is issued at the same time, each of the series shall be distinguished by a mark or symbol different from the mark or symbol appearing on the other debentures of the same issue.

(5) The marks or symbols shall appear on the coupons attached to the debentures bearing the like mark or symbol.

506. (1) A debenture shall be sealed with the seal of the municipality and signed either by the mayor or by some person authorized by by-law to sign it in his stead.

(2) Every coupon attached to debentures shall bear the signature of the mayor or of some person authorized by by-law to sign it in his stead and of the treasurer or of some person authorized by by-law to sign in his stead.

(3) The signatures on debentures or on coupons attached to debentures may be reproduced by lithographing or printing or any other method of mechanical reproduction.

507. (1) Debentures may be issued either all at one time or in instalments at such times as the council considers expedient and may be dated accordingly.

(2) No debenture shall be issued after the expiration of six years from the final passing of the by-law authorizing the issue.

(3) Any taxes imposed in accordance with the provisions of the by-law after the final passing thereof and not required to repay the debenture or any portion of the debenture, including interest thereon, issued under the authority of the by-law may be used for the purpose of meeting the cost, including interest, of the work authorized by the by-law.

508. Any debenture issued under this Act is valid and binding upon the municipality notwithstanding any insufficiency in form or substance or otherwise of the by-law or of the authority of the municipality in respect thereof, if

- (a) the by-law has received the assent of the required number of proprietary electors voting thereon, where their assent is required,
- (b) no successful application has been made to quash it within two months after its final passing, and
- (c) the by-law has received the approval of the Local Authorities Board where its approval is required.

509. Any debenture issued in respect of a local improvement shall be deemed not to be invalid by reason only of a defect or omission in the proceedings relating to the authorization, undertaking or construction of the work or the making of the special assessment or anything incidental thereto.

510. Where the interest for one year or more on the debentures issued under a by-law or the principal of any debenture that has matured has been paid by the municipality the by-law and the debentures issued under it are valid and binding upon the municipality and are not open to question in any court, even if the assent of the required number of proprietary electors has not been obtained.

511. Wherever there is a reference to the duties of the treasurer in connection with the debenture register and the council has appointed some other person to perform those duties, the reference shall be construed to be a reference to such other person as the council has appointed.

512. (1) The treasurer shall open and keep a book or record to be known as "The Debenture Register", wherein shall be entered particulars of every by-law authorizing the issue of debentures and of all debentures issued thereunder.

(2) Every debenture issued shall have written, printed or stamped thereon a memorandum, with the proper particulars inserted therein, in a form approved by the Local Authorities Board.

513. Every debenture registered in the debenture register is valid and binding in the hands of the municipality or of any *bona fide* purchaser for value, notwithstanding any defect in form or substance.

514. A certificate signed by the treasurer and sealed with the seal of the municipality and certifying that a debenture has been registered in the debenture register is *prima facie* proof of the registration.

515. Any debenture may contain the following provision: "This debenture or any interest therein, after a certificate of ownership has been endorsed thereon by the treasurer, shall not be transferable except by entry by the treasurer or his deputy in the debenture register until a transfer to bearer has been registered."

516. (1) In the case of the issue of debentures containing the provision mentioned in section 515, the treasurer shall enter in the debenture register a copy of all certificates that he gives of ownership of debentures and also every subsequent transfer of any such debenture.

(2) No such entry shall be made except upon the written authority of an unregistered holder in the case of a bearer debenture, or the person last entered in the register as the owner of the debenture, or of his executor or administrator or of his attorney, and the written authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed as aforesaid, the debenture shall, as transfers of the debenture are authorized by the then registered owner thereof or his attorney, executor or administrator be transferred only by entry, by the treasurer or his deputy, in the debenture register, until a transfer to bearer has been registered.

(4) The treasurer, on receipt of a debenture accompanied by a transfer purporting to be signed by the owner, if the signature is guaranteed by a bank or notary public, shall register the transfer in accordance with the request and in so doing neither the treasurer nor the municipality incurs liability to the true owner for any loss caused by the transfer in case the transfer was not signed by him.

(5) Notwithstanding registration of a debenture, if the interest coupons are detached the coupons shall be transferable by delivery.

517. (1) The treasurer shall keep in his books two separate accounts of every debt, one for the interest and the other for the sinking fund or for instalments of principal, both to be distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted.

(2) The treasurer shall keep the accounts so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated for payment of it.

518. If, after paying the interest on a debt for any financial year and appropriating the necessary sum to the sinking fund of the debt or in payment of the instalments of principal, there is a surplus properly applicable to the debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal.

519. (1) The council may appropriate to the payment of any debt the surplus income derived from any civic work or public utility, or from any share or interest therein, after paying the annual expenses thereof, or may so appropriate any unappropriated money in the treasury or any money raised by general rate.

(2) Any money so appropriated shall be carried to the credit of the sinking fund of the debt or may be applied in payment of any instalment thereof accruing due.

(3) The council, from time to time, may appropriate to a reserve fund part of any surplus income arising from any civic work or public utility for the purpose of meeting contingencies that, in the opinion of the council, are likely to arise in connection therewith.

520. A municipality purchasing its own debentures out of current funds may cancel the debentures so purchased and the levies or any portion thereof required for their repayment.

521. (1) The treasurer shall prepare and lay before the council each year before the striking of the annual rate, a statement showing the amount that will be required to be raised for sinking fund purposes during the year.

(2) For every contravention of this section the treasurer is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

522. If the council neglects in any year to levy the amount required to be raised for a sinking fund, or for the instalment necessary for the payment of a debenture debt, each member of the council is thereupon disqualified for the next three years from holding any municipal office, and unless the council immediately makes a levy for the amount required each member thereof shall be personally liable for the amount required for the sinking fund or instalment and proceedings in any court of competent jurisdiction for the recovery of the amount may be instituted by any ratepayer or the Local Authorities Board,

but no member is liable to the penalty hereby imposed who shows to the satisfaction of the judge that he made reasonable efforts to procure the levying of the said amounts.

523. The sinking fund to redeem the outstanding debentures of the municipality in each year, as and when received by the treasurer, shall be deposited by him in some chartered bank or treasury branch to be designated by the council to the credit of a special account to be called "The Sinking Fund Account of the (*name of municipality*)".

524. No money levied and collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the municipality.

525. (1) If at any time there is a deficiency in the sinking fund account of the municipality, the council may pass by-laws providing for the issue of debentures and for levying rates for payment thereof upon the general ratable property in the municipality, without the assent of the proprietary electors, for the purpose of making good the deficiency.

(2) The proceeds of debentures issued for such purpose shall be allocated to the sinking funds of the various issues to which they are properly applicable.

526. (1) If a part of the proceeds from the special rate levied in respect of a debt and at the credit of the sinking fund account or of the special rate account thereof or of a reserve fund cannot be immediately applied towards paying the debt by reason of no part of it being yet payable, the council shall invest it from time to time in securities, authorized by subsection (2) thereof and, from time to time as such securities mature, may invest in other like securities.

(2) Subject to sections 530 and 536, the council shall from time to time invest the sinking fund

- (a) in stock, debentures or securities of the Government of Canada or of any province of Canada, or
- (b) in debentures or securities the payment of which is guaranteed by the Government of Canada or of any province of Canada, or
- (c) in the debentures of any municipal corporation, school division, school district or municipal hospital district in Alberta, or
- (d) in local improvement or any other debentures of the municipality, or
- (e) in any of the investments authorized for insurance companies by the *Canadian and British Insurance Companies Act* (Canada), as amended from time to time, other than investments under subsection (4) of section 63 of that Act,

and from time to time as such securities mature may invest in other like securities, and may invest and reinvest the fund or any part thereof in authorized securities, and sell, assign or transfer them, and call in and vary the investments for others of a like nature.

(3) The council may regulate by by-law the manner in which the investments are to be made.

(4) The council, when acquiring its own debentures, may apply the sinking fund, to an amount equal to the amount of the debentures, for the purposes to which the proceeds of the debentures are properly applicable and the council shall hold the debentures as an investment on account of the sinking fund, and deal with them accordingly.

(5) The council, by by-law, may direct that any surplus moneys in the hands of the treasurer and not specially appropriated to any other purpose, shall be credited to the sinking fund account of any debenture debt, and may invest the sinking fund in any of the securities named in and according to this section.

527. (1) Notwithstanding the foregoing, where a council proposes to pass a by-law for borrowing money by the issue of debentures and to create a sinking fund for the repayment thereof, the council may pass a by-law wherein it may be provided that the annual amount to be levied on account of the sinking fund shall be paid by the treasurer to the Provincial Treasurer.

(2) Where a municipality avails itself of the right conferred by subsection (1), the Provincial Treasurer may receive from the treasurer of the municipality the annual amounts so levied on account of the sinking fund and allow and credit the municipality with interest thereon at the rate of 4 per cent a year, compounded yearly until the time when the debentures to which the sinking fund is applicable become payable and the sinking fund is required for their redemption.

(3) All moneys received by the Provincial Treasurer under this section shall form part of the General Revenue Fund of the Province and a statement of the amount at the credit of each municipality shall be set forth annually in the public accounts of the Province.

(4) The Lieutenant Governor in Council may from time to time direct the Provincial Treasurer to invest the amount or a part of the amount at the credit of the municipality as directed by *The Treasury Department Act*, or in the debentures of the municipality for the redemption of which the sinking funds were paid to the Provincial Treasurer.

528. (1) Where any by-law under section 527 has been passed by the council, the amount payable in any year to the credit of the sinking fund and that under the pro-

visions of the by-law is to be paid to the Provincial Treasurer shall be deemed a debt due to him and in default of payment thereof he may sue therefor in a court of competent jurisdiction in his own name as for a debt due to the Crown.

(2) Within 30 days after the final passing of the by-law, the municipal treasurer shall transmit a certified copy of the by-law to the Provincial Treasurer.

529. Where, by any by-law heretofore or hereafter passed, provision is made for raising a sinking fund to meet the debentures to be issued under the authority of the by-law, the municipality, in each year in which the sinking fund is required to be raised, shall transmit to the Provincial Treasurer a return showing

- (a) whether the sinking fund for the year has been raised,
- (b) how the sinking fund has been applied or dealt with, and
- (c) the state of the investment of any part of the sinking fund theretofore collected,

and the return shall be verified by the affidavit or statutory declaration of the mayor or reeve and of the treasurer.

530. No member of the council shall take part in or be a party to the investment of any moneys referred to in section 526 otherwise than as authorized in this Part and any person so doing is personally liable for any loss thereby sustained by the municipality.

531. The council, by by-law, may direct that any part of the sinking fund, instead of being invested as provided in this Part, shall be applied from time to time towards payment or redemption of any of the debentures to which the sinking fund is applicable, at such value as may be agreed upon between the council and the holders of the debentures.

532. (1) Notwithstanding anything contained in this Part, if a municipality receives, during the current year, interest on or earnings of its sinking fund investments in excess of that required to pay

- (a) the interest of a debt for the financial year preceding the year in which the application hereinafter mentioned is made, and
- (b) the necessary sum into the sinking fund account up to the 31st day of December of that year,

the Local Authorities Board, on the application of the council and on such terms and conditions as are considered advisable, may authorize the council to use the excess interest or earnings for such purposes as may be approved by the Local Authorities Board.

(2) Notwithstanding anything in this Act, if at any time it is made to appear to the satisfaction of the Local Authorities Board, that owing to abnormal economic condition an extraordinary situation exists with respect to the financial condition of a municipality or that a surplus exists beyond the amount necessary for the security of the fund, the Board, on the application of the council and on such terms and conditions as are considered advisable, may authorize the council to use the whole or a part of any balance of excess interest or earnings held in reserve in the sinking fund account for such purposes as may be approved by the Board.

533. (1) Subject to section 532, if the council applies any of the said money for current or other expenditure, the members who vote for such application are personally liable for the amount diverted and it may be recovered by the municipality, by action against them in any court of competent jurisdiction.

(2) If the municipality refuses or neglects for one month to bring an action against the members of the council who voted for the application of the moneys as aforesaid, after receiving a request in writing from a ratepayer or from a holder of any debentures of the sinking fund from which payment has been diverted, or from the Local Authorities Board, action may be brought either by any ratepayer on behalf of himself and other ratepayers or by any holder of such a debenture or by the Local Authorities Board.

(3) The members of the council who voted for such application are thereupon disqualified for three years from holding any municipal office.

534. (1) The municipality, by by-law, may provide for the appointment of three trustees, two of whom shall be appointed by a judge on application by the municipality and the third by the council, to take charge of the sinking fund of the municipality.

(2) At least one of the trustees shall be a member of the council or a municipal commissioner and, notwithstanding anything in this Act, such trustee may be appointed by the council, and if so appointed, is entitled to payment for his services as provided in subsection (5).

(3) The sinking fund, to redeem the outstanding debentures of the municipality shall in each year be invested in the name of the municipality by the trustees in such of the securities mentioned in section 526 as the trustees think best.

(4) The trustees may require the treasurer to pay from moneys to the credit of the sinking fund such sums as they from time to time required for investment, and all such sums coming into the hands of the treasurer from the temporary

investment of the sinking fund shall be applied in the manner and to and for the purposes above mentioned.

(5) Each of the trustees may be paid for his services such amount as may be fixed by the council for each meeting held by the trustees.

(6) Administrative, office and other expenses incurred by the trustees in the performance of their duties shall be paid from the general funds of the municipality.

(7) The trustees, whenever required by the council shall give a detailed statement in writing of the fund and the manner in which it is invested.

(8) In no case shall the moneys to the credit of the sinking fund account be withdrawn without the consent of the trustees.

(9) The trustees shall hold office until removed therefrom by the council or a judge in the manner provided for their appointment.

535. (1) The trustees have the same power and authority to deal with the sinking fund as the council would otherwise have, and in particular they may

- (a) invest and reinvest the fund in authorized securities, sell, assign, or transfer them, and call in and vary the investments for others of a like nature,
- (b) collect the money due upon mortgages or other securities in which any portion or all of the fund is invested, and take such steps as seem proper for enforcing the securities and for the adjustment, compromise or collection of the debts due thereunder,
- (c) foreclose mortgages and all parties having any interest in or claim upon the property covered thereby,
- (d) lease, rent, insure or otherwise deal with the property foreclosed,
- (e) sell, assign, transfer and convey property obtained by foreclosure and sell under power of sale property mortgaged to the municipality, and
- (f) sign discharges or partial discharges of mortgages and receipts for money paid on account of any claim of the municipality.

(2) When a mortgage is foreclosed by the trustees the title to the property shall be vested in the municipality with absolute power in the trustees to sell, transfer and dispose of it.

(3) In the case of property acquired by foreclosure or sold under power of sale, the conveyances shall be signed by at least two of the trustees in their official capacity.

(4) Discharges or partial discharges of mortgages and receipts for moneys paid shall be given in the name

of the municipality but shall be signed by at least two of the trustees.

536. (1) When, in the opinion of the trustees, it is expedient to do so in the interests of the sinking fund, they may, with the consent of the council, borrow money from any chartered bank for a period not exceeding six months.

(2) As security for such temporary loan they may pledge or hypothecate any stock, debentures, mortgages or other securities held in the sinking fund.

(3) Any loans made under this section may be renewed for a period not exceeding six months.

(4) Where there are no sinking fund trustees the powers conferred by this section may be exercised by the council.

537. (1) All funds coming into the hands or under the control of the trustees for the benefit of the sinking fund shall be deposited by them in a separate account in a chartered bank or in a treasury branch, or in a bank in the city of London, England, to be called the "sinking fund account".

(2) No part of the sinking fund account shall be withdrawn except

(a) upon cheque signed by at least two of the trustees, and

(b) for the purpose of carrying out the trust.

538. At all meetings of the trustees called by the chairman, or in his absence by either one of the other trustees in the usual way, two of the number constitute a quorum, and all acts done for or on behalf of the trustees by the quorum are as effectual as if the acts had been done by the three trustees.

539. The trustees may purchase any of the debentures, stock or other securities of the municipality.

540. (1) The council, at any time by resolution, may require the trustees not to invest any part of the sinking fund in the manner hereinbefore provided and to call in the investments already made and to collect and pay the amounts due thereupon into the sinking fund of the municipality.

(2) Upon such resolution being communicated to the trustees they shall not make any further investments until rescission of the resolution but shall proceed to call in and realize upon those already made as they mature.

(3) In such case the council

(a) has no power to withdraw any moneys from the account except as provided in subsection (4), but

- (b) may transfer the account from one chartered bank or treasury branch to another so long as it is kept at compound interest.
- (4) As debentures outstanding mature the sinking fund to the credit of the municipality shall be applied to the payment of them at the date of maturity or may be used in the purchase thereof before maturity.

541. (1) Instead of trustees the council may appoint a trust company that has been approved by the Lieutenant Governor in Council under *The Trust Companies Act, 1960*.

(2) The company thereupon has all the power and authority conferred on trustees by this Act and all the above provisions with respect to trustees apply in so far as they are applicable to the company.

542. Where a municipality has provided for the appointment of sinking fund trustees, the council at any time by by-law may abolish, suspend or discontinue in whole or in part the duties and operations of the sinking fund trustees.

543. Instead of trustees or a trust company, the council may by by-law appoint a board consisting of such permanent officials of the municipality as are considered expedient and may delegate or entrust to the board

- (a) all or any of the powers, duties, rights, responsibilities and jurisdiction conferred upon or vested in the sinking fund trustees,
- (b) all or any books, records, registers and documents belonging to or in use by the trustees in carrying out their duties, and
- (c) all or any of the lands, mortgages, encumbrances, leases, instruments, moneys, bonds, debentures, securities and property of every nature and kind vested in the trustees or over which the trustees exercise jurisdiction and control.

544. (1) The council in any by-law passed under section 542 or 543, may provide for the doing of all acts, matters or things that may require to be done in order to carry into effect the powers and authority granted by the by-law.

(2) Upon the passing of such a by-law all the assets held by or in the name of the trustees or over which the trustees have jurisdiction and control vest in the municipality, but if any part of the assets is held by the trustees for or on behalf of any association of civic employees or of any person other than the municipality, then that part of the assets shall be held by the municipality subject to the same terms and conditions as they are held by the trustees.

(3) The filing in the proper land titles office of a certified copy of a by-law passed pursuant to section 542 or

543 operates as a transfer to the municipality of any lands, mortgages, encumbrances, leases or other instruments standing in the name of the trustees, and the Registrar of the land titles office, upon payment of the proper fees, shall register the municipality as the owner thereof.

545. (1) No money borrowed for capital expenditure, or in the hands of the municipality as capital funds shall be applied towards current expense.

(2) If the council applies any of such moneys for current expense, the members who vote for such application are personally liable for the amount diverted, and it may be recovered by the municipality, by action against them in any court of competent jurisdiction.

(3) If the municipality refuses or neglects for one month to bring an action against the members of the council who voted for the application of the moneys as aforesaid, after receiving a request in writing from a ratepayer or from a holder of any debentures of the sinking fund from which payment has been diverted, action may be brought either by any ratepayer on behalf of himself and other ratepayers or by any holder of such a debenture.

(4) If any of the money is applied toward current expense, the mayor and treasurer are guilty of an offence and for every such offence each is liable on summary conviction to a fine of not more than \$100.

546. (1) Where debentures have been issued for a public work, and, upon completion of the work or in consequence of its partial abandonment, there remains an unexpended balance, the council, by resolution reciting the facts, may declare its intention to apply to the Local Authorities Board for authority to use the balance for capital expenditures upon any object not authorized by the by-law under which the debentures were issued.

(2) The Local Authorities Board may grant permission to use the balance for such purposes and upon such terms and conditions as the Board deems expedient.

547. (1) If the council applies moneys included in any such unexpended balance to any purpose not authorized by the Local Authorities Board, the members who vote for such application are personally liable for the amount diverted and it may be recovered by the municipality by action against them in any court of competent jurisdiction.

(2) If the municipality refuses or neglects for one month to bring an action against the members of the council who voted for the application of the moneys as aforesaid, after receiving a request in writing from a ratepayer or from a holder of any debentures of the sinking fund from which payment has been diverted, action may be brought

either by any ratepayer on behalf of himself and other ratepayers or by any holder of such a debenture.

(3) The members of the council who vote for such application are disqualified for three years from holding any municipal office.

548. (1) The council may provide for the formation and maintenance of reserve funds and special reserve funds.

(2) Any reserve funds formed in accordance with subsection (1) or any operating surpluses of the municipality may be invested in any of the securities referred to in section 526.

549. (1) To obtain funds for special reserves the council may include in the estimates and levy for any one year a sum not exceeding one-third of the total sum expended on general revenue accounts by the municipality during the immediately preceding year.

(2) All money collected for special reserve funds shall be paid into special reserve fund trust accounts.

(3) The total of all special reserve fund trust accounts at any one time shall not exceed the total amount of all taxes levied in the two immediately preceding years.

(4) The council may use the special reserve funds for any capital expenditures or deferred maintenance that it is authorized to undertake.

(5) The provisions of this section that are applicable to special reserve funds do not apply to reserves or surpluses available from public utilities, land sales or sources other than by levy.

PART 10

APPEAL TRIBUNAL

550. (1) There shall be a tribunal to be styled "The Municipal Appeal Tribunal" which shall be composed of three or more members to be appointed by the Lieutenant Governor in Council, one of whom shall be appointed as chairman and thereupon entitled to hold the position of chairman as long as he continues a member of the Tribunal.

(2) In the case of the absence of any member or members of the Tribunal, or of his or their inability to act, and in the case of any vacancy or vacancies on the Tribunal, the member or members of the Tribunal present may exercise all the jurisdiction and powers of the Tribunal.

(3) In case of the absence or disability of the chairman, all orders, rules, regulations and other documents may be signed by any one member, and when so signed have the like effect as if signed by the chairman.

(4) Whenever it appears that a member, other than the chairman, has acted for and in the place of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

(5) Each of the members holds office during good behaviour and may be appointed for such period of years as may be fixed by the Lieutenant Governor in Council, but each member is at all times removable at any time by the Lieutenant Governor on address of the Legislative Assembly.

(6) Each of the members may be appointed on either a part time or full time basis as may be ordered by the Lieutenant Governor in Council.

(7) A member may at any time be suspended by the Lieutenant Governor in Council for cause assigned, and another person appointed to act in his stead until the session of the Legislative Assembly next ensuing.

(8) Vacancies caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council.

(9) Every member shall, subject to *The Public Service Pension Act* as to reappointment or continuance in office, cease to hold office upon reaching the age of 70 years.

(10) If not disqualified by age, a member on the expiration of his term of office is eligible for reappointment.

(11) The members shall receive such remuneration, conduct such investigations, make such reports and perform such other duties, in addition to the duties assigned to them by this Act, as may be determined by the Lieutenant Governor in Council.

551. (1) At any time during which the Tribunal consists of the chairman thereof and no others, the Lieutenant Governor in Council, upon the request of the chairman, may appoint one or more fit and proper persons as temporary members of the Tribunal, or a substitute for a temporary member to act during the illness or absence of the temporary member, for such period, upon such terms and at such remuneration as may be prescribed by the Lieutenant Governor in Council.

(2) Any person so appointed shall assist the chairman in the discharge of the powers and duties of the Tribunal, and in the performance of such duty the person so appointed has all the powers and authority that are by this Act conferred upon a member of the Tribunal.

552. (1) The Tribunal is a body corporate and shall have a common seal of such design as may be approved by the Lieutenant Governor in Council.

(2) The common seal of the Tribunal shall be judicially noticed.

553. The Tribunal may from time to time appoint one or more experts, or persons having technical or special knowledge of the matter in question, to inquire into and report to the Tribunal to assist the Tribunal in any capacity in respect of any matter before it.

554. Subject to *The Public Service Act, 1962* the Tribunal may with the approval of the Lieutenant Governor in Council appoint or employ a secretary and such other officers, clerks or servants as it considers necessary, and any person so appointed or employed shall receive such remuneration as shall be determined by the Lieutenant Governor in Council.

555. The secretary shall

- (a) keep a record of all proceedings conducted before the Tribunal or any members thereof,
- (b) have the custody and care of all records and documents belonging to or pertaining to the Tribunal and filed in his office,
- (c) obey all rules or directions given by the Tribunal touching his duties or office, and
- (d) ensure that every regulation and order made by the Tribunal is drawn pursuant to the direction of the Tribunal, properly authenticated and filed in his office.

556. Upon application of any person and on payment of such fees as the Tribunal may prescribe, the secretary shall deliver to such person a certified copy of any regulation or order.

557. In the absence of the secretary the Tribunal may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Tribunal may act as secretary.

558. The Tribunal or the chairman may authorize any one of the members to report to the Tribunal upon any question or matter arising in connection with the business of the Tribunal, and that member has, when so authorized, all the powers of the Tribunal for the purpose of taking evidence or acquiring the necessary information for the purpose of his report, and, upon his report being made to the Tribunal, it may be adopted as the order of the Tribunal, or otherwise dealt with as to the Tribunal seems proper.

559. For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this Act or by the Lieutenant Governor in Council, the Tribunal may, with the consent

of the Minister in charge of any department of the Government, avail itself of the services of any officer or other employee of such department.

560. Whenever the Tribunal, acting within its jurisdiction, appoints or directs any person, other than a member of its staff, to perform any service required by this Act, that person shall be paid therefor such sum for services and expenses as the Lieutenant Governor in Council may upon the recommendation of the Tribunal, determine.

561. The salaries and all expenses incurred by the Tribunal in the performance of its duties, including all reasonable travelling and subsistence expenses of the members and the secretary, and of such members of the staff of the Tribunal as may be required by the Tribunal, shall be paid out of the General Revenue Fund of the Province.

562. The Tribunal members shall, during their term of office, reside in such places as the Lieutenant Governor in Council from time to time determines.

563. The Lieutenant Governor in Council shall fix the place where the Tribunal is to sit and have its office, and shall also provide it with suitable quarters, furniture and facilities for the holding of its sittings and the transactions of its business generally.

564. Whenever circumstances render it expedient to hold a sitting of the Tribunal elsewhere than in the place fixed by the Lieutenant Governor in Council, the Tribunal may hold such sitting in any part of the Province.

565. (1) Where sittings of the Tribunal, or of any member thereof, are appointed to be held in any city, town or place in which a court house is situated, the member presiding at any such sitting has, in all respects, the same authority as a judge of the Supreme Court with regard to the use of the court house and other buildings or apartments set apart in the judicial district for the administration of justice, but subject to the prior right of the court and of judicial and administrative officers to use the buildings and apartments for the purposes of the administration of justice.

(2) Where sittings are appointed to be held in any municipality where there is a hall belonging to the municipality, the municipality shall, upon request, allow the sittings to be held in the hall without charge.

566. During their term of office, the members of the Tribunal are subject to the following disqualifications:

(a) no full time member shall hold office in any munic-

ipality, nor shall any full time member be qualified to run for office in any municipality;

- (b) no full time member shall hold office in any ministry or department of the Province of Alberta or the Government of Canada,
- (c) no member who is a full time appointee shall hold any other office or employment, and no chairman who is a part time appointee shall accept any employment pertaining to any municipality, nor shall an appointee appear before any municipal council or other municipal official on behalf of any person or respecting any matter except in the execution of the duties of the Tribunal, nor shall the chairman accept any employment, either directly or indirectly relating to the Province of Alberta, or any Department of the Government except his appointment to the Tribunal, but any part time member other than the chairman may hold office in any municipality or department of the Government.

567. (1) In matters within its jurisdiction the Tribunal may order and require any person or local authority to do forthwith or within or at any specified time and in any manner prescribed by the Tribunal, so far as it is not inconsistent with this Act or any other Act conferring jurisdiction, any act, matter or thing that the person or local authority is or may be required to do under this Act or under any other general or special Act, and may forbid the doing or continuing of any act, matter or thing that is in contravention of any such Act or regulation, order or direction of the Tribunal.

(2) The Tribunal may, as to matters within its jurisdiction, hear and determine all questions of law or of fact.

(3) Except as herein otherwise provided, the Tribunal has, in regard to the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the payment of costs, and all other matters necessary or proper for the due exercise of its jurisdiction or otherwise for carrying any of its powers into effect, all such powers, rights and privileges as are vested in the Supreme Court of Alberta.

(4) The Tribunal may, in its discretion, accept and act upon evidence by affidavit or written affirmation or by the report of any officer or engineer appointed by it or obtained in such other manner as it may decide.

(5) All hearings and investigations before the Tribunal shall be governed by rules which may be adopted by the Tribunal, and in the conduct of hearings and investigations before it the Tribunal is not bound by the technical rules of legal evidence.

(6) No person shall be excused from testifying or from producing any book, document or paper in any investigation or inquiry by or upon a hearing before the Tribunal, when ordered to do so by the Tribunal, upon the ground that the testimony or evidence, book, document or paper required of him may tend to incriminate him or subject him to penalty or forfeiture, and no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he has, under oath, testified or produced documentary evidence, but no person so testifying is exempt from prosecution or punishment for any perjury committed by him in his testimony.

(7) Nothing herein is intended to give or shall be construed as in any manner giving to any corporation immunity of any kind.

(8) No member or employee of the Tribunal shall, in any civil suit to which the Tribunal is not a party, be required to give testimony with regard to information obtained by him in the discharge of his official duty.

(9) The Tribunal or any person authorized by the Tribunal to make an inquiry or report

- (a) may, when it appears expedient,
 - (i) enter upon and inspect any place, building, works or other property,
 - (ii) require the attendance of all such persons as it or he thinks fit to summon and examine and take the testimony of such persons,
 - (iii) administer oaths, affirmations or declarations, and
- (b) has the like powers as are vested in the Supreme Court, to summon witnesses, enforce their attendance, and compel them to give evidence and produce the books, plans, specifications, drawings and documents that it or he may require them to produce.

568. (1) The Tribunal, of its own motion may, and upon the request of the Lieutenant Governor in Council shall, inquire into, hear and determine any matter or thing within its jurisdiction.

(2) Any power or authority vested in the Tribunal under this Act or any other Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion requires.

569. (1) If default is made by any person or local authority in the doing of any act, matter or thing that the Tribunal has authority, under this or any other Act, general or special, to direct and has directed to be done, the Board may authorize such person as it sees fit to do the act, matter or thing.

(2) In every such case the person so authorized may do such act, matter or thing, and the expense incurred in doing it may be recovered from the person or local authority in default as money paid for and at the request of such person or local authority, and the certificate of the Tribunal of the amount so expended is conclusive proof thereof.

Practice and Procedure

570. Every municipal council, whenever it considers that the interests of the public in a municipality or in a considerable part of a municipality are sufficiently concerned, may by resolution authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Tribunal, and for that purpose the council is authorized to take any steps and to incur any expense and to take any proceedings necessary to submit the question in dispute to the decision of the Tribunal, and if necessary to authorize the municipality to become a party to an appeal therefrom.

571. The Tribunal may make rules of practice, not inconsistent with this Act, regulating its procedure and the times of its sittings.

572. (1) The Tribunal may, where in its opinion the attendance of any witness before the Tribunal is desirable, cause to be served upon him a notice requiring his attendance before the Tribunal, and the notice shall be signed by a member or the secretary thereof.

(2) In case of failure or refusal on the part of any person to comply with a notice to attend issued by the Tribunal, a judge of the Supreme Court of Alberta, on the application of the Tribunal, may issue a bench warrant requiring the attendance of the witness before the Tribunal.

(3) In the case of the refusal of a witness to give evidence or answer as to any matter regarding which he is questioned before the Tribunal, a judge of the Supreme Court of Alberta, on the application of the Tribunal, may commit the witness for contempt of the Tribunal, and the judge has the same power of committal in respect of the contempt as he has in respect of contempts of the Supreme Court.

573. Any notice with regard to matters before or to come before the Tribunal and required or authorized to be given in writing

(a) by the Tribunal, may be signed by the chairman, any other member of the Tribunal, or the secretary, or

(b) by any person appointed by the Tribunal, may be signed by that person, or

- (c) by any other person, may be signed by that person or his authorized agent or solicitor.

574. Any such notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering it, or a copy thereof, within the time, if any, limited therefor,

- (a) in the case of a municipal corporation, to the head of the municipality or to the secretary,
- (b) in the case of any other corporation or company, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office or chief place of business within the Province,
- (c) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein, and
- (d) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

575. (1) If, in any case within the jurisdiction of the Tribunal, it is made to appear to the satisfaction of the Tribunal that service of any such notice cannot conveniently be made in the manner provided in section 574, the Tribunal may order and allow service to be made by publication in a local newspaper, and such publication in each case shall be deemed to be equivalent to service in the manner provided in section 574.

(2) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section or section 574.

576. Sheriffs, deputy sheriffs, constables and other peace officers shall, whenever required to do so, aid, assist and obey the Tribunal in the exercise of the jurisdiction conferred by this Act.

577. (1) The officials of any local authority to whom the Tribunal makes application for statements, reports, copies of documents or information of any kind, shall furnish the required statements, copies or information to the Tribunal free of cost.

(2) The Registrars of Land Titles in the different land registration districts and Departments of the Government shall furnish the Tribunal with such certificates and certified copies of documents as the Tribunal may in writing

require, without charge, and the Tribunal and any member or official of the Tribunal thereunto authorized may at any time search in the public records of the land titles offices without charge.

578. Every written or printed document purporting to have been issued or authorized by a corporation or any officer, agent or employee of a corporation, or by any other person or corporation, for or on its behalf, shall, as against the corporation, be received in evidence as *prima facie* proof of the issue of the document by the corporation, without any further proof than the mere production of the document.

579. (1) Every document purporting to be signed by the chairman and secretary of the Tribunal or by a single member of the Tribunal, or by any officer of the Tribunal, is, without proof of the signature, *prima facie* proof that the document was duly signed, and is sufficient notice to all parties interested, if served in the manner hereinbefore provided for service of notice, that the document was duly signed and issued by the Tribunal or an officer of the Tribunal, as the case may be.

(2) If the document purports to be a copy of any regulation, order, direction, decision or report made or given by the Tribunal, or any of its officers, it is *prima facie* proof of the regulation, order, direction, decision or report, and when served in the manner hereinbefore provided is sufficient notice of the regulation, order, direction, decision or report from the time of service.

580. (1) Any document purporting to be certified by the secretary as being a copy of any document deposited with the Tribunal, or any portion thereof, is, without proof of the signature of the secretary, *prima facie* proof of the original document, and that it is so deposited, signed, certified, attested or executed by the persons by whom and in the manner in which it purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was deposited, that it was deposited at the time so stated.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Tribunal, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Tribunal, is *prima facie* proof of the regulation, order or document without proof of the signature of the secretary.

581. In contentious matters, the Tribunal may require such notice of an application to or hearing by the Tribunal to be given, as is considered requisite.

582. (1) When the Tribunal is authorized to hear an application, complaint or dispute, or make an order, upon notice to the parties interested, it may, upon the ground of urgency or for other reason appearing to the Tribunal to be sufficient, notwithstanding any want of or insufficiency in the notice, make the like order or decision in the matter as if due notice had been given to all parties, and the order or decision is as valid and takes effect in all respects as if made on due notice.

(2) A person entitled to notice and not sufficiently notified may, at any time within 10 days after becoming aware of any order or decision, or within such further time as the Tribunal may allow, apply to the Tribunal to vary, amend or rescind the order or decision, and the Tribunal shall thereupon, on such notice to other parties interested as in its discretion it thinks desirable, hear the application, and either amend, alter or rescind the order or decision, or dismiss the application as to it seems just.

Orders of the Tribunal

583. (1) The Tribunal may direct in any order that the order, or any portion or provision thereof, comes into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Tribunal or a person named by it for the purpose, of any terms that the Tribunal imposes upon any party interested, and the Tribunal may direct that the whole or any portion of the order have force for a limited time or until the happening of any specific event.

(2) The Tribunal may, instead of making an order final in the first instance, make an interim order and reserve further direction, either for an adjourned hearing of the matter or for further application.

584. Upon any application to the Tribunal, the Tribunal may make an order granting the whole or part only of the application, or may grant such further or other relief including the awarding of damages, in addition to, or in substitution for, that applied for as to the Tribunal seems just and proper, as fully and in all respects as if the application had been for such partial, further or other relief.

585. The Tribunal may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding any thing to be done that the Tribunal would be empowered on application, petition, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Tribunal considers necessary to enable the matter to be heard and determined.

586. When any work, act, matter or thing is, by any regulation, order or decision of the Tribunal, required to be done, performed or completed within a specified time, and if the circumstances of the case in its opinion so require, the Tribunal may, upon giving such notice as it considers reasonable, or in its discretion without notice, extend the time so specified.

587. (1) The Tribunal may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Tribunal, or upon any matter or thing over which the Tribunal has jurisdiction.

(2) The Tribunal may order by whom and in what proportion the costs and expenses incurred in making the inquiry and report shall be paid, and may fix the amount of the costs and expenses.

(3) Any application, petition, matter or complaint over which the Tribunal has jurisdiction under this Act or any other Act may be heard by a single member of the Tribunal who, after the hearing, shall report his findings to the Tribunal, and the Tribunal may thereupon deal with the application, petition, matter or complaint as if the hearing had been before the full Tribunal.

588. The Tribunal may rehear an application before deciding it, and may review, rescind, change, alter or vary any decision or order made by it.

589. (1) An order of the Tribunal need not show upon its face that any proceedings or notice was had or taken, or that any circumstance, necessary to give it jurisdiction to make the order, existed.

(2) Every order of the Tribunal authorizing an act to be done by a local authority becomes, when the act is not done, void at the expiration of one year from the date of the order, unless further extended by the Tribunal.

590. (1) The observance of an order of the Tribunal may be enforced by a written direction, to the sheriff of any judicial district, endorsed upon or annexed to a certified copy of the order and signed by the Tribunal, and in the case of an order for payment of any money, costs, expenses or penalty, the sheriff receiving the direction shall levy the amount with his costs and expenses in like manner and with the same powers as if the order were an execution against the goods of the party to pay issued out of the Supreme Court of Alberta.

(2) In the case of an order of the Tribunal for payment of any money, costs, expenses or penalty, a certificate of the order signed by the secretary may be registered in any land titles office in the Province.

(3) When so registered the certificate constitutes a lien and charge upon any lands, or interest therein, held by the party, persons, company or corporation ordered to pay the money and situated in the land registration district in which the office is situated, to the same extent and in the same manner as the lands would be bound by the registration of an execution issued after judgment in the Supreme Court of Alberta.

(4) The amount ordered to be paid by any order so registered may be realized in the same manner and by similar proceedings as the amount of any registered execution of the Supreme Court of Alberta.

591. (1) Any municipality may refer to the Tribunal for its consideration any by-law passed by the municipality, and the Tribunal shall consider and adjudicate upon it, and

- (a) if, in the opinion of the Tribunal the by-law is valid, the Tribunal shall so certify, and upon the certificate being issued, the by-law shall be conclusively deemed to be valid for all purposes, or
- (b) if, in the opinion of the Tribunal the by-law is invalid by reason of being contrary to this or any other Act or by reason of any procedural, jurisdictional, or drafting or other defect which can be remedied, the Tribunal shall by written notice, advise the municipality of the nature of the defect and shall direct the manner in which it may be remedied, and shall specify a reasonable time within which the defect may be remedied, and upon the municipality remedying the defect in the manner specified by the Tribunal, the by-law shall thereupon be certified as being valid, but if the municipality fails to remedy the defect in the manner specified by the Tribunal within the time stipulated therefor, or within such extension of time as the Tribunal may grant, the Tribunal shall quash and set the by-law aside.

(2) An application by a municipality for the consideration of a by-law shall be made by forwarding to the Tribunal two copies of the by-law, together with an extract, certified by the municipal secretary, of the minutes of the council respecting the introduction and readings given to the by-law, and the resolution by the council to refer the by-law to the Tribunal.

(3) On an application by a municipality for the approval of a by-law, no cash deposit shall be required, and no costs shall be awarded.

(4) Upon receiving an application for the approval of a by-law, the Tribunal may require such further information or evidence as it considers necessary and the municipality shall supply it.

(5) The Tribunal may consider the application on the basis of the information supplied or may direct a hearing, and in that event, shall notify such persons as it considers entitled to be heard or be in attendance at the hearing.

592. Any ratepayer or resident in a municipality, feeling himself aggrieved with respect to

- (a) any resolution, order, action or refusal to act on any matter pertaining to the municipality, by the council thereof, or its officials or employees, or
- (b) any by-law on the grounds
 - (i) that it fails to comply with this or any other Act, or
 - (ii) that private rights have been improperly invaded, or
 - (iii) that it creates unfair discrimination, or
 - (iv) that it is invalid by reason of procedural, jurisdictional or drafting defects,or
- (c) the refusal of a municipality to permit the development of any land within the municipality, or
- (d) any licence or refusal to grant a licence or the amount of the fee charged for a licence, or
- (e) any rezoning affecting the value of the grievor's property, or
- (f) any other matter which by this Act is referred to the Tribunal,

may serve upon the council of the municipality by registered mail, a notice setting out the details and the reasons why he is aggrieved, together with full particulars thereof, and upon receipt of the notice the secretary of such municipality shall within three days notify the grievor of the date and time of the next meeting of the council which shall take place more than seven days following the notice, and the council shall at the meeting consider the matter complained of and shall permit the grievor to attend in person or by representative to present the complaint.

593. If the council fails to hear the application, or fails to resolve the grievance, the applicant may appeal to the Tribunal for a hearing by delivering to the Tribunal

- (a) a true copy of the notice served by him upon the council, together with proof of service thereof,
- (b) satisfactory proof that the council either failed to hear the application or failed to resolve the complaint,
- (c) a cash deposit of \$50,
- (d) a statement of the relief sought, and
- (e) a statement of the grounds, if any, upon which any by-law or Act of council is claimed to be invalid.

594. When the Tribunal considers an appeal to be frivolous or an abuse of the provisions of this Part, the Tribunal may dismiss the appeal without a hearing or impose such conditions as it may consider proper before directing a hearing thereon.

595. (1) Upon acceptance by the Tribunal of an appeal the Tribunal shall set a date for the hearing of the appeal, which date shall not be later than 60 days from the date upon which the appeal was delivered to the Tribunal, and shall notify the appellant and the council of the municipality concerned of the date, time and place of the hearing thereof, and shall permit the parties to appear in person or to be represented on the hearing or any adjournment thereof.

(2) In the event the Tribunal is unable to hear the appeal within the period of 60 days it shall have jurisdiction to hear the appeal at the earliest date available thereafter.

596. At the hearing of an application to quash, the Tribunal shall receive evidence and argument from the complainant, the council and any other parties who the Tribunal considers have an interest.

597. (1) On the hearing of an appeal if it appears that it involves the consideration, interpretation or application of a by-law, the Tribunal may interpret it and make an order respecting the application of the by-law, but it may not quash or set aside the by-law by reason of any procedural, jurisdictional, drafting or other defect if the defect is capable of being remedied, and if the municipality within such reasonable time as the Tribunal stipulates, remedies the defect in the manner directed by the Tribunal, the by-law shall be certified to be valid for all purposes and shall not thereafter be subject to being quashed or set aside.

(2) If the municipality fails to remedy a defect in any by-law, resolution or order in the manner and within the time directed by the Tribunal, then unless the Tribunal extends the time for remedying the defect, the Tribunal may, if it is of the opinion that the by-law, resolution or order is invalid, set it aside in whole or in part.

598. Any by-law, the passing of which has been procured through or by means of a contravention of section 187 or 188, may be quashed upon an application made in conformity with this Part.

599. Any by-law passed by a council in the exercise of any of the powers conferred by this or any other Act, which is passed in good faith, is not open to question, nor shall it be quashed, set aside or declared invalid, either wholly or partly on account of the unreasonableness of its provisions or any of them.

600. On the hearing of an appeal the Tribunal, notwithstanding that any by-law has been declared valid:

- (a) may order that the appellant be excluded from the provisions of the by-law for such period as the order may specify;
- (b) may order payment to the appellant of compensation or damages suffered by the appellant by reason of the by-law in the amount the Tribunal may fix;
- (c) make such other order as the Tribunal may consider warranted;
- (d) dismiss the application.

601. In any application for compensation or damages the Tribunal shall not entertain it, or award compensation or damages or exclude the applicant from provisions of any by-law, resolution, order or act of the council or any official or employee of the municipality, unless it is satisfied that the by-law, resolution, order or act of the council, or act of any official or employee of the municipality is contrary to the provisions of this or any other Act or has amounted to discrimination against the applicant or has caused the applicant damage, loss or hardship that is unjust, personal and not of a kind experienced by the residents of the community as a whole.

602. (1) If upon an appeal being filed with the Tribunal it appears that a claim is being made for compensation or damages for which there is a cause of action maintainable in any court, the Tribunal shall not adjudicate upon it unless the parties consent to the Tribunal determining the matter, in which event the jurisdiction of the Tribunal shall be absolute and not subject to review.

(2) Where any question arises as to the right of the Tribunal to adjudicate upon a claim for compensation or damages under this section, any party to such proceedings may require the Tribunal to state and sign a case, setting forth the alleged facts of the case, the grounds upon which the jurisdiction of the Tribunal is objected to, and such stated case shall be prepared, signed and delivered to the party requiring the same within 10 days of the demand therefor.

(3) Upon the delivery of the stated case the party requiring the same may by notice of motion to the other parties to the proceedings, apply to a judge of the Supreme Court to have the question raised by the stated case determined.

(4) The notice of motion shall be served not later than 10 days after the receipt of the stated case by the party requiring the same and shall name a date for the hearing

of the question which shall be not less than five and not more than 10 days from the date of service.

(5) The Court shall hear and determine the question propounded in the stated case as to whether or not the Tribunal has jurisdiction under this section to adjudicate upon the claim.

(6) If the Court decides that the claim is maintainable in a court, the party making such a claim shall be entitled to commence proceedings with respect thereto in the court and upon doing so the jurisdiction of the court to hear and adjudicate upon such claim shall be absolute and not subject to review.

(7) If the court decides that the Tribunal has jurisdiction to adjudicate upon the claim it shall remit the matter to the Tribunal with the opinion of the court thereon and thereafter the jurisdiction of the Tribunal to adjudicate upon the matter shall be absolute and not subject to review.

603. If any party having required a stated case under this section fails to proceed with an application for the determination thereof as provided by this section and with the time limits of this section, the objection to the jurisdiction of the Tribunal shall be conclusively deemed to have been abandoned and the Tribunal thereafter shall have jurisdiction to hear and determine the same.

604. (1) Where it appears on an application under clause (c) of subsection (1) of section 592 that stipulated types of development are permitted by the by-laws of the municipality and that the applicant has applied for permission to develop in conformity with the by-laws, the Tribunal may order that the development permit be granted.

(2) Where it appears in such application that no development is permitted by the by-laws of the municipality, the Tribunal may order that the municipality grant a development permit, unless within a time to be stipulated by the Tribunal, the lands for which the development permit has been applied for have been expropriated by the municipality.

605. When it appears on an appeal that lands have been rezoned causing the value of the land to be less than its value immediately prior to the rezoning, the Tribunal may order that the municipality pay as compensation to the appellant the difference between the real actual value of the land as zoned under the previous zoning and the real actual value thereof under the existing zoning.

606. In any application where the complaint relates to a licence fee being charged by a municipality, the Tribunal

has jurisdiction to consider it and for that purpose may receive evidence respecting the reasons for the fee, the basis of calculation thereof and the practice in other municipalities, and may confirm the fee, vary it or make such direction as it considers necessary to assure that any licence fee is fair and just under all circumstances.

607. The Tribunal shall hear and decide any appeal referred to it by the provisions of any other Act, but unless otherwise provided in such an appeal it shall not be necessary for the griever to serve notice on the municipal council nor shall the council be required to hear the griever as provided for by section 592 and the notice of the appeal shall be delivered to the Tribunal which shall fix a date for the hearing of the appeal as provided in section 595 and shall, not less than 15 days prior to the date of the hearing, serve the municipality with a copy of the notice of appeal and of the notice of the hearing.

608. In any application under clause (c) or (e) of subsection (1) of section 592, the Tribunal shall notify all property owners that it considers may be affected by the appeal with not less than 15 days' notice of the time and place of the hearing thereof.

609. (1) On the hearing of an appeal or application, the Tribunal shall cause a verbatim record to be made of all evidence, submissions and argument and shall, on request and upon payment of such fee as the Tribunal may establish, provide a copy of all proceedings, documents, evidence, submissions and argument as may be required, and in the event of an appeal being taken shall, on payment of such fee as may be fixed by the Tribunal, provide the record in the form of appeal books complying with the Consolidated Rules of the Supreme Court.

(2) Upon the Tribunal hearing any complaint, grievance or appeal provided for in this Act the decision of the Tribunal together with the reasons therefor shall be delivered in writing signed by the Tribunal and copies thereof shall be available to all parties.

(3) The Tribunal may at the conclusion of a hearing make an order for the payment of costs and may in the order provide for the refunding of the deposit or the retaining of the deposit as the Tribunal considers proper and shall, in the event of the by-law, resolution or order being set aside or in the event that defects in the by-law, resolution or order are remedied, refund the deposit paid by the appellant.

610. (1) Subject to subsection (2), an appeal lies from the Tribunal to the Appellate Division of the Supreme Court of Alberta.

(2) Leave to appeal shall be obtained from a judge of the Appellate Division upon application made within one month after the making of the order, decision, rule or regulation sought to be appealed from, or within such further time as the judge under special circumstances may allow, and upon notice to the parties and to the Tribunal, and upon hearing such of them as appear and desire to be heard, and the costs of the application are in the discretion of the judge.

(3) On the hearing of the appeal, no evidence other than the evidence that was submitted to the Tribunal upon the making of the order appealed from shall be admitted, and the Court shall proceed either to confirm, vary or vacate the order appealed from and in the latter event shall refer the matter back to the Tribunal for further consideration and redetermination.

(4) Upon leave being obtained the party appealing shall deposit with the Registrar of the Court the sum of \$250 by way of security for costs, and thereupon the Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall within 10 days after the appeal has been set down, give to the parties affected by the appeal or the respective solicitors by whom the parties were represented before the Tribunal, and to the secretary of the Tribunal, notice in writing that the case has been set down to be heard in appeal and the appeal shall be heard by the Court as speedily as practicable.

(5) On the hearing of the appeal the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Tribunal and as are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Tribunal, and the Tribunal shall make an order in accordance with the opinion.

(6) The Tribunal is entitled to be heard by counsel or otherwise upon the argument of any appeal.

(7) The Court may fix the costs and fees to be taxed, allowed and paid upon the appeal and may make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the Appellate Division are applicable to appeals under this Part.

(8) Neither the Tribunal nor any member of the Tribunal is in any case liable to costs by reason of or in respect of an appeal or application.

(9) Except as otherwise provided,

- (a) every decision or order of the Tribunal is final, and
- (b) no order, decision or proceeding of the Tribunal shall be questioned or reviewed, restrained or re-

moved by prohibition, injunction, *certiorari* or any other process or proceeding in any court.

(10) Every order of the Tribunal takes effect at the time prescribed by the order, and its operation is not suspended by any appeal to the Appellate Division of the Supreme Court unless otherwise ordered by the Court, but the Tribunal itself may suspend the operation of its order, when appealed from, until the decision of the court of appeal is rendered, if the Tribunal thinks fit.

611. The Lieutenant Governor in Council may, by order, at any time refer to the Tribunal for a report or other action any question, matter or thing arising or required to be done in respect of any matter subject to the jurisdiction of the Tribunal under any general or special Act, and the Tribunal shall without unnecessary delay comply with the order in council.

612. (1) The costs of and incidental to any proceeding before the Tribunal, except as herein otherwise provided, are in the discretion of the Tribunal, and may be fixed in any case at a sum certain or may be taxed.

(2) The Tribunal may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Tribunal may prescribe a scale under which such costs are to be taxed.

(4) The Tribunal may, with the approval of the Lieutenant Governor in Council, prescribe the fees to be paid by local authorities or persons interested in the matters that come before the Tribunal.

Annual Report

613. The Tribunal shall, in the month of January in each year, transmit to the president of the Executive Council for the year ending on the preceding 31st day of December, a report showing briefly,

- (a) the applications to the Board and summaries of the finding made thereon,
- (b) the number and the nature of the inquiries that it has held of its own motion, and
- (c) such matters as the Lieutenant Governor in Council directs.

PART 11

LEGAL PROCEEDINGS

614. Where,

- (a) duties, obligations or liabilities are imposed by law upon a person, or

(b) contracts or agreements, are or have heretofore been created, enacted or validated by a statute imposing such duties or obligations or liabilities, the municipality may by action enforce the duties or obligation and the payment of the liabilities and may obtain as complete and full relief, and enforce the same remedies as could have been maintained, obtained and enforced therein by the Attorney General as plaintiff or as plaintiff upon the relation of any person interested.

615. A municipality may sue and be sued, implead and be impleaded, answer and be answered unto in all courts and in all actions, causes and suits at law and in equity whatsoever.

616. (1) Where any by-law or resolution is illegal in whole and part, or where anything has been done under it that by reason of the illegality gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law or resolution has been considered and dealt with by the Municipal Appeal Tribunal as provided in Part 10.

(2) Every such action shall be brought against the municipality alone and not against any person acting under the by-law or resolution.

617. (1) Subject to sections 619 and 620, no action shall be brought against a municipality, its officials, employees, or agents by reason of death of or injury to any person, or any injury to the property of any person arising out of any accident alleged to be due to the negligence of the municipality, its officials, employees or agents acting in the course of their employment unless notice in writing of the accident and the cause thereof has been served upon the municipal secretary within six months of the happening of the accident.

(2) In the case of the death of any such person the want of notice is not a bar to the maintenance of the action, and in other cases the want or insufficiency of the notice hereby required is not a bar to the action if a court or judge considers there is reasonable excuse for the want of such notice or insufficiency thereof and that the city, its officials, employees or agents have not thereby been prejudiced materially in their defences.

(3) The provisions of this Act, as to the time within which notice shall be given the municipality, its officials, employees, or agents acting in the course of their employment apply to the premises of and the activities conducted by any board, association or organization in cases where, if liability is imposed, payment thereof would be required directly or indirectly to be made by the municipality.

618. (1) Where the municipality tenders amends to the plaintiff or his solicitor, if such tender is pleaded and, if traversed, proved and no more than the amount of the tender is recovered, the plaintiff shall have no costs but costs shall be taxed to the defendant on such scale as the presiding judge may direct and shall be set off against the amount recovered and the balance due to either party may be recovered as in ordinary cases.

(2) The tender of a cheque of the municipality payable to the claimant constitutes a legal tender of payment of a claim against the municipality other than a claim founded on a cheque or note.

(3) The council of any municipality upon any claim being made, or action brought for damages for alleged negligence on the part of the municipality may tender or pay into the court, pursuant to the rules of the court in that behalf, such amount as it considers proper compensation for the damages sustained, and in the event of the non-acceptance by the claimant of the tender or of the amount paid into court and on the action being proceeded with and no greater amount being recovered than the amount so paid into court, the costs of the suit or the costs of the suit subsequent to the payment into the court in case no tender was made shall be awarded to the defendants and set off against any amount recovered against them.

619. (1) Except in the case of gross negligence the municipality is not liable for injury to any property or person, caused by snow, ice or slush upon any sidewalk, street or highway or lane in the municipality.

(2) No action shall be brought in order to recover against the municipality for any damage to any property or person sustained by reason of the existence of snow, ice or slush upon any street, sidewalk or highway or lane in the municipality, unless notice in writing of the claim and of the injury complained about has been served upon or sent by registered mail to the municipal secretary within 21 days after the cause of action arises and, failing such notice, the municipality is relieved of any liability for damages or compensation in respect of the action for injury, notwithstanding any provision or law to the contrary.

620. No action shall be commenced against a municipality, its officials, employees or agents for the recovery of damages occasioned by default in the municipality's duty of repair referred to in section 292 whether the want of repair was the result of non-feasance or misfeasance, unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the municipal secretary within 60 days after the happening of the injury.

621. (1) Failure to give or insufficiency of the notice under section 617, 619 or 620, is not a bar to the action if the court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the municipality was not thereby prejudiced in its defence.

(2) In case of the death of the person injured, failure to give notice is not a bar to the action.

622. (1) Where the municipality and an adjacent municipality are jointly liable for keeping in repair a public road, street, bridge, highway, square, alley or other public place or work, there shall be contribution between them as to the damages sustained by any person by reason of their default in keeping it in repair or in a safe condition.

(2) Any action by any such person shall be brought against all such municipalities jointly, and any defendant therein may require that the proportions in which damages and costs recovered in the action are to be borne by them be determined therein.

(3) In settling the proportions, either in the action or otherwise, regard shall be had to the extent to which each municipality was responsible, either primarily or otherwise, for the act or omission for which the damages have become payable or are recovered and the damages and costs shall be apportioned between them accordingly.

623. (1) Where an action may be brought against the municipality by any person who has suffered damages by reason of default of the municipality in keeping in proper repair any public road, street, bridge, highway, square, alley or other public place or work, no action shall be brought in respect of the damage against any member of the council or officer or employee thereof personally, but the remedy therefor shall be wholly against the municipality.

(2) This section does not affect the liability of a mere contractor with the municipality, nor of any officer or employee of such contractor by reason of whose act or neglect the damage was caused.

624. (1) Where an action is brought against the municipality to recover damages sustained by reason of any obstruction, excavation or opening in or near a public highway, street, bridge, alley, square or other public place or work, placed, made, left or maintained by any person other than a municipality or a servant of the municipality, or by reason of any negligent or wrongful act or omission of any person other than the municipality or a servant or agent of the municipality, the municipality has a remedy over against the other person for, and may enforce payment of, the damages and costs of any that are recovered against the municipality.

(2) The municipality is entitled to the remedies, provided in this section, over in the same action if the other person is a party to the action and if it is established in the action against him, that the damages were sustained by reason of an obstruction, excavation or opening place, made, left or maintained by him, or by reason of any negligence or wrongful act or omission of such person.

625. (1) The municipality may in such action have the other person added as a party defendant or third party, if not already a defendant, for the purposes of the remedy over, and the other person may defend the action as well against the plaintiff's claim as against the claim of the municipality to a remedy over.

(2) The judge upon the trial of the action may order costs to be paid by or to any of the parties thereto or in respect of any claim set up therein as in other cases.

626. If the other person is not a party defendant in the action, or if the other person is not added as a party defendant or third party, or if the municipality has paid the claim for damages before any action is brought to recover them, or before the recovery of damages or costs against the municipality therein, the municipality has a remedy over by action against such other persons for such damages and costs as have been sustained by reason of any obstruction, excavation opening placed, made, left or maintained as aforesaid or by reason of negligent or wrongful act or omission of that person.

627. Such other persons shall only be deemed to admit the validity of the judgment, if any, obtained against the municipality where a third party notice has been served on him pursuant to *The Judicature Act* or the rules of court providing for third party notices or when he has admitted or is estopped from denying the validity of the judgment.

628. Where no third party notice has been served or where there has been no such admission or estoppel and the other person has not been made a party defendant or third party to the action against the municipality or where damages have been paid without action or without recovery of judgment against the municipality, the liability of the municipality for the damages, and the fact that damages were sustained under such circumstances as to entitle the municipality to the remedy over, shall first be established in the action against such person in order to entitle the municipality to recover in the action.

629. In respect of acts done or omitted to be done by other persons acting in the exercise of powers or authorities conferred upon them by law and over which the municipi-

pality has no control, nothing in this Act casts upon the municipality any obligation or liability therefor, where the municipality is not a party to the acts or omissions and the authority under which the person acted or act is not a by-law, order, resolution, or licence of the council.

630. Every penalty and licence fee imposed under this Act may, unless any other provision is specially made in respect thereof, be recovered and enforced with costs on summary conviction before a justice of the peace.

631. (1) Any penalty or fine under any by-law of the municipality shall, if no other provision is made respecting it, belong to and form part of the general revenue of the municipality.

(2) When any person is committed to gaol by reason of a breach of any by-law of the municipality, there is chargeable to the municipality such part of the expenses paid by the Province for the transport of the person to gaol and for his maintenance while there as may be designated by the Lieutenant Governor in Council.

632. Where any building is erected or is being erected or is being used, or where any land is being used, in contravention of any by-law of a municipality, or where the breach of a by-law is of a continuing nature or where any person is carrying on business or is doing any act, matter or thing without having paid any licence or permit fee required to be paid in respect thereof, then in addition to any other remedy and to any penalty imposed by the by-law, the municipality may, in any of those cases, apply to a judge by way of action or originating notice for an injunction or other order, and the judge may grant or refuse the injunction or other order or may make any other order that in his opinion the justice of the case requires, and an appeal to the Appellate Division of the Supreme Court of Alberta lies from any order made by a judge hereunder.

633. (1) Where any conviction founded upon the breach of any by-law of the municipality is appealed against to the court empowered to hear and determine appeals against summary convictions, and any question arises upon the hearing of the appeal in regard to the validity of the by-law or the right of the municipality or council to pass it, any person aggrieved by the decision of the court or tribunal may require the court or tribunal to state and sign a case, setting forth the facts of the case and the grounds upon which the validity of the by-law or the right of the council to pass it is questioned, to the Appellate Division of the Supreme Court of Alberta.

(2) The Appellate Division shall hear and determine the question of the validity of the by-law and the right of the

council to pass it, and shall thereupon affirm, reserve, or modify the decision, order or determination in respect of which the case has been stated, or remit the matters to the court below with the opinion of the court thereon, and may make such other order in relation to the matter and such orders as to costs as to the court seems fit.

(3) All such orders are final and conclusive as against all parties.

634. (1) Any writ of execution against a municipality may be endorsed with a direction to the sheriff of the judicial district in which the municipality is located to levy the amount thereof by rate.

(2) Where the sheriff is directed to levy by rate, he shall deliver a copy of the writ and endorsement to the municipal secretary with a statement in writing of the amount required to satisfy the execution, including the amount of interest calculated to a date as near as is convenient to the date of the service, and sheriff's fees.

(3) If the amount, with interest thereon from the date mentioned in the statement, is not paid to the sheriff within 30 days after service, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes strike a rate on the dollar sufficient to realize the amount claimed with such addition thereto as the sheriff considers sufficient to cover the interest and his own fees up to the time when the rate will probably be available.

(4) The sheriff shall thereupon issue an order under his hand and seal of office directed to the municipal treasurer and shall attach thereto a statement of the rate struck by him and shall by the order, after reciting the writ and that the municipality has neglected to satisfy it and referring to the rate attached to the order, command the treasurer to levy the rate at the same time and in the same manner as the general annual rates.

(5) At the time for levying the annual rates next after the receipt of the order the municipal treasurer shall add a column to the tax roll headed "Execution rate in A.B. versus", adding a similar

(name of municipality)

column if there are more executions than one, and shall insert therein the amount that is required to be levied upon each person pursuant to the order and shall levy the amount of the execution rate and shall, within the time that he is required to make the returns of the general annual rate, return to the sheriff the order with the amount levied thereon, deducting his percentage.

(6) The sheriff, after satisfying the execution and all fees thereon, shall return any surplus within 10 days after

receiving it to the treasurer for the general purposes of the municipality.

(7) The municipal secretary, the treasurer and the assessor shall, for the purpose of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to such execution, be deemed to be officers of the court from which the writ issued, and as such may be proceeded against by attachment, *mandamus* or otherwise to compel them to perform the duties hereby imposed on them.

635. Debts or moneys owing by any person or other municipality to the municipality or to a hospital board or any other board or organization whose funds are derived from the municipality or for the payment of whose deficit the municipality is liable, may be set off against any debts or moneys owing to the same person or municipality by the municipality or such board or organization, as the case may be.

636. (1) If in any case money deposited with the municipality by any person as a guarantee deposit for the payment of accounts of the municipality with respect to water, light, telephone or other utilities remains unclaimed for a period of five years after the account of the person so depositing it has been discontinued, the amount of the deposit shall be transferred to the general revenue account of the municipality.

(2) The municipality remains liable to repay the amount of the deposit to the person lawfully entitled thereto for a period of 10 years next following the discontinuance of the account but after the 10 year period the deposit becomes the absolute property of the municipality free from any claim in respect thereof.

637. (1) All lost or unclaimed property in the possession of the municipality or any department thereof shall be retained for three months.

(2) If not claimed within three months the municipality may dispose of the property by public auction, and any property offered for sale by public auction and not sold thereat may be otherwise disposed of as the council directs.

(3) The purchaser at such auction or otherwise becomes the owner of the property and any claim of the earlier owner shall be converted into a claim for the proceeds of sale, after the charges have been deducted for hauling, storage and other necessary expenses, including the costs of sale, that have been incurred by the municipality.

(4) If no claim is made to such proceeds within one year from the date of sale, the proceeds form part of the general revenue of the municipality.

638. Any person who contravenes any provision of this Act for the contravention of which no punishment has been specifically provided is guilty of an offence and liable on summary conviction to be punished by imprisonment for any term of not more than one year, or to be fined not more than \$500, or to both such fine and imprisonment.

639. Any member of the council

- (a) holding, enjoying, undertaking or executing any contract or agreement, the holding, enjoying, undertaking or executing of which is declared by this Act to make the seat of the member liable to forfeiture, or
- (b) acting as a surety for any official or employee of the council,

is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

640. Any official of the municipality

- (a) who refuses, neglects or fails to discharge the duties of his office, or
- (b) who knowingly signs any statement, report or return that is required by this Act or any other enactment, and that contains any false statement, or
- (c) who refuses or neglects to hand over to his successor in office, or to such persons as are designated in writing to him by the council or by the Minister, all moneys, books, papers, and other property of the municipality in his possession,

in addition to any civil liability that he may incur, is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

641. The Minister may require the council to supply such statistical information and records as he may require from time to time.

642. (1) Every municipality shall afford to the Alberta Assessment Appeal Board access to all books, papers, documents or other information in the possession or power of the municipality, and the officials of the municipality to whom the Appeal Tribunal makes application for any statement, report, copies of documents or any other information shall furnish it free of charge.

(2) Any municipality not complying with the requirements of this section, whether wilfully or not, is liable to a penalty of \$1 a day during the existence of the default.

(3) Any official of a municipality who refuses, neglects or fails to observe the provisions of this section, whether his failure be wilful or not, is guilty of an offence and liable upon summary conviction to a fine of not more than \$50.

643. (1) If one-third of the members of the council, or one-fourth of the proprietary electors of the municipality, petition the Lieutenant Governor in Council for a commission to issue under the great seal to inquire into the financial affairs of the municipality, the Lieutenant Governor in Council may issue a commission accordingly.

(2) The commissioner or commissioners have all the powers of commissioners appointed under *The Public Inquiries Act*.

644. (1) If the council passes a resolution

- (a) requesting that an inquiry be made into any matter mentioned in the resolution and relating to an alleged malfeasance, breach of trust or other misconduct on the part of a member of the council, a commissioner or other official, an employee or agent of the municipality, or any person having a contract therewith, in relation to the duties or obligations of such person to the municipality, or
- (b) requesting that inquiry be made into or concerning any matter connected with the good government of the municipality or the conduct of any part of the public business thereof,

the Attorney General may appoint a judge or some other suitable person to make the inquiry.

(2) The person so appointed shall, with all convenient promptitude, enter upon the inquiry and upon the conclusion thereof, shall report to the Attorney General and to the council the result of the inquiry and the evidence taken thereon.

(3) For the purpose of the inquiry, the person appointed has all the powers of a commissioner appointed under *The Public Inquiries Act*.

(4) Such person is entitled to receive and shall be paid such fees as may be fixed by the council.

(5) The council may engage and pay counsel to represent the municipality and may pay all proper witness fees to persons summoned to give evidence at the instance of the municipality.

(6) Any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question, may be represented by counsel.

645. The mayor or other member presiding at any meeting of the council or of any committee of the council may

- (a) require any person appearing before the council or committee or making any claim or submission to the council or committee to do so under oath, and
- (b) administer the oath or affirmation to any such person.

646. (1) The council, at any time by resolution, may appoint a committee of its members to investigate and make inquiry into or concerning any matter connected with the good government of the municipality, or with the administration of any of the public utilities under the control of the municipality whether such matter involves any charge against any official or employee of the municipality or not.

(2) The council may by the resolution authorize the committee to engage counsel and such other skilled persons and clerical assistants as the committee considers necessary to assist it in its investigation.

(3) Where the matter to be investigated or inquired into concerns any charge against any official or employee of the municipality, or where during the investigation any charge against any such employee arises, the committee so appointed may summon the official or employee before it to answer the charge.

(4) The committee may summon witnesses and take evidence under oath.

(5) The committee may pay all costs, charges and expenses incurred by them in and about such investigation.

(6) The committee shall report the result of the inquiry to the council.

647. No person shall, by reason of the adverse or unauthorized possession, occupation, enjoyment or use of any land owned by the municipality or of the highway within the municipality and shown upon any plan of subdivision or dedicated for use as a highway, whether adopted by the municipality as a highway or not, obtain any estate or interest therein or in any such land by reason of the adverse possession, occupation, enjoyment or use thereof, and it shall be deemed that no such right has heretofore been so acquired.

648. (1) A member of a council who spends or authorizes the expenditure of any funds of the municipality, unless he has first been empowered to do so by by-law or resolution of the council, is, in addition to being liable for a civil action instituted against him by the municipality or any ratepayer thereof, guilty of an offence and liable on summary conviction to fine of not less than \$10 and not more than \$100, and in default of payment to imprisonment for a term not exceeding two months.

(2) A councillor is not liable under this section for authorizing work of an urgent nature that is subsequently ratified by the council.

649. (1) A mayor, councillor or employee of a municipality, either in his own name or in the name of another, alone or jointly with another is prohibited from entering into a contract with the municipality for the supplying to him of a service or commodity other than a service or commodity that the council has statutory authority to supply.

(2) A contract entered into contrary to subsection (1) is void, and a person who contravenes this section is guilty of an offence and is liable upon summary conviction to a fine of not more than \$100 and in default of payment to imprisonment for a term not exceeding 60 days.

650. Where a municipality that does not comply with the provisions of this Act as to the annual return that is to be sent to the Minister in respect of the sinking fund, the mayor and the treasurer are guilty of an offence for each failure to comply, and upon summary conviction are for each such failure liable to a fine of not more than \$100.

651. A person who, within a municipality and either directly or indirectly, personally or through any servant, employee or agent,

- (a) kindles a fire and lets it run at large on any land not his own property, or
- (b) permits a fire to pass from his own land, or
- (c) allows a fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent, to run at large,

is guilty of an offence and liable on summary conviction to a fine of not less than \$25 and not more than \$200 and in addition is liable to civil action for damages at the suit of any person whose property has been injured or destroyed by any such fire.

652. Every person who interrupts, hinders or molests any person engaged under the authority of the municipality in making an examination, for or in constructing, maintaining or repairing any public work or any works connected therewith on any land is guilty of an offence and liable upon summary conviction to a fine of not more than \$50 or to imprisonment for a term not exceeding 30 days, or to both.

653. (1) All fines, penalties and forfeitures mentioned in this Act may be recovered and enforced with costs on summary conviction before a justice of the peace, unless otherwise provided.

(2) All moneys accruing from fines or penalties under this Act, shall unless otherwise provided, belong to the municipality.

Special Provisions Applicable to Calgary and Edmonton

CALGARY

654. The city of Calgary may continue to have and to exercise the power of

- (a) arranging the voters list of proprietary electors in alphabetical order for the city as a whole in lieu of arranging it in alphabetical order according to each polling division, and
- (b) using the proportional representation systems and such of the existing election practices and procedures as are required to implement or are related or incidental to the proportional representation system for the election of mayor, aldermen and school trustees.

655. The provisions of the Calgary Charter relating to the lands, buildings, plants and equipment of the water supply and distribution system commonly known as the Glenmore dam, and the provisions relating in particular to the assessment and taxation thereof by the Municipal District of Springbank continue to be applicable.

EDMONTON

656. (1) The provisions of the Edmonton Charter relating to

- (a) the composition and constitution of the local board of health and the Edmonton Library Board and the method of appointment and term of office of members of the said boards,
- (b) the exclusive franchise for the sale of natural gas now held by Northwestern Utilities Limited,
- (c) exemptions and fixed taxation for hotels contained in subsection 35 of section 221 of the said Charter, and
- (d) development of the civic centre area contained in subsection 36 of section 221 of the said Charter,

continue to be applicable.

(2) In the case of the local board of health referred to in clause (a) of subsection (1), the council of the city of Edmonton after the first day of July, 1953, may appoint as a member of the local board of health a qualified dentist who has been recommended by the Edmonton Dental Council and whose term of office shall be the same as that prescribed in the Edmonton Charter for medical practitioners appointed to the local board of health.

(3) The Board of Governors of the Royal Alexandra Hospital established by By-law No. 2255 of the City of Edmonton passed November 21, 1961, is hereby declared to be, and to have been since its inception, a body corporate under the name of the Royal Alexandra Board of Governors, and, without in any way restricting the powers it may exercise, with power to

- (a) operate the Royal Alexandra Hospital mentioned in the By-law, and any addition or modifications thereto, for the care and treatment of persons suffering illness, injury or disability for which active treatment, hospital care is required or is proper, and
- (b) carry on educational activities and provide educational facilities related to the care and treatment of persons suffering illness, injury or disability or relating to the promotion of health and in particular, but not so as to restrict the generality of the foregoing, conduct a school of nursing.

657. This Act repeals and replaces

- (a) *The City Act*,
- (b) *The Town and Village Act*,
- (c) *The Municipal District Act*, and
- (d) *The Controverted Municipal Elections Act*.

658. This Act comes into force on a date to be fixed by Proclamation.