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CANADIAN MUNICIPALITY.

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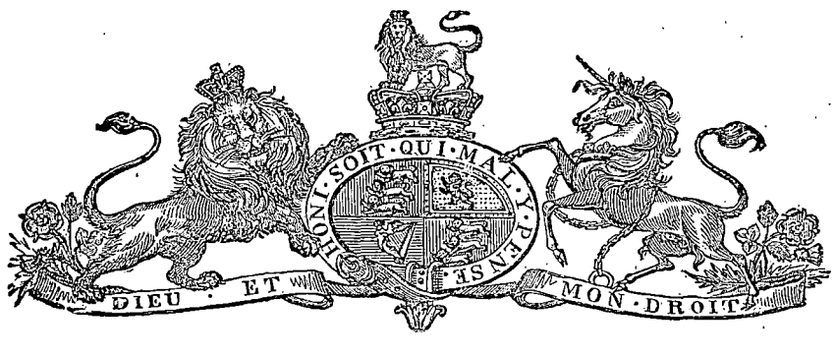

(From the Canadian Almanac for 1861.*)*

OUR MUNICIPAL SYSTEM.

THE welfare of a people is in a great measure dependent on the goodness of its government. So the nature of the government must to some extent depend on the education, manners and habits of the people. It would be as ruinous to Canada to import into it the despotism of Russia, as it would be to Russia to import into *it* the free government of Canada.

It is astonishing to find, on a retrospect of history, how much the nations that shone brightest on the world's horizon were indebted for their lustre to their Municipal institutions or a good system of self-government. As with nations, so with the different parts of the same nation: the remark is applicable more particularly to cities and towns—those hives in which the industrious of mankind are in the habit of congregating. Originally, municipal government was restricted to cities and towns: it is only in modern times that the extension has been made to country places.

The growth of municipal government is a most interesting study. It had its origin with the Romans, and survived in many places the destruction of the Empire that gave it birth. The seed was widely sown, and though in some places choked by the thorns and briars of feudalism, in other places, where it fell on good soil, it grew, and increased as it grew, till its expansion, if witnessed by its originators, would be a subject of profound wonder.

The origin of the word "Municipal" itself, proves the parentage of the system about which we write. It is of Latin origin. It is derived from the word *Municeps*, the latin for a person entitled to the rights of a free citizen. Municipal government is emphatically a free government—one that can only flourish among free men—but like other human institutions, is liable to abuse.

The great features of the Municipal system are, that the people of different localities are incorporated; that they govern themselves by electing their governors; that the persons elected, usually called Councillors, hold office only for a limited period; and that through these local bodies the government is dispensed as required without the delay or expense of State legislation. The system is one of decentralization. There must be local bodies governing separate and independent localities, and yet all subject to one supreme governing power. These local bodies may be termed guilds, burghs towns, townships, cities or counties; it matters not by what names they are called. The people who cluster together elect their council, and that council is endowed with restricted powers of legislation, which powers are to be exercised more for the good of the governed than of the governors. The head of the council may be a provost, mayor, warden or reeve; it matters not by what name he is called. His duty is to preside over the particular council or body of men over whom he is placed.

The origin of Municipal government in England is involved in much obscurity. Traces of it, however, may be found at as early a period as the Conquest. During the time of the Norman kings, certain inhabitants of each burgh were entitled to choose officers for the administration of its affairs. The electors were generally the free male inhabitants of the constituency. Each freeman was required to render faithful account of his "lots" and "scots." By the word "scot" is signified a tax. By the word "lot" is meant the obligation to perform such public service as may fall to the lot of the particular freeman by rotation. Thus we see an unmistakeable trace, though partaking somewhat of the rudeness of the times, of the system which is now the badge of British freedom and the pride of this colony. Further traces may be discovered by a reference to the history of the Norman period The freemen or burgesses transacted their business in common council. In the course of time, when the burghs were incorporated, the name "common council" became attached to those few selected to manage the affairs of the burgh, when the great body of burgesses was too numerous for that purpose. The term common council is to this day familiar to us in municipal nomenclature.

The incorporation of burghs was the work of ages. The kings, for the purpose of raising revenue, or of more easily collecting it frequently granted charters to towns of note. Thus, charter after charter issued under the great seal. Some charters conferred immunities on the burgesses affected. Each town, according to its influence, enjoyed more or less of these immunities. Hence, the system, so far from being uniform, was quite the contrary. Each burgh knew as little of its neighbor as it cared about its welfare. In those days towns were not knit together by ties of commerce or by the modern incidents of commerce—bands of iron. The facilities for travelling were few, and the desire little. Then, a journey of ten miles was looked upon as a feat quite as great as that of five hundred miles in these days of steam by land and by water.

The early charters, however, were not acts of incorporation; incorporation was the idea of more modern times. The first reference to anything of the kind, of which we have any record, occurred in 1412. In that year the citizens of Plymouth petitioned the Crown for a charter of incorporation. Many things combined to spread the incorporation of towns by royal charter. The political party in the ascendant for the time being never failed to make use of this means of strengthening themselves throughout the kingdom. In the time of William III. the influence of the Crown was greatly used for the incorporation of towns, with a view to serve political objects. So in process of time every place of mark became incorporated, enjoyed its privileges, and put forward its corporate importance. As a corporation lives for ever, some of these corporations were found on the statute book when the people represented by them, owing to fluctuations of population, could scarce be found. In this way we have the origin of rotten boroughs, and other constituencies akin to them, about which so much has lately been said and done in England.

The right of the people to choose their municipal governors is, so far as we can learn, of as great antiquity as the system of incorporating burghs. In Scotland, as well as in England, there are manifest proofs of the exercise of franchise at an early date.

The word "alderman" often occurs in Scottish codes. It is a word well known even in modern times, as applied to cities. It is a word of clear Saxon origin. The words "ald," "eald," and "alder," in Saxon, signify older; and thus the word alderman originally signified "older man," or a man who, compared with his neighbors, was of greater age, and so entitled to greater respect. In time the title was applied to princes, dukes, and earls. Thus, Ethelstan, Duke of the East Anglians, was called Alderman of all England. Afterwards the word became of still more general signification, and was applied to magistrates and others in authority. At present, by "alderman," we understand an officer of a town corporate, next in rank to the mayor or chief officer.

The word "mayor" is of French origin. It is the same as "maire" in French, the chief officer of a town corporate. By some it is supposed that "maire" is derived from "maitre," the master or head man of the town.

Perhaps we had better here explain the origin and meaning of the few remaining terms applied to municipal officers. As head of a town or city council is called the mayor, so the head of a county or rural constituency (to be hereafter described) is called the warden or keeper, for such is the well understood meaning of the word. The head of a township constituency is called the reeve. This word, until restored in modern municipal nomenclature, was obsolete, except in compounds. We find it in sheriff (shire-reeve) and other

compound words of that kind. It signifies, like warden, simply a keeper. The sheriff is the keeper of the shire, and so the head of a township council is, *par excellence*, the reeve or keeper of the council.

Having made this digression to explain the terms which, during the remainder of this paper, we intend to use without explanation, we shall now proceed.

The great variety of charters extant in England, and the confusion arising out of them, induced the English Legislature, in 1835, to attempt consolidation, so as to produce uniformity. This was effected by the Imperial statute 5 & 6 Wm. IV. cap. 76. Before that act, all was chaos. There was scarce a power or privilege in common to the cities, towns and boroughs of England. One town had exclusive privileges of trade; another had exclusive privileges of fishing. One class of persons was entitled to vote in one borough, and in another borough the same class was expressly disqualified. Nothing was in common; everything was in confusion. The materials were at hand, but in such a mass of confusion that the system (or rather want of system) then prevailing was anything but national.

Order was effected by the act to which we have referred. (5 & 6 Wm. IV. cap. 76.) It laid down a general form of municipal government, which was made applicable to all municipal constituencies, and then repealed so much of all laws, statutes and usages, and so much of all royal and other charters, grants and letters patent, as were inconsistent with or contrary to that form. It declared that from the time of the passing of the act, no person should be elected, made or admitted a burgess or freeman of any borough by gift or purchase, and made provision for those who were then so. It enacted a new qualification for freemen or voters, which qualification was made of general application, and dependent rather on property than on personal influence. It also declared a new qualification for the elected, which was in like manner made of general application. It provided that the days of election and the periods of office should be the same throughout the kingdom. It abolished all exclusive rights of trading, and in this respect placed all municipalities on the same footing. It likewise abolished certain privileges created by particular charters, such as exemption from service as jurors. The remedy was sweeping and effective, and has proved to be lasting. It was the progenitor of the Canadian municipal system, and therefore deserves more than a passing notice from us.

The persons affected by the act were of two classes, the electors and the elected—the governed and the governors. The qualifications as well as the rights of each were fixed and determined. A mode of registering voters was adopted; and whenever a voter tendered himself, the only question that could be raised was the one of identity. The persons elected were termed councillors, and, as regards each locality for which elected, were created a corporation, under the name of the "mayor, aldermen and burgesses" of the borough as the case might be. The corporation, which was undying, was made to act through its council or body of councillors, which changed each year. Provision was made that one-third of each council should go out of office yearly, and by this procedure the council was yearly changed, though the corporation was always the same. In the event of a vacancy within the year, and before the day of general election, it was provided that the electors should, on a day to be fixed by the mayor of the borough, meet and elect, from among the number of persons qualified to be chosen, a person to supply the vacancy.

The members of the council yearly elected, from among themselves, a mayor or head officer; and no mayor or other member of the council was entitled to act as such until he took a certain declaration of office, prescribed by the act. Acceptance of office was obligatory. A fine was imposed for failure of acceptance, and every necessary provision made to secure the service in office of duly qualified persons. This was nothing more than the old law of "lots," to which we have already made allusion. It was, however, also provided, that if any person holding the office of mayor, alderman or councillor, should be declared bankrupt, or should apply to take the benefit of any act for the relief of insolvent debtors, or should compound by deed with his creditors, or should absent himself for given periods from the meetings of the council, he should thereby become disqualified, and cease to hold office. The mayor of each council was declared to be a justice of the peace for his borough, and to continue to be a justice during the next succeeding year after he should cease to be mayor, unless disqualified. No minister of religion, and no person having, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the council, was qualified to be a member of the council. The disqualification, however, was not to extend to any alderman or councillor by reason of his being a proprietor or shareholder of any company having a contract with the council for lighting or supplying with water, or assuring against fire, any part of the borough. By subsequent legislation it was declared that the disqualification was not to extend to any person having a share or interest in any lease, sale or purchase of any lands, or any agreement for any such sale, lease or purchase, or for the loan of money, or in any security for the payment of money only. Still later, the Legislature declared that no person should be deemed to have an interest in a contract or employment with, by or on behalf of the council, by reason of his having a share or interest in any newspaper, in which advertisements relating to the affairs of the borough might be inserted. We are thus specific, in order to explain fully how much the English Legislature desired and endeavored to maintain the purity of the public trust created. Whenever councillors forget that they are trustees for the public—that they are elected for the good of the public, and not for their own personal profit or advantage,—then an axe is laid at the root of municipal government, which, if not in good time removed, must work utter destruction.

The powers of the council were, though extensive, of course subordinate to those of the supreme government. These powers were, to make such bye-laws as to the councils should seem meet, for the good rule and government of the borough, and for the prevention and suppression of nuisances, and to appoint fines (limited in amount) for the prevention and suppression of nuisances. Express authority was given for the maintenance, management, and control of roads and bridges. County roads and bridges, however, in England, were, and still are, under the control of the justices in quarter sessions of the particular county. To the justices are entrusted general powers as to the assessment and collection of county rates. The municipal system proper has not to this day been extended to the counties of England. To each council of a borough was of course left the appointment of all the subordinate officers of the corporation. It was by the same act provided that all acts to be done by the council of the borough might be done by the majority of the members of the council present at the meeting; the whole number present at the meeting not being less than one-third part of the number of the whole council. It was not lawful for any member of the council to vote or take part in the discussion of any matter before the council, in which such member was directly or indirectly pecuniarily interested.

Such was the municipal system of England in 1835; such it is to this day. The Canadian system, though the offspring of that of the mother country, is an improvement upon it, and superior to anything of the kind known in the civilized world. The principles of our system are the same as those of the English system, but the application of them is much more extensive in this colony than in the parent state. While municipal government was in olden times restricted to a few opulent and powerful towns, it is in modern times extended to every city, town and borough in England; and while in England it is as yet restricted to cities, towns and boroughs, it is in Canada extended not only to cities, and towns, but to villages, townships and counties, and in fact to every inch of land in the colony.

The municipal system of Canada, like other human institutions, was the growth of time. When the Colony was in the hands of the French, municipal laws were administered by the intendant or colonial governor and council. For many years after the English acquired possession of the colony, the same regime prevailed. Then, the people were few in number and far asunder; there was no such thing as organization. When population increased, the necessity for decentralization forced itself on the attention of the Legislature, and resulted in a very imperfect system of municipal government. Cities and towns, asin England were from time to time incorporated by special charters; charters here being the acts of the Legislature, in England the acts of the monarch. The charters or acts of incorporation were without uniformity, and so very often opposed to each other. No special provision was made for rural municipalities, such as counties, townships and villages. They were, as in England, under the control of justices of the peace in quarter sessions.

Such was the state of things in Canada until 1841, when the Canadian Legislature passed an act (4 & 5 Vict. cap. 10) to extend the municipal system to districts (now counties) and other rural municipalities. This was a step in advance

of the mother country—a step which has not yet been taken by the mother country. Cities, towns and villages were left as before, dependent on their several charters, which were as diverse as local interests and local influences could make them.

By the act of 1841, the inhabitants of each district of Upper Canada were constituted into bodies corporate, and made capable of suing and being sued, and of purchasing and holding lands situate within the limits of the district, for the use of the inhabitants, and of making and entering into such contracts or agreements as might be necessary for the exercise of their corporate functions. The council of each district was made to consist of councillors chosen by the inhabitants of the several townships within the district,—each township having more than three hundred inhabitants, freeholders and householders, being entitled to choose two councillors. The warden or head of the council was appointed by the Governor of the Province. Both electors and the elected had fixed qualifications imposed, the qualification being a property one. No person in holy orders, no minister or teacher of any religious sect or denomination, no judge of any court of civil jurisdiction, no military, naval or marine officer in Her Majesty's service, no person accountable for district revenues, and no person receiving any pecuniary allowance from the district for his services, no contractor with the district, was eligible to be elected a councillor. Persons duly qualified, and elected to serve, were liable to be fined if they refused to do so. One-third part of the entire number of councillors went out of office each year. All meetings of the council were open to the public. Questions in council were determined by the majority of councillors present, the warden having the casting vote. Each council had power to pass bye-laws for making, maintaining and improving roads, bridges and public buildings. Powers were also given for the establishment and support of schools. General powers were also given for defraying the expenses of the administration of justice, the salaries of district officers, and other minor expenses necessary to municipal organization. The Governor of the Province was invested with authority, by the advice of his council, to dissolve all or any of the district councils of Upper Canada. The act did not in any manner affect any exclusive rights or privileges of the municipal authorities of any city or town incorporated by act of Parliament. It applied only to district or rural municipalities, leaving cities and towns to be governed under the provisions of their several acts of incorporation.

Though much good was effected by this act, much remained to be done. The division of the Province into districts, owing to their great size, was inconvenient. Townships and villages within districts were for all purposes parts of such districts, instead of having distinct municipal organizations. Districts had nothing in common with cities and towns, and the cities and towns had nothing in common among themselves. No provision was made for the advancement of municipalities in the scale of municipal government. The materials, as in England before 1835, were at hand, and required only some master measure to reduce them to order—to create a system.

So things remained until 1849. In this year, much was done that the experience of former years proved to be necessary. The division of the Province into districts was abolished. Counties or lesser divisions were substituted. Townships and villages were incorporated. One general law was made for cities, towns, and incorporated villages, and all special acts of incorporation were repealed. These provisions were from year to year amended, until 1858, when all the amendments were consolidated, and one general and comprehensive measure enacted.

We now propose to explain the present municipal system. Its growth we have seen. Its provisions are numerous, but well arranged. The great feature of the system is the incorporation of municipal bodies. Each county, city, town, township and village is incorporated, and each has its council, which changes year by year. The powers of each are well defined, and the proper exercise of them is subject to the review of the superior courts of common law. Provision is made for the advancement of villages into towns, and of towns into cities, according to population. So soon as a village contains three thousand inhabitants, it may be erected into a town; and so when a town contains 10,000 inhabitants it may be erected into a city. Towns townships and cities may, for the convenience of elections, be divided into wards, each ward electing one or more councillors or representatives in the governing body. Cities are for most purposes deemed counties, that is, of co-ordinate jurisdiction. Towns and villages are, in general, like townships, for some purposes, subject to the jurisdiction of counties, and entitled to representatives in the council of the county. It is in the power of the council of any town entirely to withdraw itself from the jurisdiction of the county, and to become as independent of the county as any city.

In case a township is laid out by the Crown in territory, forming no part of an incorporated county, the Governor may, by proclamation, erect the township, or two or more of such townships lying adjacent to one another, into an incorporated township or union of townships, and annex the same to any incorporated county. The proclamation is to appoint the returning officer who is to hold, and the place for holding the first election in the township or union of townships. When a junior township of an incorporated union of townships has one hundred freeholders and householders, it may become separated from the union of townships. Provision is made for the separate incorporation of townships having a less number of inhabitants than one hundred, where one township is so situate with reference to streams or other natural obstructions, that its inhabitants cannot conveniently be united with the inhabitants of an adjoining township for municipal purposes. The Governor-General may also annex gores of land not forming part of an incorporated township, to any township or townships to which they are adjacent.

So the Governor-General may, by proclamation, form into a new county any new townships not within the limits of an incorporated county, and may annex the new county to any adjacent incorporated county, or, under certain circumstances, erect the new county into an independent incorporated county. In every union of counties, the county in which the county court-house and gaol are situate is the senior county, and the other counties of the union are the junior counties. During the union of counties, in general, all laws applicable to counties apply to the union, as if they formed but one county. When the census returns show that a junior county of a union contains not less than fifteen thousand inhabitants, after certain preliminaries, the Governor, if he deem the circumstances of the junior county such as to call for a separate establishment of courts and other county institutions, may, by proclamation setting forth those facts, constitute the representatives in the county council of the villages and townships within the county into a provisional council, and in the proclamation appoint a time and place for the first meeting, and name one of its members to preside at the meeting, and also therein determine the place for and the name of the county town. The member thus appointed presiding officer is to preside until a provisional warden has been elected by the council from among its members. The provisional council may not only appoint a provisional warden, but a provisional treasurer and other provisional officers. It may also acquire the necessary property at the county town of the junior county, on which to erect court-house and gaol, and erect the same. After the provisional council has procured the necessary property, and erected thereon the proper buildings for a court-house and gaol, the council may enter into an agreement with the senior or remaining county or counties for payment of its just proportion of the debts of the union. In case the councils do not agree as to the amount or periods of payment, the matter is to be settled by arbitration. When these things are done, it is for the Governor-General to appoint for the junior county a judge, a surrogate, a sheriff, one or more coroners, a clerk of the peace, a registrar of titles, and at least twelve justices of the peace. After the appointments are made, the Governor-General may, by proclamation, separate the junior county from the senior or remaining counties. The separation is to take effect on a day to be named in the proclamation. On that day the courts and officers of the union cease to have any jurisdiction in the junior county, and the property of the corporation of the union situate in the junior county becomes the property of the corporation of the junior county. When the junior county is legally and formally separated, the head and members of the provisional council become absolutely head and members of the junior county. So all bye-laws, contracts, property, assets and liabilities of the provisional corporation, become the bye-laws, &c., of the new corporation.

The powers of municipal incorporated bodies may be exercised by bye-law or resolution. A bye-law requires certain formalities, which a resolution does not. One is in many respects less formal than the other, and in some cases one must be used when the other cannot be used. When a junior county or township is separated from a senior county or township, the bye-laws of the union continue in force in the

several counties or townships which composed the union, until altered or repealed by the new councils. The same consequences, as to property, follow the dissolution of a union of townships, as already explained with regard to a dissolution of union of townships. Each county or township remains subject to the debts and liabilities of the union, notwithstanding the separation.

The head of every county and p ovisional corporation is designated the warden; so the head of every city and town, the mayor; so the head of every township and village, the reeve. If the township or village has five hundred resident freeholders and householders, then one other councillor is designated the deputy reeve. The council of every city consists of the mayor, who is the head thereof, and of two aldermen and two councilmen for every ward. The council of every town consists of the mayor, who is the head thereof, and of three councillors for every ward; and if the town is not withdrawn from the jurisdiction of the council of the county in which it lies, one of the councillors is elected by the council to be reeve of the town, or its representative in the county council. The council of every incorporated village consists of five councillors, one of whom is chosen as reeve or the representative of the village in the county council; and if the village has five hundred resident freeholders and householders, then one other of the councillors is chosen deputy reeve or second representative of the village in the county council. The council of every township consists of five councillors, one of which is chosen reeve or representative in the county council. When the population of a township is five hundred resident freeholders and householders, the township is entitled to a deputy reeve or second county representative, in the same manner as incorporated villages. The council of every county consists of the reeves and deputy reeves of the townships, towns and villages within the county. One of the reeves or deputy reeves is annually chosen by the council to be its warden or head. His appointment is no longer, as formerly, in the gift of the Government. No reeve or deputy reeve is entitled to take his seat in the county council until he files with the clerk of the county council a certificate under the hand and seal of the local municipal clerk, that such reeve or deputy reeve was duly elected, and made and subscribed the necessary declarations of office and of qualification. In the case of a deputy reeve, a further certificate is required, to the effect that the local municipality has the requisite population to entitle it to a deputy reeve or second representative in the county council. Some villages are not incorporated, and these are not entitled to any representative in the county council. They are usually called police villages, and are governed by three trustees, chosen by the people, one of whom is chosen inspecting trustee or head of the council. The reeves and deputy reeves of the different local municipalities within a junior county are *ex officio* members of the provisional council.

The persons qualified to be elected mayors, members of a council, or police trustees, are such residents of the county within which the municipality or police village is situate, as are not disqualified by the act, and have, at the time of the election, in their own right or in right of their wives, as proprietors or tenants, freehold or leasehold property, rated in their own names on the last revised roll of the municipality or police village, to at least the value following:—

In townships—Freehold to 400 dollars, or leasehold to 800 dollars.

In police villages—Freehold or leasehold to 400 dollars.

In incorporated villages—Freehold to 40 dollars per annum, or leasehold to 80 dollars per annum.

In towns—Freehold to 80 dollars per annum, or leasehold to 160 dollars per annum.

In cities—for aldermen—Freehold to 160 dollars per annum, or leasehold to 320 dollars per annum; and for councilmen, one-half of the qualification required for aldermen.

And so, in the same proportions, in all municipalities and police villages, in case the property is partly freehold and partly leasehold.

No judge of any court of civil jurisdiction, no gaoler or keeper of a house of correction, no officer of any municipality, no bailiff of a division court, no sheriff's officer, no innkeeper or saloonkeeper, no person receiving any allowance from the corporation (except as mayor, warden, reeve, deputy reeve or township councillor), and no person having by himself or his partner any interest in any contract with or on behalf of the corporation, is qualified to be a member of the council of the corporation.

All persons over sixty years of age, all members and officers of the Legislative Council and Legislative Assembly, all persons in the civil service of the Crown, all judges not above disqualified, all sheriffs and coroners, all persons in priest's orders, clergymen and ministers of the gospel of every denomination, all members of the Law Society of Upper Canada, whether barristers or students, all attorneys and solicitors in actual practice, all officers of courts of justice, all members of the medical profession, whether physicians or surgeons, all professors, masters, teachers and other members of any university, college or school in Upper Canada, and all officers and servants thereof, all millers, and all firemen belonging to any authorized fire company, are exempt from being elected or appointed councillors, or to any other corporate office.

The electors of every municipality for which there is an assessment roll, and the electors of every police village, are the male freeholders, and such householders as have been residents for one month next before the election; who are natural-born or naturalized subjects of Her Majesty, and who were severally rated on the last revised assessment roll for real property, held in their own right or that of their wives, as proprietors or tenants, for certain fixed sums. In cities, the real property, whether freehold or leasehold, or partly such, must be rated at the annual value of thirty dollars; in towns at twenty dollars, and in incorporated villages at twelve dollars. When a municipality is divided into wards or electoral divisions, no elector is to vote in more than one ward or electoral division. If entitled to vote in the ward in which he resides, he is not entitled to vote in any other ward or electoral division. When real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each is deemed rated within the act, otherwise none of them is deemed rated.

The elections are held annually, and generally in the beginning of the year. The term of office is in all cases one year. Mayors of cities and towns are chosen by the electors generally, instead of, as formerly, by their respective councils. Strict regulations are made for the conduct of all elections; and if contravened, a remedy is given by application to the courts for a new election. We cannot, in this paper, enter into the details of holding an election. In case, at any annual or other election, the electors neglect or decline to elect the members of a council for a municipality on the day appointed, or to elect the requisite number of members the other members of the council, or, if there are none, then the members of the preceding year, or the majority of them, appoint as many qualified persons as necessary to constitute or complete the number requisite.

In case the right of any municipality to a reeve or deputy reeve, or in case the validity of the election or appointment of a mayor, warden, reeve, deputy reeve, alderman, councilman, councillor, or police trustee, is contested, the same may be tried by a judge of either of the superior courts of common law, or the senior or officiating judge of the county court of the county in which the election or appointment took place. When the right of a municipality to a reeve or deputy reeve is the matter contested, any municipal elector in the county may be the relator; and when the contest is respecting the validity of any election or appointment, any candidate at the election, or any elector who gave or tendered his vote at the election, may be relator for the purpose. The application must be made within a limited time, and in the form prescribed by the statute. The decision of the judge is final.

Every qualified person duly elected or appointed to be a mayor, alderman, councilman, reeve, or deputy reeve, councillor, police trustee, assessor or collector of a municipality, who refuses the office within twenty days after his knowing of his election or appointment, is, on conviction before two or more justices of the peace, liable to forfeit not more than eighty dollars, nor less than eight dollars, at the discretion of the justices. The money forfeited is to be for the use of the municipality.

The jurisdiction of every council is confined to the municipality the council represents, except where a more extensive authority is expressly given. The powers of every council are as already mentioned, exercised by bye-law, when not otherwise ordered or provided for. Every council may make regulations not specifically provided for by the act, and not contrary to law, for governing the proceedings of the council, the conduct of its members, and the appointing or calling of special meetings of the council, and in general such other regulations as the good of the inhabitants of the municipality requires. Every

bye-law is required to be under the seal and signed by the head of the corporation, or by the person presiding at the meeting at which the bye-law was passed, and by the clerk of the corporation. Certain other formalities are requisite to the passing of every bye-law; and in order to secure the validity of bye-laws to raise money, the assent of the electors is requisite.

In case a resident of a municipality, or any other person interested in a bye-law, order or resolution of a council, applies to either of the superior courts of common law, and produces to the court a copy of the bye-law, order or resolution, certified under the hand of the clerk, and under the corporate seal, and shows by affidavit that it was received from the clerk, and that the applicant is resident or interested as above, the court, after at least eight days' service on the corporation of a rule to show cause, may quash the bye-law, order or resolution, in whole or in part, for illegality. Particular bye-laws require to be promulgated for a particular time; and if so promulgated, no application to quash them will be entertained after the lapse of six calendar months from promulgation. In case a bye-law, order or resolution is illegal, in whole or in part, and in case anything has been done under it which, by reason of the illegality, gives any person a right of action, no such action can be brought until one calendar month has elapsed after the bye-law, order or resolution has been quashed or repealed, nor until one calendar month's notice in writing of the intention to bring the action has been given to the corporation; and every such action must be brought against the corporation alone, and not against any one acting under the bye-law, order or resolution. The corporation is authorized to tender amends to plead the tender to the action. A summary remedy is given for the punishment of offences against bye-laws.

No council is to act as bankers, or issue any bond, bill, note, debenture or other undertaking of any kind, or any form in the nature of a bank bill or note, or intended to form a circulating medium, or to supply the place of specie or pass as money; nor, unless specially authorized, can any council make or give any bond, bill, note, debenture or other undertaking, for the payment of a less amount than one hundred dollars. But express authority is given to issue debentures, in sums of not less than one hundred dollars each, for the purpose of raising money under a valid bye-law passed for the purpose. All debentures must be sealed with the seal of the corporation, and signed by the head thereof, or by some other person authorized by bye-law to sign the same. These debentures, payable to bearer, or to any person named therein as bearer, may be transferred by delivery. The transfer has the effect of vesting the property of the debenture in the holder, and enables him to maintain an action thereon in his own name. So debentures may be made payable to order, and if endorsed become in like manner negotiable. They are placed much on the same footing as bills, notes and other similar negotiable securities for money.

No council has power to give any person an exclusive right of exercising within the municipality any trade or calling, or to impose a special tax on any person exercising the same, or to require a license to be taken for exercising the same, unless authorized or required by statute so to do; but the council may direct a fee not exceeding one dollar to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade or calling. An exception is created in respect to ferries, the exclusive privileges in which may be granted by the corporation.

Subject to certain exceptions, every municipal council has jurisdiction over the original allowance for roads, highways and bridges within the municipality.

Here ends our sketch of the Municipal System of Upper Canada. Compared with the older systems out of which it grew, the improvements are marked. It is more extensive, more efficacious, and in all respects more beneficial than any municipal system in the world. It contains the seeds of self-government, and the fruit is the general prosperity of the country. The system is admirably adapted to the wants of a new country. It expands as population increases, and is found equal to any emergency that may arise in the course of onward improvement. It follows closely upon the footsteps of the pioneer; and as forests disappear before his axe, it enables him to make good roads, good drainage, and other good and necessary public improvements. The system has been of late extended to Lower Canada, and, so far as we can judge, is likely to work beneficially in that section of the Province.

(From the Canadian Almanac for 1862.*)*

The Municipal system of Canada is admirably adapted to the exigencies of a young and vigorous country; its success has been complete. In order to comprehend it, it is necessary to state that Upper Canada is divided into counties, forty-two in number; each county is divided into townships; so that, on an average, each township is about ten miles square. The inhabitants of a township elect five Councillors; the Councillors elect out of this number a presiding officer; who is designated the Town Reeve; the Town Reeves of the different townships form the County Council; this Council elect their presiding officer, who is styled the Warden. The Town Council and County Council are Municipal Corporations, possessing the power to raise money for municipal purposes, such as making public improvements, opening and repairing roads and bridges, &c. Re-payment is secured by a tax on all the property in the township or county where the debt is incurred; but no bye-law for raising money can be enforced, unless it has been previously submitted to the electors or people. Each Corporation possesses the power of suing, and is liable to be sued; and their bye-laws, if illegal, are subject to be annulled by the Superior Courts of the Province, at the instance of any elector.

Each Township Council has the power to provide for the support of Common Schools, under the provisions of the School Law; to construct roads, bridges, and water-courses, &c., to appoint path-masters or road inspectors, &c. The County Councils are charged with the construction and repairs of gaols and court houses, roads and bridges, houses of correction, and grammar schools, under the provisions of the school-law; to grant moneys by loan to public-works tending to the improvement of the country, and to levy taxes for the redemption of the debts incurred subject to the proviso before mentioned, namely, the vote of the people. Villages not having a population over 1,000 are governed by a board of police, and are styled Police Villages; possessing over 1,000 inhabitants they become Incorporated Villages, and are governed by a Council of five, whose Reeve is a member of the County Council, *ex officio;* as soon as a Village acquires a population exceeding three thousand, it becomes a Town governed by a Mayor and Council, and is represented in the County Council by a Town Reeve and Deputy Town Reeve. When the number of inhabitants exceed 10,000 it may be created a city, and is governed by a Mayor, Aldermen and Councilmen. All Town Reeves, Wardens, Mayors, and Aldermen are *ex officio* Justices of the Peace.

In Lower Canada a similar system prevails. That section of the Province is divided into sixty Counties, each of which has a county council, composed of the Mayors of the Local Councils within the County. Every Township, Parish, or Village, all called Local Municipalties, elect seven Councillors, who choose one of themselves as presiding officer, styled the Mayor. The Mayors forming the County Council elect also a presiding officer, who is called the Warden. In Lower Canada there are four cities, five towns, and forty-three incorporated villages. Any tract of land containing forty houses within any part of it, not exceeding sixty superficial arpents, may be erected into a Village Municipality, on the presentation to the County Council of a petition signed by thirty or more qualified resident electors. Whenever the population of an incorporated village amounts to 3,000 souls, it may be proclaimed a town. Cities are erected only by legislative enactment. Every Mayor and Warden is *ex officio* a Justice of the Peace within the limits of the municipality wherein he has been elected or appointed, so long as he continues to act as Mayor or Warden.

JAMES BARNARD,
GOVERNMENT PRINTER, TASMANIA.