

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

MUNICIPAL CORPORATIONS REFORM ACTS IN ENGLAND. —
continued.

- provision as to name of corporation, 176.
 - effect with respect to corporate meetings, 261.
 - notice under the Act, 265.
 - exclusive rights of trading abolished by, 323.
 - subject of by-laws and their penalties regulated by, 337.
 - prevention and suppression of nuisances, 374 n. on p. 450.
 - mode of enforcing by-laws, 408.
 - provide for establishment of borough courts, 426.
 - regulate subject of charitable trusts in England, 567.
 - impose certain restraints in respect to real property, 575 n.
 - powers conferred in respect to corporate funds and property are public trusts, 910.
- MUNICIPAL COURTS** (see **CONVICTION; CRIMINAL OFFENCES; INDICTMENT; JURY; OFFENCES**),
- in England and at common law, 424.
 - limited nature of powers of, 425.
 - limited powers of, observations of *Campbell, J.*, 440 n.
 - treated as the tribunals of the corporation, 424.
 - under English Municipal Corporations Act, 426.
 - American corporation courts, 38, 426 a, 427.
 - competent for legislature to establish and to abolish, 427.
 - constitutional provisions touching powers and jurisdiction of, 427, 428.
 - constitutional limitations on jurisdiction and powers, 430, 433.
 - distinction between corporation courts and general courts of record, 431.
 - term "inferior court" defined, 427 n.
 - jurisdiction in cases to enforce penalties for violation of ordinances, 410, 411.
 - will take judicial notice of ordinances, 413, 422 n.
 - how and in what name violations of ordinances to be prosecuted, 429.
 - citizens competent judges, jurors, and witnesses, 431.
 - criminal jurisdiction of, 368, 428, 434-439.
 - police magistrate may issue process against body of an offender, 427 n.
 - jurisdiction under statutes or special charters, 438 n.
 - extent of jurisdiction territorially, 430 n., 438 n.
 - civil jurisdiction of, 441.
 - summary proceedings, when valid, 432-439.
 - review of proceedings, and mode, 440, 926.
 - what record of conviction should show, 441 n.
 - appeal from, does not exist unless plainly given, 440 n.
 - acts of officers *de facto* valid, 892 n.
 - illegal fines imposed by, may be recovered back, 940.
- MUNICIPAL ELECTIONS AND OFFICERS** (see **ELECTIONS; OFFICE AND OFFICER**),
- subject treated, chap. ix. sec. 193.
- MUNICIPAL INDEBTEDNESS.** (See **DEBTS.**)

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

MUNICIPAL INSTITUTIONS.

- historical view, 1.
 - in Greece, 2; Rome, 3, 3 a; Italy, 5; France, 6, 10; Spain, 7; Russia, 7 a; England, 8; America, 8 a-8 d, 9, 45 n.; evils of municipal rule, 11, 12; suggestions for reform, 12.
 - value of the American system, 10, 17.
- MUNICIPAL MEETINGS.** (See **MEETINGS.**)
- MUNICIPIA,**
- in ancient Rome, 3.

- NAME** (see **CHAP. VIII. ON CORPORATE NAME, &c., 175**),
- corporate name may be changed, 85, 171, 172 n., 176, 178.
 - but municipality cannot change its charter name, 175.
 - may have more than one, when, 175.
 - omission from charter or act, when not defective, 42.
 - essential, 175.
 - how given or acquired, 175.
 - under English Municipal Corporations Act, 176.
 - prescribed by charter, 177.
 - by reputation, 178, 870.
 - municipality cannot extinguish its debts by changing its name, 170 n. on p. 252.
 - change of identity not necessarily involved in change of name, 171, 172 n., 176 n., 178 n.
 - in what name to sue and be sued, 176, 181, 237 n., 822 n., 871, 884.
 - to enforce ordinances, 414 n., 416, 429.
 - grants of property not affected by change of, 172 n., 560 n.
 - effect of misnomer in grants, &c., 179, 572 n., 580 n.
 - grants to and by corporation in the corporate name, 560, 581.
 - mandamus*, in what name to be directed, 870-874, 884 n.
 - suits by officers, in what name, 237 n., 822 n.
 - to prevent illegal corporate acts, in whose name, 909 *et seq.*

NATURAL STREAMS

- and surface water, distinction, 1038.

NAVIGATION. (See **PUBLIC LANDING; WHARVES.**)

NEBRASKA,

- constitutional prohibition of special acts conferring corporate powers construed, 46 n.
- doctrine as to implied power of municipalities to borrow money, 118 n., 119 n.
- power of county commissioners to levy a "sinking-fund tax," 136 a, n.
- validity of municipal subscriptions to stock of railroads, 153 n.
- municipality can prescribe punishment for offence punishable under State law, 368 n. on p. 440.
- prosecutions under ordinances, in whose name, 429 n.
- construction of constitutional provision limiting municipal indebtedness, 529 a, n. on p. 610.
- special constitutional provision respecting street railroads, 701 a, n.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NEBRASKA — *continued.*

occupation tax upon liquor dealers, in addition to license, 750 n.
assessment for local improvements, 752 n. on p. 920, 758 n.
rule as to liability for change of grade of streets, 990 n. on p. 1222.
constitutional provision requiring compensation for property "damaged,"
995 c, n. on p. 1243.

NEGLIGENCE (see ACTIONS; BRIDGES; SEWERS; STREETS; TORTS),
basis of implied or common-law municipal liability, 980-983. (See CITY
CORPORATION; COMMON LAW.)

implied liability for negligence of officers, 66 n., 961 *et seq.*, 988.
as to liability of officers to corporation for negligence, 236.
liability of city for negligence of contractor in making public improve-
ment, 237 n. on p. 324.
not liable for negligence of steam-boiler inspector, 968 n.
rule as to negligence of co-servants not applicable to municipal officers,
974 n., 980 n., 1024 n.
liability as property owner, 985-986.
as owner of gas-works, 954, 979 n., 983 n., 986 n.
as owner of water-works, 954, 974 n., 984.
city not liable for injuries caused by the fall of an insecure wall upon
private property, 950 n.

injury by reason of slippery sidewalks, contributory negligence, 1006.
onus to give affirmative evidence of negligence is on plaintiff, 1011 n.
ground of liability for injuries by reason of falling substances, 1013.
for defects in streets 1015, 1019, 1020.

plaintiff must be free from contributory negligence, 1020.

doctrine as to notice and contributory negligence summarized, 1026.

of abutting owner in respect to street, liability, 1032.

ground of liability for defective sewers, 1039 n., 1046, 1048-1051.

NEGOTIABLE PAPER (see BONDS, MUNICIPAL; BORROWING MONEY,
CONTRACTS; ORDERS OR WARRANTS; RAILROADS; MANDAMUS),

power of municipal corporations to issue, 12, 117-129, 153, 484-507 a.
quasi corporations have no implied power to issue, 123.

NEVADA,

municipal courts in, 427 n. on p. 494.

NEW ENGLAND TOWNS,

historical view of, 9.

their number and freedom, 9.

peculiar and distinctive character, 28, 270.

distinction between "town" and "city," 28 n.

summary of leading statutory provisions in Massachusetts, 28 n.

origin of cities in Massachusetts, 28.

how general affairs administered, 28 and n.

corporate right to representation in legislature, 28 n. on p. 47.

difference between New England towns and English municipal corpora-
tions, 29.

limited powers of, 30.

for what purposes money may be raised and taxes levied, 30.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NEW ENGLAND TOWNS — *continued.*

cannot give away money raised by taxation, 30 n.
powers and duties of selectmen, 30 n., 148 n.
powers of selectmen in respect to contracts, 283 n., 452, 455.
no implied promise to indemnify selectmen for damages compulsorily
paid by them, 30 n. on p. 54.
can erect town hall, but not place of amusement, 30.
annexation of town to city, 185 n.
town meetings in New England, 23, 266. (See MEETINGS.)
notice and adjournment of, 266-269. (See NOTICE.)
requisites of notice and mode of giving, and proof of, 266-268.
recording notice of meeting, 266 n.
majority present may act and bind all, 277. (See MAJORITY.)
amendment of record of meeting, 294, 295.
mode of enforcing judgments against, 576, 849 n., 850 n., 962 n.
power with respect to highways, 681 n.
as to right to remove soil from one highway for use on another, 687-689.
when liable for neglect of public duty, 961 *et seq.*
limited liability for torts, 961, 962, 979, 996 *et seq.*
statutory and implied liability for torts, 964.
liability for defective town-house, 964 n.

of towns and cities for defective highways, 1000 *et seq.* (See
STREETS.)

NEW HAMPSHIRE (see NEW ENGLAND TOWNS),

as to liability of municipal corporations to garnishment, 101 n.
rule as to liability for unsafe highways and streets, 1000 and n.

NEW JERSEY,

constitutional prohibition of special acts conferring corporate power con-
strued, 46 n. on p. 82.

liability of municipal corporations to garnishment, 101 n.

doctrine as to power of municipalities to borrow money, 122 n.

to whom revenue must be paid on dissolution of corporation, 174 n.

municipal courts in, 427 n. on p. 493.

special constitutional provision respecting street railways and railway
tracks, 701 a, n.

assessments for local improvements, 752 n. on pp. 914, 918, 760 a, 761 n.
on p. 937.

change of judicial decision and its effect, 760 a.

amendment to *mandamus* act, 760 a, n.

Insolvent Municipalities Relief Acts, 760 a, n.

rule as to *mandamus* in aid of creditors, 849 n.

statute of Anne as to *quo warranto* adopted in, 888 n.

rule as to damages for change of grade of streets, 990 n. on p. 1222.

NEW ORLEANS,

annexation of territory to city of, 63.

rights and powers in respect to wharves, 103 n. on p. 165.

McDonough's devise for education of poor, valid, 569.

use of *batture* by railway company without compensation to abutters, 701 n.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NEW ORLEANS — *continued.*

charter provision "to regulate streets" construed, 718.

NEW YORK,

- organization and powers of towns in, 41 n.
- construction of constitutional provision requiring object of legislative act to be expressed in title, 51 n.
- Arcade Underground Railway case, 51 n., 701 c.
- Broadway Surface Railway case, 53 n., 68 a.
- constitutional restriction on power of legislature over municipal corporations, 58 a.
- construction of constitutional provision limiting indebtedness, 136 b.
- validity of municipal subscriptions to stock of railroads, 153 n.
- construction of constitutional provision in respect to aid to railroads, 157 n.
- legislative power to create inferior courts and define jurisdiction, 427 n.
- lien of contractors for erection of public buildings, 577 n.
- damages to be assessed by jury, construction of provision, 618 n., 620.
- result of cases as to rights of abutter and of the public in streets, 656 b. (See *ABUTTER.*)
- elements essential to right of railway company to occupy streets, 663 n. on p. 792.
- constitutional limitation on legislative power over streets and their uses, 701 a-701 c.
- effect of constitutional amendment concerning power of legislature over old charters, 701 b, n. on p. 840.
- Elevated Railway cases, 701 b, n.
- underground street railways, 701 b, n.
- use of street or highway for steam railroad is an additional burden, 703 n.
- legislation in respect to elevated railways in streets, 723 a-723 d.
- construction of Rapid Transit Act, 723 a, n., 995 c, n. on p. 1241.
- taxation and assessment for local improvements, 752 n., 754.
- statute of Anne as to *quo warranto* adopted in, 888 n.
- doctrine as to equitable relief at instance of taxpayer, 920.
- liability for defective streets, 1022.
- rule as to liability for change of grade of streets, 990 n. on p. 1220.

NEW YORK CITY,

- frauds in government of, 12 n., 913.
 - financial and general condition in 1888, 17 n.
 - Arcade Underground Railway case, 51 n., 701 c.
 - rights to real estate acquired under its ancient charters, 68.
 - and powers in respect to wharves, 103 n. on p. 165.
 - departments of city government cannot be sued, 935 n.
 - liability with respect to departments of city government, 974 n.
 - liable for negligence of employees of bridge trustees, 974 n.
 - liability as owner of Croton water-works, 974 n., 984.
 - made liable by statute for change of grade of streets, 990 n. on p. 1220.
- NICHOLSON PAVEMENT (see *LOWEST BIDDER*; *PATENTED PAVEMENT*),
power to contract for, 467, 468, 752 n. on p. 918.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NIGHT-WALKING,

ordinance prohibiting, is proper police regulation, 393 n.

NOISE,

unusual noises, when nuisances, 374 n. on p. 448.
whether an element of damage entitling abutter to compensation, 723 d, n.

NON-FEASANCE. (See *TORTS.*)NON-RESIDENT (see *RESIDENCE*; *VOTER AND VOTING*),

whether eligible to corporate office, 195.
ordinances in respect to stray animals owned by, 329, 348 n., 351 n.
whether non-residents bound by ordinances, 324 n., 348 n., 354, 355.
question whether party resides within limits embraced by ordinance is one of fact, 355 n.
taxation of, where law authorizes tax upon residents only, 317 n.
cannot be taxed for using streets, 682 n., 792 n.
discriminating taxes against, void, 743, 744, 750 n., 792.
holder of city certificates not a holder of property within its limits, 786 n.
liable to taxation the same as residents, when, 791.
right of action against city for illegal seizure of property, 971 n.

NON-USER (see *USER*),

abandonment of street will not be presumed from, 666 n. on p. 796.
charter cannot be forfeited for, in collateral proceeding, 896 n.

NORTH CAROLINA,

organization of towns in, 41 n.
municipal courts in, 427 n. on p. 494.
cannot exercise summary jurisdiction in respect to criminal offences, 434.

NORTH DAKOTA,

constitutional provision as to property taken or "damaged" for public use, 618 n.
special constitutional provision respecting street railways, 701 a, n.

NOTES (see *SCRIP*),

corporate seal affixed to note makes it a specialty, 192 n.
notes to circulate as money, 127, 447 n., 448, 461, 487 n.

NOTICE,

of election, when requisite, 197. (See *ELECTIONS.*)
mandamus to compel officer to give, 839.
notice to officer of his motion, 235 n. on p. 319.
corporation through its officers, 237 n. on p. 322.
officer of proceedings to remove, 249-254.
notice of corporate meetings, 262-268. (See *MEETINGS, CORPORATE.*)
New England town meetings, 266-268.
to whom to be given, how given, and how waived, 263, 264.
charter requirements as to notice must be strictly followed, 263, 264.
in respect to school meetings (in New York), 266 n. on p. 348.
time, place, and object of meeting to be stated in, 267, 268.
charter usually provides for notice of meetings, 270.
of meetings, how given when requisite, 285, 286.
requirement to give notice of annual meeting is directory, 900 n.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NOTICE — *continued.*

- under English Municipal Corporations Act, 265.
- to appear before committee, 289 n.
- council bound by notice to previous council, 288 n.
- to corporator or member, effect, 305 n.
- to owner of animals running at large, 348-350.
- penalty cannot be imposed without, 414 n.
- of ordinances, 356, 416, 606, 803.
 - sufficiency of notice to accused, 414 n.
- ordinance void for want of proper notice to persons interested, 419 n.
- of non-payment of warrant, not necessary before action commenced, 501.
- lis pendens* not applicable to municipal bond cases, 514.
- municipal bonds, effect of failure to give notice of election, 525.
- by publication of theft of bonds, rights of *bona fide* holder, 555.
- of proceedings to take property for public use, 606.
- of proceedings to open streets, &c., 606, 931 n.
- local improvements and assessments, notice of proceedings, 266 n. on p. 348, 606 n., 802 a-804.
 - if proper notice is not given *certiorari* lies, 804, 926 n., 927 n.
 - what notice is sufficient, 804.
- to remove unsafe sidewalk, failure of abutter to comply, 804 n.
- notice dispensed with in application for *mandamus*, 868.
- to bind official successor, notice of *mandamus* proceedings essential, 884.
- notice of defect causing injury, what allegation sufficient, 980 n.
- when notice essential to corporate liability, 113 n., 1017 n., 1020, 1024-1026, 1034.

NOVATION,

- unpaid warrant not novation of original debt, 501 n.

NOXIOUS TRADES. (See TRADES.)

NUISANCES (see HEALTH; ORDINANCES; POLICE POWERS; STREETS),

- power to prevent and abate, 95, 141, 314, 374-378, 396 n.
- how power must be exercised, 95.
- construction of this power, 142, 374-378.
- extent of municipal power with respect to, 379.
- mode of abatement, 91 n., 378. (See EQUITY; INDICTMENT.)
- power of legislature to authorize city to acquire lands to be raised and drained to abate nuisance, 589, 598.
- power of municipality to exercise authority beyond corporate limits, 184 n., 358 n., 374 n. on p. 448. (See BOUNDARIES.)
- power to abate is a portion of police authority, 374 n.
- legislature may invest municipality with power to abate summarily, 374 n.
- power to abate must be reasonably exercised, 378 n.
- liability of city for failure to exercise the power, 378 n.
- general power over, 375.
- powers under English Municipal Corporations Act, 374 n. on p. 450.
- what are nuisances? 374, 660.
- are of two kinds — public and private, 374 n.
- meaning of the word, 374 n.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

NUISANCES — *continued.*

- what are and what are not nuisances *per se*, enumeration, 374 n., 660 n.
- corporation has no right to license or maintain, 374 n. on p. 448, 378 n.
- suppression of houses of ill-fame, 376. (See BAWDY HOUSES.)
- upon rivers within city limits, 377.
- power to demolish buildings, 378. (See FIRE.)
- ordinance declaring animals running at large to be, 329. (See ANIMALS.)
- charter provision that sales of liquor might be declared a nuisance, 365 n.
- market-houses on public streets are, 383.
- wooden awning may be a nuisance which city should remove, 1013. (See AWNINGS.)
- blasting of rocks in vicinity of another's dwelling-house is a nuisance, 1030 n.
- in streets, and remedy, 639 n., 657-661, 680, 730-734 b, 1032-1034.
 - private and public damage from, 730 n.
- liability of author of nuisance, 109 n., 660, 1032-1037.
- steam engine in street not necessarily a nuisance, 684, 730 n.
- where sewer becomes a nuisance, 375 n., 660 n. on p. 786, 1046 n., 1047.
- legislature may legalize obstructions in streets, 657.
- what adjoining owner must show to maintain action for damages, 660 n. on p. 786.
- where use of gutters by individuals results in a nuisance, 681.
- unauthorized use of street by railway company, 708. (See RAILROADS.)
- railway in street may become a nuisance, 713, 730 n.
- obstruction of streets by railway cars, 713.
- private structures erected on public squares are indictable nuisances, 645, 669.
- county not liable where jail becomes a nuisance, 23 n., 963 n.
- extension of street so as to bring existing nuisance within its limits, 966 n., 985 n.
- indictment will lie for public nuisance, 374 n. on p. 447, 378, 659, 660. (See INDICTMENT.)
- person accused of maintaining, entitled to jury trial, 433 n. (See JURY.)
- when equity will interfere, 374 n. on p. 450, 375 n., 378 n., 379, 405 n. on p. 473. (See EQUITY; INJUNCTION.)
- indictment of corporation and officers, 932, 933. (See INDICTMENT.)
- city not liable for failure to abate, 951.
 - liable for authorizing a nuisance in street in violation of statute, 953 n.
- liability of city where it becomes necessary to create a nuisance, 955 n.
- as to corporate liability for maintaining public nuisance, 985 a.
- wrongful acts of abutters and others creating nuisance in street, liability, 1032.

NUNC PRO TUNC ENTRY,

- when it may be made in corporate records, 291, 297 n.

OATH AND BOND OF OFFICE (see BONDS, OFFICIAL),

- power to require oath and bond, 214.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

- OATH AND BOND OF OFFICE** — *continued*.
 when necessary for the officer's protection, 215.
 official bonds, when valid, 216.
mandamus to compel council or proper officer to act, 214 n., 840 n.
 failure to take oath and give bond by time prescribed, 214.
 when oath a condition precedent, 215.
- OBLIGATION OF CONTRACT.** (See CONSTITUTIONAL PROVISIONS; CONTRACTS; LEGISLATURE; REPEAL.)
- OBSCENE LANGUAGE,**
 corporation court may punish person for using, 435 n.
- OBSTRUCTIONS** (see NUISANCES),
 to navigation, 377.
 to streets, 657 *et seq.*, 713, 730. (See INDICTMENT; STREETS.)
 remedy of city for, 659, 662.
 abutter, 661 (See ABUTTER.)
- OCCUPATIONS** (see LICENSES; TAXATION),
 power to license, regulate, and tax, 357-362, 366 n., 746 n., 764, 768, 785, 791-793.
 offensive trades and occupations, 374 n., 405 n. on p. 473.
- OFFAL,**
 license to remove, 369.
- OFFENCES** (see CONVICTIONS; CRIMINAL OFFENCES; JURY; MUNICIPAL COURTS),
 power to enact ordinances relating to public offences, 366-368, 432.
 summary proceedings to enforce, 432-439.
 summary convictions for petty offences, 411 n., 432 n.
 distinction between offences essentially criminal and petty offences, 439.
 rescue of municipal offenders, 403.
 single offence cannot be multiplied into many, 342, 343.
 continuing offence, 343 n.
 actions for penalties, offence must be specified with reasonable certainty, 413 n.
 conviction must be for same offence for which defendant is prosecuted, 415 n.
 same act cannot be punished by State and by municipality, 366-368, 432 n., 434-438.
- OFFER OF REWARDS** (see REWARD FOR OFFENDERS),
 when valid and binding on municipalities, 139.
 may be revoked, 139 n.
- OFFICE AND OFFICER** (see CHAP. IX. ON MUNICIPAL ELECTIONS AND OFFICERS; AMOTION AND DISFRANCHISEMENT),
 extent of legislative authority over municipal offices and officers, 45 n., 58, 58 a, 60 n., 197 n., 229. (See PARK COMMISSIONERS.)
 distinction between State officers and municipal officers, 58, 59.
 police officers are State officers and not municipal, 58, 60, 210. (See POLICE OFFICERS.)
 mayor, antiquity and nature of office of, 208, 209. (See MAYOR.)
 water and sewer commissioners are municipal officers, 58.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

- OFFICE AND OFFICER** — *continued*.
 water committee held to be agents, not officers, 59 n. (See COMMITTEE.)
 councilmen are "civil officers," 59 n.
 official character of city recorder, 427 n.
 power to create offices and appoint officers, 206, 207.
 mode of election and appointment of municipal officers, 58, 212. (See ELECTIONS.)
 presumption of regularity, 213.
 are the agents of the corporate body, 166, 531.
 failure to elect officers will not dissolve the corporation, 166.
 effect of division of county on terms of office of officials, 189 n.
 whether non-residents can be elected to office, 195. (See NON-RESIDENT.)
 inaccurate designation of name of the office voted for, 198.
 legislative prohibition against creating new offices does not apply to ordinary servants, 207 n.
 power of municipality over its own officers, 212.
 when appointment not revocable, 214 n.
 prospective appointment to public office, 214 n.
 re-election of expelled member of council, 248.
 corporation may appoint clerk *pro tem.*, 293.
 duties, powers, and rights of one officer cannot be conferred upon another, 233 n.
 where authority is to be exercised by two officers both should act, 283 n. on p. 361.
 application of majority principle to public officers, 283. (See MAJORITY.)
quo warranto, to test title to office, 198 n., 202, 275 n., 302 n., 845, 846, 892. (See QUO WARRANTO.)
 whether *mandamus* appropriate, 842-847, 892.
 no jurisdiction in equity to determine title to office, 275 n., 844. (See EQUITY.)
 certificate of election or commission *prima facie* evidence of title, 204 n., 892.
 governor will not be restrained from granting commission, 890 n.
 delegation of power by municipal council to, 96.
 whether subject to garnishment process, 101.
 official discretion not subject to judicial control, 832 *et seq.*
 previous unauthorized act will not estop officer from acting in his public capacity, 972 n.
 presiding officer of council, 270. (See COUNCIL; PRESIDING OFFICER.)
 oath and official bond and sureties, 214-216.
 duration of official term, 217.
 right to hold over, 217-221, 229 n., 838, 839, 874 n. (See HOLDING OVER.)
 vacancies in offices, 222. (See VACANCY IN OFFICE.)
 refusal to serve in office, 223.
 resignation of municipal offices, 224.
 after issue of writ of *mandamus*, 861 a-861 d.
 acceptance of incompatible office, 225-227, 427 n. on p. 494.
 vacation by abandonment, 195 n. on p. 278, 228.
 compensation, power of corporation to fix and change, 229-232.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

OFFICE AND OFFICER — *continued.*

- power of council to compensate committee for customary services, 59 n.
cannot be reached by garnishment process, 101.
officer cannot claim reward for doing what it is his duty to do, 139, 234 n.
mode of compensation of police officers, 210 n.
acceptance of amount fixed as salary of municipal officer, 230 n.
legislature may authorize reduction during officer's term, 231 n.
power to change does not include power to abolish, 231 n., 317 n.
additional or extra compensation, 233, 234, 466 n., 477, 575 n.
when officer cannot recover for expenses, 233 n.
where officer is improperly removed, 230 n., 235.
what is necessary to give right to salary, 235 n.
liability of intruder to officer *de jure*, 235 n.
duties of officer may be increased though salary remains unchanged, 233, 234.
when salary is fixed by ordinance it cannot be changed by a committee, 233 n.
right of set-off denied to municipal officer, 235 n. on p. 319.
mandamus to compel payment of salary, 831.
unauthorized compensation to officers enjoined in equity, 910 n.
bond to an officer to secure, 910 n.
right of discharged employee of fire department to sue city for salary accruing thereafter, 976 n.
when city or town may indemnify its officers, 147, 148, 447 n.
acts of *de facto* officers valid, 189 n., 197 n., 215, 221 n., 230, 256 n., 276, 417, 763 n., 874 n., 892 n., 970 n. (See ACTS.)
there cannot be a *de facto* officer unless there be a *de jure* office, 276, 531 n., 892 n.
bribery of officer, conflict between general law and charter provision, 87 n.
when duty rests upon corporation and when upon officer, 99, 980 n.
notice to officers, when corporation bound, 237 n. on p. 322. (See NOTICE.)
right of clerk to amend record, 294-297.
power to make contracts for the corporation, 445, 447, 450.
contracts with, 444, 458.
liability of corporation upon unauthorized contracts of, 935.
conveyance of real property by, 581 n.
liability of the corporation to the officer, 235, 831.
liability of the officer to the corporation and to others, 236, 237.
personal liability of public officers, 208 n., 235 n., 237 n., 255 n., 305 n., 313, 447 n., 452-455, 859, 910 n., 974 n.
tax collector's liability, 237 n. on p. 324. (See TREASURER.)
power of public officers to sue, 237 n.
cases relating to the liability of public officers cited, 237 n., 859.
officers cannot be impleaded as individuals, 237 n. on p. 321.
proof of official character, 237 n. on p. 321.
acts and declarations of officers as evidence, 237 n. on p. 321, 305 n. (See EVIDENCE.)

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

OFFICE AND OFFICER — *continued.*

- not personally liable for adoption of ordinances, 235 n., 237 n. on p. 326, 313.
in actions against, original records or authenticated copies competent evidence, 304.
liability for moneys received, 237 n. on p. 322. (See ASSUMPSIT.)
on contracts, 237 n. on p. 323.
for acts of his subordinates, 237 n. on p. 324.
for acts judicial in their nature, 237 n. on p. 324, 255 n.
for torts, 237 n. on p. 325. (See TORTS.)
torts of officers, when binding on corporation, 961 *et seq.*, 974-983. (See TORTS.)
corporation may be exempted from prospective liability for non-feasance of officers, 61 n.
power of mayor to bring suit to restrain officers from doing acts in violation of law, 908 n.
liability of corporation for omissions of officers, 935 n.
certiorari to review proceedings of council in appointing and removing, 926 n., 927 n.
power of corporation to remove, 233-256. (See AMOTION AND DISFRANCHISEMENT.)
indictment of, 237 n. on p. 322, 479 n., 931-934. (See INDICTMENT.)
mandamus to municipal officers, 824 *et seq.* (See MANDAMUS.)
judgment in *mandamus*, when binding on official successor, 884.
usurpations of municipal offices, remedy, 888 *et seq.*
OFFICIAL BOND. (See BONDS, OFFICIAL; OATH AND BOND OF OFFICE.)
OHIO,
general municipal incorporation act of, 41 n.
constitutional provision respecting incorporation by general laws, 45 n. on p. 80.
constitutional prohibition of special acts conferring corporate powers construed, 46.
liability of municipal corporations to garnishment, 101 n.
doctrine as to implied power to borrow money, 118.
constitutional provision in respect to municipal aid to railroads construed, 157 n., 542 n.
provision that compensation for property taken shall be assessed by a jury, 618 n.
rule as to liability for change of grade of streets, 723 n., 990 n. on p. 1226.
provision requiring uniformity of taxation, construed, 748.
doctrine as to assessment for local improvements, 752 n. on p. 920.
statute of Anne as to *quo warranto* adopted in, 888 n.
OIL FACTORY,
whether or not a nuisance, 374 n. on p. 449.
OLEOMARGARINE,
prohibition of manufacture and sale under police power, 141 n.
OMNIBUSES (see VEHICLES),
regulation of, &c., 324, 359, 362 n., 393.
OPENING STREETS. (See EMINENT DOMAIN; LOCAL IMPROVEMENTS: STREETS; TAXATION AND LOCAL ASSESSMENTS.)

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

- ORDERS OR WARRANTS (see BONDS, MUNICIPAL; CONTRACTS; MANDAMUS),
- power to issue warrants on treasury, 119 n.
 - county seal held to be essential to validity, 191 n.
 - mode of drawing, 449.
 - not drawn according to charter, liability of treasurer for money paid, 237 n. on p. 323.
 - officer misled into issuing, not liable to holder, 237 n. on p. 325.
 - proper authorities may rescind prior order to pay money, 290 n.
 - nature of ordinary corporation warrants, power to issue, 485, 487.
 - liability of indorser of, 489.
 - defences to, 487, 488, 504.
 - municipality not liable for increased face value of raised warrants, 500 n., 970 n.
 - presumption of municipal liability, 502.
 - not negotiable paper, 503.
 - may be, it seems, usurious, 504 n.
 - taxpayer may enjoin issue of illegal warrants, 504.
 - municipality may maintain bill in equity to cancel, 504.
 - when statute of limitations begins to run, 504 n.
 - payable out of a particular fund, 505, 849 n. on p. 1030.
 - interest on, when recoverable, 506.
 - cancellation and payment of, 500.
 - rights and remedies of holder of, 501, 849 n. on p. 1030.
 - funding bonds to replace illegal warrants, validity, 529 a, n. on p. 611.
 - issue of, to raise money for construction of bridges, 729.
 - distinction between warrants and bonds as to enforcement by *mandamus*, 862.
 - enforcement in the Federal courts, 863.
- ORDINANCES OR BY-LAWS (treated VOL. I., CHAP. XII., SEC. 306 *et seq.*),
- "by-law" and "ordinance" equivalent words, 307.
 - ordinance defined, 307.
 - resolutions and ordinances discriminated, 307, 769 n.
 - a resolution duly signed and sealed is virtually an ordinance, 309 n. on p. 389.
 - constitutional provision that no bill shall contain more than one subject not applicable to, 47.
 - legislature may validate void ordinances, 79 n., 419. (See CURATIVE ACTS.)
 - but council cannot by subsequent acts of affirmance, 779 n., 814 n.
 - when existing ordinances not affected by change of charter, 85.
 - effect of enlargement of corporate limits, 185 n.
 - construction of provision in respect to majority vote to pass, 278 n.
 - power to adopt and mode of exercising it, 307 n., 308, 393 n.
 - ordinances have the force of laws, 308, 393 n.
 - courts will not enjoin passage of, 308 n. on p. 387.
 - need not recite that council proceeded regularly in passing them, 308 n. on p. 387.
 - penalty imposed by, amounts to a prohibition, 308.

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

- ORDINANCES OR BY-LAWS — *continued.*
- unnecessary when charter prohibition is complete, 308 n.
 - may be adopted to take effect in the future, 309.
 - ordaining clause not essential to validity, 309.
 - as to validity of, when interested councilman votes, 292, 309 n.
 - must be passed by proper body, 273, 309.
 - and in prescribed mode, 309.
 - proof of adoption, or passage of, 310.
 - extrinsic evidence to prove passage, 297, 300 n., 310. (See EVIDENCE.)
 - presumption that requirements of law were complied with in passage of, 310.
 - judicial inquiry into motives of council in passing, 311-313.
 - repeal of, and effect, 314. (See REPEAL.)
 - power to make includes power to repeal, 314.
 - valid until repealed, 314.
 - no presumption of validity, 423.
 - not invalid because a parliamentary rule was violated, 288 n.
 - repeal cannot operate retrospectively to impair private rights, 314.
 - change from town to city government does not repeal ordinances, 314 n.
 - effect of repeal on pending prosecution, 314 n.
 - may be void for uncertainty, 420 n.
 - mode of conferring power to pass, 315.
 - construction of grants of authority, 315.
 - municipal body has incidental power to enact, 315, 316 n., 319.
 - under special grant, 316.
 - rule for ascertaining extent of power to pass, 316 n.
 - passed at town meeting not duly warned are void, 268 n.
 - cannot change charter, 317, 685, 781.
 - must not conflict with charter, 329.
 - may supersede State law within corporate limits, 317 n.
 - need not recite authority or expediency, 318, 601.
 - necessity for enactment need not be recited, 318 n.
 - nor averred in proceedings to enforce, 318 n.
 - must be reasonable and lawful, 55 n., 319, 320.
 - not be oppressive, 321.
 - be impartial, fair and general, 322, 323 n.
 - void when a regulation of commerce, 319 n. on p. 397.
 - in violation of the fourteenth amendment, 319 n. on p. 397.
 - when legislative cannot legalize ordinance by special act, 319 n. on p. 398.
 - in restraint of lawful trade void, 319 n. on p. 398, 321 n.
 - cannot be sustained on the ground of long-continued usage, 324.
 - may regulate, not restrain, trade, 323, 390.
 - must not contravene common right, 319 n., 325, 326.
 - validity is for the court to decide, 327.
 - legislature may authorize unreasonable ordinances, 328.
 - must be consistent with public policy, 329.
 - may further regulate subjects already regulated by statute, 329 n.
- VOL. II. — 51

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

ORDINANCES OR BY-LAWS — *continued.*

- signing, publication, and recording of, 331-335.
- authentication by *ex-officio* clerk, 331 n.
- publication of by-law by order of the clerk, 332.
- where date of approval by mayor was entered as of a date prior to passage, 331 n.
- signing minutes not equivalent to signing resolution, 331 n.
- length of time of publication in newspaper, 333.
- what is sufficient publication, 333.
- proof of publication, 310 n., 332 n., 334, 442 n.
- on whom binding, and notice of, 354-356.
- bind all within corporate limits, 355.
- whether non-resident can be bound, 324 n., 348 n., 354, 355.
- all bound by, must notice them, 356.
- whether party resides within limits embraced by, question of fact, 355 n.
- licensing and taxing ordinances, 357-365, 768.
- nature of power "to license" and "tax" &c., 357-361, 768.
- prohibiting certain sales without license, 768 n.
- inspection ordinances, 330, 344, 390, 392.
- power to ordain forfeiture of property by ordinance, 345-351, 392.
- as to power to enforce by fines, penalties, and forfeitures, 336-353.
- statutory regulation of fines and penalties under, 337.
- implied power to annex pecuniary penalties, 338. (See FINES, PENALTIES, AND FORFEITURES.)
- no penalty can be enforced for an illegal exaction, 338 n.
- remedy to prevent collection of fine for violation, 339 n.
- ordinances creating monopolies invalid, 362, 715, 716. (See MONOPOLIES.)
- ordinance *ultra vires*, license to sell liquors, 364 n.
- singing, speech-making, &c., in streets may be prohibited, 368 n. on p. 438; see 319 n., 337 n.
- quarantine ordinances not repugnant to commerce clause of Federal Constitution, 371 n.
- delegating to individual the right to erect market-house, 385.
- forbidding market-stands in streets, 385.
- requiring hay and grain to be weighed by public weigh-master, 391.
- regulating weight and price of bread, 357 n., 392.
- to regulate speed of travel in the public streets, 393 and n., 713 n.
- have the force of laws within corporate limits, 308, 393 n.
- requiring abutter to clear snow from sidewalk, 394, 1006 n., 1012 n., 1033 n. (See SNOW AND ICE.)
- regulating the removal of buildings, 395.
- under police power and general welfare clause, 396. (See GENERAL WELFARE CLAUSE.)
- penal ordinance requiring auctioneers to procure licenses, 396 n.
- general power to make needful and salutary by-laws, 394, 395.
- license of peddler does not authorize violation of, 393 n.
- public offences, ordinances relating to, 366-368, 432. (See CONVICTION; CRIMINAL OFFENCES; OFFENCES.)

The references are to the sections. Vol. I. §§ 1-555; Vol. II. §§ 556-1052.

ORDINANCES OR BY-LAWS — *continued.*

- health, safety, peace, and convenience, ordinances respecting, 369-407.
- mode of enforcing ordinances, 408, 432. (See MUNICIPAL COURTS.)
- of procedure, defences, &c., 417.
- must be pleaded and proved, 83.
- as to power to contract to enforce ordinances, 385, 952 n.
- city not liable for acts of police officers in enforcing, 975.
- authority to fix amount of fines for violation of ordinances, 408.
- charter mode of enforcing by-laws governs, 339, 340, 410.
- nature of proceeding to enforce, civil or criminal, 411, 412.
- mode of pleading, 413.
- whether courts will take judicial notice of, 413, 422 n.
- requisites of complaints, 413, 414. (See COMPLAINTS; PLEADING.)
- several breaches of an ordinance may be sued for in one suit, 413 n.
- action in the corporate name, 416.
- as to demand, notice, &c., 416.
- corporate existence cannot be question in action upon, 418.
- summary trials for violations of, 428 *et seq.* (See JURY; MUNICIPAL COURTS; OFFENCES.)
- power to make necessarily implies power to enforce by pecuniary penalties, 309 n. on p. 389, 340 n. (See FINES, PENALTIES, AND FORFEITURES.)
- power to enforce by imprisonment, 353, 421 n.
- enforcement by distress and sale of property, 353 n.
- violations prosecuted in whose name, 429.
- injunction to restrain enforcement of, 340 n., 420, 908 n.
- rule in construing, 307 n., 309 on p. 389.
- should be reasonably construed, 420.
- may be good in part, and bad in part, 421.
- proof of, 422. (See EVIDENCE.)
- unauthorized ordinances not ground to forfeit charter, 896 n.
- negligence in executing, 950.
- contracts in violation of, illegal, 308 n.
- fixing salaries not in nature of contracts, 231.
- when ordinance becomes a contract, 443 n., 450, 474, 540 n. on p. 627, 716, 721 n.
- quo warranto* not appropriate for purpose of annulling ordinance, 897 n.
- to test validity of, 904 n.
- bill in equity lies to have ordinance declared void, 924 n. (See EQUITY.)
- certiorari* to annul order or resolution, 927 n.
- sales under void, purchaser may recover back purchase money, 938.
- enabling ordinance held to be necessary before street can be opened, 604 n.
- a grade may be established without an ordinance, 990 n. on p. 1223.
- city cannot by ordinance divest itself of duty to keep streets safe for travel, 1027 n. on p. 1304.
- officers not personally liable for adopting, 235 n., 237 n., 313.
- city not civilly liable for failure of officers to enforce, 950.
- nor for failure to observe its by-laws, 952, 974 n.
- providing for special tribunal to decide election contests, 201, 203 n.