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THE ILLINOIS REVISED CITIES AND VILLAGES ACT: A STUDY

J. STANLEY STROUD*

PRIOR LEGISLATION

BEFORE 1870 most, if not all, cities, villages, and incorporated towns in Illinois were organized under special charters granted to each of them separately by special act of the General Assembly. Much of the time of the early legislators was devoted to the enactment of such legislation. While the general provisions of the various special charters, were, for the most part, reasonably similar, there was nothing like universal uniformity, some municipalities receiving a much more liberal grant of powers than others.

After the prohibition, by the Illinois Constitution of 1870, of this type of special legislation, the General Assembly, in 1872, enacted the Cities and Villages Act. This Act, constituting as it did the general charter of all municipalities incorporated thereunder, authorized new cities and villages to be incorporated under its provisions, and authorized already existing cities, villages, and incorporated towns to abandon their prior organization and become incorporated as a city or village under the provisions of the Act.

Its provisions, well organized and reasonably concise,
probably served as a readily workable charter for the municipalities of 1872. The rapid growth of municipalities in the years following, however, brought a commensurate increase in the complexity of social problems requiring legislative attention. With this rapid growth, municipal legislation kept at least even pace, both in quantity and complexity. From the less than 30,000 words in the Cities and Villages Act as originally enacted, state legislation in Illinois directly affecting cities, villages, and incorporated towns exceeded 600,000 words by 1938. That is an increase of something over two thousand per cent. It is reasonably certain that orderly presentation would deteriorate to chaos as a result of such a growth in any body of law unless that growth were made to follow a long-range organizational plan. Municipal law in Illinois, however, increased in accordance with no plan. Inevitable chaos was the result.

Additions were supplied to the Cities and Villages Act by wholesale amendment. In the years following its enactment, probably no regular session of the General Assembly passed without some alterations of or additions to its provisions. For much of the specialized legislation required for Illinois municipalities, however, there was no appropriate place within the basic confines of the original eleven articles of the Cities and Villages Act. The only possible disposition, therefore, was to present such legislation in the form of separate acts. Particularly was this true with regard to Chicago, whose population increase, out of all proportion with that of any other city in the state, created many problems requiring specialized legislation.3

Probably the chief reason new legislation was embodied in separate statutes rather than added to the Cities and Villages Act by amendment, however, was the exclusive appli-

3 "Specialized legislation" is used advisedly. To avoid the prohibition in Art. IV, § 22 of the Illinois Constitution against the passage of special laws "amending the charter of any . . . city . . ." the General Assembly has usually made legislation, which it desired to apply only to Chicago, generally applicable to all cities, or to all cities, villages, and incorporated towns, having a population over 250,000, or over 500,000. To enable Chicago to obtain a modicum of home rule, however, Section 34 was added to Art. IV of the Constitution by amendment adopted November 8, 1904, authorizing the passage of special legislation of specified types for Chicago.
cation of that act, by virtue of a limitation in its title, to cities and villages. Since the Illinois Constitution forbids an act from embracing any subject not expressed in its title, the legislators found it impossible to add to that act any provision relating uniformly to all Illinois cities, villages, and incorporated towns. Whenever it was desired to grant any power to, or impose any duty upon, all such municipalities alike, therefore, it was necessary to pass a new act. Similarly, when legislation was desired to apply exclusively to incorporated towns, or to incorporated towns within a particular population classification, a separate act was needed.

By 1938, sixty-seven years after the enactment of the Cities and Villages Act, there were nearly two hundred separate acts to be found in the Illinois Revised Statutes relating directly to cities, villages, and incorporated towns. All of these statutes, compositely, formed the corporate charters of all Illinois municipalities incorporated under general law, or, in some way, regulated in part municipalities organized under special charters. Their very numerical quantity revealed the utter necessity of their integration into a unified code. Not only were the statutes numerous, they were also contradictory, ambiguous, and, wonder of wonders, incomplete in a number of places. Many of the provisions thereof were obsolete. Nearly all had been written in the wordy "legalese" which is far too prevalent even in modern legislation. Revision, therefore, became essential.

THE MUNICIPAL CODE COMMISSION

When State Senator Dixon was mayor of Dixon, Illinois, he discovered that it was impossible to administer a city in strict accordance with the law for the simple reason that the law was in such confusion that, in many cases, it

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4 The title to the act read: "An Act to provide for the incorporation of cities and villages." Laws 1871-2, 218.
6 Compare, for example, Ill. Rev. Stat. 1939, Ch. 24, § 83 with § 529.
7 This in spite of the fact that a legislative body is presumed to have used no superfluous words in a statute: Platt v. Union Pacific R. R. Co., 99 U. S. 48 at 58, 25 L. Ed. 424 at 427 (1879); Pacific Gas & Electric Co. v. Securities & Exchange Commission, 127 F. (2d) 378 (1942).
8 Now Judge Dixon of the 15th Illinois Circuit.
could not even be found. Proposals for revision had been made in 1929 and 1933 without success, but Senator Dixon tried again in 1935. He too was unsuccessful. He tried again in 1937 and this time, with the assistance of Senator Keane of Chicago as co-sponsor, his bill for the creation of a Municipal Code Commission\textsuperscript{9} became a law.\textsuperscript{10} It charged the Commission with the duty of preparing a proposed revision of the law relating to cities, villages, and incorporated towns and of reporting such revision back to the next regular session of the General Assembly, to be held in 1939, for legislative action.

The late DeWitt Billman, then Executive Secretary of the Legislative Reference Bureau, undertook to frame the revised code for the Commission. He prepared an outline for the reorganization of the pertinent laws and, with the aid of his staff, commenced the task of rearranging the existing statutes to fit into that outline. Pressure of other work, however, slowed his progress and finally necessitated his abandonment of the project. In August, 1938, the Commission selected Kenneth C. Sears, Professor of Law at the University of Chicago, to prepare the revision.\textsuperscript{11} Since only a small portion of the work had been completed in time to report to the General Assembly at its regular session in 1939, a bill was passed in that year which continued the existence of the Commission until 1941.

PREPARATION AND ADOPTION OF THE REVISED ACT

Completing the rearrangement of the pertinent statutory provisions into their proper places in a comprehensible organizational plan proved no light task. Statutes, all or a part of whose provisions belonged in the revision, were found scattered through twelve chapters of the Illinois statutes.

\textsuperscript{9} Senator Keane was chosen as Chairman, and Senator Dixon as Secretary, of the commission thus created. Other members included Senators Harold G. Ward (Chicago), Thomas E. Madden (Peoria), and T. MacDowning (Macomb); Representatives Sidney Parker (Texaco), Frank Holten (East St. Louis), Charles Weber (Chicago), Frederick Rennick (Buda), and Hugh Green (Jacksonville); Mayors David McClugage (Peoria), Leo J. Struif (Alton), Charles F. Brown (Rockford), and Henry Penfield (Evanston); and City Attorney Charles H. Edwards (Aurora). Upon renewal of the Commission in 1939, Mayor Edward J. Kelly (Chicago) was appointed in place of Mr. Edwards.

\textsuperscript{10} Laws 1937, 206.

\textsuperscript{11} The author assisted him in this work.
In the chapter entitled Railroad and Improvement Aid Bonds, for example, appeared an act placing a general limitation on municipal indebtedness. The Cities and Villages chapter, itself, contained provisions relating not only to cities, villages, and incorporated towns but also to counties, townships, school districts, sanitary districts, forest preserve districts, park districts, road districts, water districts, fire protection districts, public health districts, river conservancy districts, mosquito abatement districts, and tuberculosis sanitarium districts. Separate acts dealing with similar subjects often appeared several hundred sections apart in the Cities and Villages chapter. In a few instances almost identical provisions appeared more than once. A long index immeasurably aided a searcher for the law, but it was inadequate and inconvenient. After the statutes to be revised had been placed under the appropriate headings of the outline adopted, the actual revision work was commenced.

The most fundamental restriction placed upon the revisors by the Commission was the avoidance of changes in the existing law which might create controversy. This restriction, the Commission realized, would not only effectively

12 Ill. Rev. Stat. 1939, Ch. 113, § 44.
13 See, for example, Ill. Rev. Stat. 1939, Ch. 24, §§ 662.1, and 1177.
14 See, for example, sections referred to in note 6 ante.
15 Ill. Rev. Stat. 1939, Ch. 24, § 49, for example, was practically identical with § 830; § 50 was identical with § 831. The assumption in most such cases is that the General Assembly enacts a particular provision without realizing (probably because of the confusion already existing in the statutes) that the same provision is already law. Sometimes the repetitious provisions vary so minutely, however, that it is obvious that one statute is the model for the other. Such statutes occasionally can be blamed to legislative mistake. At the 1941 session of the Illinois General Assembly, for instance, one senator introduced Senate Bill No. 698, and later introduced a carbon copy of the same bill as Senate Bill No. 715, thinking he was introducing some other measure. The General Assembly passed both bills. Governor Green, alert to the situation, approved the first and vetoed the second. See 62nd General Assembly, Digest of Laws Enacted, pp. 279 and 285. Not all governors have been so careful.
16 The division “Cities and Villages” in the index to Ill. Rev. Stat. 1939 occupied thirty-three columns. In 1927 the Illinois Municipal League published a “Special Index to Constitutional and Statutory Provisions Relating to Cities, Villages, and Incorporated Towns (Bulletin No. 31),” designed to supplement the general indices in the two editions of the Revised Illinois Statutes. The preface to that bulletin states: “All municipal officials who have used the 1927 revised statutes (both Smith-Hurd and Cahill) must realize that a great amount of work has been spent on the indices to the statutes. While they are very good for general purposes they are not, however, as satisfactory as they might be for specialized
prevent the drafting of anything resembling a model municipal code, but would, in fact, necessitate the retention of nearly all of the defects and deficiencies already existing in the substance of the law. The Commission members, however, being legislators and mayors, knew painfully well that the inclusion of even one controversial change would almost surely block the passage of the entire revised code.¹⁷ The chief aim of the revisors, therefore, was limited to the rearrangement, consolidation, codification, and clarification of the existing law. Where it was felt, however, that the law was clearly unjust, deficient, or incomplete and could be remedied by a change not subject to a reasonable controversy, the change was included. The General Assembly made a number of substantive changes in the law, by amendment to the bill containing the revision, but over the inclusion of such changes, of course, the Commission had no control.

After the revision had been completed, an analysis revealed that all but eight or ten of the nearly eighteen hundred sections included therein had received some revision. Approximately fifty of the sections so completely lacked organization and clarity that entirely new sections were drafted to supersede them. Obsolete sections were omitted¹⁸ and other sections were consolidated¹⁹ to avoid repetition purposes. The needs of mayors, village presidents, corporation counsel, city attorneys, police magistrates, city clerks, and other municipal officials are not completely recognized. Cross-indexing between sections and the indexing of material within sections is not complete. As a result, a great amount of time is lost by persons interested in municipal work in search for municipal law . . . The preparation of this index has been a new venture. It is not as complete as we hope to make it in future years."¹⁷

¹⁷ As it worked out, the inclusion of a controversial change added to Senate Bill No. 10, containing the revised code, by House Amendment No. 57, introduced by Representative Libonati, almost did block the passage of the bill. See history of Senate Bill No. 10 in Final Legislative Synopsis and Digest of the Sixty-second General Assembly, State of Illinois, p. 30.

¹⁸ Observe these examples of deletion: (1) Art. IX of the Cities and Villages Act of 1872, except § 16, which is now § 86-1 of the revised act, and § 50, which is now § 58-1 of the revised act; (2) an Act providing for the consolidation of local governments in Chicago, Ill. Rev. Stat. 1939, Ch. 24, §§ 208-64 inclusive; (3) an Act providing for Water Districts in Cook and Lake Counties, Ill. Rev. Stat. 1939, Ch. 24, §§ 461-80 inclusive.

¹⁹ No attempt was made to consolidate the considerable number of acts dealing with the subject of waterworks. This subject matter is an highly important one and it was feared that an attempt to consolidate these acts might arouse controversy. This material was, therefore, assigned to nine of the eighty-seven
and overlapping. Provisions which had been declared unconstitutional, but had never been repealed, were of course eliminated. Where the Illinois courts had made a clear holding in a case interpreting any section that was to be included in the revision, that holding, in most instances, was codified into the revision of that section. Discretion had to be employed at this point not only in distinguishing between holdings and dicta, but also in determining what holdings should be codified. Some of the statutory provisions had been the subject of much judicial interpretation. To have expressed, in the form of a statute, all of the holdings of the various courts thereon would have made for too much elaboration. This would have been particularly true of the sections of the Local Improvements Act, which had been the subject of a great deal of litigation. By far the bulk of the actual revision work was devoted to clarification of the law by the elimination of verbosity.

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articles of the Revised Cities and Villages Act, Ill. Rev. Stat. 1941, Ch. 24, §§ 74-1 to 82-20 inclusive. As a result, the special powers concerning this subject are still in confusion and overlap. For example, several alternative methods of procedure are set forth for the exercise of the power granted municipalities to construct and maintain a waterworks system. That the substitution of but one method for the several now in effect would lessen confusion, as well as statutory mass, is illustrated by the case of Huggins v. City of Pinckneyville, 239 Ill. App. 213 (1925). There the petitioner argued that there were "at least five statutes under which the city may construct and maintain a waterworks system," and that the city had not complied with any of them. The city answered that it need not comply with any of them since, under Ch. 24, § 65.4, it had a general power to borrow money and issue bonds for the construction or the improvement of its waterworks and to levy taxes to pay therefor. The court held, in effect, that "the city could not construct and maintain a system of waterworks without complying with one of the several statutes pertaining to that subject." For further confusion, see Henry A. Keith & Co. v. City of Du Quoin, 89 Ill. App. 36 (1900); Trustees, etc. v. City of Jacksonville, 61 Ill. App. 199 (1895). The Local Improvements Act also contained several provisions regarding waterworks: see, for example, Ill. Rev. Stat. 1939, Ch. 24, §§ 714, 733, 783, 796 and 797; Ill. Rev. Stat. 1941, Ch. 24, §§ 84-15a, 84-33a, 84-77a, 84-89a, and 84-89b. A general revision of this material should be undertaken.

20 Many of the one hundred and sixty-six acts consolidated into the Revised Cities and Villages Act contained partial-invalidity sections. Obviously, all such sections could be consolidated into one and made to apply to the revised act as a whole. This, alone, eliminated many sections. The same was true of sections stating that the power granted by an act was in addition to all powers theretofore granted, or of sections containing savings clauses.

21 Ill. Rev. Stat. 1939, Ch. 24, § 598, started with these words: "That every city and village in this State shall have the right, power and authority, and such right, power and authority are hereby granted..." These twenty-four words were reduced to seven, to-wit: "Every city and village has the power..." See Ill. Rev. Stat. 1941, Ch. 24, § 41-2.
Pension, annuity, and benefit fund acts relating to municipal officers constituted over one-third of the former Cities and Villages chapter. None of these acts was included in the Revised Cities and Villages Act. While the acts, strictly speaking, are a part of the general municipal law, they would probably more properly belong in a pension, annuity, and benefit fund chapter of the Illinois statutes. Then, too, inclusion thereof would have raised a number of nearly insurmountable technical problems. Moreover, it was obvious that the inclusion of these bulky acts in the revision would make an already lengthy bill into one of prodigious size for they would have increased the size of Senate Bill No. 10, which contained the revised code, by at least two hundred printed pages. Since the Commission members sensed that in the revision’s bulk lay a scare factor which would constitute the greatest menace to its passage, they determined not to include these acts in the revision.

All of the suggested revision was first typed in such a way as to show all proposed additions to and deletions from any existing section. This was accomplished by having the material typed in triple space, placing all words to be deleted above numbered lines and underlining all new words to be added. The section, as it was proposed to be revised, was then typed a second time in single space for easy reading. An explanation of all changes, other than mere rephrasings and condensations, to be made in a section was included after each section.

About once a month the material revised to date was mimeographed and distributed to the members of the Commission, to corporation counsel or mayors of the larger municipalities, to the Illinois Legislative Reference Bureau, and to anyone else who displayed interest in the project.

The revision was introduced in the Senate of the Illinois General Assembly on January 15, 1941, as Senate Bill No. 10. Running five hundred and fifty-two printed pages, the bill gained for itself the doubtful distinction of being one of the longest bills ever introduced in Illinois. Five and a half months after its introduction, on the last night of the session, it received final legislative approval. By that time, however, it had been amended one hundred and fifty-seven times in
the Senate and fifty-seven times in the House. With Governor Green's approval on August 15, 1941, the bill became a law. To insure that everyone had plenty of time in which to study the new law before having to act under it, the House proposed an amendment postponing the effective date of the act until January 1, 1942.

GENERAL CHANGES EFFECTED IN THE FORMER LAW

Probably the most fundamental change produced by the Revised Cities and Villages Act was the consolidation, in it, of the statutory provisions theretofore contained in one hundred and sixty-six separate acts. These separate acts were repealed inasmuch as a revision of their provisions was incorporated into the new statute. The revised act

22 House Amendment No. 50. See House Journal, June 25, 1941.

23 It is the author's opinion that all except emergency legislation should be given such a postponed effective date. Under Ill. Const. 1870, Art. IV, § 13, bills approved prior to July 1, except emergency bills, take effect on July 1 unless otherwise provided. Since a regular session lasts until June 30, and a goodly share of the bills passed are passed in the last two weeks of the session, it ordinarily takes the Governor nearly all of July to consider and act upon all of the legislation passed. It is ordinarily impossible, therefore, to publish the Session Laws and have them ready for distribution until late in August or early in September. The citizens of the state are, however, required to abide by the new laws as soon as they become effective, and no maxim is better established than Ignorantia legis neminem excusat. Just such an illustration was House Bill No. 173, Laws 1941, I, 550, which caused a great deal of inconvenience because of its early effective date. This bill prohibited any person from transacting business under an assumed name unless he filed an acknowledged certificate, setting forth the name of the business and the names and addresses of all individuals conducting the business, within thirty days after the effective date of the act or suffer the penalty therein imposed. Approved on July 17, the bill became effective on that day, yet the Session Laws were not ready for distribution until September, well after the filing deadline had passed.

24 The short title is "The Revised Cities and Villages Act," Ill. Rev. Stat. 1941, Ch. 24, § 1-1, though the full title is "An Act concerning cities, villages, and incorporated towns, and to repeal certain Acts herein named."

25 Of these separate acts, 146 formerly appeared in Ill. Rev. Stat. 1939, Ch. 24; 4 in Ch. 23; 1 in Ch. 46; 1 in Ch. 48; 2 in Ch. 70; 2 in Ch. 105; 1 in Ch. 111%; 2 in Ch. 111%; 3 in Ch. 113; 2 in Ch. 131%; 1 in Ch. 145; and 1 in Ch. 147.


27 Art. XII of the Cities and Villages Act of 1872, dealing with special legislation for Chicago, was adopted by the voters of that city by referendum under the authority granted by Ill. Const. 1870, Art. IV, § 34. Under the terms thereof, Art. XII cannot be repealed without the consent of the voters of Chicago. Repeal of Art. XII, is, therefore, made contingent upon the approval thereof by such voters at any general, city, or special election at which the city council of Chicago designates the question shall be submitted. A revision of this article was included in the Revised Cities and Villages Act, as Art. XXI thereof, subject to the condition that its provisions are to become effective only when approved by the voters of Chicago at the election at which the repeal of Art. XII is approved.
further provided for the repeal of thirty other statutes which appeared to have become deadweight on the statute book, either because they had been declared unconstitutional but had never been repealed or because they had been of such a temporary nature that they had become obsolete. Among this latter group were eighteen validating acts which, by their own terms, had only retroactive application.

Previous comment on the disorganization of the former law demonstrates that rearrangement of the law according to subject matter and population classification was another change of almost equal moment. Under the general plan adopted, all provisions relating to incorporation, union, annexation, disconnection, and dissolution were placed at the beginning of the act, followed by provisions concerning municipal officers and employees and then by provisions dealing with finance. Provisions granting special powers to municipalities were arranged in separate articles, listed alphabetically. Since neither an arrangement of the law according to subject matter alone nor according to population classification alone seemed feasible, compromise was inescapable. While most of the provisions were arranged according to subject matter, provisions in general acts pertaining solely to municipalities having a population of 150,000 or more were placed together in a separate article. This classification was considered desirable since all such provisions at the present time are of concern only to the City of Chicago.

Another fundamental change was the adoption of a consistent terminology. "Municipality," for example, is defined to mean a city, village, or incorporated town in the State of Illinois. This single definition achieved not only uniformity

28 See, for example, Ill. Rev. Stat. 1939, Ch. 24, §§ 866a-866g.
29 Certain of these statutes appeared in Smith-Hurd Ann. Stat. Ch. 24, §§ 358n, 409, 410, 460f, 561a, 664.5-664.8, 664.12, 664.14, 697b, 697c, 697d-697e, 697f, 697g, 697h-697i, 697j-697jj, 697o, and 808a. The other twelve acts, repealed because they appeared to be obsolete, were printed in Ill. Rev. Stat. 1939, Ch. 24, §§ 208-64, 368, 439, 461-80, 491, 534, 540, 662a, 697, and 866a-866g; and in Laws 1917, 227, and Laws 1872-3, 67.
31 By a House amendment, the terms "municipal" and "municipality" as used in the Revised Cities and Villages Act were defined not to include an "incorporated town which has superseded a civil township." Cicero is the only municipality in Illinois which comes within this exception. It is difficult to gauge the effect of this amendment. It probably means that Cicero has none of the powers
of expression but permitted a saving of thousands of words throughout the act by allowing the substitution of but one word for ten. The term "corporate authorities" is defined to include the city council of a city and the board of trustees of a village or incorporated town. These legislative bodies were formerly designated as the "governing body," "legislative body," "corporate authorities," "legislative authority," "city council," "mayor and city council," "board of trustees," or "president and board of trustees."

To give uniformity to ballot forms and to conform to the Elections Act, all propositions to be submitted to referendum were rewritten so as to be stated in the form of "yes" or "no" questions. Heretofore, such propositions were required to be submitted sometimes in the form of a "yes" or "no" question and sometimes in the form of "for" or "against."

The system devised for numbering the sections of the revised act is entirely new so far as the state legislative acts of Illinois are concerned. Its merit, however, has been proved by its use in the statutes of other states and also in the Municipal Code of Chicago. Each section number contains two numbers separated by a hyphen, the first being the number of the article in which that section appears, the second being the position of that section in the article. Thus, section twenty of article six is numbered Section 6-20.

Two numbering systems have been employed in Illinois legislative enactments heretofore: (1) the sections in each article are numbered consecutively, the first section in each article being numbered one, or (2) the sections are num-

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32 Ill. Rev. Stat. 1941, Ch. 46, § 305.
33 See, for example, Ill. Rev. Stat. 1941, Ch. 24, § 3-2, which is a revision of Ill. Rev. Stat. 1939, Ch. 24, § 140, and Ill. Rev. Stat. 1941, Ch. 24, § 7-24, which is a revision of Ill. Rev. Stat. 1939, Ch. 24, § 387.
34 An exception was made with regard to numbering the sections in Art. 84, which contains a revision of the Local Improvements Act. As noted above, that act had been the subject of a great deal of litigation. So much case law interpreting many of its sections exists that to have given these sections new section numbers would, it was feared, have unduly inconvenienced a searcher for that law. The revision of each section of that act was, therefore, given the same section, or second, number as the original section even though this meant retaining alphabetical numbers where they existed in the Local Improvements Act.
bered consecutively throughout the act. The first system has the advantage of elasticity since sections may be added at the end of each article without giving the sections a fractional, decimal, or alphabetical number, such as Section 14\(\frac{1}{2}\), 14.1, or 14a; it has the disadvantage of requiring all references to the section to specify both the number of the section and the number of the article, that is, to refer to the section as “Section — of Article —.” The second system has the advantage of conciseness in reference since the section may be identified solely by a reference to its sectional number; but it lacks the advantage of elasticity. The system employed in the Revised Cities and Villages Act combines the advantages of the other two systems and eliminates their disadvantages.

Systematic rewriting of the statutes that were revised produced the following grammatical and structural changes in the former law: (1) long sentences were broken into two or more shorter sentences wherever practicable; (2) enumerations were placed in a “(1), (2), (3)” order; (3) use of the future tense, so common in legislative enactments, was eliminated, the word “shall” being reserved for use in the imperative; (4) “provided” clauses and “and/or” expressions were eliminated; (5) sections were divided into reasonably short paragraphs; (6) long sections were divided into two or more shorter sections wherever practicable; and (7) wordy provisions were stated more concisely. The word “any” or the word “all,” for example, was used instead of the common expression “any or all,” and either the word “each” or the word “every” was used instead of the expression “each and every.”

**SPECIFIC CHANGES EFFECTED IN THE FORMER LAW**

For the benefit of those who find it necessary to consult the Illinois law relating to cities, villages, and incorporated towns, the specific changes affected by the Revised Cities and Villages Act in the former acts which it supersedes, and the provisions added to such former acts by the Revised Act, are hereinafter noted and explained. No pretense is made of asserting that all such changes and additions are listed. An attempt has been made, however, to include all of the im-
important substantive changes although no attempt is made to signify which of the changes listed are substantive. As to just what constitutes a change in the substance of a law is, necessarily, a matter of opinion in a large number of cases.

Section 1-2(5) adds a definition of "fiscal year" and "municipal year" for municipalities which hold biennial or quadrennial general municipal elections. The definitions of these terms, as found in Sections 100 and 137 of the former act, falsely assumed that all municipalities held an annual election and consequently were almost wholly unworkable.

Section 1-2(7) adds a provision that where reference is made to a county within which a municipality, etc. is situated, the reference is to the county within which is situated the major part of the area of that municipality, etc. The former law occasionally referred to the county within which a municipality, etc. was situated without providing for the contingency of a municipality situated partly in two or more counties.

Section 1-3 is new. It provides that all existing municipalities which were incorporated or which changed their corporate organization under the Cities and Villages Act of 1872 or under any prior general act shall remain properly incorporated under the Revised Cities and Villages Act. A municipality incorporated and existing under a special act is to remain as properly incorporated under that act. This added provision was considered necessary to preserve the current status of municipalities at the time of the enactment of the revised act.

Section 1-4, likewise new, provides that municipal officers and employees holding office or employment immediately prior to the effective date of the revised act shall continue in their offices and employments until their respective terms expire, subject to applicable provisions as to removal. This added provision was felt necessary to preserve the current status of officers and employees at the time of the enactment of the revised act.

35 All sections of the Revised Cities and Villages Act may be found under the corresponding section number in Ill. Rev. Stat. 1941, Ch. 24.
36 All references to the former law are to sections of Ill. Rev. Stat. 1939, and, unless otherwise indicated, to Ch. 24 thereof.
37 See, for example, Ill. Rev. Stat. 1939, Ch. 24, §§ 159 and 387.
Section 1-5, also new, specifies that the provisions of the act which apply to municipalities whether or not incorporated under a special charter, etc. shall so apply even though the special charter contains inconsistent provisions. The section further specifies that other provisions of the act shall apply to municipalities incorporated under the general law or incorporated and existing under a special charter unless the special charter contains a conflicting provision, in which case the special charter shall govern.

Section 7-6 provides that if a majority of the electors voting on the question of annexation favor it, the described territory shall "thereupon" be a part of the annexing municipality. The former law, Section 369E, provided that if such a majority favored annexation the city council or board of trustees "shall forthwith pass" a resolution or ordinance annexing the territory. The thought here was to avoid the necessity of attempting to compel a governing body to pass a resolution or ordinance in the event that it should prove stubborn.

By Section 7-10, reference to "property owners" of a certain territory, heretofore contained in the section which it supersedes, to-wit: Section 408, has been changed to read "owners of record of land" in the territory. This change was adopted in an effort to clarify the expression "property owners" and to make more readily ascertainable who such owners are.\(^{38}\)

Section 7-11 is a revision of Section 408b, which was entitled "An Act to provide for the annexation of unincorporated territory which is entirely surrounded by incorporated territory," approved July 10, 1939. After the introduction of Senate Bill No. 10, the Illinois Supreme Court, in People ex rel. Gage v. Village of Wilmette,\(^{39}\) declared the former act violative of Article IV, Section 13 of the Illinois Constitution because its subject was not expressed in the title. Subsequently, the General Assembly expressed its willingness to retain Section 7-11 in the Revised Cities and Villages Act by adopting, through Senate Amendment,\(^{40}\) a completely

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\(^{38}\) For similar changes, see Ill. Rev. Stat. 1941, Ch. 24, §§ 7-2, 7-3, 7-4, 7-21, 7-40, 7-42, 23-26, and 23-30.

\(^{39}\) 375 Ill. 420, 31 N.E. (2d) 774 (1941).

\(^{40}\) See Senate Journal, April 15, 1941, p. 24, for Senate Amendment No. 64.
new revision of the section designed to meet the constitutional objection.

Laws of 1899, p. 66, § 5, had provided for the levy of a certain tax and specified that: "The said taxes may be used by the city, village or incorporated town to which annexation is had for the purpose for which such appropriation was made by the city, village or incorporated town so annexed." By Section 7-16, this section was revised to provide: "The fund derived from this part of the tax levy shall be used by the annexing municipality for the purpose for which the appropriations were made by the annexed municipality." "May" was changed to "shall" to harmonize this section with Section 7-17.42

Section 7-33 provides that any specified officer shall continue in office "until his successor has been elected at the next regular municipal election in this municipality and has qualified for office, or has been appointed and has qualified following this election," instead of "until the next annual municipal election of such city, village or incorporated town, as the case may be,"43 since all municipalities do not have annual municipal elections. Section 9-7 contains a similar change.

Section 7-37 provides that whenever the whole or a part of a municipality is annexed to another municipality such official dockets, books, and papers of justices of the peace in the annexed municipality as pertain to the annexed territory shall be filed with any justice of the peace specified by order of the county court of the county in which the annexing municipality is situated, instead of by order of the circuit court of such county.44 This change was made with a view to relieving the circuit court of this administrative duty. The requirement in the former section that all dockets, books, and papers of such justices of the peace shall be filed with a justice of the peace so designated was changed as indicated, inasmuch as it was presumed that the General Assembly did not intend to require all of the

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42 The latter section is a revision of Ill. Rev. Stat. 1939, Ch. 24, § 391.
43 Ibid., § 400. Italics added.
44 Ibid., § 401.
papers of a particular justice of the peace to be transferred when only part of the territory within his jurisdiction had been annexed.

Section 7-39 provides that if the whole or a part of a municipality is annexed to another municipality, all municipal officers exercising power over the territory before annexation shall cease to exercise such power, and that the power of officers of the annexing municipality shall extend over the territory immediately upon annexation. The section excepts justices of the peace and police magistrates from its provisions. No section of the former law covered this point specifically, so this new section was added to eliminate the possibility of having two sets of officers claiming control over the same territory at the same time.

Section 7-44 authorizes any municipality, instead merely of any village, to dissolve its incorporation upon referendum. The former law contained no authorization for the dissolution of cities or incorporated towns.

Section 7-50 adds the requirement that all courts shall take judicial notice of the counties in which municipalities are situated. This addition is a codification of the rule recognized in Harding v. Strong, Sullivan v. People, and Sullivan v. People.

Section 8-2 is a revision of former Section 83. The provision in that section authorizing cities and villages to require able-bodied male inhabitants to labor on streets or commute such labor at not more than $1.50 per day was omitted because it was inconsistent with, and had been repealed by, Section 529, later enacted. The revision of this latter section appears in Section 69-1.

Section 9-1 omits the requirement that a person must have resided within a city or village for thirty days before being entitled to vote therein at any election for city or village officers. That provision confused the requirement of Section 46 of the Election Act, that in order to be eligible to vote a person must reside "in the election district" for

46 42 Ill. 148 (1866).
47 114 Ill. 24, 28 N.E. 381 (1885).
48 122 Ill. 385, 13 N.E. 248 (1887).
49 See Wahl v. City of Nauvoo, 64 Ill. App. 17 (1895).
50 Ill. Rev. Stat. 1941, Ch. 46, § 65.
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The section also adds the requirement that persons must have a permanent abode within a municipality in order to vote therein.\textsuperscript{52}

Section 9-2 is a revision of former Section 60. That section applied to elections in cities and villages incorporated under the Cities and Villages Act of 1872. One of the provisions thereof, added in 1931, required a sample of the ballots to be used "at such election" to be printed in a newspaper published in "such city." The section was revised to require a sample ballot to be printed in a newspaper published in "the municipality," so as clearly to include elections conducted in villages.

Section 9-16 gives a mayor the authority to appoint a temporary successor to appointed officers whose offices become vacant by reason of death, permanent physical or mental disability, conviction of a disqualifying crime, or dismissal from or abandonment of office. This provision was added to fill an "air hole" in the prior law, although the court, in Michels v. McCarty,\textsuperscript{53} indicated by way of dictum that a mayor may have had such authority prior to its enactment. The section also adds a provision authorizing an appointed officer to resign from his office and clarifies the previous law by stating specifically when a resignation becomes effective.\textsuperscript{54}

Section 9-21 qualifies the mayor's former power of removal by the phrase "except where otherwise provided by statute," to safeguard the Civil Service of Cities Act.\textsuperscript{55} The section also limits his power of removal to officers appointed by him "under this Act" in line with the interpretation of the former section as given by the court in People v. Healy.\textsuperscript{56}

Section 9-35 adds the phrase "except that of acting mayor or mayor pro tem" to the prohibition that no alderman shall be eligible to "any office" the salary of which is payable out

\textsuperscript{51} For a discussion on this confusion, see People ex rel. Agnew v. Graham, 267 Ill. 426 at 429, 108 N.E. 699 at 701 (1915).
\textsuperscript{52} This was added to make the same conform with Ill. Rev. Stat. 1941, Ch. 46, § 66.
\textsuperscript{53} 196 Ill. App. 493 at 499 (1915).
\textsuperscript{54} For a discussion of the confusion existing in the prior law, see Commission Notes to Smith-Hurd Ann. Stat., Ch. 24, § 9-16.
\textsuperscript{55} Ill. Rev. Stat. 1941, Ch. 24½, §§ 39 et seq.
\textsuperscript{56} 231 Ill. 629, 83 N.E. 453 (1908).
of the city treasury, if, at the time of his appointment he is a member of the city council. The necessity of this exception is so obvious that its omission from the former law must be regarded as an oversight.

Section 9-40 authorizes the city council to be the sole judge of the election to office of "the aldermen" instead of "its own members" since the section it superseded had been interpreted as not applying to the election of a mayor.

Section 9-42 is a revision of former Section 39. That section gave aldermen the power to compel the attendance of absentees "under such penalties as may be prescribed by ordinance." In City of Earlville v. Radley, the Supreme Court of Illinois interpreted that provision so narrowly as to make it virtually impossible for a council legally to take any effective action to compel attendance. To overcome that decision, therefore, the section was revised to read: "under whatever penalties, including a fine for a failure to attend, the council may prescribe by ordinance."

Section 9-44 is a revision of Section 20, which simply prohibited a mayor from voting "except in case of a tie, when he shall give the casting vote." Since the passage of all ordinances, and of certain resolutions and motions requires the concurrence of a majority of all members elected to the city council, including the mayor, an alderman opposing a measure could, if he suspected the council of being evenly divided and knew that the mayor favored the measure, refuse to vote, thus preventing a tie vote and therefore preventing the mayor from voting. Thus a minority of a city council was, by this device always able to defeat the will of the majority, thereby violating the fundamental democratic principle of majority rule. To obviate this possibility, a mayor is, by Section 9-44 directed to vote not only when the vote of the aldermen has resulted in a tie but also when "one-half of the aldermen elected have voted in favor of

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57 Ill. Rev. Stat. 1939, Ch. 24, § 37.
58 See People ex rel. Iddings v. Dreher, 302 Ill. 50 at 54, 134 N.E. 22 at 23 (1922).
59 237 Ill. 242, 86 N.E. 624 (1908).
61 City councils in all Illinois cities consist of a mayor and an even number of aldermen. One-half of the aldermen, therefore, always comprise a minority of a city council.
an ordinance, resolution, or motion even though there is no tie vote." This direction also applies to the president of a village or incorporated town by virtue of Section 9-75.

Section 9-45 is a revision of Section 41, which provided: "It [the city council] may elect a temporary chairman in the absence of the mayor." That section, in conformity with the interpretation put upon it by the court in People v. Blair, is revised to read as follows: "In the absence of the mayor, acting mayor, or mayor pro tem, the city council may elect an alderman to act as a temporary chairman. He shall have only the powers of a presiding officer and a right to vote in his capacity as alderman on any ordinance, resolution, or motion."

Section 9-48, in order to harmonize with Section 9-47, adds to a mayor's veto power by authorizing him to veto any resolution or motion of the type specified in Section 9-47, namely those which (1) create any liability against a city, or (2) provide for the expenditure or appropriation of its money, or (3) provide for the sale of any school or city property.

Section 9-64 expanded its predecessor section to include a city comptroller who is "elected" as well as one who is "appointed," since Section 9-14 provides that a city comptroller may be either elected or appointed.

Section 120 of the prior law required the collector and treasurer, and all other officers connected with the receipt and expenditure of money, to perform such other duties and be subject to such other rules and regulations, as the city council or board of trustees might prescribe by ordinance. That provision was expanded, by Section 9-70 of the new act, to require every officer to perform such other duties, and be subject to such other rules and regulations, as the corporate authorities may provide by ordinance.

Section 9-74 is a revision of former Section 156a. Section 826a, which was practically identical with Section 156a, was omitted.

Section 9-75 adds a provision for filling a vacancy in the

62 82 Ill. App. 570 (1899), affirmed in 181 Ill. 460, 54 N.E. 1024 (1899).
63 Ill. Rev. Stat. 1939, Ch. 24, § 118.
64 Section 9-14 is a revision of Ill. Rev. Stat. 1939, Ch. 24, § 85.
office of president. The absence of such a provision from the former law would seem to have been an oversight. Section 9-76 adds a provision for filling a vacancy in the office of a trustee in a village or incorporated town.

Section 9-82 adds a provision that the board of trustees in villages shall consist of the president and trustees. This provision merely makes clear what was already true, and was suggested by Section 31 (now Section 9-39) which provided that, in cities, the city council shall consist of the mayor and aldermen.

Section 9-83 adds a provision that Sections 9-7 and 9-8, providing for the filling of vacancies by special election, do not apply to vacancies in office under Section 9-83. This provision is necessary to prevent a conflict between these sections.

In Section 9-84, the former expression "The president and board of trustees may appoint..." was revised to read: "The president and board of trustees, voting jointly, may appoint..." since that was the interpretation placed thereon by the courts.65

Section 9-90 gives the president of a village as well as the mayor of a city the power to administer oaths. The provision may not have been necessary since the president, in general terms, is given the same powers the mayor possesses. But it was added to eliminate doubt.

Section 9-93 adds the president of a village to the list of those who are declared to be conservators of the peace. Former Section 95 included trustees in villages, and, at the time of its enactment, the trustees selected a president from among their own number so that he was included within its terms. Later, however, the law was changed to provide for the popular election of a president.66 The president apparently would have the power granted by this section even if he were not mentioned, for the mayor is included in the list and the president for a long time has had the same powers as the mayor.

Section 9-95, a revision of Section 97, omits a provision in

the former law prohibiting the salary of aldermen, in cities over 350,000, from exceeding $3500 per year since that provision was inconsistent with and had been repealed by still another statute which fixed a $5000 maximum.

Former Section 829 prohibited the compensation of any officer or employee of any village or incorporated town, who was paid by a commission or percentage on money collected, handled, or paid over by him, from exceeding $5000 a year. This prohibition has been extended to officers and employees of cities by a House amendment to Section 9-100.

Section 10-8 authorizes the corporate authorities to require persons committed to jail for the violation of a municipal ordinance to work. The section is a revision of Section 832, which section was almost a verbatim duplication of Section 80 except that Section 832 applied not only to cities and villages incorporated under the Cities and Villages Act of 1872 but to all cities and villages in Illinois. The two provisions were inconsistent in that Section 80 provided for a two-dollar allowance for each day's work, whereas Section 832, later enacted, provided for a fifty-cent allowance. Inasmuch as the most recently enacted provision controls, the fifty-cent allowance was retained in Section 10-8.

Section 15-1 requires the corporate authorities in municipalities of 500,000 or less inhabitants, instead of in municipalities of less than 150,000 inhabitants, to pass the annual appropriation ordinance within a certain specified time. This change fills a gap which existed in the former law, since Section 102, now Section 22-1, applied only to municipalities over 500,000. No municipalities in Illinois at the present time have a population over 150,000 but under 500,000, but some may have at some time in the future.

Section 15-1 also changes the number of petitioners necessary to sanction an additional appropriation from "a majority of the legal voters of such city or village" to electors "numbering more than fifty per cent of the number of votes cast for the candidates for mayor or president at the last preceding . . . election at which a mayor or president was elected." This change was necessitated by the fact that, be-
cause of frequent population variations, it would be practically impossible to ascertain the number of legal voters in a city or village at any given time. A similar change was made in a number of other places.

The provision requiring the county clerk to scale taxes under the Juul law\(^68\) was omitted from Section 15-13 and in all other places where it occurred in sections which were revised by the Revised Cities and Villages Act. The Juul law had been repealed by the Revenue Act of 1939,\(^69\) and, for that reason, the provision requiring scaling was omitted.

Section 16-8 was designed to restate the substance of Sections 684 and 685. A brief analysis of the history of these sections is essential to an understanding of their purport. The Cities and Villages Act of 1872 contained no tax limit, but a two per cent. limit was imposed in 1879. Municipalities organized under special charters were limited only by the terms of their respective charters. An act of 1881 provided that municipalities whose charters did not confer power to levy as high a rate as that therein authorized could levy a general corporate tax up to one dollar, exclusive of taxes for school purposes.\(^70\) It further provided that this rate should be in lieu of the charter rate for general corporate purposes. By its terms, the act applied only to a limited number of municipalities. It was amended in 1909, 1919, and 1927 to cut the previous one dollar general rate to sixty cents, forty cents, and twenty cents respectively.

In 1897 another act,\(^71\) that of 1877, was amended so as to confer upon all municipalities power to assess and collect taxes at the rate then provided in the Cities and Villages Act, i.e. two dollars. It was held, in \textit{People ex rel. Town of Cicero v. Knopf},\(^72\) that this act did not repeal the taxing powers conferred by special charters but was intended to benefit specially chartered municipalities which were limited by their charters to a rate below the two-dollar rate authorized in the Cities and Villages Act.

Since these two acts were passed to cover different situ-

\(^{68}\) Ill. Rev. Stat. 1937, Ch. 120, §§ 329-330a.  
\(^{69}\) Ill. Rev. Stat. 1939, Ch. 120, § 809.  
\(^{70}\) Ibid., Ch. 24, § 685.  
\(^{71}\) Ill. Rev. Stat. 1939, Ch. 24, § 684.  
\(^{72}\) 188 Ill. 457, 57 N. E. 1059 (1900).
ations, one being general and the other limited in scope, both probably were still in effect prior to the enactment of the Revised Cities and Villages Act. Thus, although Section 16-8 was designed to restate the substance of these two acts, it may actually confer some additional taxing power, since it excludes school taxes from the two per cent. alternative tax limit, whereas the 1897 law imposed a two per cent. total tax limit on certain municipalities, including school taxes.

Section 17-5 changes the requirement of the former law that the county clerk shall annually extend taxes against "all of the taxable property situated in the county that contains any such city, village or incorporated town" to "all of the taxable property contained in the municipality or in that portion thereof which is situated in his county." This change was considered essential to avoid the impression that the county clerk is to extend the tax against all of the taxable property situated in the county.

Section 19-66 limits the power of initiative to ordinances "the subject matter of which is legislative in character." By this limitation, the statute conforms to the holding in People ex rel. Holvey v. Kapp. 73

In Section 19-71 the reference to "writs of error from the appellate court" has been omitted as being obsolete under the Civil Practice Act. 74

Section 19-76 provides for the submission of bids and awarding of certain contracts of $500 or more in cities and villages under the commission form of municipal government. The expression "except as otherwise provided" was added to its provisions inasmuch as a municipality under that form of government may, according to the decision in Huggins v. City of Pinckneyville, 75 disregard this provision and proceed under Section 58-1 which was, heretofore, Section 129.

In Section 20-11 the expression limiting the total salary of the mayor "and" each commissioner to $300 a year was changed to the mayor "or" each commissioner to avoid the possible construction that the mayor and commissioners together can receive no more than $300 annually.

73 355 Ill. 596, 189 N. E. 920 (1934).
74 Ill. Rev. Stat. 1941, Ch. 110, § 198.
75 239 Ill. App. 213 (1925).
Section 22-9 omits the words "and approved" in the provision requiring an ordinance to be published after it has been "adopted and approved." An ordinance may be adopted without the mayor's approval or despite his disapproval.

Section 22-17 adds the provision that no tax can be levied under that section if the municipality has previously issued the maximum amount of bonds permitted under Section 22-16. This addition codifies the holding in *People ex rel. McDonough v. Mills Novelty Company.*

A former statute provided that in all cities of 150,000 inhabitants or over "every mason contractor" must obtain a license. That expression was ambiguous since it did not make it clear whether (1) all mason contractors resident in such a city must obtain a license whether they work in or outside the corporate limits, or (2) all mason contractors working in such a city must obtain a license whether they reside in or outside the corporate limits. Section 94 of that statute cleared this matter up somewhat by requiring the various boards of examiners to designate the places for the examination of all applicants desiring to engage in or work at the business of mason contracting within their respective jurisdictions. The provision in question was, therefore, revised by Section 22-43 of the new act to require "every person desiring to engage in the business of a mason contractor . . . within a municipality with a population of 150,000 or more" to obtain a license.

Section 23-6 is a revision of former Section 65.4. The provision in that section prohibiting a city or village from becoming indebted in the aggregate to exceed five per cent. of the value of the taxable property therein, was omitted since it was inconsistent with and had been repealed by Section 44 of the Railroad and Improvement Aid Bond Act which had set a two and one-half per cent. limit.

Section 65.13 of the former law authorized the corporate authorities: "To regulate the use of sidewalks and all structures thereunder." Section 65.56 authorized them: "To

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76 357 Ill. 285 at 297, 192 N. E. 238 at 241 (1934).
77 Ill. Rev. Stat. 1939, Ch. 48, § 91.
78 Ibid.
79 Ill. Rev. Stat. 1939, Ch. 113, § 44.
regulate the construction, repairs, and use of vaults...areas...
and the like. These provisions were combined, in Section 23-20, so as to authorize the corporate authorities: "To regulate the use of sidewalks, the construction, repair, and use of openings in sidewalks, and all vaults and structures thereunder."

In Section 23-30, the former provision prohibiting the corporate authorities, except upon petition, from granting the right to lay tracks in streets to "any steam, dummy, electric, cable, horse or other railroad company," was modernized so as to read "any railroad or street railway corporation."

In much the same way the power "to license, regulate, tax and restrain runners for stages, cars, public houses, or other things or persons" was, by Section 23-52, modernized to confer the power "to license, tax, regulate, and prohibit runners for cabs, busses, railroads, ships, hotels, public houses, and other similar businesses."

Section 23-63 is a combination of the powers granted by Sections 65.45, 65.49, and 65.51. The power to regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions was broadened into the power to regulate the sale of all food for human consumption.

In Section 23-70 the power to prescribe the manner of constructing stone, brick and other buildings was changed to the power to prescribe the manner of constructing all buildings.

In Section 23-100 the power to provide by ordinance that "all the paper, printing, stationery, blanks, fuel and all the supplies needed" for the use of the municipality shall be furnished by contract let to the lowest bidder was condensed to cover "all supplies needed for the use of the municipality."

In Section 24-9 the provision specifying that any tax so levied should not exceed one mill on the dollar on the assessed value of all taxable property within the municipality was omitted as being almost surely violative of Article IX, Section 12 of the Illinois Constitution.

The provision in Section 575, the predecessor to Section 32-6, requiring that bonds issued under the section should mature within thirty years after their issuance, was changed
to require them to mature within twenty years. This reduction of the time limit was regarded as necessary inasmuch as the thirty-year provision almost surely violated Article IX, Section 12 of the Illinois Constitution.

The provision in Section 669, of which Section 38-1 is a revision, requiring foreign fire insurance companies to pay a tax on gross receipts received by their agencies in certain municipalities and fire protection districts for insurance effected therein, was changed to require such companies to pay such tax on gross receipts received for insurance effected on property situated therein. This change was made for the reason that not all gross receipts received for such insurance are received by the local agency; some receipts are sent directly to the main office. Section 38-1 also adds a provision that accounts shall be rendered to the municipal comptroller, if there is one. The former law required accounts to be rendered to the municipal clerk or secretary of the fire protection district.

Section 49-14 was added to the Revised Cities and Villages Act by a Senate amendment. The section provides that no election for the acquisition, construction, or operation of a public utility shall be held within twelve months after a similar question has been submitted to and rejected by the electors.

Section 60-17 is a revision of Section 490p(8), which required that the ordinance provided for therein be printed at least once in a newspaper published and of general circulation in the municipality. Section 60-17 adds the provision that if there is no such newspaper, the ordinance shall be posted in at least three public places in the municipality. This provision was added for the benefit of municipalities which have no such newspapers.

Reference to the "health commissioner or commissioners" in former Section 535 was changed, in Section 71-1, to refer to the "board of health or public health board" since not all municipalities have health commissioners and such health commissioners as do exist are members of the board of health or public health board of the municipality.

80 See Senate Journal, April 15, 1941, 34, amendment No. 128.
81 See Laws 1931, 373, § 3.
In Section 74-3 the power to make rules "for the levying and collecting of any water taxes, rates or assessments" was changed to the power to make rules for the fixing and collecting of water rates or rents inasmuch as water rates are not taxes and the expression "levying . . . water taxes . . . or assessments" is, therefore, inaccurate.\(^{82}\)

Section 83-2 is a revision of Section 835. That section prohibited an officer from compelling any person under arrest, etc., to ride in an uncovered patrol wagon "or" through the public streets. The word "or" was omitted, since its use was apparently inadvertent.

Section 84-6 increases, from 75,000 to 100,000, the maximum population of municipalities which may fix salaries of the board of local improvements. The section authorizes the council, in cities under 100,000, instead of under 75,000, which have the commission form of municipal government, to provide that the board of local improvements shall consist of the mayor and any two commissioners. The changes were necessary in order to continue the boards of local improvements in Springfield and East St. Louis, whose populations, according to the 1940 census, exceeded 75,000.

Section 87-1 adds a provision that the Revised Cities and Villages Act shall not repeal any of the jurisdiction or powers possessed immediately prior to the effective date of the act by any department, board, commission, or officer of the state government. This provision was considered necessary in order to preserve the then current status of state commissions, departments, boards, and officers.

\(^{82}\) On this point, see Rockford Savings & Loan Association v. City of Rockford, 352 Ill. 346, 185 N. E. 623 (1933).