

The Municipal Miscellany.

VOL. I.

ARNPRIOR, ONTARIO, APRIL, 1891.

No. 4.

The Municipal Miscellany, devoted to the dissemination of useful information relating to Municipal and other local Institutions, published monthly, at \$1 per annum; six copies for \$5. Address all communications to G. E. NEILSON, publisher Municipal Miscellany, Arnprior, Ont.

Calendar for May, '91.

1. Arbor Day.
(The assessor's roll will have been returned to clerk the day previous—S. O. 1889.)
Last day to pass by-laws altering school boundaries.
Last day for local treasurers to make statistical return of finances to Bureau of Industries.
County treasurers to balance their books and charge lands with arrears of taxes.
Liquor licenses dated from.
Notice of candidates for Entrance Examinations due.
Last day for filing notice of Separate School supporters with clerk—S. O. 1890.
Legislative school grant apportioned.
Persons intending to present themselves for examination as cullers to give notice to Commissioner of Crown Lands not later.
3. Inspectors of schools to notify Department number of papers required for Entrance Examinations.
7. Return of township clerk to county clerk of school accounts.
14. Last day for receiving appeals against assessment.
25. First day on which a court of revision may sit.

QUESTION DRAWER.

In answer to "R. W." in your March number you say, "the council may pass a by-law authorizing pathmasters to search for and take timber, gravel or stone within the municipality for making repairs on roads, etc. By-law may also give power to search for and take gravel in an adjoining municipality," etc. Is it not necessary that the number of the lot or lots and the concessions from which such material is proposed to be taken, should be specially set forth in such by-law before any action can be taken by the pathmaster for the removal of such timber, gravel or stone? Or do you mean that such pathmaster can be empowered by by-law with a "roving commission" to "search for and take timber, gravel or stone" *anywhere* "within the municipality" or "in an adjoining municipality" where such can be found, without having the lots, etc., specially mentioned in such by-laws from which such material is to be removed?
A. M. F.

Sub-section 8 of section 550 of the Municipal Act gives power to local councils to pass by-laws "for searching for and taking such timber, gravel, stone, or other material or materials (within the municipality) as may be necessary for keeping in repair any road or highway within the municipality." This does not require the number of the lots or concessions to be mentioned in the by-law, although where the exact place is known it would be preferable to state it, as it is always advisable that the contents of by-laws be as explicit as possible. The intention of the law appears, however, to be to give local councils the power to authorize any and all pathmasters or overseers of public roads to search for and appropriate to the public use such material as might be necessary for repair of roads. Corporations being responsible for keeping roads in proper repair, if they have no material of their own would be in a bad fix if private owners refused to sell. The statutes have always upheld the principle that individual rights are subordinate to the public interest, and therefore it is no greater stretch

of authority to give power to search for and take necessary material wherever found within the municipality for public uses, than for railway companies to go on and take possession of a roadway through private property as is constantly done. In both cases the owners are to be compensated. The right to go into an adjoining municipality to search, etc., is dependent on first getting the council of the latter to consent by a resolution, and the amount to be paid the owner must be agreed upon before removal of the material. In the latter case there would be no difficulty in having the lot named in the by-law, as it is hardly likely that any council would propose to take material from an adjoining municipality without there was absolute necessity and it was known beforehand the exact lot where the material was to be had.

Since the foregoing was written we received a communication from "S. S." referring to the matter under discussion. We copy elsewhere his letter and also a report of Justice Street's judgment, which our correspondent kindly forwarded. We have to confess that the decision arrived at by the judge has upset all our ideas of the reading of the sections of the Municipal Act bearing on the subject. Of course it would never do for a layman to insist on an interpretation of the law at variance with a decision of the courts, and however difficult it may be to swallow, we must, as in duty bound, rescind the opinion given above in answer to our correspondent, A. M. F. Had it fallen to our lot to prepare a by-law similar to that of the township of Wawanosh, we fear that it would have shared the same fate if brought before the same tribunal. None of us are too old to learn, and this only proves the need for the light of discussion on numerous doubtful points with which municipal officials have constantly to deal. Judge Street's opinion might possibly not hold good with other judges, as even judges often differ in their interpretations of law, but usually so much stress is laid on precedents that it would not now be safe to frame a by-law to search for gravel, timber, etc., until after the material required has been actually found and the exact locality described in the by-law.

Can municipal councils impose and collect a percentage on taxes unpaid after the 14th of December? T. Y.

The Assessment Amendment Act of 1888 provides that "the council may by-law or by-laws impose an additional percentage charge not exceeding five per cent. on every tax or assessment, rent or rate, or instalment thereof, whether the same be payable in bulk or instalments, which shall not be paid on the day appointed for the payment thereof, and in towns, villages or townships, where no day shall have been appointed for payment, the council may by by-law or by-laws impose such percentage on those which shall not have been paid on or before the 14th day of December in each year, there having been fourteen days previous demand as hereinafter provided, and such additional percentage shall be added to such unpaid tax or assess-