

# The Municipal World

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In the Interests of every department of the Municipal Institutions of Ontario.

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ST. THOMAS, MARCH 2, 1903.

Mr. J. C. Crow, who has been clerk of the Township of Pelham for the past sixteen years, has been appointed to the office of registrar of the County of Welland. Mr. D. J. Stone, the treasurer, has been appointed clerk of the township to succeed him.

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Judge McGibbon, of Brampton, recently handed out his decision in the case of Horan vs. Tp. of Albion. He allows the sum of \$6 and costs, \$26. This action was brought by Horan to recover damages for loss of crop, etc., his field having been used by travellers when the highway was blocked with snow.

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Mr. G. B. Lee, who for twenty-three years has been clerk of the Township of McKellar, resigned his office at a meeting of council held last month, and Mr. John Fletcher was appointed in his place. The council by a standing vote placed on record its appreciation of Mr. Lee's long and faithful services to the municipality.

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It will be seen from our answer to clause 2 of question No. 151 in this issue that some legislation is needed providing for the custody of the bond of the treasurer of a municipality, when the offices of clerk and treasurer are held by the same person. The statutes at present, constitute the clerk of a municipal corporation the legal custodian of its records and documents, including the treasurer's bond. But it is manifestly unwise, and subversive of the safe-guarding of the interests of the municipality, if a clerk who is also treasurer, continues to be allowed the possession and custody of his own bond.

## Assessment of Companies—"Scrap-Iron" Method of Valuation Abolished.

In almost every municipality in the Province, there is located some property belonging to some company for supplying water, light, heat and power to municipalities and the inhabitants thereof, telegraph and telephone companies, and companies operating street railways and electric railways. The greater part of this property is assessable, and it is therefore the duty of assessors to assess it in accordance with the law in force for the time being.

Previous to the enactment of section 1 of chapter 31 of the Ontario Statutes, 1902, the courts had repeatedly held that the poles, wires, etc., of these companies should be valued upon a "scrap-iron" basis, that is, as so much dead material and not as part of the business apparatus of a going concern. This section repeals section 18 of the Assessment Act, and sections 18a and 18b of the said Act as enacted by section 2 of chapter 29 of the Ontario statutes, 1901 and substitutes therefor the following section:

"Except as hereinafter provided for, land shall be assessed in the municipality in which the same lies and in case of cities and towns in the ward in which the property lies, and where any business is carried on by a person in a municipality in which he does not reside or in two or more municipalities, the personal property belonging to such person shall be assessed in the municipality in which such personal property is situated and against the person in possession or charge thereof as well as against the owner.

(2) The land of companies for supplying water, heat, light and power to municipalities and the inhabitants thereof, telephone companies, telegraph companies, and companies operating street railways and electric railways shall in municipalities divided into wards be assessed in the ward where the head office of such company is situated in such municipality, but if the head office of such company is not in such municipality, then the assessment may be in any ward thereof.

(3) The rails, ties, poles, wires, gas and other pipes, mains, conduits, substructures and superstructures upon the streets, roads, highways, lanes and other public places, of the municipality belonging to such companies shall be "land" within the meaning of The Assessment Act, and shall when and so long as in actual use be assessed at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, including the non-user of any of such property, provided that the plant, poles and wires which are used exclusively in running trains or for

any other purposes of a steam railway, and not for commercial purposes, shall be as heretofore exempt from municipal assessment or taxation.

(4) Save as aforesaid rolling stock, plant and appliances of companies mentioned in sub-section 2 hereof shall not be "land" within the meaning of The Assessment Act, and shall not be assessable."

Since this Legislation became law, it has been, on several occasions judicially considered and construed. The latest decision, however, having the weight of authority, and which can safely be taken by assessors, as a guide, in placing a value upon this kind of property for purposes of assessment, is that recently delivered by a Board of County Judges composed of the late Judge McDougall, Judges McGibbon of Brampton and McCrimmon of Whitby, in the appeals of the Toronto Railway Company, Consumers' Gas Company, Bell Telephone Company and other companies against their respective assessments in the City of Toronto. After reviewing the history of and commenting upon this Legislation, the judgment concludes as follows:

"Therefore, looking to the whole history of the Legislation, it is reasonably plain that with the exception as to rolling stock it was intended to make the outside plant of the companies named, liable to assessment at its cash value, and to remove the alleged injustice of the scrap-iron method of valuation.

The conclusion of the matter then is, that the words "plant and appliances" used in sub-section 4 must be confined to any plant and appliances located upon the streets, roads and highways and other public places in the municipality, such words taking this limited meaning because they must be referred to the words "rolling stock," which immediately precede them in the same sub section, and because it is manifestly the intention of the Legislature in enacting a new section 18 of the Assessment Act to deal only with the method of assessing so much of the property of the companies named in sub-section 2 as was situated upon the public streets of the municipality."

This is the unanimous finding of the Board of Judges upon the construction of the statute of 1902.

Mr. Justice Meredith recently confirmed the election of a councillor of the united counties of Stormont, Dundas and Glengarry, who was unseated by Judge O'Reilly, of the county court, for lack of the proper assessment qualification. Judge Meredith thought that his being assessed jointly with his mother and sister for \$3,200 was a good qualification, overruling Judge O'Reilly's contrary decision.

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Owing to the exceptionally large number of questions received this month, thirteen have to be held for insertion in our next issue.