

Municipal Election—Clerk's Vote—Assessment Tax  
Bark, Etc., on Railway Land—Sanitary Inspector  
Declarations of Office.

**305.**—Dundalk.—Local Municipal Election; there were three candidates for reeve. The clerk, who was returning-officer while the scrutineers were temporarily absent, marked a ballot and put it in the ballot-box for one of the candidates but did not put his name down in poll-book. When the votes were counted, it was found out that there was one ballot more in the ballot box than there were names in the poll-book. The clerk confessed his act. He has been clerk for three years and knew the law in the case.

1. What is the penalty for such an act?
2. Is he eligible any more to be trusted in the same position?
3. A quantity of tan bark, pulp wood and telegraph poles are lying in right of way of R. R. for two years on outskirts of certain village endangering the village in case of fire. The owner is a non-resident. Can such property be assessed?
4. What is the law governing such a case?
5. Sanitary Inspector of Local Board of Health resigned at first meeting of council. I was appointed by the Council in his place. Our Board did not meet this year yet. If I am notified by ratepayers about certain complaints infringing on sanitary regulations, can I be compelled to act?
6. What is the penalty of my refusal?
7. Is it necessary for a pathmaster to make declaration before entering on his duties?

1. We do not think that the clerk is liable to any penalty for his oversight in this case.
2. Yes, so long as the council think so.
3. Yes.
4. See sections 28, 38 and 41 of the Assessment Act, R. S. O., 1897.
5. No.
6. Under section 702 of the Municipal Act, R. S. O., 1897, by-laws may be passed for inflicting reasonable fines and penalties not exceeding \$50 exclusive of costs, upon any person for the non-performance of his duties, who has been elected or appointed to any office in the corporation and who neglects or refuses to accept such office unless good cause is shown therefor, etc. Whether this municipality has passed such a by-law we do not know. The Public Health Act itself does not provide any penalty for such neglect.
7. Yes.

#### Repairs to Frontage Improvements.

**306.**—H. P. Y.—Street improved on frontage system (by petition) five years ago. Owing to neglect on part of the municipal authorities the repairs necessary to properly maintain said street have not been made, and street is now out of repair. Does section 666 R. S. O., 1897, apply, and if so what proceedings can be taken to compel council to appropriate the funds necessary to place the street in a good and sufficient state of repairs?

We do not think that the Legislature intended to give a right of action against a municipality to compel it to make such repairs, but rather to clearly negative the right to impose any further charge upon the property specially charged in the first instance for the original improvement.

#### Alteration School Section Boundaries.

**307.**—RAMBLER.—In regard to school matters, S. S. No. 1, is eight miles long, there are seven ratepayers in the north end of said S. S. who want to join S. S. No. 3, that is only three miles from said school, and they put in a petition to the council on March 26th, and they did nothing until the next meeting of the council on the 14th May, and the reeve adjourned the meeting until the 28th May, and all they did in the matter after the trustees of both S. S. agreed to the new boundary that would divide between No. 1 S. S. and No. 3 S. S. The council agreed to pass the by-law at the next session of the council to be held on June 9th, and then they said it was too late, that it would not be legal to pass the by-law after the first of June. Would the by-law be legal after the council agreed to pass it, and put it in the minutes of the meeting. These seven men could vote in S. S. No. 3, in three miles, if they have to go to No. 1 to vote they will have to travel eight miles.

Sub-section 2 of section 38, Public Schools Act, R. S. O., 1897, empowers the township council to pass by-laws to alter the boundaries of a school section, etc., but sub-section 3 provides, "Any such by-law shall not be passed later than the first day of June, etc." If the council were to pass the by-law now any person affected could move to have it quashed and the municipality would probably have to pay the costs.

#### Voters List—To Make up Deficiency in Sinking Funds.

**308.**—D. A.—1. We have a number of voters living in town. Their properties are in different polling sub-divisions in our township. They want me to put them in the nearest polling place to town for convenience. I don't think such can be done. What do you think?

2. We passed a by-law twenty years ago come August. The whole sum is due August first, 1898. We are short about \$8,000, by reason of depreciation of interest, and we want to take two years to raise this amount. We are thinking of passing a by-law under section 290 and 368, chapter 42, Municipal Act of 1892. Will this have to be voted on by the electors? Is this the best method? If it is, please give us any information on it. Do you know a better way?

1. You must look to the act and not the convenience of the parties for your guide. You are, therefore, quite right.
2. We have examined the two sections referred to and we have to say that they contain no authority for what you propose to do. In this case the debt was long ago contracted and must be paid. What is the use of submitting such a question to the electors? Suppose they vote against the by-law and defeat it, the debt must nevertheless be paid. The electors must give their assent to certain by-laws in order that certain debts may be contracted, but that is not the case here at all. Section 384, cap. 223, R. S. O., 1897, shows the cases where the consent of the electors must be first had. Sub-section 5 requires the council to provide by rate, sufficient to pay off the debt and interest. Section 402 requires the council to levy enough to pay all debts, including interest, falling due within the year. If it is going to be oppressive to pay the \$8,000 in one year we think that you must apply to the Legislature for authority to issue debentures upon which to borrow money to pay off the debt.

#### Berlin Bicycle By-Law.

The solicitor for the town of Berlin has advised the council in reference to by-law regulating the use of bicycles as follows:

The section of the Act dealing with the matter will make it clear beyond question that there is ample power to prevent the riding of bicycles upon the sidewalks, pathways or foot-paths in town, but strange to say, the section giving power for "regulating and governing" persons using bicycles and other vehicles not drawn by horses, is limited in its operation to cities having 100,000 inhabitants or more. If there were no such section in the statute, I should have thought that there was inherent power in the Council to regulate the use of bicycles, but in view of this express provision, any implied power that there might otherwise be, would be seen to be taken away.

Upon the whole, therefore, I must advise that the provisions of the by-law excepting only as to the provisions as to riding upon the sidewalks, etc., are beyond the power of the council. There is power to regulate the speed of any vehicle, including a bicycle, but not, I think, to insist on the carrying of a lantern or bell. At the same time it would be well for the public to understand that any person riding a bicycle after dark, without a bell or lantern, and causing injury to a pedestrian, would in my opinion, be clearly liable to the pedestrians for the damage that might be caused to him.—*News-Record.*

#### Publications Received.

- Minutes and Proceedings of the County Council of Waterloo, 1897.*
  - Minutes and Proceedings of January Session, 1898, County Council of Ontario.*
  - Minutes and Proceedings of January Session, 1898, County Council of Oxford.*
  - Minutes, By-Laws and Auditors' Report Township of West Flamboro, 1897.*
  - Voters' List, Township of Dereham, 1897.*
  - Herd By-Law, No. 399, Township of Dereham.*
  - Auditors' Report Township of Dereham, 1897.*
  - Auditors' Report Village of Beamsville, 1897.*
  - Auditors' Report Township of Athol, 1897.*
  - Auditors' Report Township of East Zorra, 1897.*
  - Auditors' Report Township of Nepean, 1897.*
  - Appendix to the Report of the Ontario Bureau of Industries, 1896.*
- The above appendix contains an article on the growth of Municipal Institutions in Ontario, by C. R. W. Biggar, C. E., Toronto. Also an article on the Municipal Government of Ontario, by C. C. James, M. A., Secretary Ontario Bureau of Industries. Both of these articles will be published in a future issue.

In the June number of *Municipal Affairs* the bibliographical work which was begun in the first number is continued. All the articles, pamphlets and books upon city government which have appeared in the past quarter are arranged in an admirable index, and one can find at a moment's notice all the literature upon any municipal topic.