

# The Municipal World

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ST. THOMAS, ONT., AUGUST 1, 1904.

The Statutes of the Province of Ontario for 1904, which it was anticipated would come to hand about the middle of July, will not be ready for distribution until on or about the 15th of the present month.

We are requested by the Provincial Municipal Auditor to state, that, as Brown Brothers, the publishers of the Government form of Municipal Cash Books, on account of their late severe loss in the Toronto fire, will be unable for a few weeks yet to fill their orders, that it would be desirable in the case of treasurers whose books are filled, to make use of foolscap sheets of paper for the debit and credit entries necessary to be made, and when the books are delivered (which cannot be long now) to transcribe the same into the Government form of book as formerly.

Mr. G. Sneath, J. P., was appointed clerk and treasurer of the Township of Vespra in January, 1854, and still holds and performs the duties of both offices.

Preston has decided in favor of municipal electric lighting. By a vote of 170 for, with only 15 against, the ratepayers carried a by-law to raise by way of debentures \$27,000 to purchase the existing arc and incandescent plant from Messrs. James Fenwick and John Shearer, and to install an up-to-date municipal electric lighting plant.

The Township of Paipoonge has recently been separated from the municipality of Neebing, and Mr. A. W. Trewin, who for sixteen years was clerk of the Township of Tehkummah, Manitoulin Island, has been appointed its first clerk. This gentleman's experience will, no doubt, materially aid the council in starting and continuing the transaction of the business of the new municipality along the right lines. The new township comprises part of the fertile valley of Slate River, and is in the vicinity of the Town of Port Arthur. Its assessed value is over \$130,000.

The estimated cost of the granolithic walks to be laid in Tilbury this season is \$12,000.

Mr. Robert Woods, treasurer of Joly township, was shot and killed by Mr. E. Paisley, who mistook him for a deer.

At a recent meeting of the council of the Town of Welland, Mr. Henry W. Boyd was appointed clerk to succeed the late Mr. E. R. Hellems.

Four money by-laws were voted on by the property owners in Barrie recently, and all were carried by large majorities. They authorized the issue of debentures for the following purposes: Extending cement pavements, \$10,000; extending waterworks system, \$3,000; enlarging fire hall, \$3,500; purchase of hose, \$1,500.

The Bell Telephone Company has been victorious in an action it recently brought against the corporation of the Town of Owen Sound. The town forbade the company digging up the street to lay a cable conduit across from their new offices. When the company proceeded to excavate, the town interfered and the hole which they had dug was filled in by employees of the corporation. Subsequently the case was tried at Hamilton and judgment was reserved. Mr. Justice Meredith has handed out his decision and with regard to the town's claim that the road could not be restored to its original condition says: "The road is but a macadamized one and one that is often opened for far less generally useful purposes. Any objection to the work on this ground is purely a subterfuge to cover some ulterior purpose, and that purpose is plain, namely, to coerce the company to pay to the town a tax upon their business, which the town has no sort of legal right to demand. Their objection to the work is not made in good faith, but for a purpose *ultra vires* and wholly unwarranted. Parliament has clearly and distinctly given the plaintiffs power to carry their wires over or under public streets, but has made that right subject to certain rights. These latter rights must be exercised in good faith and should be reasonably exercised. Instead of that they had been unreasonably exercised in bad faith and for a purpose not authorized within the power of the defendants, so that whatever those rights may be, the company are entitled to succeed in this action. The defendants will, therefore, be perpetually restrained from interfering with the work of the plaintiffs in carrying their wires to their new offices under instead of over the highways. Upon the broad question of the power of municipal councils under the amended Federal Act, the extravagant claims of Owen Sound that it rests with the town to determine as they see fit, where and how the company shall construct their lines, seems to be quite unwarranted by the Act." The judgment in this case settles, as far as the court can settle it, the question of the right of the company under the powers granted by Federal legislation to put its wires under the highways of a municipality. The question is one of interest to all towns and cities, and if the judgment stands it will put an end to uncertainty as to the powers of municipalities to refuse or grant such privileges.