

municipality the amount paid by it under section 93 of the Public Health Act.

#### Levy and Collection by County of Moneys Raised for Improvement of Roads.

**373**—S. M.—I enclose you a copy of by-law of the county of C. asking your opinion on section two of said by-law. After the amount of money set forth opposite the names of the several municipalities in schedule two of the said by-law would have been expended, and found not sufficient to improve or maintain the roads designated, would the county then have to make a levy on the county as a whole or directly on the township requiring such. I have been led to believe that only the money raised on a township can be expended in that township.

The roads designated in the by-law when assumed by by-law of the county council become county roads, and must be improved, maintained and kept in repair by the county. The sum to be raised annually to meet the debentures to be issued for the \$270,000 required by the county to improve these roads, must be levied against and collected from each municipality in the county, rateably, according to their equalized assessment. If any further sum is required for the purpose it must be levied and collected in the same way, and the county council has no authority to levy such sum against and collect it from the municipality in which it is expended only.

#### Qualification of Hotelkeeper to Retain Seat in Council.

**374**—P. F. S.—We have a member at our board who was elected as a councillor last New Year by acclamation. In March he purchased an hotel, obtained license, moved in the same and is now, according to the unanimous wish of the ratepayers, holding his seat, not however, taking any active part re-motions. Is he legally qualified to hold out his term of office for 1903 and take an active part in the carrying out the councils duties or not?

We assume that this councillor obtained the license in his own name and is selling liquor thereunder, and otherwise conducting the hotel business himself. If this is so, he has become disqualified to hold his seat in the council, by reason of sub-section 1 of section 80 of the Municipal Act. Section 208 of the Act, provides that in this event, "he shall forthwith resign his seat." If he omits to do so within ten days thereafter, proceedings may be taken to unseat him, as provided by sections 219 to 244, inclusive, of the Act. If no such proceedings are taken, he can continue to occupy his seat at the council board, and transact the business of the municipality, the same as any other member of the council.

#### Assessment on Formation of New Municipality.

**375**—A. P.—I would like to know if our township has the right to apply the last assessment for a division between this township, a part of which has since been incorporated into a town. That is our assessor was appointed and started his work on the 16th March and kept at it from day to day, and on the 4th April a notice of incorporation was sent to parties with writs for holding their election for aldermen, fixing the date of nomination on the 11th April, the day of voting on 18th April and

the day of their first meeting on the 25th, but as stated above, the assessor was doing his work and assessed that part of the township on the 7th, 8th, 9th and 10th of April, and kept on until finished, but as some hold that the division should be made from the assessment roll of 1902 for not having assessed that part which is now incorporated before the 24th April.

It is somewhat difficult to gather from your statement of the case, the exact nature of the information you require. All we can say, until we receive some more satisfactory explanation of what is required, is that the *last revised* assessment roll will govern in both the old and new municipalities, until new assessment rolls are prepared and finally revised in the two municipalities, respectively.

#### Payment of Cost of Drainage Work in Village.

**376**—I. N. C.—In our village some years ago a deep outlet ditch was made to drain all the property to the south side of R road. The expense of same was charged up in taxes to the property holders on that side of track. This year the council were obliged to take up and relay new large crock tile on the north side of track on our main street. The old tile not being large enough and being badly broken and filled. Should the expense of this be taken out of the general fund, or can the people on the south side of track compel the citizens on north side to pay for it? When this drain was first put in it was paid out of general funds and has always been kept in repair in same way. I think it should be taken out of general funds.

None of these drainage works appear to have been constructed or maintained under the provisions of the Municipal Drainage Act, or the local improvement clauses of the Municipal Act. The council has no authority to levy and collect the cost of the repairing of the drains north of the railway line against and from the lands located in that part of the municipality which lies north of the railroad. It must be paid out of the general funds of the municipality.

#### Municipal Trading.

It is understood that the British Premier will appoint a royal commission to inquire into the subject of municipal trading. The government has long been desirous of grappling with this question, which admittedly rises to an issue of the first importance. The success of municipal trading in certain of the large municipalities is encouraging the smaller bodies to embark in undertakings for which they are hardly financially strong enough.

Over a dozen municipalities have recently applied to Parliament for power to deal not only with the ordinary administration of electrical systems but also with those developments and accessories which have hitherto been left in private hands. This condition of things has led to a strong demand for an impartial investigation into the probabilities of the future, and into the security that ought to be exacted on behalf of the ratepayers.

Radical members of the House of Commons believe that the Government is anxious to limit the freedom which the

municipalities now enjoy in respect to trading, and they have before now prevented the appointment of a Parliamentary committee of inquiry. The establishment of a royal commission will however, lift the question out of the arena of political controversy.

The following interesting opinion was recently given by the county solicitor to the warden of the county of Wellington:

"My opinion has been asked as to the legality of a council granting to a private individual the privilege of damming and backing the water of any stream crossing a public highway, and thereby lengthening the span of the bridge crossing any such stream.

I understand this question is asked with reference to a claim by the mill owner of Armstrong's mill against the county for compensation for having let the water out of his mill dam in order to facilitate the erection by the county of a bridge over the River Speed, on the boundary line between Guelph and Eramosa. A copy of a memorandum of agreement, dated June, 1874, has been submitted to me. It appears to be an agreement between the then reeves of the townships of Guelph and Eramosa, in accordance with the resolutions of their respective councils, authorizing the same, whereby a payment of \$100 from Mr. J. S. Armstrong to them appears to have been accepted in full compensation for damage done to the boundary line between the two townships by water overflowing the same from Armstrong's mill dam. I do not think it necessary, in connection with giving an opinion to the county council, with respect to the claim made against it now, to say what is the effect of the agreement referred to as between the two township councils and the mill owner. But, in my opinion, as between the county council and the mill owner, the agreement is not binding on the county.

I consider that the county council, in performing its obligations with respect to the re-building or repairing of the town line bridge, could, at the very least, insist on the water being let out of the dam so as to enable the work to be properly done, and the county council would not be under any obligation to make compensation to the mill-owner in connection with his having let the water out of the dam for that purpose."

Collingwood has purchased a steam road roller and a stone crusher. Lindsay and Napanee have decided to purchase steam rollers. Orillia proposes to buy a steam roller and stone crusher. The county of Wentworth has purchased a roller and several graders. A committee of the county council of Simcoe is considering the purchase of a steam roller and other machinery.